Loose Ends

Readers' planning points, pitfalls and other correspondence.

Milk quota and a 'fungible' asset

It is understood that the Revenue takes the not unreasonable view that milk quota is a fungible asset. It is worth considering what benefit this could have to the farmer.

The *Capital Gains Manual* (at paragraph CG77821) states that a producer primarily holds milk quota to produce and sell milk profitably and not run the risk of financial penalty. The manual states that such producers do not ordinarily buy and sell quota in the course of their day-to-day trade. Quota is an enduring capital asset of the business in the same way as buildings or farm machinery. Thus, where some of a producer's quota was allocated without cost in 1984 and some was subsequently purchased, the Revenue originally considered that the acquisition cost should be apportioned under section 52(4), Taxation of Chargeable Gains Act 1992 by reference to the total holding.

This could seem unreasonable to the producer who has had to buy and sell quota to reach production targets. The result could be a high sale price matched with a relatively low acquisition cost. The *Capital Gains Tax Manual* now confirms that milk quotas are regarded as fungible assets, under section 104(3), Taxation of Chargeable Gains Act 1992, and the same identification rules will apply as for shares and securities. For milk quota disposals before 6 April 1998, it could be said that the share pooling rules may be analogous with the apportionment rule in section 52(4), but disposals on or after that date should be identified with acquisitions under the share identification rules.

It could be argued that the application of section 52(4) was unfair on those producers who, from time to time, had to purchase and dispose of quota and the disposal was matched against the much reduced cost due to the inclusion in the apportionment of the 1984 allocation with £nil base cost. In these cases the disposal proceeds largely represented gain which was produced by what could be said was transitional, and better matched with the purchased quota. It is hoped that the applying the current 'fungible asset' rules will help to present a 'fairer' position and also a clearer representation of the correct position.

It could be argued that both methods could be used by the taxpayers. The earlier method could produce gains to offset against any unused annual exemption whilst keeping the base cost higher for future disposals. However, the latter treatment could produce gains which would not otherwise have been taxed.

Julie Butler FCA,
Butler and Co,
Alresford.

Loose Ends

Readers' planning points, pitfalls and other correspondence.

IAS41 – Will the Revenue be fair?

The due date for International Accounting Standard 41 on agriculture to be applied is fast approaching, *i.e.* for accounting periods starting 1 January 2003. With much talk in the press about the 2005 deadline for applying international accounting standards, the question of valuing certain agricultural stocks as set out in the standard on a fair value is becoming of more importance.

The standard states that biological assets should be measured at fair value less estimated point of sale costs with the change in the carrying amount reported as part of the profit and loss from operating activities. This is clearly not in accordance with the Revenue's Business Economic Note 19, the guide for the valuation of stock for tax practitioners.

Under the current rules it would seem to be possible for a practitioner to include the accounts figure at, say, a value as indicated by the international accounting standard and apply Business Economic Note 19 on the tax computation. This would make the balance sheet stronger and the tax computation more beneficial with regard to an earlier claim for losses or a reduction in reported profitability. Obviously tax computations should follow the accounting profit but until the Revenue's published guidance is withdrawn it would seem in order to continue to apply it for tax purposes.

Julie M Butler FCA,
Butler & Co,
Alresford.