

Mind the surface



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Julie Butler looks at the question of whether expenditure is of a revenue or capital nature.

The recent case of Pratt (“G Pratt and Sons v HMRC” (TC 1269)), has questioned whether expenses, particularly those which are of replacement or resurfacing, are revenue or capital in nature. It is fair to say that possibly the question as to whether expenditure is of a revenue or capital nature is one of the longest running arguments in the UK tax system.

It is therefore no surprise that the repair question has recently been tested at tribunal level once again. The case was that of “Cairnsmill Caravan Park v HMRC” (TC 02580) concerning the replacement of the grass surface of the caravan park by a hard-core surface, whereby it was agreed by the First-tier Tribunal (FTT) that the cost of the hard-core surface was correctly treated as revenue expenditure. The points from the decision by the FTT are as follows.

The size of the entirety

[19] “The first aspect to be determined is identifying the entirety of the subject which has been repaired. In our view the entirety is the whole caravan park.”

[21] “On that view the area of the park which has been resurfaced is only a very small part of the entirety. It extends to three acres out of a total area of 51 acres.”

Durability and maintenance costs

[23] “In the correspondence between HMRC and the taxpayers’ accountants the former suggested that the hard-core surface is more durable than grass and consequently and quite simply is thus an improvement. That inference may have a superficial attraction. However, as the evidence emerged, other considerations arose. Durability seems questionable as the original grass surface had been in existence for about 50 years. Maintenance costs of the new hard-core surface are, if anything, marginally higher. The hard-core has less aesthetic appeal: it is like any hard-surfaced car park. It is not suitable as a recreational area for children. Securing a typical camping awning on a hard surface is problematical inasmuch as fixing pins cannot easily be located. This, in fact, has generated customer complaints.”

Evidence showed the original surface as more durable. This highlights the importance of really understanding what work has been undertaken, what the values are before and after and

producing that one key point in any such situation – evidence to support the decision as to treatment.

Evidence of no enhancement and no improvements

[24] “We do not consider that that part of the Park, ie the area allocated to touring caravans, has been enhanced or improved as a result. Also in the broader context of the Park as an entirety we do not consider that it gives rise to an improvement. In the valuations produced before and after the works were undertaken, there is no suggestion of an improvement or resulting enhanced value.”

The need to consider the ability to measure the enhancement and improvement element and work produce evidence to quantify the **lack** of improvement.

The FTT decision on resurfacing

[26] “For all these reasons we consider that the expenditure of £89,210 on re-surfacing with hard-core is a revenue expense, deductible for tax purposes. The Appeal is accordingly allowed.”

This decision could have a lot of impact on not just caravan parks but farming operations which have a variety of surfaces which need an ongoing repair programme.

It is enlightening to note that the FTT considered that the evidence showed that maintenance costs of the new hard-core surface are higher to maintain than the previous grass surface. It might be questionable as to why this particular caravan park put down the hard-core as it is generally considered it did not look as good and it was difficult to secure camping awnings, and it did not increase the value. However, the Cairnsmill Caravan Park did put down a hard standing, and the expenditure on the resurfacing with hard-core was allowed as a revenue expense.

Practical points

The practical point has to be to continue to review all farm repairs and improvements, such as resurfacing. The case of “Pratt” is a clear example of being able to establish the tax efficiency of repair costs. Despite the atrocious weather, some farming profits have improved and there is farm cashflow to try and repair surfaces, and to make sure the surfaces comply with health and safety etc, and the tax efficiency relating to such work does need to be considered and planned.

Ironically it is the appalling weather that has currently driven a large amount of farm and rural repairs, and resurfacing will be planned in the years ahead; maximising the tax relief will help with funding.

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