

VAT ON FARMHOUSE RELATED EXPENDITURE

HMRC's policy for many years has been to allow a proportion of input tax to be claimed on farmhouse-related expenditure. It is accepted that the farmhouse is an integral part of the farming business and as such, providing that the building is a typical working farmhouse, the business is a full time farming activity, and the work done is in the nature of repair and maintenance of the farmhouse, up to 70% of the VAT incurred may be recovered.

In other cases, such as where farming is only a part-time activity and the farmhouse is primarily the family home, or where the work done is an extension or alteration of the farmhouse, HMRC's policy is to consider each case on its individual merits.

However, where the farmhouse is owned by a farming company this 70% policy has not applied, and claims have been limited to the proportion of the use of the farmhouse that is shown to be used for the company's business, rather than for accommodating its officers.

Activities in the European Court may not always have been seen as positive for UK farmers, but recent litigation has revealed that the UK was acting ultra vires the European legislation in introducing new prohibitions on input tax deduction later than 1985. The legislation prohibiting any company from claiming input tax on costs relating to the provision of accommodation for directors was introduced in the early 1990s.

HMRC have not to date issued any amendments specifically relating to farmhouses and farming companies, but have issued a policy statement on the impact of the European Court ruling on input tax incurred on entertaining overseas customers - where the prohibition was introduced in 1988 - confirming that the UK legislation will be amended. The repeal of the provisions relating to directors' accommodation has also been announced.

Commentators therefore now consider that it must follow that farming companies will be entitled to the same basis of input tax recovery as other farming entities.

Further, since the position of farming companies is not explicitly mentioned in HMRC's guidance on farmhouse-related expenditure, and there is no indication that farming companies should be treated any differently in this respect, it is taken that this provides additional support for the position.

TIMING IS CRUCIAL TO MAXIMISE PROCEEDS ON PROPERTY SALES

With land prices continuing to increase and invigorated demand for housing, the capital gains on property sales are often substantial. In many cases land has been owned since before 1982 when land values were a fraction of the price received per acre for development land today.

Capital gains tax (CGT) is chargeable on the profit made on property sales. However, for those that farm their land entrepreneurs' relief (ER) is a very valuable relief from capital gains and reduces the rate of CGT on "qualifying business disposals" from 28% to 10%.

The ER legislation is complicated, therefore it requires some thought and planning before any contracts are signed. Individuals who are intending to sell property should be looking to structure their businesses and ownership of assets now in preparation for the sale to ensure that the relief is maximised.

To qualify for ER, you need to either cease, or sell your farming business before you sell the property. However, where only part of the property is being sold it is likely that farming is intended to continue. Therefore careful planning is required to ensure the ER rules are met.

For example Mr Jones had been approached to sell 3 acres for housing. The sale proceeds amounted to £450k. Mr Jones wished to continue farming his remaining land so if no tax planning had taken place ER would not be available and CGT of £125k would be payable. However, by changing the structure of his business going forward he was able to claim ER and reduced his CGT bill to £45k, a saving of £80k.

In another example, Mr and Mrs Smith farmed in partnership and decided to sell up and retire. They agreed a sale of the land and buildings for £2m and were planning to exchange contracts in April. However, as they had arable crops in the ground completion was planned to take place in September, after harvest. As a result if the farming business continued after contracts were exchanged ER would not be available.

The alternative would be to ensure the business did cease in April and this could be achieved either by selling the crops in the ground on the same day that they exchanged contracts or to a new company owned by Mr and Mrs Smith. The tax saving achieved in this case was over £300k.

Where land is to be sold for development a claim for ER may be complicated by the wording of sales agreements or the use of land collaboration agreements. Therefore it is important that advice is taken very early on, and certainly before contracts are signed. Therefore we need to know at an early stage that land sales are being planned if you wish to maximise the proceeds retained.

TIPS TO PROTECT YOUR COMPANY DATA

Applications can always be reinstalled, but your data is the most important thing on your computer or network. Here are a few tips to protect your data.

- Save as you work. You should always save your work as you go and learn how to use the 'auto-save' features in your application.
- Make a backup. Before you make changes to critical data always make a duplicate. Even if you just made a backup yesterday - make another.
- Keep a copy of your data offsite. Diligently backing up your data is good practice but keep a copy of your data offsite. If there were a fire or other disaster your onsite data backup could be lost as well.
- Never trust disks from other people. Anytime you receive a file on any type of media check it first for viruses!
- Update! Make sure you have the latest updates for your software - especially for your anti-virus checking software and windows updates.
- Protect your passwords. Your USERID is your identity. The key to your identity is your password. Anytime your account accesses the network you are responsible for any activity from that account! Remember: change your password on a regular basis.
- Perform regular maintenance. It is a good idea to run a disk-scanning program, defragment your hard drive, or whatever else your system might need. These utilities can prevent little problems from becoming big problems, and will keep your system running at top speed.

If you would like further information on how Albert Goodman I.T Solutions can assist in protecting your data and supporting your I.T infrastructure, then please contact Mark McEvans on 01823 250790 or e-mail mark.mcevens@albertgoodman.co.uk

VAT: STORAGE CHARGES

The changes to the VAT treatment of storage charges which became effective on 1 October 2012 continue to cause problems with regard to what is and what isn't liable to VAT.

The change reaffirmed HMRC's contention that all grants of facilities for the self-storage of goods would attract VAT at the standard rate and so removed the VAT exemption that had previously existed for specific types of storage. The principal purpose of the change was to remove the uncertainty surrounding this matter.

However the rules are now not particularly straightforward and introduce problems where a farmer rents a barn to someone who may or may not use the barn for the storage of any goods (although thankfully livestock storage is not regarded as falling within this definition). To apply the correct VAT treatment the farmer must be in a position to know how the barn is to be used and to avoid problems this should be clearly covered in the written agreement for the rental of the barn. This important point is sometimes overlooked and can result in a cost in terms of VAT, interest and, in certain circumstances, penalties when HMRC visit at a later date.



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The rules will not apply to freehold disposals or to where property is leased to a storage provider who in turn provides self-storage to others.

It is also important to note that where a business has both taxable and exempt business activities, partial exemption calculations will usually have to be carried out to demonstrate that the VAT on all of the associated costs can be claimed. This has become more and more of a feature for farmers and landed estates over recent years.

If you require any assistance with these areas of VAT please contact our VAT specialists Andy Branson andy.branson@albertgoodman.co.uk or Helen Pulman helen.pulman@albertgoodman.co.uk

Be added to our mailing list

To receive your own copy of Albert Goodman's Agricultural Tax Tips please email Maggie Crocker at maggie.crocker@albertgoodman.co.uk



Sam Kirkham, Taunton Office

Sam Kirkham is an Associate. She is an accountant and a chartered tax adviser. Sam specialises in tax saving, tax planning and agricultural business structures.

Tel: 01823 286096

E: sam.kirkham@albertgoodman.co.uk

www.albertgoodman.co.uk

Taunton
01823 286096

Yeovil
01935 423667

Chard
01460 64646

Weston-super-Mare
01934 642222

Sedgemoor
01278 663546

Weymouth
01305 772458

