Farm repairs and the farm limited company

Recent years have seen the strong growth of farming profits above the amount of the Single Farm Payment. With diversification profits and rental income many farmers are now having problems with the 50% rate of tax (reduced to 45% from 6 April 2013) and class 4 national insurance, often a huge shock every 31 July and 31 January, writes Julie Butler of Butler & Co Chartered Accountants.

Many farmers are wondering what ways are available to try and reduce this liability and leave more money in the farming operation. Two clear strategies are to focus on repairing the farm tax efficiently and to look at the current trend for corporate partners and incorporation. There has recently been a very favourable tax case called Pratt (G Pratt and Sons v HMRC (TC 1269). It identified that when farmers are replacing and repairing assets such as a concrete drive they are entitled to full relief at 100% and this should not be treated as a farm improvement. Many farms might consider reviewing how expenditure on repairs and improvements has been categorised over the past few years to see if any tax savings can be made by identifying genuine repairs or plant and machinery expenses.

The loss of agricultural buildings allowances (known as ABAs) in the last tax year has forced farmers and their advisers to look at all new buildings (such as grain dryers) to ensure the maximum tax relief is obtained on the element of repair, replacement, moveable plant and equipment and installation costs. Guidance can be gained here from a case that took a long time to go through the courts which involved Wetherspoons Pub, who argued how various improvements or repairs to their buildings were treated for tax, and there are elements of the favourable arguments that can be used to help farmers.

With worries over the high income tax and class 4 national insurance, famers are looking to the lower tax rates found in the limited company to help them with their 31 January nightmare. However, using the corporate structure must not be undertaken lightly and it does come with some downsides. For example, there are potential benefits in kind on the farmhouse for directors, possible benefits in kind on motor vehicles, and the tax inspector can ask questions on commerciality and motive. Another consideration where, for example, the farm is actually owned in a limited company, is that agricultural property relief for inheritance tax is only achieved on a majority shareholding.

The CAP Reform post 2013 has brought into debate the question of "active farmer" and this too has made many consider the question of restructuring. When introducing corporate partners it is often found that there is no partnership agreement or that the agreement is very out of date. Therefore, there is no better time with improved profitability and high land values for farming partnerships to look to a secure and well drafted partnership agreement. While embracing review the capital gains tax advantage of claiming negligible value on the milk quota should also be considered.

Farms are currently enjoying high value and high profitability and protection needs to be reviewed not just on income tax and class 4 savings but embracing all areas of tax – capital gains tax, inheritance tax and a robust partners agreement or shareholders agreement is essential.

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Contact Julie Butler FCA
Bennett House, The Dean, Alresford, Hampshire, SO24 9BH
Tel: 01962 735544
Email: j.butler@butler-co.co.uk
www.butler-co.co.uk

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