Land ownership options for family farming partnerships

High modern farmland values are the driving force for many of the recurring issues we have cause to discuss with our farming clients. The traditional partnership remains the preferred business structure for many family farming businesses, due to the flexibility afforded, but one such question relates to the implications of the family farm being owned by the partnership, or by the partners personally.

The considerations are partly tax related. Inheritance Tax Agricultural Property Relief (APR) will generally be available regardless of partnership or personal ownership, usually after a two year period of ownership. Some assets, for example let cottages, land let to a renewable energy developer or development land value would not qualify for APR. Business Property Relief (BPR) is required to protect from Inheritance Tax on these assets and is available providing the overall business is mainly trading. The relief is 100% for partnership assets but is restricted to 50% for personally owned assets.

Capital Gains Tax (CGT) is another consideration, particularly if land may be sold, perhaps for development. Generally, it is easier to secure Entrepreneurs Relief and the reduced CGT rate of 10%, if the partners own the land personally and the disposal can be tied in with a reduction in the partnership interest of the land owning partner.

There are also non-tax issues to consider. In Scotland, partnership assets are classed as 'moveable property' and may require to be devolved under pre-determined succession rules as a result of a 'legal rights' claim, which may not be in-keeping with the wishes of the land owner.

In summary, there is potentially an Inheritance Tax advantage in the family farm being owned by the partnership but this should be weighed against potential Capital Gains Tax benefits of personal ownership and any risk of 'legal rights' claims.

For advice regarding the issues described in this article, or other tax related matters, please give us a call.

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Furnished Holiday Lettings

With the increasing popularity of properties being converted for rental as furnished holiday accommodation, this article discusses the UK tax treatment of Furnished Holiday Lettings (FHLs).

In order to qualify as a FHL the accommodation must be located in the UK or European Economic Area (EEA), let on a commercial basis with a view to making a profit, and be sufficiently furnished for normal occupation. The accommodation must be available for commercial letting as holiday accommodation for at least 210 days in the year, be commercially let as holiday accommodation for at least 105 days in the year, and must not be let for periods of longer-term occupation (more than 31 days) for more than 155 days in the year.

For continuing lets the above tests are applied to the tax year concerned however, when a FHL commences or ceases during a tax year, the tests are applied to the first or last 12 months of letting respectively. Where the condition relating to the number of days let is not met, it may still be possible for a property to qualify as a FHL via an averaging election or a period of grace election if certain conditions are met.

Profits or losses arising from FHL properties are treated as one business but must be calculated separately from those of any other rental business. In addition, UK FHL businesses and EEA FHL businesses cannot be amalgamated. Profits arising from a FHL business are taxed as rental income whilst losses are carried forward to be set against future profits of the same FHL business. Rental income from FHLs is treated as a taxable supply for VAT purposes.

FHLs are treated as trades for some tax purposes. The advantages of this include the entitlement to claim capital allowances on qualifying furniture, white goods, furnishings etc. in the let property. These can be substantial. It should be noted that a balancing charge or allowance may arise if the property is disposed of or ceases to qualify as a FHL. Another advantage is that some capital gains tax reliefs such as business asset rollover relief, gift holdover relief and entrepreneur's relief may be available on the disposal or transfer of a FHL property if certain conditions are met. Finally, FHL profits count as relevant UK earnings for pension purposes.

If you require assistance or advice in connection with FHLs or any other tax matter, please get in touch.

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Rennie Welch Developments

On the 1st of April 2014 Rennie Welch incorporated Hugh Pollock's Melrose practice into the firm. The Partners were very excited at the prospect of incorporating this historic Melrose practice and are delighted that, under Gill Adamson's supervision, we have seen this element of the practice develop swiftly.

There have been a few changes in the last year. Jim Swan, who had worked with both Jim Russell and Hugh Pollock, decided that September was the time to hang up his calculator and retire having given great service to the clients over many years. We now staff the office with a number of our colleagues from both our accountancy group and taxation group but with Rita Widdowson still managing the office every day.

The office is a hive of activity as it develops and grows and we are delighted to welcome the new clients through the door, and to provide them with the same high quality personal service that the existing client base benefits from. Between the two offices we are fortunate to have a highly skilled team of professional colleagues who can deliver a broad range of accountancy and taxation services.

We very much look forward to welcoming you into our Melrose office.

New Website Launched

We are excited to announce that we have recently launched our new website. Why not have a look by visiting **www.renniewelch.co.uk.**

What would you like to see covered?

If there are topics that you would like to see covered in future issues please let us know and we will endeavour to include these going forward. Please contact Isla Young on 01573 224 391 (Isla.Young@renniewelch.co.uk).

Cloud Accounting

We now have a number of staff who are accredited or working towards accreditation status with two cloud based accounting packages – Xero and Kashflow. To find out more about cloud accounting and how it could benefit you please contact Gail Kristiansen – Gail.Kristiansen@renniewelch.co.uk.

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Farming Matters

Information and advice to help you grow your business | **renniewelch.co.uk**

Inside this issue...

RENNIE WELCH
accountants : audit . tax . investment . IT

Welcome

to the inaugural edition of Farming Matters.

At Rennie Welch we have always known that farming matters. It is the one primary industry that we have in our region and an industry from which the entire rural community benefits.

My colleagues have put together some very interesting and pertinent articles on contemporary matters. Firstly there is Auto Enrolment which will impact on most businesses that are employing people and it is crucial that you are aware of the upcoming changes and be ready to comply with them. Then there is the impending change to the annual investment allowance. With machinery prices at the level they are this is a significant negative change. We have also touched on the problem of timing differences and this is becoming very relevant as farmers pull in their horns on the reinvestment front.

Agriculture is, as it always seems to be, at a point of change in Scotland and we have covered this with an article on land ownership and one on the new entrant schemes which have come out of the CAP reform legislation. Finally, there is the diversified business with furnished holiday lets and the opportunities that sector gives to the business and to the Borders as we reach the cusp of having a railway in the region. This may bring a potential influx of tourists that will hopefully stay and enjoy the wonderful Border scenery, history and people.

I do hope that you enjoy reading the first edition of Farming Matters and find the articles helpful and thought provoking for your business. We have a very experienced team and we are committed to the industry and its people. We welcome feedback on the articles and suggestions for topics that you would like to see covered in future editions. With this feedback we will be able to make the future editions contemporary and dynamic and incredibly useful to the reader.

Gordon Chisholm
Senior Partner

Are you ready for Auto Enrolment?

If you are an employer of one or more members of staff, and are not already doing so, you will soon be required to provide and pay into a pension scheme for your employees. Known as Auto Enrolment, your employees will automatically be enrolled in the scheme (unless they choose to 'opt-out').

For many small businesses Auto Enrolment seems a long way off, with the majority of staging dates falling in either 2016 or 2017. However, there is a great deal of planning to be done to ensure your business is ready on time so it is essential that you start to think about it now.

Noted below are a few of the key points to start thinking about.

- If you don't already know your staging date you can find out at www.thepensionsregulator.gov.uk/automatic-enrolment.aspx - all you need is a note of your Employer Reference Number.
- Work out which of your staff are eligible (see table below) and consider the most appropriate calculation method.
- Consider the schemes available to you.
- Contribution rates currently set at a minimum of 1% for employers, rising to 3% by October 2018. These rates are per employee.
- Plan how you are going to manage the extra administration that will accompany Auto Enrolment.

To find out more please visit www.thepensionsregulator.gov.uk or give us a call to chat through your queries.

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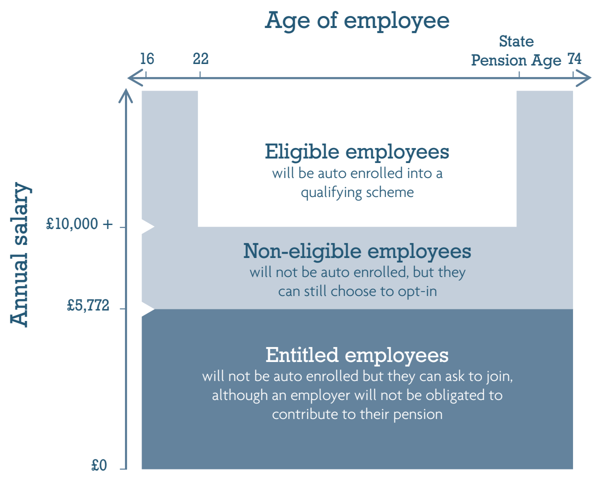

*Employees must be working in the UK

Annual Investment Allowance

Capital expenditure is not an allowable deduction in computing trading profits but it may attract capital allowances. Capital allowances are treated as a trading expense and are deducted in arriving at taxable trade profits.

Perhaps one of the most valuable allowances is the Annual Investment Allowance (AIA). The AIA is available for expenditure on most plant and machinery, with certain exceptions. In the last five years the AIA has varied from £25,000 to the current allowance of £500,000. It is also important to bear in mind that the AIA may reduce after 31st December 2015 to as low as £25,000, although in the Budget the Chancellor made clear that it would be unlikely to be reduced as far as this.

If a trader does not use the available AIA for the year in full, the unused part will be lost. It cannot be carried forward to future years. It is an annual allowance and is scaled up or down, depending on whether the period of account is longer or shorter than 12 months. Far less generous writing down allowances, at 8% or 18%, are available for qualifying expenditure in excess of the AIA.

Many aspects must be considered when purchasing an expensive item of plant or machinery. From a tax perspective, the timing of the purchase can be crucial.

Example:
A farmer has made no other capital expenditure in the year and purchases a potato harvester for £200,000 during the accounting year ending 28th February 2016. The precise date of acquisition can make a fundamental difference to the available allowances and therefore tax liabilities, for example:-

1. The purchase is made on 31st December 2015.
Allowance available = £500,000 x 10/12 + £25,000 x 2/12
= £416,667 + £4,166
= £420,834.
In this scenario, taxable profits are reduced by the full expenditure on the potato harvester of £200,000.

2. The purchase is made on 1st January 2016.
Allowance available for the whole year is £420,834 as above. However, the allowance available for purchases from 1st January 2016 to 28th February 2016 is limited to:
2/12 x £25,000
= £4,167.

The taxable profits in this example are only reduced by £4,167.

If you are considering expenditure on plant and machinery, please do not hesitate to contact us to help ensure the timing of the expenditure is advantageous from a tax perspective.

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Depreciation and Capital Allowances

The 100% Annual Investment Allowance (AIA) in respect of plant and machinery purchases has fluctuated between £25,000 and £500,000 since its introduction in April 2008.

Where a business has taken full advantage of the AIA available, there will have been a cash-flow benefit by ensuring all available tax relief was given at the earliest possible opportunity. However, it is important you are aware of the effect it could have on your taxable profit levels going forward.

Whilst most businesses write off the cost of assets in their accounts by applying a depreciation rate of between 15% and 25% per annum, this depreciation is not allowable for tax purposes. To ensure that a standard rate applies to all businesses the depreciation charge is replaced by capital allowances, which are calculated at varying rates set by the government. Where the rates of capital allowances and depreciation are similar this means that the accounting profit and the taxable profit are broadly similar, subject to any other adjustments required for non-allowable expenditure.

However where the 100% AIA has been claimed, the entire cost of new assets may be claimed as a tax deduction at the start of the year of acquisition, with no tax value being carried forward from year to year on which an annual writing down allowance can be claimed. The depreciation charge will continue to be applied each year in the accounts but will have to be added back to the profit in the tax computation.

This means the taxable profit is likely to be higher than the accounting profit for a few years, until the value of the assets in the accounts are written down significantly. In the event of a sale of equipment, for example in a farm sale, there would be a reversal of previously given allowances and therefore large taxable profits.

If you would like to discuss the matter in more detail please do not hesitate to contact us.

New & Young Entrant Grants

As many of you will be aware the Scottish Government has rolled out four new schemes under the Scottish Rural Development Programme (SRDP) which are specifically targeted at New Entrants and Young Farmers. Although much of the detailed guidance is only being released now, the eligibility criteria and application process are known. This article focuses on two of these schemes – The Young Farmers Start-up Grant and The New Entrants Capital Grant.

Young Farmers Start-up Grant
If you're under 41 years of age, have an agricultural qualification at a minimum of NVQ Level 2, at least 5 years agricultural experience and have been in control of your farming business for less than 2 years, either as a new business start-up or having taken over control from another partner or shareholder, you may be able to take advantage of a grant up to the value of €70,000 (approx. £52,000).

These grants are available to assist with land acquisition, plant, machinery, equipment or livestock purchases, or the construction / improvement of farm buildings and infrastructure.

The application process comprises various parts, with one of the key requirements being that of the business financials. You will be required to provide details of the current financial position of the business along with forecasts for the future as part of a Business Plan. There will be two opportunities to apply each year – between 1 January and 30 April or between 1 July and 31 October. However in 2015 only one application window is available, with a closing date of 30 September.

If accepted the grant will be paid in two instalments. The first instalment (90% of the total grant) will be paid on receipt of a claim from the applicant when they are ready to incur the associated expenditure. The remaining 10% is paid on successful completion of the Business Plan objectives, up to a maximum of 4 years later.

New Entrants Capital Grant
Capital Grants are available to make improvements to a business and to promote sustainable development. Grants range from £25,000 for individuals to £125,000 for groups. The grant can be used to help with the capital costs of improving or constructing farm buildings.

To be eligible you must have had control of the farm business for less than 5 years at the date of application. The scheme is not confined to young farmers, but the level of grant that can be applied for may vary depending on applicant age and location of the business. Groups of new-entrant farmers meeting the same criteria can also apply for a grant.

With both these schemes it is important that you only start work or buy materials once the grant application has been approved.

If you meet the criteria and are considering an application we would urge you to start the application process before any of the deadlines become imminent (i.e. your age or length of time in control). We can provide assistance with preparing financial forecasts and business plans to support your application – please get in touch to see how we can help.

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