FARMING &
RURAL BUSINESS
GROUP

NEWS

Issue 37 June 200

The Budget 2008 – the impact on farmers and landowners

Farm plant and machinery – Annual Investment Allowance (AIA)

As of 6 April 2008, the first £50,000 per year of expenditure by a qualifying business on most plant and machinery will qualify for 100% tax relief. It will be an important tax planning point to ensure that this 'annual' allowance is utilised each year. Expenditure in excess of £50,000 will go into the pool, and annual allowances will be reduced to 20%. The AIA cannot be claimed where a company or trustees are within a farming partnership.

The immediate planning point is:

- For sole traders and partnerships whose accounting periods commence on or after 6 April 2008, or companies whose accounting periods commence on or after 1 April 2008, it will be useful to look at what equipment is required and use the AIA to immediate advantage on an annual basis. Unnecessary capital expenditure is not encouraged, but just sensible planning.
- For all other businesses whose year ends are later in the year, the allowance is apportioned from the date of introduction, and proprietors are therefore advised to discuss any capital expenditure plans, so that any benefit is maximised.

Non-active farmers – are they working hard enough, with sufficient hours?

Farmers who spend, on average, less than ten hours a week on the commercial activities of the trade will be treated as a 'non-active trader'. There will be a restriction on the 'sideways' loss relief – i.e. the loss that can be offset against other income. There is an annual limit of £25,000 on the total amount of trading loss that a non-active trader may claim against other income. While a large number of farming enterprises make a profit when including the non-trading income of say, let cottages and let barns, there are still a large number of farming tax losses to be found, and the introduction of this provision must be considered.

The level of activity of many farmers should be reviewed and notes should be kept to ensure that any defence of an HMRC challenge is robust.

Farm vehicles – the 'showroom tax': the gas-guzzling 4x4

Motor vehicles are to be graded in bands 'A' to 'M'. From 2010, 'M' grade cars (yes, that includes the Range Rover) will be liable to a higher road annual tax rate of £950 in the first year. There will be an increased standard duty from 2009/10 based on the bands.

The key to tax planning is to understand what bands the vehicles fall into and to plan accordingly. Greater disclosure in the sales brochures has been called for. There will also be increased fuel duty. Farm motor vehicle management and review will therefore be on the tax planning agenda.

Capital gains tax (CGT) reform

The 18% rate of CGT after 5 April 2008 introduces the lowest rate for some time, and there is the opportunity to sell the non-business assets – such as let farm cottages – at a lower tax cost. Under entrepreneurs' relief, the 10% rate still exists up to a limit of £1m of gross gains from certain business asset disposals on cessation or withdrawal from a business. Where big business gains are anticipated, use of the relief should be considered and planned accordingly. A total review of all farm assets for CGT planning should be considered. There is an opportunity for inheritance tax (IHT) planning to be incorporated with the CGT plan by replacing non-business assets with business assets, which can include diversification activities.

Enterprise investment schemes (EISs) and diversification

The annual investment limit for EISs will rise to £500,000 for shares issued after 5 April 2008. Farming does not qualify as a suitable EIS activity, but some diversified activities do qualify. There are opportunities to approach diversification company considerations with other investors.

Trading stocks

Business profits will be adjusted at market value where goods are added to or removed from trading stock.

This will place the emphasis on farmers to ensure that stocks are adjusted for some of the hidden farm advantages, such as:

- Hay and straw taken from stock for private use for horses and ponies.
- Livestock taken from stock for consumption.

Most practitioners have observed the *Sharkey v Wernher* principle, and have been very diligent in ensuring that the correct figure is used. However, many fail to check these figures or even to carry out a 'reasonableness' test of private use.

In summary, to take best advantage of the tax reform on CGT, there should be a review of all assets. A review of freehold property potential gains is needed, together with a review of machinery needs and motor vehicles held, used and future needs.

In 2008, the farmer must be 'active', which will lead to a total review of income and capital tax loss planning by the practitioner – do not let the losses disappear.

Article supplied by Julie Butler FCA, Butler & Co, Bowland House, West Street, Alresford, Hampshire, SO24 9AT, T 01962 735544, E j.butler@butler-co.co.uk, W www.butler-co.co.uk.

Julie Butler FCA is the author of **Tax Planning for Farm and Land Diversification** *ISBN: 0754517691 (1st edn) and ISBN: 0754522180 (2nd edn), and* **Equine Tax Planning** *ISBN: 0406966540. The third edition of* **Tax Planning for Farm and Land Diversification** *will be published shortly. To order a copy, call Tottel Publishing, T 01444 416119.*