

Tax attacks



Gameshooting is coming increasingly under the taxation spotlight, so it behoves all involved in the sport to keep on top of the paperwork. **Julie Butler** provides some value-added answers for shooters

Once upon a time there was a tax and VAT office whose workings were easily understood by the tax and VAT-paying public, but now the two are combined and known as HM Revenue and Customs (HMRC). In April 2006, HMRC revealed it would be looking closely at commercial shoots. The focus is on VAT, but all areas of income tax, corporation tax and PAYE must be considered.

Gameshooting is a prosperous and thriving rural industry. This country sport provides healthy employment in rural environments, including remote outposts of the British Isles. Many farms and estates integrate the sport of shooting into their farming activities, and the "selling off" to the outside world of days' shooting can provide a nice income.

HMRC continues to carry out a programme of visits to shoots across the UK. You may receive a visit in the forthcoming year and some may be made without an appointment. So be prepared — you have been warned.

The apparent prime objective of HMRC is to improve the extent to which individuals and businesses pay the amount of tax due and receive the credits and payments to which they are entitled. But what does that really mean to landowners, shoot organisers and readers of *Shooting Times*? The simple answer has to be "beware and protect". So what must the reader be aware of? What is HM Revenue and Customs really looking for? **THE LIST IS CONSIDERED TO BE AS FOLLOWS:**

SHOTS THAT HAVE PREVIOUSLY ESCAPED THE HMRC "NET"

Commercial shooting that has been variously misdescribed, in the opinion of HMRC, as private shooting, non-profit-making club activity or the supply of zero-rated birds.

THE WICKED BARTER

Exchanging supplies of VAT-able shooting for zero-rated or other supplies, by way of barter, with neither transaction recorded in business records.

NOT REGISTERING

Failure to register for VAT if the turnover of the shoot exceeds £61,000.

DIVIDING TO ESCAPE

Artificial separation of business activities to stay below VAT registration limits.

WHAT IS EVERYTHING REALLY WORTH?

Under-recording of sales values.

PAYING VAT AND TAX ON YOUR PRIVATE ENJOYMENT

VAT and income tax irregularities on claims for private expenditure.

In April 2006, HMRC wrote to members of the Country Land & Business Association and shooting authorities saying it would be paying particular attention to gameshooting. It suggested that those shoots with problems should contact the HMRC National Advice Service, tel (0845) 010 9000. My advice, however, is to seek professional, sensible, damage limitation advice from those experienced in providing positive help, as opposed to adopting the principle of letting HMRC tell you how to protect your position while making yourselves vulnerable.

PRIVATE SHOTS

As with so many country sports, the passion of shooting involves a range and mixture of emotions. There are family shoots that want to respect their private nature and sometimes avoid any involvement with the notion of commercial shooting, but in so doing must respect the need not to claim the costs of the shoot as either an income tax or input VAT-

allowable expense. If the core of the shooting expenses is paid for by the farm or estate, then the tax computation and VAT return must disallow, for example:

- ☛ the rearing costs of birds.
- ☛ the gamekeeper's wages and benefits in kind.
- ☛ refreshments for shoot lunches.

The only allowable costs are those attributable to the control of vermin.

The private element of the family shoot should have already been addressed in the annual farm/estate accounts, but it is worth discussing this matter with your accountant in the very near future — perhaps they have forgotten to raise the question or you have omitted to provide the information.

COMMERCIAL SHOOTS

Commercial shoots where a shoot's turnover is more than £61,000 per annum must register for VAT and register as a business.

HMRC is placing great emphasis on barter, because failing to record the offsetting of standard-rated and zero-rated supplies to avoid accounting for VAT is an offence — if the day's shooting has VAT attached and is "swapped" for, say, a supply of corn that is zero-rated, there will be an underpayment of VAT.

MIXED SHOOTS

Where "commercial" and "private" shooting are run in parallel, HMRC states that the whole will be treated as a single taxable activity.

Syndicate and private shoots that sell a few days to help cover costs are making supplies that would be taxable, but, depending on the circumstances, whether such supplies are being made "in the course or furtherance of a business" may be open to question. If the syndicate regularly allows non-members to participate, however, or regularly supplies other goods or services, then it will be regarded as carrying on a business and will be required to charge VAT on supplies made to members and non-members alike. If your shoot is in this position and you are uncertain as to whether or not you should register for VAT then you should seek professional advice.

SHOOTING LEASES

Though many property rentals are exempt from VAT, rents paid for sporting rights — whether for a day or for a longer period — are not exempt from VAT. They are taxable at the standard rate, i.e. 17.5 per cent must be added to the supply.

IMPORTS

Goods imported from overseas are subject to special VAT treatment. Goods imported from the European Union, in particular, if they are for private use or for the use of business that is not VAT-registered, are chargeable to VAT in the member state from which they are despatched.

Eggs, chicks and poults can only be imported free of VAT by VAT-registered shoots.

SALE OF FOODSTUFFS

Dead game sold to Guns is food and therefore zero-rated; this applies even when the sale is made at a price that is higher than the general market price.

NON-PROFIT-MAKING CLUBS

There are VAT exemptions for certain non-profit-making sporting clubs, but these depend upon there being no commercial element. If they have not done so already, clubs that provide shooting will need to seek professional advice regarding their VAT position.

BEATERS' OR PART-TIME KEEPERS' WAGES

The employer compliance reviews have been chasing tax and national insurance on cash paid to beaters and private gamekeepers for quite some time. They would also like to squeeze more tax from the gamekeepers' benefits, for example motor vehicles, cottages and so on.

FAQs

Q We have a family shoot, which is used for recreational purposes — though some family members contribute towards the cost, it is not run commercially. Quite a few of the costs have been routed through the farm accounts, as it is considered part of controlling vermin and what has always been done historically. The point has never been raised by our farm accountant, but should I be treating the private shoot differently?

A In common with any shoot that is not VAT-registered, no personal organisation is entitled to recover from HM Revenue and Customs any of the VAT incurred in the cost of running this private or recreational (as opposed to commercial) shoot. This means that if the farm is paying for the cost, the true benefit of the vermin control must be identified and the balance must either be paid for personally or, if the farm continues to pay for it, must be what is known as "added back

on the tax computation", i.e. disallowed for Income or Corporation tax.

In addition, you will need to cease claiming input VAT on these expenses (if any has been claimed) and consider whether a voluntary declaration of previous over-claims of input VAT is necessary. Similarly, those recreational shoots that have been receiving tax relief on their costs for income tax purposes should undertake a review to consider whether error or mistake claims are required.

The key thing is to raise the point with your tax adviser, to act now, be prepared and stay one step ahead of these proposed visits.

Q We run a syndicate shoot on a cost-sharing basis. We do not sell off any of the days, but share the shoot together. Is this a business or should it register for VAT?

A The simple answer is no — it is not a business. As such it falls outside the scope of the commercial shooting targeted by HM Revenue and Customs. This does mean, however, because the shoot is not VAT-registered, that input VAT cannot be claimed on any costs.

Q As shooting is a sport that starts with live birds and results in saleable food products, we have been told that it can be VAT-exempted or zero-rated — is this the case?

A No. The business operation of shooting is commercial: the right to shoot and take game is being supplied by the commercial shoot and it is this, therefore, that is taxable at the standard rate.

In terms of VAT, there is no differential made between a single day of shooting and the grant of a lease that may cover a period of years.

Q I have heard that if a shoot deliberately avoids registering for VAT then it may be liable to a penalty equal to the amount of VAT that should have been paid. Is this correct?

A Yes. There can be VAT penalties in cases where a shoot has been deliberately avoiding registering for VAT, for example, if it has gone over the turnover limit for VAT purposes and has not registered, or if the activity has been hived off into separate businesses to keep it below the VAT-registration limit.

It is important for all shoots that are not currently registered for VAT to review their situations, with a view to keeping the penalty to a minimum. ■

FURTHER INFORMATION

For further help, contact Julie Butler FCA at Butler & Co, tel (01962) 735544 or email j.butler@butler-co.co.uk