Farm succession planning

It is impossible to open a farming publication without finding reference to succession planning and the need to embrace now. Following on from David's excellent article in the spring newsletter, I now look at the tax.

Tax considerations

There are some key tax issues to consider:

- How long will the current beneficial capital tax rates continue?
- Is there currently "investment overload", e.g. Balfour, and should rectification be part of the farm succession planning to protect Business Property Relief (BPR)?
- If lifetime gifts are proposed to deal with a possible "hike" in taxes, have the tax negatives of gifts also been considered alongside the emotional and legal costs?
- To protect the 100%/50% BPR of the partnership property has the farm ownership been fully understood in forensic terms?
- With the phasing out of the Basic Payment Scheme (BPS) have budgets, forecasts been prepared to show how the farm can cope?
- With the move to "farming for the environment" and the Environmental Land Management scheme (ELMs) have the tax and financial considerations been included in the succession plan?
- Have the financial and tax impact of all tenancy changes been considered for both landlord and tenant? All the changes must be looked at in depth.

Start of the strategy

Although the succession process is frequently driven by personal and strategic issues with tax as a something of an afterthought in the eyes of the client, it is essential that tax forms part of the discussions from an early stage. The starting point for all tax planning is to be prepared with a farm valuation so the quantum of the tax advantages and disadvantages can be set out into a spreadsheet. It is not sufficient to carry out the tax planning after the basic plan has been agreed. The tax advantages and negatives have to be understood from the outset so that the family can be aware of the tax impact on succession suggestions.

Ideally the development potential of the farm will be assessed so the funds can be used to solve problems, e.g.

- The subsidy gap
- Provide funds for CGT and IHT that might arise
- Pay out family members who are not part of the farm

Understanding the basic tax position

Draft tax reports should be carried out for:

- The current tax position if no change

- The suggestions for improving the current tax position
- The tax position in the worst case under the OTS and APPG suggestions
- The tax position arising from the agreed succession plan

The various tax reports must be understood by all family members and used as part of the decision making. Whilst one should be cautious of letting the "tax tail wag the commercial dog", in view of the amounts potentially at stake, fiscal consequences must be an integral part of the planning throughout.

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