nicholsons
chartered accountants & business advisers

focus on...

July 2013

Welcome to Focus On… our special quarterly bulletin looking at issues relevant to particular sectors and topics of interest.

In July's Focus On… Rural, we look at how a recent ruling in relation to inheritance tax on farmhouses will provide owners with greater scope for tax planning. However, changes to sideways loss relief could hit some farmers hard, making it all the more important to seek expert advice as soon as possible. Meanwhile, plans to abolish the Agricultural Wages Board have won support from MPs. Finally, new measures in relation to the deduction of debts for inheritance tax purposes could have a widespread impact on many farmers who have structured their affairs around previously recognised rules.

If you would like to discuss any aspect of our specialist accountancy and business advisory services for farmers and rural businesses, please contact Richard Grayson, Managing Partner at Nicholsons, at richard.grayson@nicholsonsca.co.uk or phone 0845 27 66 555.

Inheritance tax boost for farming families

A recent ruling in a landmark tax case regarding the inheritance tax (IHT) relief available on farmhouses provides owners with greater scope for tax planning.

Following the Upper Tribunal's decision, agricultural property relief (APR) – which provides 100 per cent IHT relief – can apply where a farmhouse and farmland are not owned by the same person, but are in common occupation.

The case involved a farmhouse which had been occupied by Joseph Hanson until 1978, when his son moved in. Consequently, while Mr Hanson continued to own the property, it was his son who lived there and actively farmed the 215 acres of land.

Of the 215 acres, just 25 acres were owned by Mr Hanson, with 128 acres belonging to his son and the rest either rented or owned by third parties.

While HM Revenue and Customs (HMRC) agreed that the property was occupied for agricultural purposes, it argued that because the farmhouse had a different owner to the surrounding land, APR did not apply.

However, the Upper Tribunal said that HMRC needed to take into account the whole area farmed by the son, which meant the property and the land were connected by common occupation, even though there was no common owner.

This ruling is good news for the farming community, as the question of whether APR can be applied has had many grey areas. With the ownership of property and land often spread across different family members and generations, correctly assessing the IHT liabilities of a particular estate can be complicated.

While this ruling provides some clarity and could lead to more APR claims where the ownership is either unclear or disjointed, the Upper Tribunal added that common occupation will not always be a sufficient connection, so it is vital to seek expert advice before taking any action. For further advice on APR or any other inheritance tax issues, please contact us.

Restriction of sideways loss relief a blow to farmers

Changes to sideways loss relief could push some farming businesses to the brink, making it all the more important to seek expert advice.

Farmers and businesses have always had the ability to relieve general trading losses against other sources of income in the same year – known as sideways loss relief.

While it has always been restricted if the taxpayer is not actively engaged in loss making activity, further measures which came into effect on 6 April could damage farming businesses, particularly in the light of the recent poor harvest.

The changes limit the amount of certain income tax relief an individual can claim to £50,000 or 25 per cent of their total income for the tax year concerned, whichever is greater. The restrictions also apply to relief for loan interest made to a qualifying company or partnership, as well as loss relief.

This could be a serious blow to the survival hopes of genuine loss-making enterprises, such as farmers who have suffered a catastrophic harvest and rise in the cost of feed.

It could push sole traders and partnerships to the brink of failure, while it will also make the prospect of obtaining finance even bleaker, with banks becoming even more nervous about the prospect of lending to businesses affected by these measures.

There is a little comfort for farmers in the fact that they retain the right to average results over two consecutive tax years, in order to be shielded from the full effects of capping.

However, while they will be able to mitigate the changes by averaging out income, the relief will not be available for some years, which could have a negative impact on cash flow.

Consequently, businesses should build these expected losses into their cash flow forecasts with the help of financial experts, such as the team at Nicholsons, in order to be prepared for the changes. For more information and guidance, please contact us.

MPs debate plans to scrap Agricultural Wages Board

MPs have voted to support the Government's plans to abolish the Agricultural Wages Board (AWB).

Although the Commons had already lent its backing to the Enterprise and Regulatory Reform Bill (the legislation which includes plans to formally abolish the AWB), an opposition debate called by Labour gave MPs an additional timeframe to discuss the plans.

In the Commons, Labour argued that getting rid of the AWB would lead to a "race to the bottom" over wages, while Government ministers said that the quango, which sets rates of pay for labourers and managers, was obsolete and wasteful.

Labour's shadow environment secretary, Mary Creagh, said: "We don't want a race to the bottom on wages or a great increase in the amount employers charge workers for their tied accommodation, for their hot bed in a caravan, which would mean they would end up effectively working for below national minimum wage and under-cutting British workers out of the market."

She also told MPs that workers would "see their wages eroded over time", a claim refuted by Government ministers.

Environment secretary Owen Paterson said: "This is the last throwback to an era where these councils did a worthy job in those days, but we have a free and expanding market and demand for labour in the countryside and I am absolutely confident that wages will be well above those set by the AWB."

The board, which sets pay levels for 153,000 workers in England and Wales, was established in 1948, and also ensures that employers provide a bed and drinking water, as well as holiday pay.

Following the debate, parliament voted 283 to 213 to support the plans to abolish the AWB.

Although the Enterprise and Regulatory Reform Bill has now gained Royal Assent, the timeframe for the abolishment of the AWB has yet to be confirmed. However, it is likely to coincide with the expiration of the current Agricultural Wages Order at the end of September this year.

Until then, employers must still comply with the terms of the order, alongside other employment legislation.

For more information and guidance, please contact us.

Deduction of debts and inheritance tax

While March's Budget delivered a freeze on the inheritance tax (IHT) threshold, further proposals are set to move the goalposts on the deduction of debts for IHT purposes.

These measures are likely to have a widespread impact on many farmers who have structured their affairs based on previously recognised rules.

For many years, farmers looking to invest in their business have secured loans against assets which do not qualify for some form of inheritance tax relief, such as agricultural property relief (APR).

Instead, the funding has been secured against investment assets, so that the borrowing reduces the value of these assets for inheritance tax purposes.

The Government, however, legislated in the Finance Bill 2013 to limit the way such deductions are applied. Under the proposed new rules, the debt will be first set against the asset it was used to acquire when assessing IHT liabilities.

Therefore, if the loan was used to purchase assets that qualify for APR, such as land, the debt will be used to reduce the value of those assets to which the relief applies.

The changes, which will apply to deaths and chargeable transfers on or after the date that the Finance Bill 2013 receives Royal Assent (widely expected to be this month) are unwelcome as they will impact on innocent commercial arrangements and individuals will be unaware that their exposure to IHT will effectively increase overnight.

Therefore, it is important to seek professional advice on how the impact of these proposals can be minimised, and whether changes to current IHT planning need to be made.

The team at Nicholsons can advise on all aspects of inheritance tax minimisation, ensuring adequate provision for family and the continued success of your business. Please contact us for further information and guidance.

t: 0845 2766555
f: 0845 2766559

newland house
the point
weaver road
lincoln ln6 3qn

info@nicholsonsca.co.uk
www.nicholsonscharteredaccountants.co.uk