JOHNSTON CARMICHAEL

Rural Landscape

Our annual newsletter packed full of information and advice

2019

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Welcome to Rural Landscape 2019

Foreword by Robin Dandie, Partner and Head of Agriculture

As Scotland's largest independent firm of Chartered Accountants and Business Advisers, we've been cultivating relationships with the rural community for over 80 years. We're very proud of our roots and with many of our own specialists coming from farming backgrounds themselves, we really understand the industry issues that impact you. With 11 offices across Scotland, we are well placed to advise the rural sector up and down the country, offering local knowledge where it matters most.

In this year's newsletter, we share our expertise and insights on topical issues currently impacting the sector, including advice on farming arrangements, the benefits of cloud accounting and an update on the changes to capital allowances. We also share an interesting case study to highlight the benefits of farm diversification. If you would like to know more about any of the matters raised in our articles, please contact me or your usual Johnston Carmichael adviser, details of which can be found at the end of this newsletter.

Follow our Agricultural team @JC_Agri

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Out on the road

The team will once again be hitting the road this summer and attending a range of shows. Pop along for a refreshment and a chat with the team.

8 June 2019	**Angus Show**
20–23 June 2019	**Royal Highland Show**
31-1 August 2019	**Black Isle Show**
2-3 August 2019	**Perth Show**
4-5 August 2019	**Turriff Show**

Farming Arrangements

Jane Mitchell, Business Advisory Senior Manager

The current uncertainty in agriculture and the quest for farmers to continue to make profit on their agricultural units often brings the question of whether a change to their current farming arrangement is an option. There are a number of different arrangements available.

Contract farming

Contract farming agreements govern the profit split of contract farming arrangements. The contractor receives payment for the work done. The farmer receives a share of the profit each year, normally shown as income within their current farming business accounts. A separate account of the income and expenses of the enterprise management is kept and an annual set of accounts produced each year for this business. The proportion of profit gained from the enterprise management is disclosed annually within the benefiting parties tax returns.

Licensing

Agricultural licences tend to run as short-term agreements such as grazing lets where a tenancy is not appropriate. For longer term agricultural occupation, tenancy law protects the interests of landlords and tenants, where a licence may not.

The business of letting is a tax deductible expense for the business where the lessee's business is taxable. The expense is disclosed within the annual accounts of the business, the profits on which are taxed annually.

Tenancies

A tenancy can be run through any business vehicle. The most common are:

a) a sole trader – where one individual is trading alone;

b) a partnership – where two or more people are in business together;

c) a limited company – where the business is incorporated, shares are issued and these shares are purchased by those that wish to own the company.

Each of these vehicles produce a set of annual accounts. Taxable profits are then assessed to tax.

Sole traders and partners within a partnership are assessed to tax as individuals via income tax (currently there are five Scottish tax bands from 19% - 46% for 2019/2020). Limited companies are assessed to tax on corporation tax (rate currently 19% to 31/03/20).

Partnerships

Partnerships consist of a number of partners in a business, governed through a partnership agreement which sets out the partnership share of assets and profits. Two owners of a business constitute a partnership and each partner is taxed on their share of the partnership profits.

Accounts profits are adjusted for various items such as private use items, depreciation and capital allowances to arrive at the taxable profit. Each partner has a personal tax allowance (£12,500, 2019/20) which is set against annual taxable profits before the charge to tax is calculated.

Share farming

Share farming agreements govern the asset and profit split of share farming arrangements. Depending on which assets from each party within the agreement are used, the share of the income and expenses are divided up to give a return on the assets or the work put into the enterprise. This split will give the share of income and expenses derived from the enterprise attributable to each party within the share farming arrangement.

Each party in the share farming arrangement then accounts for their share of the income and expenses within their own annual tax return. The share farming profit and loss account in totality is not accounted for, it is the individuals within the share farming agreement that account for their part individually.

Are you actually farming?

Karen Wilson, Business Advisory Senior Manager

This may seem like a strange question, especially for someone who has lived and worked on the same farm for most of their life. However, where a farmer has perhaps sold off their stock and has rented out their grass to their neighbour, HMRC may argue that you are no longer actively farming.

A claim was disallowed by HMRC, where a landowner who was letting land under a grazing let arrangement, claimed reliefs for Capital Gains Tax (CGT) purposes on the sale of this area of land. Essentially this case meant that the landowner may have to pay CGT on an investment asset at double the rate of selling a business asset.

Ultimately the difference between whether the land is an investment asset or a business asset depends on who is carrying out the acts of husbandry on the land.

Where the landowner fertilises the land, arranges the supply of water to the land, controls weeds and reseeds the grass if necessary, then they should be classed as the farmer. This would mean that the grazier is merely being allowed to bring animals to the land to eat the grass.

If the grazier carries out the acts of husbandry on the land, then they will be deemed to be the farmer and the landowner would simply be holding the land as an investment asset.

In the case mentioned earlier the landowner was responsible for applying the fertiliser and carrying out the other acts of husbandry including draining, fencing and tidying hedges, and the tribunal agreed that CGT should be payable at the lower rate (i.e HMRC's view was overturned).
There are other tax advantages which arise from continuing to be an active farmer.

Agricultural land which is rented out may still qualify for 100% Inheritance Tax relief. However in order for the farmhouse to qualify, it is necessary that the person living in the house is a working farmer. This will be difficult to prove if the grazier is carrying out all the acts of husbandry.

For VAT purposes there is a difference between the receipt of rent (normally exempt from VAT) and the provision of a grazing licence (zero-rated for animal feedstuffs). A business making zero-rated supplies can reclaim VAT on related expenses, whereas a business making exempt supplies cannot reclaim VAT at all.

For Income Tax purposes there are a number of disadvantages from being classed as a non-farmer. These include not being able to offset as many expenses, restrictions on the offset of losses and the inability to claim farmers' averaging.

For an active farmer who wishes to give up their trade of farming, by disposing of the business, they may qualify for a lower rate of CGT, known as Entrepreneurs' Relief of 10%. To qualify for the lower rate of CGT on the whole gain, you would require to be actively farming the land at the time of the sale. This lower rate is not available on the disposal of investment assets.

As always with tax, it's never straightforward so please speak to your accountant or contact Johnston Carmichael for advice to ensure that you are actually farming!

The importance of planning

Stuart Walker, Financial Planner, JC Wealth

Plans are put in place to ensure things will be 'alright', but everyone's definition of 'alright' varies depending on your personal circumstances. Having a plan in place is an important part of what we do. We start by working with our clients to understand their financial and life objectives, current income levels vs expenditure, existing assets and investments, family structure and attitudes to investment risk.

Throughout the years of advising our rural clients, the importance of planning has always been evident. We appreciate that planning in the agricultural field is not always easy due to various factors such as the weather, prices and quality of crop, this is also true for financial planning. Whilst we cannot help with the agricultural planning we can however help you with the financial planning.

In our experience, most people worry about three major things when it comes to financial matters: running out of money, providing for their family and inheritance tax. Whilst a financial plan can't stop all those worries, it can reduce the potential impact of them by building models using cashflow analysis to demonstrate the financial impact caused by life events.

We are all unique and the financial plan has to reflect this. The plan will differ depending upon your age, family structure, other business interests and so on. For clients with a young family, the focus might be making sure the family will be provided for in the event of unforeseen circumstances as well as trying to build up savings and a retirement pot. For clients where the family have grown up and "moved on" the focus might be succession planning and inheritance tax planning.

All plans involve a look at current income vs current expenditure. We would then review existing assets, investments and protection to ensure their suitability and tax efficiency. Once the review is completed we create a financial plan for you to follow.

Life, however, doesn't always go to plan, so we stress test your financial plan against life events such as market corrections, legislation changes, care home fees, making gifts and death which can potentially reduce the financial impact on you and your family. When considering making gifts people worry about needing the money back and by building this into the plan we can discuss and determine the right time to make those gifts.

It is never too early to start a plan, and you should always keep reviewing it once you have one in place, but remember - a goal without a plan is just a wish.

The benefits of cloud accounting

Julia Reid, Business Solutions Manager

The pressure is on from 1 April 2019 for businesses who are VAT registered and have annual taxable turnover exceeding £85,000 – these businesses are required to keep digital records and submit their VAT returns digitally as part of Making Tax Digital for VAT (MTD).

MTD is an initiative by HMRC to make it easier for businesses to keep on top of their financial affairs by ensuring they are kept up to date and are used in a more effective way. For example, a paper cashbook might work really well for your business but that then takes work, time and intervention to turn that into your VAT return, your annual accounts and tax return, therefore HMRC want this to be a more joined up process. MTD reduces the manual intervention in the VAT return process, which in turn reduces the scope for errors which HMRC has estimated can cost our economy up to £8bn each year.

Businesses who are VAT registered voluntarily and therefore have annual taxable turnover below £85,000 are not required to comply with the MTD rules, however, many are choosing to do so because of the benefits that come with keeping digital records. One of which is that it is easier to keep an eye on the annual taxable turnover to ensure they remain compliant with these MTD rules.

We have been reminding our clients who have taxable turnover below £85,000 that SIACS, Scottish Government and EU Grant income should not be included in box 6 on the VAT return as this income is outwith the scope of VAT. There are some exemptions where digital record-keeping is not possible or practical because of religious reasons or because of age, disability or remoteness. Exemption applications must be made through the HMRC VAT helpline or in writing, and these reasons must be able to be evidenced.

For clients who do have to comply with MTD rules, we have been using a cloud accounting software product called Xero (www.xero.com). Xero is user-friendly and intuitive, even for computer novices, as well as being MTD compliant. Xero is accessed via the internet, so you can login from anywhere at any time on any internet-enabled device. If you have internet banking, Xero can use bank feeds to connect to it and automatically download your transactions into the software ready for posting. Xero also uses bank rules, this is where you can

confirm that BT is for telephone, or Shell is for fuel, for example – this is then memorised in the background so that the next time it comes along, you don't have to start from scratch creating it again. Xero is competitively priced at £22
plus VAT per month on a rolling subscription basis, so no large up-front costs.

There are also some great agriculture specific apps which connect to Xero to provide an all-round business software tool for farming businesses.

We have had fantastic feedback already from farming clients who have made the leap from manual paper records to Xero:

“ We recently moved to Xero accounting software from manual spreadsheet records. Johnston Carmichael completed the migration work for us by populating Xero with opening balances from our annual accounts, set up bank feeds and provided training so that we could be comfortable continuing to perform our own bookkeeping and VAT return preparation using Xero. The more confident I become in using Xero, the more time I save each month. Xero's cloud-based accounting assisted me to complete all of our 31 December 2018 bookkeeping, bank reconciliations and I submitted our VAT return by 2 January 2019. This would never have been possible before, as we would have to wait for the paper bank statements arriving in the post and then find the time to get around to working on the accounts and VAT. We received our VAT repayment in the bank just four working days later – you can't ask for better! ”

Jackie Sands, Co-owner, Thomas A. Sands Ltd

Is your farm protected from Inheritance Tax if you pass away?

Robin Dandie, Partner and Head of Agriculture

In any Inheritance Tax planning for farming businesses, it is important to ensure that eligibility for Inheritance Tax reliefs is reviewed with a view to maximising and protecting those reliefs.

Inheritance Tax can be an issue where the value of a death estate and lifetime gifts, within seven years of death, exceed the Inheritance Tax nil rate band (currently £325,000). The nil rate band available can be higher in the case of a surviving spouse or civil partner and where the death estate includes the deceased's only or main residence.

For farming businesses, the Inheritance Tax reliefs available will generally be a combination of Agricultural Property Relief and Business Property Relief. These reliefs reduce the value chargeable to Inheritance Tax, and so, can be very important in reducing the amount of tax otherwise due.

Agricultural Property Relief is generally available for transfers of agricultural property in the UK, Channel Islands, Isle of Man or the European Economic Area. To qualify for relief the land must be owned and occupied for agricultural purposes for two years (if farmed by the owner or a company controlled by them or their spouse/civil partner), or seven years if occupied by someone else (such as a long term let). A farmhouse occupied for agricultural purposes can also qualify for Agricultural Property Relief, although special rules apply.

Agricultural Property Relief is normally available at a rate of 100% in owner farmed land, although it can reduce to 50% in some circumstances. It is however important to note that Agricultural Property Relief is restricted to the agricultural value of the land, which may affect cases where land has development value. Where Agricultural Property Relief does not fully reduce the value of the farm land and other business assets, Business Property Relief may be available on the excess in the case of owner farmed land. Where Business Property Relief is available, this is normally at a rate of either 100% or 50%. The rate of Business Property Relief depends on whether the farming business is operated as a sole trader, partnership or limited company and where the land is owned.

Some problem areas include where there is a binding contract for sale (which could include wording in a partnership agreement that the farm automatically transfers to the remaining partners on the death of a partner) as no Agricultural Property Relief or Business Property Relief is available in those circumstances. Complications can also arise where there are derelict buildings or where land is not used for farming purposes (such as a wind turbine).

Calculating Inheritance Tax on transactions can be convoluted so it is important to obtain professional advice before making any final decisions about what is the best course of action for your circumstances.

Land ownership, farming and VAT

Alistair Miller, Senior Tax Manager, VAT

Land ownership and maximising income from the land is a constant challenge. Factors such as family health, changing market demands and costs all add to the complexities of farming and how best to manage the assets. The VAT consequences of this are complex too.
Income can have different VAT rates applied – 20%, 5%, zero-rated or exempt. VAT recovery on costs can be restricted by exempt activity or personal use of assets.

Changes in legislation can take you by surprise and you could inadvertently be making errors by not applying the correct VAT procedure. This can lead to misdeclarations and possible penalties and interest.

Alternatively, you may be paying too much VAT. This may be recoverable from HMRC, but only for four years so it pays to be on top of things.

What are the common problem areas?

Leasing or selling land and property.
Selling or leasing commercial land may be exempt from VAT, thereby restricting recovery on related costs or liable to VAT at 20% with full recovery of VAT on costs. It may be beneficial to "opt to tax" land to avoid restrictions on VAT recovery – the rules on this are complicated and it needs to be done in advance.

Things get more complicated when selling land as part of a business. The "going concern" rules can remove a VAT charge, but the conditions are not straightforward.

Selling or leasing land for domestic purposes (this includes housing and a number of other uses such as nursing homes) may be standard rated, exempt or zero-rated. The rules are complex and the commercial impact of VAT on a deal needs to be carefully thought through. Income from holiday lets is generally subject to VAT at 20%.

Beware of barter transactions – exchanging land for goods or services can create hidden and unexpected VAT charges.

The VAT treatment of keeping horses depends on the level of service given by the "Yard". Grazing is usually zero-rated, but any level of care or husbandry may bear VAT at 20%. Charges for exclusive use of a stable can be exempt, which could lead to restrictions in VAT recovery.

Getting it right

This article can only highlight the main areas of VAT complexity arising from land ownership. The sums involved are large and mistakes are hard to correct after the event – the best way to get things right is to take advice upfront. It can save a lot of time and money later!

Budget 2018: Changes to capital allowances

Senga Prior, Tax Manager

In the 2018 Autumn Budget the Chancellor announced three major changes to capital allowances.

Structures and Buildings Allowance

First of all let us look at the introduction of the Structures and Buildings Allowance (SBA). Many of you will remember the old Agricultural Buildings Allowance and the SBA is similar in many ways but this time round there are no complicated balancing adjustments. If the building is sold the purchaser just 'inherits' the pool balance for capital allowance purposes. The allowance is claimed at a 2% straight line over a 50-year period commencing from when the building comes into use.

It is available for new commercial structures and buildings including costs for new conversions or renovations. The cost of the underlying land and planning permission costs are not included but relief is available for the costs of physically constructing the building which includes demolition and land alteration costs. SBA expenditure will not qualify for Annual Investment Allowance (AIA) but AIA relief may be available for integral features such as heating or lighting systems.

Residential dwellings or any part of a building used as a dwelling will not qualify for the relief and if at anytime the building ceases to be used for a qualifying activity then allowances will no longer be available for that non-qualifying period. The relief will apply to contracts entered into on or after 29 October 2018 and will be prorated for periods of less or more than one year.

For example, a farmer with an accounting year end of 31 December entered into a contract on 1 December 2018 to have a shed built for £120,000. The shed is completed on 30 April 2019 and is brought into use on 1 May 2019. In the year to 31 December 2019 the farmer will be able to claim eight month's SBAs of £1,600, then 49 years of SBAs of £2,000 and a final £400 in the year to 31 December 2069! If the shed is sold or passed on to family the new owner just carries on the SBA claim.

Reduction in Special Rate Pool Allowance

Also announced was the reduction in the Special Rate Pool Writing Down Allowance from 8%

to 6% per annum. Special Rate expenditure includes long-life assets, thermal insulation, integral features (these could qualify for the more advantageous AIA) and more importantly expenditure on cars with high CO_2 emissions. (Prior to 1 April 2018 cars with emissions over 130g/km and from 1 April 2018 cars with emissions over 110g/km). Cars cannot usually qualify for AIAs and therefore the tax advantage of having a low emissions car is increased given the reduced writing down allowances for the special rate pool. For periods which span 1 April 2019 (for companies) or 6 April 2019 for (sole traders and partnerships) a hybrid rate will apply. For example, for a business with a year end of 31 June 2019 a rate of 7.5% would apply.

Increase in Annual Investment Allowance to £1m

Saving the best to last! As announced in the Budget the AIA (allowance for expenditure on Plant and Machinery) has increased from £200,000 per annum to £1m per annum for the two years commencing 1 January 2019. There is however a catch. For accounting periods which straddle 31 December the AIA is apportioned and restricted. For example, if a business has a year end of 31 March 2019 relief for expenditure in the period up to 31 December 2018 is restricted to £200,000 but for the period from 1 January to 31 March expenditure of up to £400,000 will be allowable (9/12 x £200,000 + 3/12 x £1m) less any of the £200,000 allowance used in the previous period. The following year will receive the full AIA allowance of up to £1m but the next issue will occur in the year to 31 March 2021. In that year if the AIA returned to £200,000 from 1 January 2021 then expenditure of up to £800,000 would be allowable for the year (9/12 x £1m + 3/12 £200,000) BUT the maximum allowable deduction for expenditure incurred in the three months to 31 March would be £50,000. It is possible that the AIA could be reduced even further so you will note that timing is very important and you should discuss any likely expenditure with your tax adviser.

How wind powered vegetables have helped Benzies business to fly!

Benzies is a farming business based just outside Turriff in Aberdeenshire. A family partnership, the farm is run by Philip and Hazel Benzie and Hazel's son, Charles Duguid. Over the last 15 years the business has seen significant growth through taking four major strategic steps with the support from the Johnston Carmichael team.

In this short case study, we take a look at how the business has grown and the investment they took to get there.

Doubling figures & entering new markets

Back in 2004 the business grew 590 acres of potatoes, 32 acres of carrots and 675 acres of grain. Fast-forward to 2018 and the potato and grain figures have doubled to 1,500 acres and 1,300 acres respectively and a staggering increase in carrot production to 500 acres.

Building a packhouse, investing in a wind turbine, creating onsite storage and moving into the carrot market have all helped to get the business to where it is today. All this and no shortage of hard work for the team!

2007 – 2011

An opportunity arose in 2007 to pack carrots for Scottish supermarkets. A washing and packing facility was built so the process could be streamlined onsite, adding value to their offering which helped to improve profitability.

The business invested in a 100 metre wind turbine in 2009 to generate energy for the farm. The turbine gives an income stream all year round and helps to provide one third of the power needed for the business, helping to reduce costs. The added benefit of being able to say you're tucking into a wind-powered carrot or tattie is definitely appealing to consumers these days!

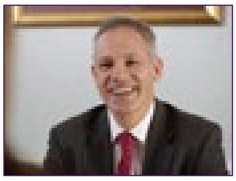
Onsite storage facilities were built in 2011 and were further extended in 2016 which meant a significant reduction in the transport and labour costs of taking potatoes in for grading from offsite stores. It also meant the team could take advantage of the electricity generated onsite to power cold stores and reduce their offsite rental costs. In 2017 a further potato storage facility was purchased in Morayshire to enable storage and grading closer to the growing area.

Expanding their roots – the carrot market

The move to grow more carrots meant the business could spread the risk of relying too heavily on the potato crop and generate income all year round. And, as the same kit can be used for both carrot and potato crops, it meant the business could utilise their machinery more efficiently.

Like any business there have been some bumps in the road, but with the vision of the owners, a positive in-house accounts and operational team and key support from Mike Pitman and his team in Fraserburgh, the vision has become a reality. It's been a real team effort from Johnston Carmichael from advising on funding plans, investment in renewable energy and steps to futureproof the business. It's a fantastic business and we're excited to see what's next for Benzies!

Meet the Rural team



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