

The mandatory 'Mars' adjustment and farming

In a previous century the Mars bar was promoted as being capable of helping the purchaser 'work, rest and play'.

By the same token any tax adviser who 'buys in' to this March 2007 House of Lords decision can save their clients tax (reduce the tax liability or increase the tax refund). However, it appears that the benefits of the tax saving are being ignored. Is this because the case is not understood or the calculation is too complex or the taxpayer does not want to pay for the work and the revision to the tax returns?

Lets look at the case *Small v Mars UK Ltd* and *HMRC v William Grant & Sons Distillers Ltd* and the principle – as depreciation is added back in the tax computation then a mirror adjustment must be made for depreciation included in stock to comply with GAAP ie, adjustments to tax computations for depreciation carried in stock.

The adjustment is mandatory and this has been reiterated by HMRC and it is agreed by HMRC this applies to 2007/2008 onwards.

For farm stock BEN19 is used which bases the valuation on 'deemed cost'. From 2009 CAAV will identify depreciation within their tables. But what is the depreciation carried in stock?

The production of corn by an arable farm is very similar to the production of a Mars bar:

- The process involves large expensive machinery with heavy depreciation – for example, combine harvesters cost over £350,000.
- At year end there is likely to be a possible range of corn in store – (the finished Mars bar) or tillage's (the Mars bar in production).

The starting point to calculate for depreciation 'carried' in stock is to take the depreciation from the accounts. This has to be allocated between growing crops, harvested crops and non-productive work. The sum of the depreciation allocated to growing crops and a percentage of the depreciation allocated to the harvested crops (in proportion to the percentage of the harvested crops still in store) would be the tax adjustment figure used.

Why 2007/08?

BIM 33190 states:

'Business should use the method approved by the House of Lords in the first computations accompanying accounts prepared and submitted after the date of the decision.'

The matter of 2007/08 was agreed in correspondence dated 17 September 2008 from HMRC, from Alison Bull, HMRC Technical Advisor, Tax and Accountancy issues. In this letter Ms Bull wrote: 'It will of course be the responsibility of individual inspectors to consider whether the precise allocation method actually used is acceptable depending on the facts and their assessment of risks.'

What are the downsides?

Obviously, there are the concerns of the complexity of the calculation, the cost and client understanding.

From a tax planning viewpoint farmers who have relied on say 2007/08 as the profit year for hobby farming are faced with a potentially large problem.

Livestock

It can be argued that the Mars calculation is not restricted to arable. It does apply to livestock. Calves and lambs are a production process involving machinery and the year end figure for stock at deemed cost does carry depreciation of this machinery.

The Mars bar can help the tax adviser 'work' on behalf of their clients, 'rest' knowing that all is in order and 'play' with a more relaxed approach with the benefit of this. Please excuse the Mars bar parallel to attract attention but for some reason this appears to have missed the radar of a large number of practitioners, and non-compliance would cause very bad indigestion!

Article supplied by Julie Butler FCA Butler & Co, Bowland House, West Street, Alresford, Hampshire, SO24 9AT. Tel: 01962 735544. Email: j.butler@butler-co.co.uk, Website: www.butler-co.co.uk. Julie Butler FCA is the author of Tax Planning for Farm and Land Diversification ISBN: 0754517691 (1st edition) and ISBN: 0754522180 (2nd edition) 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 on 01444 416119.

**This article was originally published in the July 2009 issue of Farm Tax Brief, edited by G R Williams, published by Informa Professional. For more information on this publication please visit www.informaprofessional.com/fat or alternatively contact joseph.cousins@informa.com*