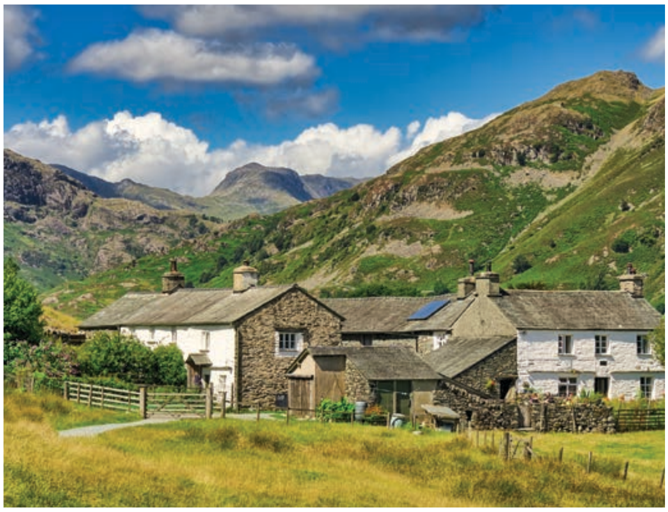
Property prospects

Julie Butler considers the potential tax advantages of selling residential farm cottages before 6 April 2020.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Farms face much uncertainty – Brexit, an elderly farming population, worries over loss of subsidies and profitability – and there has been much discussion about farm sales. This might be the whole farm or residential cottages for tax planning and farm survival reasons. The article by Gavin Fernandes (‘2020 vision’, *Taxation*, 1 August 2019, page 18) highlighted the forthcoming changes to lettings and interest relief in April 2020 and from the same time UK residents will also have to file a capital gains tax return if a direct disposal of UK residential property has realised a chargeable gain. The return will have to be filed and the tax paid within 30 days of completion. This raises concerns over time pressures if farm residences are to be disposed of before 6 April 2020.

Potential reasons for sale

There is a positive opportunity for land agents and farming families to consider the various commercial alternatives if commercial and tax research points towards the sale of farm cottages – and there may be strong arguments to achieve completion before 6 April 2020.

The ‘triggers’ for detailed research could be as follows.

1) The mixed farm has too much income from lettings, which creates a negative for the ‘Balfour matrix’. If cottages are sold, a greater emphasis on trading operations can strengthen arguments for business property relief.
2) Cottage sales tied into (1) above can be sold with extra land so that the buyer can take advantage of ‘mixed use rates’ for stamp duty land tax.
3) Following the success of the *May* silo case (*S May and Others* (TC6928)) there are opportunities to build a new qualifying and functioning grain store and claim annual investment allowances which, in some circumstances, can be offset against capital gains tax on residential cottages, while being mindful of the loss restriction rules.
4) With worries over the profitability of the farm following the loss of subsidies, the farming family might consider that it is essential to sell cottages, repay loans and be on a secure financial footing ready to protect cash flow from the loss of this income stream. Cottages might be enhanced by farmland to take advantage of the location, opportunity and stamp duty land tax relief.

Some farmers might downsize to a more practical farmhouse, releasing capital, claiming only or main residence relief and leaving a smaller house on which to claim agricultural property relief. Some properties may have fallen into disrepair, so costs and aggravation could be left to the buyer. With main residence relief there should be no capital gains tax to pay, but with jointly held property and the like it is essential to check. There is no need to report if full only or main residence relief is available.

A strategic decision

The reasons for farms selling cottages as part of a strategy of improved viability, profitability and tax planning can be seen clearly. Of course, the property market must be considered seriously, especially if these tax and financial advantages cause a ‘flood’ of residential properties to the market. However, if sales are to take place before 6 April 2020 to avoid the new returns and the accelerated tax payments, speedy action will be required.

Some taxpayers may experience cash flow problems or will have to reclaim overpaid tax if capital gains tax has been paid substantially earlier than the usual self-assessment deadlines. Allowable losses incurred after the completion date could only be claimed in a subsequent capital gains tax return (assuming another UK property disposal in the year) or in the normal self-assessment tax return, which could be up to 12 months later. The same issues would apply to farmers not knowing their trading results until a long time after the sale of the residential property and the resulting capital gains tax return and initial tax payment. ●

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