253. Farmers' exit payments

Uncertainty around the tax position of the exit payment is one of the biggest problems to farmers taking advantage of the government's lump sum exit scheme planned for April 2022.

The lump sum could be treated as trading income – in the same way basic payment scheme (BPS) receipts are taxed – or as a capital gain, which would mean a 10% or 20% tax rate, the same as when selling BPS entitlements. The Department for Environment, Food and Rural Affairs (Defra) is consulting with HMRC on this, with the outcome to be announced in October. The lump sum requires land to be sold, gifted or rented out in order to qualify.

Another substantial logistical problem is that all the parties that currently make the BPS claim have to retire to qualify for the BPS exit payment.

The government has reported that farmers willing to exit the industry will be able to receive the monies that they were due to receive under the BPS as a lump sum. The direct payments are due to be reduced over the next seven years, starting with 5% cuts this scheme year and rising to 50% in 2024 – with increased cuts for larger recipients. Defra has reported that farmers can opt to take the money up front, provided they quit farming, creating opportunities for new entrants and those existing farmers who want to expand.

One of the major tax costs will be the balancing charges on machinery sales. Defra guidelines indicate that farmers will be able to keep their dwelling place and up to 5% of their agricultural land and still qualify. There is still a shortage of details from the government as to how this will work in practice.

For the tenant farmer, an exit strategy – which might include a surrender payment from a landlord, the sale of livestock and equipment, and other pension provision – could be a very useful catalyst. The Tenant Farmers Association (TFA) is disappointed that if an owner-occupier decided to surrender their BPS entitlements and rent out the land under the scheme, Defra was only requiring a minimum-term farm business tenancy of five years. The TFA will ask for a 10-year term in response to the consultation.

The capital tax negatives for the landowners are the lack of business reliefs for capital gains tax and inheritance tax (IHT) caused by retirement with the lack of trading (ie, no longer being in farming). For example, the loss of IHT relief on the farmhouse and development value would be disadvantageous. Indeed, the resulting tax bill could far outweigh the BPS lump sum.

It can be argued that succession and farm tax planning cannot be finalised until the full tax implications of the exit strategy are known. However, the preparation work should be undertaken now, such as understanding farm ownership and what family members are looking for, and ensuring that there is full understanding of the partnership. Tax advisers and farmers must watch out for news of the changes.

Contributed by Julie Butler FCA, Joint Managing Partner, Butler & Co