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Farming Matters

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

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RENNIE WELCH
accountants : audit . tax . investment . IT

Welcome

Welcome to our sixth edition of Farming Matters.

It certainly has been a challenging harvest period to put it mildly.

We had a monsoon downpour on Monday morning at home which deposited 17mm (or three quarters of an inch in old money) of rain overnight! That said, the crop quality is, in the main, good and prices have held up most likely on the back of the weakness of the currency. At such challenging times for farming businesses I hope that you will find the articles contained in Farming Matters as both practical and helpful.

For those of you contemplating property transactions there is an interesting piece about the latest legislation pertaining to these types of transactions and some of the implications for clients arising therefrom. There is also the ongoing skirmish between HMRC and those letting out furnished holiday properties and we highlight some thoughts on this topic following the recent tax case decision, which was not helpful to the taxpayer. The concept of research and development in agriculture is not common but maybe it should be. There are taxable benefits if one can demonstrate that expenditure qualifies and the article outlines some aspects to consider.

I do hope that you find these articles helpful, however, if there are topics that you would like us to cover then please let us know as we want to make the bulletin dynamic and interactive.

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Senior Partner

A record year at the Ram Sales

As many of you will know this year's Kelso Ram Sales, in its 181st year, took place on Friday 8th September, 2017. Even the monsoon like conditions on Thursday night could not dampen trade on the day, which saw a record turnover of £3,160,290 and the highest ever average of £709.54.

A huge amount of work goes into organising and running the Ram Sales every year, and for a number of years a few of the Rennie Welch staff have been heavily involved in particular aspects of this. One of the most important jobs to take place throughout the day on the Thursday and on the Friday morning is the collection of all livestock movement paperwork, consigner sheets and vet certificates for sheep that are eligible for export to Northern Ireland. For the past few years responsibility for this task has fallen to Rennie Welch colleagues Gillian Dixon and Isla Young, assisted by a number of BUAS directors who collect paperwork directly from the hauliers/farmers. Once collected, the paperwork is cross-checked to each other and to the Sale Catalogue. Any anomalies are followed up, and once complete the paperwork is filed accordingly. Only once all paperwork has been received and it has been confirmed that any lots not present are definitely not coming, can the sale go ahead. However, this is not the end of our job!

Once Ron Wilson has rung the bell at 10am, signalling the start of the sale, it's off to the Secretary's office where we are joined by another colleague, Annie Ralston. There is a welcome lull once the sale is underway, but then the auctioneer offices start receiving the sale notes from each Ring, and a copy is collected and brought to us where the total sales value, highest price and average price for each lot is calculated and/or checked. The information is then entered into the computer by BUAS staff, which allows all the necessary information to be available to the press as soon as possible after the end of the sale. With seven people working in a tight space, the office is a hive of activity, and for a while it is bedlam!

As the last lot is sold and tranquillity returns, the chocolates are gone, the coffee cups are empty and the muffin tray has been cleared – a sign of a productive day!

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Research & Development Tax Relief - is your business missing out?

Many businesses carry out activities relating to research and development (R&D) without realising that they are doing so and that they may be able to benefit from valuable tax relief as a result.

Whilst the term "research and development" conjures up images of complex projects undertaken by scientists in laboratories, this is a common misconception. In reality, a large amount of R&D work is carried out by small businesses while seeking to develop new, or improve existing, products, processes, services and systems.

R&D tax relief is a Corporation Tax relief and as such is only available to those businesses operating as limited companies.

Where unincorporated businesses, such as sole traders or partnerships, are likely to incur qualifying expenditure it may be worth incorporating all or part of the business if the amount of relief concerned is likely to be material. Incorporation does, of course, have wide ranging implications and full consideration would need to be given to these when deciding on the most beneficial course of action and the most suitable structure for the business.

In order for a project to qualify for R&D tax relief, it is not sufficient for the product or service to be commercially innovative but rather it must seek to achieve an advance in the field of science or technology. This could also include the adaptation of science or technology from another field for a new purpose. The project does not necessarily need to be successful for the relief to apply.

Agricultural businesses may, for example, incur R&D expenditure in connection with the development or improvement of products and processes in areas such as husbandry, livestock management, feeding and nutrition systems, crop management, production, etc., while businesses operating within the food industry may incur expenditure in areas such as the development of new techniques or flavours.

For small or medium sized businesses, R&D tax relief may take two forms:

- Enhanced revenue deduction – this allows the company to deduct 230% of the qualifying revenue expenditure when calculating their taxable profits, providing tax relief of up to £46 for every £100 of qualifying costs.
- R&D tax credits – alternatively, where the company incurs a trading loss in the relevant accounting period, they may surrender the loss, subject to certain restrictions, for a 14.5% repayable tax credit, i.e. a cash payment of up to £33.35 for every £100 of qualifying costs.

Qualifying expenditure refers to costs that relate directly to the R&D activity such as staffing, software, consumables (including water, fuel and power) and subcontracted R&D costs.

Where capital expenditure is incurred, a 100% R&D Allowance may be claimed in the relevant accounting period.

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UK Property Transactions

In the 2016 Finance Act, new legislation was introduced from 5th July 2016 in relation to the taxation of transactions in UK land. The purpose of the legislation was to target overseas investors trading and developing UK property. However, the impact is wider reaching than this and many individuals and companies who are affected, both resident in the UK for tax purposes and non UK resident, are unaware of the implications.

Following the changes, some property transactions that may previously have been viewed as capital in nature could now be deemed to be trading and, as such, the gains arising on disposal could be treated as trading profits and subject to UK income tax or corporation tax, depending on structure. Typically for individuals, capital gains tax would be at a lower rate and the individual would also benefit from an annual exempt amount therefore treatment as trading income rather than capital could result in a much higher tax liability.

The UK land transactions concerned are those where the main purpose of acquisition or development was to realise a profit or gain on disposal.

HMRC guidance states that "a trade of dealing in land exists where land and/or property is acquired or developed with a view to profit on disposal". This does not therefore apply to individuals or companies who acquire and repair properties in order to generate rental income, even if they also benefit from some capital appreciation, but could apply where, for example, a property that has previously been used to generate rental income is subsequently developed or improved before sale.

To establish whether the transaction would be treated as trading, various factors are considered. These include factors such as the length of time that the land or property has been owned, the intention at the purchase date, any change in intention during the period of ownership, how the purchase was funded, how the land or property has been used, whether it is developed or improved prior to disposal and whether there is a connection with an existing trade.

The rules may also apply to property deriving value from land, such as shares in a company where the reason for acquiring the shares was to dispose of land held by the company to make a profit.

These rules and the application of them to the specific circumstances of the individual or company concerned should, along with various other tax issues, be considered when entering into any property transaction.

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Inheritance Tax relief on Furnished Holiday Lets - a diminishing possibility?

It is widely appreciated that properties let as furnished holiday accommodation receive privileged tax treatment in comparison with residential lettings. This treatment is as a result of the activity being treated as a trade for Income Tax and Capital Gains Tax (CGT). However, the prospect of the letting activity being treated as a trade for Inheritance Tax (IHT) and therefore attracting Business Property Relief (BPR) is looking increasingly grim.

BPR can provide relief from IHT at rates of up to 100%. However, it only applies to businesses which qualify as 'wholly or mainly trading businesses'.

Whether a furnished holiday let (FHL) activity qualifies as a trade appears to be on HMRC's radar and they have been successful in a couple of cases over the last few years where the level of services provided to holidaymakers has not been notably high. Perhaps more of a concern is their success in a recent First Tier Tribunal (FTT) case, the 'Ross' case which concerned FHLs in the West Country.

Mrs Ross died in 2011 when she held two-thirds of the Green Door Cottages Partnership. This owned eight holiday cottages, two flats and UpsideDown House. Mrs Ross' share of the business was valued at between £1 million and £1.5 million, on her death.

The eight cottages and UpsideDown House were let as holiday accommodation. One flat was let to a handyman employed by the partnership and the other was let to a neighbouring hotel for staff accommodation. This hotel had been owned previously by the Ross family and despite separate ownership, since 2002, continued to have a close business relationship with the cottages. The hotel provided services and facilities to guests of the cottages in exchange for the tenancy of the flat and a percentage of turnover.

The services the hotel supplied to guests included dealing with bookings and phone enquiries, providing a guest welcome service, turning on heating, accepting left luggage, answering queries, delivery of bar meals and discounts on bar meals in the hotel, as well as ordering milk and newspapers. The cottages on occasion were let as hotel bedrooms i.e. fully serviced.

The Judge agreed with HMRC's argument and held that the standard, quality and cost of the activities provided were insufficient to overturn the view that the business was mainly one of letting land and not the provision of holiday services.

It is possible that the taxpayer will appeal this decision. However, owners of FHLs should consider their succession plans in light of the decision as it demonstrates how hard it could be for a FHL business to attract BPR.

A lifetime gift of a FHL property may therefore become an attractive proposition and providing certain conditions are met this gift could qualify for CGT holdover relief, resulting in a tax free transfer if the donor survives for seven years following the gift. For taxpayers with wider trading businesses, it may also be worth considering the extent that the FHL business is integrated in the wider business. However, this can be complicated in practice and it would be imperative to take proper advice to avoid jeopardising relief on the whole business.

A longer version of this article is available on our website at www.renniewelch.co.uk.

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Are you a VAT registered business that keeps manual records?

As from April 2019 all VAT-registered businesses with turnover above the VAT threshold must submit VAT returns via the Making Tax Digital (MTD) System. So, what does this mean?

The key issue under MTD is that businesses will need to keep digital records and VAT submissions will need to be made directly from the accounting software, which will need to be MTD compatible. So, if you are a business that currently keeps manual records and keys-in data for online VAT submission you will need to move towards a digital system in order to comply with MTD.

If you would like to discuss how MTD will affect your business and what solutions are available, please contact Kirsty MacDonald.

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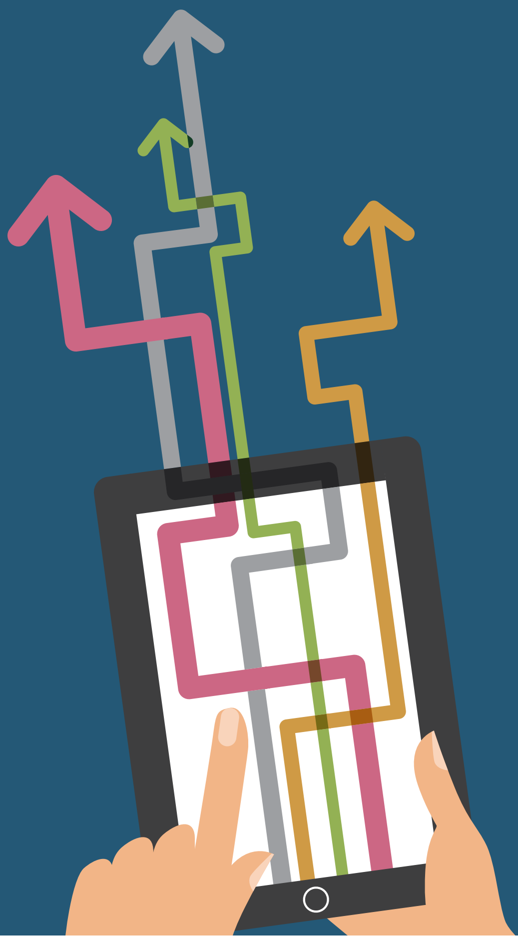

Worried about an HMRC enquiry? Relax, we've got you covered

All business and personal taxpayers are at risk of enquiry. HMRC tax and VAT investigations can be daunting, disruptive and expensive. Even if the tax man finds no errors, the accountancy costs in dealing with HMRC can still be substantial.

For a modest amount you can enjoy peace of mind that Rennie Welch can deal with the tax authorities on your behalf and you will not be subject to any additional expense.

If you would like to discuss our fee protection insurance, please contact Kirsty MacDonald.

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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).

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