REAP WHAT YOU SOW

Julie Butler outlines how improving and repairing the farm can deliver tax advantages

The recent cases on repairs of *Pratt* v *HMRC* (TC 1269), *Hopegar* v *HMRC* (TC 02734) and *Cairnsmill Caravan Park* v *HMRC* (TC 02580) have made repairing parts of the farm very attractive for the elderly farmer in terms of income-tax relief and overall tax efficiency.

Should farmers own assets outside the farm that exceed the nil-rate band for inheritance tax (IHT) or, for example, cash on the farming balance sheet, they could look to repair and improve the farm for IHT efficiency while taking full advantage of these recent repair income-tax cases. The window for the annual investment allowance (AIA) claim will close on 31 December 2015.

INHERITANCE TAX ADVANTAGES

Many farmers will exceed the nil-rate band for IHT purposes with outside investments, excepted assets and the difference between the agricultural value and the market value which does not achieve agricultural relief for IHT purposes, as highlighted by *Antrobus 2 (Lloyds TSB as Personal Representatives of Rosemary Antrobus Deceased* v *Peter Twiddy* (2005) DET/47/2004), etc. Many frugal farmers are building up cash reserves while suffering farms in a poor state. Issues such as the benefit of cash reserves and planning for the cost of care in one's twilight years also have to be taken into consideration.

As these matters are complex, so tend to be farmers' wills. Wills often leave the farm to family members who stay in the farming business, and leave the outside investments to other family members. In some cases, family members act dishonestly and use tax efficiency as a smokescreen for manipulation. However, there is no doubt that repair and improvement planning to incorporate capital allowances is very beneficial at the moment, so each case must be looked at on its own merits.

REPAIRS AND IMPROVEMENTS

Any money spent to improve the farm will fall into one of the following categories of expenditure:

- **repairs (see *Pratt, Cairnsmill* and *Hopegar*);**
- **capital allowances (see the 2014 Budget 2014 changes, increasing the AIA to GBP500,000); or**
- **improvements.**

The definition of the above categories is something of a grey area, so it is very important to plan the nature of expenditure in advance. If any farm project is approached on the basis that all expenditure has to fall into the category of repair, capital allowances or improvement, particularly since agricultural or industrial buildings allowance (AIBA) could not be claimed from 6 April 2011, then the above is the only way to consider how to categorise expenditure.

LOSS OF AIBA

Many would argue that the abolishment of AIBA has been positive for the farming community because, instead of looking towards a lazy 4 per cent relief under that allowance, there has been a move towards looking at a 100 per cent repair or AIA relief.

Money spent on improvements can also be very tax-efficient because it could well be that the farmer has need to 'roll over' a gain – for example, they may have sold part of the farm for a development, or perhaps there will be disposals under the new permitted development rights (PDR) of residential property, whereby barns are converted to residential property, subject to conditions. So it may be worth reviewing development opportunities and then tax efficiently repairing and improving the farm.

PLANS FOR CASH EXPENDITURE

Many would argue that the question of the cash does not matter, as, provided there is a plan for it to be spent on a farm project, it can qualify for IHT relief as part of the business, but there will still be a fight to convince HMRC that this is the case.

Thus, any tax planning around repairs, improvements, etc, should clearly show that the cash on the balance sheet is to be used on a future project. Should the farmer die before the works are completed or undertaken, there is more chance of achieving IHT relief through business property relief (BPR) on the cash concerned. Where there is excessive cash, if the surplus monies can all be used for repairs, then this expenditure will qualify for income-tax relief, as the money spent will be a tax-deductible expense, and the expenditure will also effectively give IHT reliefs if the assets invested into qualify for agricultural relief and BPR.

CAPITAL ALLOWANCE CONTROL

With an increased ability to claim capital allowances on plant and machinery that is integral to the barn, there are going to be more problems for the probate valuation of farms and increased need for collaboration between farm accountants and probate valuers. Historically, the 'dead stock' valuation on probate simply related to tractors and machinery, but now the valuation includes machinery in barns and this gives rise to complex considerations.

Whatever the very beneficial tax-planning opportunities that exist for elderly farmers, care must be taken to consider will disputes and undue influence on decisions.

"Repair and improvement planning to incorporate capital allowances is very beneficial at the moment"

JULIE BUTLER IS PARTNER AT BUTLER & CO, AND THE AUTHOR OF *TAX PLANNING FOR FARM AND LAND DIVERSIFICATION; EQUINE TAX PLANNING;* AND *STANLEY: TAXATION OF FARMERS AND LANDOWNERS*