

Rural Business Services update

Annual Investment Allowance Increased to £100,000... ...but not for long



The excitement of the doubling of the Annual Investment Allowance to £100,000 with effect from 6 April 2010 has proved to be short-lived as the limit is to be reduced again to £25,000, ie to half of what it was before. This article focuses on the rules as they are currently, while the implications of the latest changes announced in the Emergency Budget are covered later in this newsletter. Suffice it to say at this stage that these latest changes will significantly delay tax relief for larger items of plant and equipment.

The benefits of the current higher rates do however need to be looked at against the additional tax cost for many farmers of the withdrawal of Agricultural Buildings Allowances, which will have a big and long lasting impact on the taxation of the agricultural industry for many years to come.

Given the increase in the limit, it is ever more important to identify correctly the capital expenditure that will qualify as plant and machinery. With this in mind and as a special pilot exercise, DEFRA and HMRC have worked together on some additional guidance for the pig industry to illustrate the range of assets on which plant and machinery capital allowances can be claimed. HMRC issued the resulting Guidance on Plant and Machinery Capital Allowances for the Pig Industry in March 2010 and this can be found on the HMRC website at www.hmrc.gov.uk/briefs/company-tax/brief0310.pdf. Although this guidance is aimed specifically at the pig industry, it gives some very helpful guidance on the reliefs that are likely to be available on capital expenditure for the rest of the agricultural industry.

Buildings and structures do not qualify as plant and machinery, which therefore usually excludes expenditure on the walls, floors, ceilings, doors and windows, and neither do fixed structures such as bridges, hard standing and car parks.

Expenditure on routine repairs and maintenance will qualify as a revenue expense rather than a capital purchase, however, where the expenditure replaces more than 50% of an integral feature such as an electrical or cold water system, this is deemed to be capital expenditure.

Items listed specifically as qualifying as plant and machinery which would qualify for the Annual Investment Allowance and a 20% writing down allowance include:

- Slurry storage systems, including, for example:
 - Slurry storage tanks (whether above or below ground)
 - Any reception pit and/or effluent tank and/or channels and pipes used in connection with the slurry storage tank
- Rainwater harvesting equipment
- Gutters and associated piping for carrying rainwater harvested for businesses
- Silos for temporary storage
- Concrete pad surrounded by low-level barriers for temporary storage of manure
- Storage tanks
- Monitoring systems (including telemetry) for monitoring temperature, humidity, lighting, water and food levels
- Feed systems (whether or not automated)
- Slatted flooring areas (as integral parts of a slurry system)
- Moveable and adjustable pen dividers.

Items listed specifically as integral features which would qualify for the Annual Investment Allowance but only a 10% writing down allowance on any excess include:

- All parts of the general electrical system (whether providing mains power or a lighting system).
- All parts of air conditioning systems.
- Cold water, hot water and heating systems.
- Thermal insulation added to existing buildings or structures.

It is more important than ever to critically examine the expenditure that is being incurred and to identify the plant and machinery purchases on which tax relief can be claimed. It may be helpful if the building contractor raised a separate invoice for these or separately identified their cost on the total invoice.

While the increase in the Annual Investment Allowance will benefit many farming businesses, there are a few issues to watch out for:

- Partnerships with a company or trust as a partner do not qualify for the Annual Investment Allowance.
- First year Allowances were withdrawn completely from April 2010, so if you do not qualify for the Annual Investment Allowance or have incurred expenditure significantly above £100,000, your rate of relief may reduce.
- The annual Investment Allowance must be split between related businesses as they are not each entitled to their own allowance. If you might be in this position, further advice should be taken.
- Investments in plant and machinery vary from year to year and claiming the Annual Investment Allowance may mean that taxable profits in the future will bear little or no resemblance to the accounts profit. Taxable profits and losses will vary considerably from year to year and it will be more important than ever to keep your tax affairs up to date to ensure that maximum benefit is taken from available reliefs.

For further advice please contact Jane Goold on +44 (0)1635 35255 or jgoold@jamescowper.co.uk



IHT RELIEF FOR PARTNERS' HOUSES

Another case concerning the availability of agricultural property relief for inheritance tax has been reported this year. Unlike many of the recent cases, which have focused on issues related to whether or not the farmhouse is of a character appropriate to the property, the latest case (Atkinson v HMRC (2010)) concerns itself with the other key requirement for relief. This is the need for the property to be occupied for the purposes of agriculture for the two years immediately before the transfer for which relief is sought. Often this is the death of the owner of the property and in many cases death occurs some time after the property has been vacated by the owner, for example to live in a care home. The question of occupation is particularly difficult in such circumstances and many claims to relief have been successfully challenged by HM Revenue and Customs down the years.

What appears significant about this case is that the First Tier Tribunal has granted relief against the value of a property which on the face of it was vacant, however the outcome is not necessarily quite as clearcut or positive as this headline suggests because the decision hinged on the particular facts of the case.

It is true that the property had been unoccupied by the deceased for the four years leading up to his death; in fact he lived away from the farm. Whilst he did remain a partner up until his death, regularly took part in discussions relating to the farm and even visited the bungalow from time to time, it is not obvious from these facts how the Tribunal concluded that he was in occupation. It is also true that the property remained fully furnished and the deceased's belongings remained there, but it is difficult to see how this amounts to 'occupation' when the council was informed that the house was not lived in.

If this was not sufficient to be regarded as occupation, were there any other factors suggesting occupation?

What is perhaps critical is the fact that the entire holding, including the bungalow, was subject to an agricultural tenancy in favour of the partnership, of which the deceased was a partner right up until his death. It could perhaps therefore be argued that occupation vested in the partnership as a whole, and as nothing was done to alter the position this occupation continued up until and beyond the date of death.

Whilst it is encouraging that a claim has been successful where a property was no longer physically occupied by the deceased (and had not subsequently been occupied by another member of the farming partnership prior to the date of death) it may be that this case hinged on its own particular facts and that no sea change is taking place. It is

suggested that claims to IHT agricultural property relief will remain fraught with difficulty in such circumstances and that early discussions and planning should still take place to reduce the risk of a failed claim where the owner is absent due to ill health. It is worth noting that HM Revenue and Customs in their manuals highlight such cases as "contentious and difficult to decide". Whilst it is good that HMRC acknowledge the difficulty in such cases, it does not mean that HMRC will be 'sympathetic' and so planning remains essential to minimise the risk of a successful challenge to any claim to relief.

For further information contact Stephen Barratt on +44 (0)1635 35255 or sbarratt@jamescowper.co.uk

FIXING YOUR SINGLE FARM PAYMENTS (SFP)



Many farmers are used to buying fertiliser at fixed future prices and selling grain at forward prices. However a smaller proportion of farmers consider fixing the sterling amount they will receive for the euro-based SFP.

If you opt to receive a sterling amount for SFP this will be based on a euro conversion rate as at 30 September.

The time has passed for electing whether to receive euros or sterling for your 2010 SFP but it may well be worth examining what would have happened if you had opted for euros this year and fixed the euro exchange rate, to help in next year's decision process.

We are often asked the question as to what will the exchange rate be at a future date. We would all be rich if we knew the definite answer to that question.

You may opt to take euros and then exchange them at the spot rate ruling when you receive the SFP but this leaves you open

to the vagaries of the euro economies and their effect on the exchange rate.

Steps can be taken to introduce some certainty with the process to aid planning. It is probably more important deciding what is an acceptable SFP conversion rate and fixing that so you can prepare budgets and cash forecasts knowing what you will receive leaving currency speculation to those who specialise in it.

If you opt to receive a euro amount for the SFP the sterling amount will depend on the spot rate or on a rate of exchange fixed by entering into a forward exchange contract with your bank. The exchange rate you achieve will depend on when you enter into the contract.

During the last 18 months the euro pound range has varied from 96p to 82p, and in the last 6 months from 91p to 82p.

The variation in sterling receipt on a SFP of €120,000 fixed in the last 6 months could be:

	£
€120,000 at 91p	109,200
€120,000 at 82p	98,400

A difference of £10,800.

The exchange rate as at 30 September is an unknown.

A concern could be the ability of the RPA to make payment of the SFP on a timely basis to settle the contract with the bank. Your bank will be able to offer exchange rate contracts with a time option as to when the contract is taken up.

If you have not opted for euros this year, it may be worth modelling what might have happened this year and having an early discussion with your bank manager on how it might have worked to help with next year's decision.

On the 29 June you could have obtained a fixed rate of 80p for a January 2012 euro exchange.

The economists are not predicting stability in the euro exchange rate in the next two years.

For further information contact Adrian Rann on +44 (0)1635 35255 or arann@jamescowper.co.uk

ALA Summer Visit to Phillimore Farms



The Agricultural Law Association (ALA) summer event was held on 17 June hosted by James Cowper at Phillimore Farms. A good turn out of around 50 like-

minded professionals, all involved within the rural industry, attended the visit. Simon Beddows, working farm manager, gave us an informative virtual farm tour and discussed various issues affecting the industry at the moment.

The visit also included a tour of Loddon Brewery, one of the many successful businesses being run from refurbished farm buildings on site. The tour explained the brewing process and gave us the opportunity to taste some of its brew, which on a warm evening was much appreciated. An enjoyable evening was had by all.

For further information contact Stephen Barratt on +44 (0)1635 35255 or sbarratt@jamescowper.co.uk



How we can help you get through the tough times



The recent recession has bitten across all sectors of the economy, including businesses operating in the rural sector. Whilst agriculture has not been as badly affected as it was in the early '90's, nonetheless the impact of the reduction in spending by the general public and the difficulties in getting bank financing, has meant that in many areas activity has decreased. An example of this is the horsebox industry - a number of well-known manufacturers have gone out of business, due in the main, to a dramatic reduction in demand with a number of potential purchasers either postponing purchasing decisions or coming out of the market altogether.

There are however, a number of ways in which businesses can protect themselves in these difficult times and in some circumstances take advantage of the situation:

- Keep well in touch with what is going on in your specific market, you can then react quickly to circumstances such as changing patterns of expenditure. Some horsebox manufacturers for example, diversified into the manufacture of similar types of vehicles for other markets such as the provision of mobile incident rooms for the emergency services. With cuts in public spending a further diversification may be required.
- If there are fewer customers in your specific market look at what you can do to ensure that your business attracts them - if you are running a livery yard for example, look at what your competitors are offering and consider whether you can market your facilities as offering something different. This could range from the more expensive capital intensive project such as installation of a new cross-country course - to offering on-site training/clinics.

- Monitor your customers and their finances, keep them on strict credit terms or offer a small discount or other incentive for early settlement of debts due to you - businesses fail through lack of cash.
- If you are letting premises, perhaps excess space on your farm, ensure you incorporate appropriate wording in your tenancy agreements to enable you to re-entire the property with ease if the tenant defaults on rental payments.
- In any recession there are opportunities to purchase assets of businesses that have entered into insolvency proceedings - if you have the funds to do so it can be a useful way to augment your own business.

These are undoubtedly difficult times, but we are here to help. If you require assistance on any insolvency related issues - whether you are wanting assistance with buying assets from an administrator or are worried about the fortunes of someone who owes you money, please give our business recovery and insolvency team a call.

For further information contact Sue Staunton on +44 (0)1865 200500 or sstaunton@jamescowper.co.uk



HMRC simplify VAT partial exemption calculations

If you receive rents or other business income that is not subject to VAT, you may not be able to claim back all your VAT on the costs associated with this exempt income unless it falls within what are called the de minimis rules.

The current de minimis limits are:

- no more than £625 VAT per month or £1,875 VAT per quarter **and**
- no more than 50% of your total input tax for the month or quarter
- for the year end annual adjustment, the de minimis level is below £7,500 VAT and 50% of your total input tax for the year.

These rules require businesses to carry out full calculations on each return and on a yearly basis to prove they are below the limits.

The new rules from 1 April 2010 simplify the above calculations, although they are optional so you do not need prior approval from HM Revenue & Customs to use them.

Under the new rules there are two changes to make it easier for businesses to confirm their de minimis status using either the two simplified tests and / or an annual test.

• Simplified Test 1

Total input tax is not more than £625 per month and exempt sales are less than 50% of total **sales** (NB rather than input tax).

If you pass Test 1, then all your input tax can be recovered with no further calculations required otherwise you have to additionally carry out Test 2 below.

• Simplified Test 2

Total input tax less taxable input tax is less than £625 per month and exempt sales are not more than 50% of total **sales**. Taxable input tax means tax that generates income subject to VAT.

If you pass either test in a VAT period there is no need to carry out any further calculations until the end of the partial exemption year when you need to apply the de minimis test to the year as a whole. If you fail the above tests for the year then full partial exemption calculations will be required.

Annual test

The annual test allows a business to

- apply the simplified tests once a year instead of throughout the year and where the annual test proves you are de minimis,
- provisionally recover exempt input tax in the following year without having to do calculations for each return.

For further information contact Fiona Colledge on +44 (0)1635 35255 or fcolledge@jamescowper.co.uk

BUDGET STOP PRESS: Good for rural businesses?

For many rural businesses the recent Budget announcements on 22 June 2010 hold little which is good news, the best news being perhaps what was not changed. More of that anon, but what of the announcements themselves?

Apart from the much anticipated increase in the standard rate of VAT from 17.5% to 20%, the most telling proposals for rural businesses affect the tax relief for expenditure on equipment, otherwise known as capital allowances. The rules prior to 22 June as set out on the front page of this newsletter enable a business to claim 100% tax relief on up to £100,000 of qualifying expenditure in a year, with 20%/10% being available each year on the balance, depending upon the type of asset. The Budget proposes reducing these respectively as follows:

- £25,000 with effect from April 2012; and
- 18% and 8% for periods ending after 5 April 2012 (31 March 2012 for companies).

We are advised that transitional arrangements relating to the change in the Annual Investment Allowance will be published in good time before the reduction takes effect. We must wait to see what these arrangements will be but, whatever the transitional rules, this change is likely to affect a large number of businesses. It is therefore essential to discuss the tax reliefs available as soon as expenditure starts to be considered.

As far as the other rates are concerned, we do already know that hybrid rates of relief will apply where the accounting period of the business straddles the date of change. Although businesses with a year end sooner after 6 April 2012 (1 April 2012 for companies) will be better off than those with a later year end, because their hybrid rate will be closer to the current rates of 20% and 10%, the tax benefit is not likely to outweigh the cash flow implications of advancing the payment or changing the accounting date.

On a brighter note, the rate of tax for businesses operated through a company with profits up to £300,000 is being reduced from 21% to 20% for profits after 1 April 2011. This is no comfort however for all those families which operate through a partnership or as a sole trader. For them there is no decrease in tax rates to offset the capital allowances changes.

For landowners fortunate enough to own development or mineral land, there is an increase in the amount of capital gains which can be realised at the 10% tax rate. The increase is from £2m to £5m per individual and so is likely to be of benefit to only a few. It should be noted that this favoured tax rate still only applies if the gain qualifies for Entrepreneurs' Relief. There are many strict conditions which need to be met, not least the requirement to dispose of a business or a part of a business, ie not just land. Given the larger discrepancy in tax rates between qualifying and non-qualifying gains, it is even more important that the rules are met for at least a year leading up to the sale.

For all other capital gains, the rate of Capital Gains Tax has increased from 18% to 28%. For many this will once again focus the mind on making qualifying reinvestment in order to defer the tax charge ('rollover relief'). It should always be borne in mind that the level of relief is dependent upon the use of the land over the whole period of ownership (or from 1982 if shorter), as well as other conditions being met.

In summary, the short-lived 18% CGT rate might have lulled landowners into a false sense of security, and so wherever a sale looks possible or is even being contemplated, it is even more important to plan well ahead, whichever of these reliefs is to be claimed.

And finally.....the good news. As suggested earlier, this is principally around what has not changed and in particular Inheritance Tax. Despite some recent tax cases going against HM Revenue and Customs, there have been no changes announced to either Agricultural Property Relief or Business Property Relief. This can of course change so our advice remains the same, i.e. plan early.

**For further information contact
Stephen Barratt on +44 (0)1635 35255 or
sbarratt@jamescowper.co.uk**

KEY CONTACTS IN RURAL BUSINESS SERVICES

Adrian Rann

Head of Rural Business Services
and Bloodstock
01635 35255
arann@jamescowper.co.uk



Stephen Barratt

Tax Director
01635 35255
sbarratt@jamescowper.co.uk



Fiona Hawkins

Senior Manager
01635 35255
fhawkins@jamescowper.co.uk



Anne Marie Cocker

Manager
01635 35255
acocker@jamescowper.co.uk



Jane Gould

Tax Manager
01635 35255
jgould@jamescowper.co.uk



Terry Dockley

VAT Director
01635 35255
tdockley@jamescowper.co.uk



James Cowper LLP offices:

North Lea House 66 Northfield End Henley-on-Thames RG9 2BE Tel: +44 (0)1491 848500 Fax: +44 (0)1491 411705	Phoenix House Bartholomew Street Newbury RG14 5QA Tel: +44 (0)1635 35255 Fax: +44 (0)1635 40500	Willow Court 7 West Way Botley Oxford OX2 0JB Tel: +44 (0)1865 200500 Fax: +44 (0)1865 200501	3 Wesley Gate Queen's Road Reading RG1 4AP Tel: +44 (0)118 9590261 Fax: +44 (0)118 9393385	Latimer House 5-7 Cumberland Place Southampton SO15 2BH Tel: +44 (0)2380 221222 Fax: +44 (0)2380 331333
---	--	--	---	--

Business Assurance • Business Direction • Business Recovery and Insolvency • Business Tax • Corporate Finance • Outsourcing • Private Client Tax