Contrary to previous indications, it has been decided not to withdraw the guidance on valuing farm stock currently found in BEN19, though 'it is worth noting that the Single Payment, with the exception of the Scottish Beef Calf Scheme (SBCS), is not linked to any particular crop, product or expense and [*so*] should not be taken into account in any calculation of the cost of stock'.

Finally, the point at which the SFP should be recognised as a trade receipt will depend on United Kingdom GAAP and guidance on this issue has been published by the ICAEW and ICAS (see page 15 opposite).

Capital Gains Tax

To qualify for a Single Farm Payment in any year, the claimant must first have secured a 'Payment Entitlement' (PE) either by submitting a successful claim for 2005 or by purchasing, *etc*, a PE from an existing holder. Although the PE will originally spring from the land, it will be a tradable asset and so, in the view of HMRC, it will be a freestanding asset, not permanently linked to any particular parcel of land. It will be treated as having came into being on 1 January 2005 at a nil base cost.

The *Tax Bulletin* goes on to state that: 'Transactions carried out before 1 January 2005 involving a disposal of a future entitlement to PE will be treated as a disposal of an asset in the form of a right to future PE rather than a disposal of PE itself.' Unlike the PE itself (see below), this right to a future PE will not be a business asset for taper relief purposes (though exactly why not is not explained).

Also, the implications of this ruling for the purchaser are not spelt out – for example, is the price paid for the right rolled over to become the base cost of the PE, or does the right expire, and so become of negligible value, on 1 January 2005?

Other points are that Payment Entitlement will not be a wasting asset and that:

> Business Asset Taper Relief (BATR) will generally be available for a PE if the SFP is taxed as a trade receipt. A farmer who is granted a PE at the inception of the scheme (as contrasted with one who purchases a PE from the original grantee) can count his two-year qualifying period for 75% BATR from 1 January 2005.
>
> When held by a company, PE will be subject to the intangible assets régime.

Quotas, *other than milk quotas*, are now accepted as valueless and negligible value claims as at 31 December 2004 may now be made. Because their future is uncertain, milk quotas are still not to be treated as wasting assets.

Payment Entitlement transferred to landlord

It seems to be quite common for tenancy agreements to require the tenant to transfer his PE to the landlord, often for a nominal consideration. The *Tax Bulletin* states that this will be taxed as a market value transaction 'where the parties are either connected or are acting otherwise than at arm's length'.

The *Tax Bulletin* also indicates that where a tenant transfers his PE to his landlord, this may count as a premium for the grant of the lease, creating a tax charge for the landlord based on the capital value of the PE. If the tenant receives a benefit in

Tax Marriage between Land and Trading Vehicle

Julie Butler gives a practitioner's reaction to the Tax Bulletin

The June Special Edition of *Tax Bulletin* has explained at length the tax treatment of the Single Farm Payment. All applications had to be in by 16 May 2005 and the subsidy scheme for farming is now decoupled from production and based on an entitlement.

Historically, all farms have had a difficult marriage between the ownership of the land and the trading vehicle. In many small farms it is not even clear who owns what. Some Trusts and Limited Companies have evolved over the years and there were debates as to whom the Single Farm Payment entitlement actually belonged to, who was the landowner, who the tenant and who exactly was the farmer.

For tax purposes the production subsidy was linked by definition to production. The accounting and tax treatment was essentially to match the subsidy with the underlying trading treatment, therefore the subsidy was included in the accounts and tax computation of the trading vehicle which produced the relevant farm products. However, the entitlement now originates from the land and when the first payments are received in 2006, great care will have to be applied to make sure that they are allocated to the correct taxpayer.

The *Tax Bulletin* has also highlighted quite a bit of tax planning for the tax advisor around the ten month period that has to be achieved in order to receive the payment. Cross compliance conditions have to be met for that period and the period can be changed. The end of the ten month period is the trigger for the taxation of the Single Farm Payment so tax planning can be introduced around its timing and the ten month period could be changed to ensure that two entitlements appear in one accounting period.

The accounting guideline on this, FRS 18, as quoted by the *Bulletin,* says that 'provided there is disclosure, two payments in one period could be acceptable'. This means that there could be some tax planning, for example, it could ensure that a loss-making farm became profitable and therefore gained protection for another five years of sideways losses under sections 384 and 397, *Taxes Act 1988.*

Clearly, now that the tax rules are known the action plan for the tax advisor has to be to sit with the farmer and ensure that the detail of the ten month period is known and is planned for, and the exact ownership of the entitlement is ascertained in relation to future accounts and Tax Returns.

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