

## New publications

We are pleased to report that two regular contributors to Farming Group News have produced important technical publications.

Butterworth Tolley have recently published "Tax Planning for Farm and Land Diversification" by Julie Butler. "Incorporating a Business" by Roger Jones is also a Butterworth Tolley publication and is scheduled for release in mid August.

Both Roger and Julie have written numerous articles for Farming & Rural Group News in the past and we are sure that both books will be essential reading for practitioners.

## Protective claims for the new tax credits

### Why should I claim?

Many clients may not have made an initial claim for 2003/04 because a combination of their income level for the year ended 5 April 2002 and personal circumstances indicated no award of tax credits would be made.

That is not the end of the story, however. Such claims, even a "nil" claim, fall to be revised after the year end, i.e. 5 April 2004, to reflect any credits due based on actual income for 2003/04.

In addition, there is the facility during the year to amend an initial claim by providing an estimate of your income for the current year 2003/04. Tax credits are then increased or reduced to take account of the change in income, thus preventing a large overpayment or underpayment of credits.

### Who will be affected?

If your income is broadly the same year in/year out, then an initial nil claim may not be worthwhile. On the other hand, if the nature of your work could mean that your income will fluctuate, it may still be prudent to register a claim now.

This protects your right to have the final claim adjusted for the whole year. If no claim is made now, you can only backdate any later claim by 3 months.

So, if you know in December 2003 that your income for the current year will be considerably lower than in the year ended 5 April 2002, you can only backdate your claim to September 2003 rather than 6 April 2003.

The self employed, especially in certain types of businesses, are particularly at risk and, for the employed, there is the threat of a drop in income due to a variety of reasons, even redundancy.

### Why must I decide now?

Initial claims must be made by 6 July 2003, so do not delay. If you think your clients are likely to be affected, they can make their claim via the internet on [www.inlandrevenue.gov.uk/taxcredits](http://www.inlandrevenue.gov.uk/taxcredits) or by obtaining the application pack via the Inland Revenue helpline (0845 300 3900).

## The Irish equine tax advantages – putting the hoof into the UK system

There are many tax advisers that might not be aware of the impact that the bloodstock industry could have on their client base. The good news that the VAT scheme for racehorse owners will stay to 2005 reminds advisers to check that their owners are taking advantage of this relief.

### The Irish tax advantage of stud fees

With Sir Alex Ferguson (the manager of Manchester United) owning the leading flat race horse of 2002 Rock of Gibraltar and then sending him away to stud in Ireland the Irish tax position on stud fees/nominations has been given a lot of publicity. Stud fees are treated as "tax free" in Ireland and do not have to be declared on tax returns. Irish VAT treatment is also favourable, by comparison to the UK position, as are the "business rating" rules. These tax breaks are the envy of the UK TBA (Thoroughbred Breeders' Association)

### The UK tax position

The Revenue's Inspector's Manual at paragraph IM2350h states:

'Since the cost of buying a successful stallion outright is prohibitive for some bloodstock breeders, ownership may be shared in a syndicate. The usual form of syndication is into forty equal shares, representing the number of mares which, traditionally, was regarded as the standard for a stallion to cover in one season. Each syndicate member contributes towards the costs of keeping the stallion and is entitled to one "nomination" each season per share owned. The member may use the nomination to cover one of his own mares, or it may be sold on the open market. The shareholders appoint a committee which deals with the day to day management of the stallion.'

It goes on to say that where the occupier of a stud farm owns a share in a stallion for the purpose of obtaining service for his own mares, the tax treatment will depend on whether he has made an election for the herd basis.

The proceeds of any sales of nominations are treated as trading receipts. Any contribution by the stud farmer towards syndicate expenses will be an allowable trading expense. However, in the following situations the sales of nomination are assessable under Schedule D, Case VI:

- The owner of the stallion share is not carrying on a trade of stud farming or horse breeding;
- The owner is carrying on such a trade but does not use the stallion share for the purpose of obtaining service for his own mares.

So how would Sir Alex's stallion nominations income from Rock of Gibraltar be treated in the UK? As it is assumed that

Sir Alex does not own a UK stud farm the fees would be taxed under Schedule D Case VI. Clearly there would be minimal expense claims. The tax saving by standing the horse in Ireland is considerable.

It is understood that the Rock of Gibraltar was an extremely good buy and at one point Sir Alex's share was valued at over £30 million. So what is the UK tax treatment of the racing profits? Is the position all doom and gloom too?

### Horse racing is tax free

Guidance is given in Inspector's Manual IM2350b. It states:

'Horse racing, however, is not a taxable activity. Where, as is often the case, a stud farmer also races horses, considerable care may therefore be needed to ensure that the division between the two activities has been correctly made. In particular, attention should be given to any transfers of animals from the stud farm to training (that is, being kept for the purpose of racing) or vice versa.'

If a breeder transfers an animal to training and it is then returned to stud at a higher value after a successful racing career, then the uplift in the market value while it was in training is tax free. Furthermore the value at which the animal is returned to stud is relieved over the rest of its life. The valuations of animals at the dates of transfer to or from training are, therefore, significant.

### Racehorse owners VAT scheme

Racehorse owners received some excellent news in December 2002 when the Treasury informed the BHB that the current VAT scheme will continue until a further review by Customs and Excise in 2005. Nobody should underestimate the importance of the VAT scheme not only to owners, but to the whole racing industry. Continuation of the scheme beyond 2005 will depend on a lot of factors, but both the level of sponsorship attracted by owners and how closely owners are deemed to be complying with the Code of Conduct relating to sponsorship are two very important issues.

In the coming months the ROA (Racehorse Owners Association), working with the BHB (British Horseracing Board), will be putting the whole area of VAT and sponsorship

under the microscope. In the meantime, it is very important that owners who are VAT registered, under the terms of the VAT scheme for Racehorse Owners, ensure they earn business income from either sponsorship or appearance money.

### The tax advantage of the UK stud farm

The UK stud farms do have distinct UK tax advantages which should not be overlooked whilst envying the Irish position.

- A stud farm is farming (s.31(1) Taxes Act 1988) and has all the associated reliefs of farming, APR on land, stables and possibly the stud house (but note recent cases of *Antrobus and Higginson*), *Lloyds TSB* (personal representative of *Antrobus Deceased*) v IRC SPC 336.
- Eleven year loss rules (improvement on the 5 year rule).
- Business reliefs for CGT, especially *BATR* and rollover.
- Potential BPR on cottages and outbuildings, see *Farmer (Farmer's Executors) v IRC* (1999) STC SCD 321.
- But note stud farming has problems on qualifying for EIS relief – other equine activities might qualify.

*Julie Butler – Butler & Co*

### Need updating?

CCH's Business Briefing on farming was updated in March 2003. The Briefing includes a snapshot section on grants, such as arable area payments and Compulsory Slaughter, as well as considering problem accounting areas. Interested? Then contact the Library & Information Service for details. Tel: 020 7920 8620, Fax 020 7920 8621, Email: library@icaew.co.uk.

### On a lighter note

Readers may be aware that there is an arable disease known as "take-all". One farming client who has recently been through a particularly expensive divorce commented recently he had managed to avoid take-all but had been particularly hit in his divorce settlement by "take half".

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