

Rural Business Services

update

CHANGES IN THE SINGLE FARM PAYMENT (SFP)

Recognition rules could accelerate tax liabilities

The change of income recognition from the '10-month' rule to a single recognition date of 15 May could have income tax consequences for farmers. Previously the Single Payment was only recognised in a farmer's accounts once the entitlement had crystallised after the land had been occupied for the 10 months. The effect of the change will depend on the accounting date.

The 10-month rule, as it stood, has been abolished from 1 April 2008 so this new provision applies for 2008 claims. The rule applies across the whole of the UK.

Confirmation is awaited, as is the detail of the legislation, which will bring about the change, but if the current rules still apply then the date for crystallising the SFP in the accounts will be 15 May ie much earlier than any of the current occupation periods.

There looks to be no opportunity to flex it by choosing a different occupation period and therefore many farmers may well have more than one years payment included in their accounts next year and some may have two years payment. The effect on tax is compounded by the fact that this will be in a year when the arable farmers have

higher sales as the result of strong grain prices.

For example:

A farmer with a 30 September year end had, until 2008, an occupation period ending on 31 December. He will include 1 $\frac{3}{4}$ years of Single Payment in his 2008 accounts. If for example he receives £100,000/year Single Payment, profits of £75,000 are being taxed a year earlier than they would have been under the old system. This will have a significant impact on his tax liabilities for the 2008/09 year of assessment.

The 2008/9 tax year will be affected as 15 May 2008 is after 5 April 2008. This potentially makes the January 2010 payment particularly large. Averaging relief is available to sole traders and partnerships, but is not available to companies or for the purposes of tax credits. Other reliefs and the timing of other transactions may also become more important.

If you want further advice on the implications for your business and steps that you might take to alleviate this, contact Jane Gould on +44 (0)1635 35255 or jgould@jamescowper.co.uk



JAMES COWPER LAUNCH ENVIRONMENTAL GROUP

James Cowper has created a specialist team to specifically advise businesses working in the 'green' economy.



This includes many of our clients in the rural business services sector who have been at the forefront in addressing environmental issues and factoring them into their business development.

With environmental issues set to have a greater focus for mainstream businesses too, James Cowper believes it is well placed to anticipate the type of advice clients will need.

"Environmental issues are likely to affect most companies in the not too distant future," says Paddy Thompson of James Cowper who heads up the group.

"Measuring carbon footprints is on course to become a standard requirement for companies listed on the London Stock Exchange. It is not inconceivable that carbon reporting will become part of the annual financial reporting cycle."

James Cowper already works with a cross-section of 'green' businesses. These range from manufacturers of sustainable building products through to AIM listed businesses exploring innovative energy technologies as well as advising local authorities reassessing their approach to municipal waste streams.

For more information please contact Paddy Thompson on +44 (0)118 959 0261 or paddythompson@jamescowper.co.uk

Farm Cars take a hit

The capital allowance treatment for cars will change from 6 April 2009 for individuals and 1 April 2009 for companies. This will be based on CO₂ emissions and by their nature most farm vehicles are large and have high emissions (Land Rover Defender 90 2.4D 282g/km, Discovery 2.7TD 244g/km, Subaru Outback 2.5 210g/km, Volvo V70 estate D5 172g/km).

Cars above 160g/km will attract a 10 per cent writing down allowance (WDA). Cars at 160g/km or below will attract 20 per cent WDA.

The structure of vehicle tax (vehicle excise duty) will also be reformed from 2009, to reward drivers of more fuel efficient cars and again penalise the bigger-engined ones.

There will be 13 bands with new, smaller bands being introduced from 1 April 2009 (for cars registered after 1 March 2001), so that a small change in carbon dioxide (CO₂) emissions has a big effect on the cost of vehicle tax. Alternative

fuel cars will receive a discount of £20 (bands A to I) or £15 (bands J to M) in 2009-10, and £10 (all bands) in 2010-11.

Details of all the bands can be found on the government's website at:

http://www.direct.gov.uk/en/NI1/Newsroom/Budget2008/DG_073093

Her Majesty's Revenue & Customs have also changed the company car fuel rates from 1 July 2008. These are as follows:

Engine size	Petrol	Diesel	LPG
1400cc or less	12p	13p	7p
1401cc to 2000cc	15p	13p	9p
Over 2000cc	21p	17p	13p

For more details please see HMRC website:

http://www.hmrc.gov.uk/cars/advisory_fuel_current.htm

For further information please contact Gary Abbott on +44 (0)1635 35255 or gabbott@jamescowper.co.uk



Capital Allowances post 5 April 2008



Significant changes to capital allowances - which farmers and landowners should be aware of – came into effect on 5 April 2008.

- New 100 per cent 'annual investment allowance' (AIA) for the first £50,000 of expenditure on plant and machinery. The AIA will not be available for expenditure on business cars, but expenditure on all other plant and machinery, including integral fixtures and long-life assets, will be eligible. The AIA does not replace existing 100 per cent first-year allowances for environmentally beneficial technologies; these will continue to be available, see below
- The AIA is not available to partnerships where one of the partners is not an individual eg a trust or a company
- Reduction in the main rate of capital allowances on the general pool of plant and machinery from 25 per cent to 20 per cent
- Increase in the rate of capital allowances on the pool of long-life assets, which applies to assets with a useful life of more than 25 years, from 6 per cent to 10 per cent
- Separate classification of fixtures that are integral to a building and their inclusion in the 10 per cent capital allowances pool
- Phased withdrawal of the agricultural buildings allowances with the effective rate of allowance falling to 3 per cent from April 2008, 2 per cent from April 2009, 1 per cent from April 2010 and full withdrawal taking effect from April 2011
- Expenditure on one of the energy saving or environmentally beneficial items listed on the website www.ECA.gov.uk, 100 per cent relief is already available to you, and there is no indication at present that this will change
- Companies may have the opportunity to obtain Remediation Relief at 150 per cent to clean up contaminated land, provided they comply with the strict rules of the relief

If you need any further information on any of these please contact Sue Thomas on + 44 (0)1635 35255 or stthomas@jamescowper.co.uk

Join our Rural Business Services team

James Cowper's Rural Business Services team is growing fast. We are always on the look-out to recruit enthusiastic people who either have a background or an interest in agriculture.

The team has welcomed the return of Gary Abbott who has rejoined James Cowper after four years as finance manager at The Duke of Wellington's Estate at Stratfield Saye.

Gary was a member of James Cowper's Rural Business Services team for five years and has decided to return to the firm for a year to broaden his experience before emigrating to Ireland.

If you are considering a career move and think you would enjoy working in an accounting environment then we would like to hear from you. We are always keen to support staff who want to develop their career and study for professional qualifications.

However, we are equally happy to consider applicants who believe they will benefit from a career switch and who want to remain in the agricultural sector.

For further information contact Peter Treadgold on +44 (0)1635 35255 or ptreadgold@jamescowper.co.uk

Inheritance Tax Relief and Farmland

Over the past few months there have been two cases concerning the availability of business property relief on farmland.



The Irish case of *McCall v HMRC* concerned 33 acres of land farmed under 'conacre,' an Irish form of land tenure similar in many ways to a grazing agreement. The landlord was responsible for fencing, weed control and water supply and the graziers applied any fertiliser to the land and either cut the grass for silage or allowed their cattle to graze the land. Payment was agreed on a per acre basis.

For the last seven years of her life, the landowner, Mrs McClean was not able to make decisions herself, and her business was managed by her son in law. The Special Commissioners held that Mrs McClean was running a business but that this business was substantially an investment business rather than a trading business so was not eligible for business property relief. The land, worth £5.8 million had significant development value and agricultural property relief only covered £165,000, a very small proportion of the property's total value.

This case should be a warning to anyone hoping to rely on a grazing type arrangement to qualify them for business property relief from

inheritance tax. The business must be more than an investment business. The landowner must undertake trading or farming activities such as farming their own animals, the application of fertiliser, cutting a hay or silage crop, selling the produce etc. Care should be taken over the drafting of agreements and how the arrangements are worked in practice.

The second case of the *Nelson Dance Settlement Trustees v HMRC* was a complicated case relating to a lifetime transfer of agricultural land with development value and whether or not business property relief was available on this.

Business property relief is usually relied on to cover the value of land above agricultural value from inheritance tax. Relief can be at 100 per cent or 50 per cent depending on the business structure, so this can be a very valuable relief, particularly where there is development potential. Care needs to be taken to structure a business properly if this relief is not to be wasted unnecessarily and/or inadvertently.

**For further advice contact
Penelope Lang on + 44 (0)1635 35255
plang@jamescowper.co.uk**



CHANGES TO THE CAPITAL GAINS TAX RULES

Most people are aware that Capital Gains tax changed from 6 April 2008, when a flat rate of 18 per cent was introduced for all chargeable gains made by individuals and trustees. Indexation allowance and taper relief were abolished. Indexation continues to be available for companies.

Rural landowners are particularly badly hit by these changes as they tend to have owned their land for a long time. Many owned the land in March 1982. Land values were high at that date, so landowners benefited from indexation relief. Until 2005, there was no real increase in the price of land, so the indexation relief simply compensated for inflationary gain. Under the new regime inflationary gains will now be taxed.

Companies are unaffected by these changes.

What reliefs from Capital Gains tax are available under the new regime?

- The new Entrepreneurs' Relief grants a lower tax rate of 10 per cent (instead of 18 per cent) on the first £1 million of qualifying lifetime gains but only if the disposal is associated with the sale of the whole or part of a business. It will not apply on the sale of one field unless the sale is accompanied with the disposal of part of the business. The relief is similar to, but not the same as, the old retirement relief.
- Rollover Relief is still available on the disposal of business assets where the proceeds are reinvested in another qualifying business asset within the period of one year before, to three years after the sale.
- Holdover Relief is still available for gifts of business assets and assets which qualify for Agricultural Property Relief for Inheritance tax and for most gifts into trusts.
- Deferral Relief using an EIS investment.

With the increased potential Capital Gains tax cost of selling or gifting away land in the future, these reliefs will be very valuable. You are advised to take advice well before the disposal to make sure matters are properly structured to take best advantage of the available reliefs.

**For more information please contact
Penelope Lang on +44 (0)1635 35255 or
plang@jamescowper.co.uk**

NEW NATIONAL MINIMUM WAGE RATES

There are different levels of National Minimum Wage, depending on the age of the worker.

The current rates from 1 October 2007 are:

- adults (which means people aged 22 and over) receive the full rate of £5.52 an hour
- a 'development rate' of £4.60 an hour is paid to workers aged 18 to 21 inclusive
- young people aged 16 & 17 receive £3.40 an hour
- apprentices under the age of 19 are not entitled to the National Minimum Wage. Apprentices who are 19 or over and in the first 12 months of their apprenticeship are not entitled to the National Minimum Wage.

From 1 October 2008 the rates will be:

- adults (which means people aged 22 and over), £5.73 an hour
- workers aged 18-21, £4.77 an hour
- the 'development rate' young people (those older than school leaving age and younger than 18; you're under school leaving age until the end of summer term of the school year in which you turn 16), £3.53 an hour

The basics of holiday rights

There is a minimum right to the employee to be paid holiday, but the employer may offer more than this. The main things the employee should know about holiday rights are:

- they are entitled to a minimum of 4.8 weeks (from 1 October 2007)
- the entitlement will increase again to 5.6 weeks from 1 April 2009
- those working part-time are entitled to the same level of holiday pro rata (so 4.8 then 5.6 times the usual working week)

- holiday starts building up as soon as the employee starts work
- the employer can control when holidays are taken
- the employee gets paid the normal pay for the holiday
- when an employee leaves a job, he gets paid for any holiday not taken
- bank and public holidays in Britain and Northern Ireland can be included in the minimum entitlement

For all the details on these you can see <http://www.direct.gov.uk>

Agricultural workers

Agricultural workers have separate pay rates and holiday rights set by the Agricultural Wages Board.

The minimum rates and the other terms and conditions of employment that apply to agricultural workers are set out in the Agricultural Wages Order. This will come into force on 1 October 2008.

For information on the current 2007 Agricultural Wages Order and any relevant guidance notes see: <http://www.defra.gov.uk/farm/working/agwages/index.htm>

The rates for agricultural workers for 2008 have just been agreed, but are not published on this website at the time of writing. However, from the NFU and farming press the awards are:

Grade 1 £5.74 per hour
Grade 2 £6.26 per hour

Grade 3 £6.89 per hour
Grade 4 £7.39 per hour

Grade 5 £7.83 per hour
Grade 6 £8.45 per hour

For more information please contact Charmaine Puffett on +44 (0) 1635 35255 or cpuffett@jamescowper.co.uk

IMPORTANT VAT CHANGES

While the Chancellor said very little in his Budget speech about VAT, a number of important changes were made to the VAT rules.



Errors on returns

Where an error is made on a VAT return it is currently necessary to make a voluntary disclosure to HMRC if the amount of tax involved exceeds £2,000. For returns for periods beginning after 30 June 2008 this limit is increased to the greater of £10,000 or 1 per cent of the annual business turnover figure, subject to an overriding limit of £50,000.

Where an error gave rise to an overpayment of VAT prior to 4 December 1996 or an under-claim of VAT prior to 1 May 1997, HMRC now accept that they cannot refuse a claim by reference to the normal three-year cap because they introduced that time limit without a transitional period. However, the opportunity to claim such tax will expire on 31 March 2009 so you should now consider whether you are entitled to make such a claim.

VAT and transfers of payment entitlement

HMRC have done somersaults on this one. They are now back to stating that where the 'principal driver' in a transaction is obtaining the land by purchase or lease, then the transfer of the payment entitlement will follow the liability of the land transaction (normally exempt unless the transferor has opted to tax). In any other situation a transfer would be VAT standard-rated.

For further information contact Terry Dockley on + 44 (0)1635 35255 or tdockley@jamescowper.co.uk

James Cowper offices:

Phoenix House
Bartholomew Street
Newbury
Berkshire RG14 5QA

Willow Court
7 West Way
Botley
Oxford OX2 0JB

3 Wesley Gate
Queen's Road
Reading
Berkshire RG1 4AP

North Lea House
66 Northfield End
Henley-on-Thames
Oxfordshire RG9 2BE

Tel: +44 (0)1635 35255
Fax: +44 (0)1635 40500

Tel: +44 (0)1865 200500
Fax: +44 (0)1865 200501

Tel: +44 (0)118 959 0261
Fax: +44 (0)118 939 3385

Tel: +44 (0)1491 572565
Fax: +44 (0)1491 411705

 **jamescowper**

Accountants & Business Advisers

email: info@jamescowper.co.uk

www.jamescowper.co.uk