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LandFamilyBusiness

Strategic Tax & Accountancy for Farms & Estates

Winter 2019

TAX ON DEVELOPMENT LAND

GETTING YOUR DUCKS IN A ROW

Since Land Family Business was established in 2017, we have carried out an ever increasing amount of tax planning on development land across the UK. Normally we work with accountants, solicitors and the developers but often find we are consulted and called in too late. Having the correct structure and ownership can make a substantial difference in the amount of tax paid – we have seen instances where up to £1m of tax has been paid because of insufficient planning and not seeking advice soon enough.

When development land is sold and substantial cash is received by a family, their dynamics and relationships change. If the communications are not healthy, the receipt of cash results in a worsening situation. Therefore, it is important to have family meetings before any land is sold for development – investing time in the family is as equally important as tax planning.

Some of the key points are:

- Seek appropriate advice from somebody who specialises in this work at least three years before you think you will exchange contracts – ask your accountant or solicitor to recommend somebody as it is very specialised work.
- Make sure that all documentation is checked for tax purposes – some documents propose that the landowner joins in the trade of selling houses rather than a capital sale of land – the tax difference is 45% compared to a possible 10%.
- Establish and agree the ownership of the proposed development land – agree it with the family and fellow partners.
- Is the land owned personally, in a partnership, or in a limited company?
- Are all the owners actually farming the land in hand?
- Remember that the resultant cash has no relief from inheritance tax at 40% - consider carefully who should end up with the cash.

To discuss this further, please contact
Gary Markham on 07970 794495
or email gary.markham@landfamilybusiness.co.uk.

TAX SNIPPETS

We have included below a mixture of tax points that may not be common knowledge based on work we have carried out for other professionals such as land agents and accountants

- Stamp Duty Land Tax (SDLT) is a far-reaching tax with its own peculiar rules. There has been a recent case (Hyman v Revenue and Customs 2019) regarding relief from the higher residential rates of SDLT when a mixed use of residential and business asset is purchased. Our tax team have saved clients considerable amounts of SDLT.
- Employment Allowance – a reminder that up to £3,000 may be claimed each tax year if employers' class I NIC is paid. A back payment can be claimed.
- The Residence Nil Rate Band (RNRB) – we have successfully used Deeds of Variation to redistribute property in a will to maximise this relief. The RNRB is given in addition to the normal nil rate band so this can result in a substantial tax saving as the rate of IHT is 40% on the value of the estate in excess of the available nil rate bands.
- There are proposed changes to the taxation of property from 6 April 2020. These are considerable changes and anybody buying or selling property should contact our tax team. The final period of Principal Private Residence Relief from capital gains tax will be reduced from 18 months to 9 months. Lettings relief will also be removed. There will also be major changes to capital gains tax reporting and the payment of tax on sales of residential property from 6 April 2020. The sale will need to be reported and the tax paid within 30 days of completion. Interest relief on residential loans and mortgages will be restricted to the basic rate from 2020/21.

WELCOME

Welcome to our latest newsletter. It has been a challenging autumn for arable farmers – too dry in early autumn for blackgrass to grow, which suddenly changed to being too wet to establish crops. In this edition we have included our annual benchmarking results and included some details of no till systems of crop establishment as a comparison.

Our main article discusses the importance of the annual partnership accounts and the often-misunderstood role they play in so many aspects of farming families. The annual accounts we produce go way beyond profit results to fulfil the role of a wealth management document. We have also included some notes on strategy for your farming business, tax and development land and finally some tax tips.

I hope you find this newsletter useful.

ANNUAL PARTNERSHIP ACCOUNTS

PROFIT RESULTS OR WEALTH MANAGEMENT DOCUMENT

There are 3 very important documents that every farming family running their business within a partnership structure need – Wills, Partnership Agreement and Annual Accounts. Unfortunately, it is far too common for some of these to not exist, be too simplistic, or at odds and not 'talk' to each other. The following notes highlight how a partnership is used to hold property and some of the most common pitfalls:

- It is now very common to hold land and property within a partnership mainly for inheritance tax reasons. However, all too often the partners are not sure who owns the land and in what proportions. Land held in a partnership needs to be dealt with correctly to avoid ambiguity and disputes. Firstly, it is important to note that the legal owners, recorded at the Land Registry, hold the land on trust for the beneficial owners within the partnership. The beneficial owners can be different to the legal owners. This needs to be recorded with a Deed and all partners must agree and understand this. Family disputes are numerous and becoming more common but can be avoided. Some are recorded in court cases such as Wild v Wild and Ham v Bell
- Every farming partnership which holds land and property needs a separate detailed Land Capital Account in the annual accounts. This schedule will define the beneficial ownership. We have been asked to assist with many family disputes by other professionals and all too often we find that land and property are held in the general mix of the partnership in the current accounts of the partners. This can only lead to ambiguity and potential disagreement. To avoid this, we ensure that our Land Capital page in our annual accounts is signed by all partners to avoid erroneous claims by individual partners, or more importantly their ex-spouses.
- Trading and capital profits need to be separately defined ideally in a written partnership agreement otherwise the proceeds of sale of assets can end up in the wrong hands. To avoid this, we normally include a note in our annual accounts. If there is no written partnership agreement the partnership will be governed by the 1890 Act where everything is shared equally.
- A very important practical point is that there needs to be a record clearly showing any of the partners that do not own the land and property – this will be important for divorce and is an example of why we have signatures beneath the Land Capital Account section in our annual accounts.
- A partnership can be used for inheritance tax planning for let properties, commonly known as the Balfour case (HMRC v Brander (Earl of Balfour)). The Office of Tax Simplification and potential Labour Government proposals may restrict the use of partnerships for inheritance tax planning in the future.

There are many other positive uses and equally many pitfalls of family farming partnerships. We are in potentially very challenging times in managing our agricultural assets within our families – inheritances are at risk. Please get in touch if you wish to discuss any concerns you may have.

Tax Planning | Family AGM | Succession | Accounts | Diversification

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RURAL BUSINESS SURVEY 2018 HARVEST

	LFB Survey 18		LFB Survey 17		Groundswell 2018
Farm Size (Acres)	Top 25%	Average	Top 25%	Average	Average
Woodland	-	7	-	-	-
Livestock	-	338	-	73	46
Arable	1,548	880	990	771	1,633
Contracting	-	477	-	418	1,643
Other	46	129	86	81	22
Total	**1,595**	**1,832**	**1,076**	**1,343**	**3,345**
Arable Net Margin (£/Acres)					
Arable gross output	**503**	**479**	**470**	**417**	**321**
Variable costs					
Seeds	22	31	22	24	30
Ferts	54	62	60	66	47
Sprays	66	77	75	77	68
Other	11	14	16	11	8
	153	**185**	**173**	**177**	**153**
Arable gross margin	**350**	**295**	**297**	**239**	**173**
Livestock gross margin	**-**	**208**	**-**	**270**	
Contract farming income	**-**	**181**	**-**	**157**	
Farm Gross Margin	**348**	**283**	**285**	**223**	**173**
Fixed costs					
Paid labour	58	40	37	26	42
Machinery					
Depreciation	50	60	66	64	46
Spares & repairs	22	24	23	23	23
Contracting & hire	66	60	30	38	8
Fuel	24	26	29	22	14
Other	9	11	9	9	4
Total labour and machinery	**229**	**221**	**194**	**181**	**138**
Groundswell Margin	**119**	**62**	**91**	**42**	(Avg) (Top 25%) **35 - 111**
Property	31	48	43	40	
Administration	32	47	44	36	
Margin before rent and finance	**90**	**(2)**	**47**	**(12)**	
Ad hoc contracting income	36	27	24	16	
Other farming income	30	23	20	22	
Basic Payment Scheme	110	105	97	97	
Environmental payments	7	16	36	18	
Rental income	41	43	49	39	
Other non farming income	4	19	3	18	
Rural business profit	**274**	**175**	**232**	**158**	
Rent and Finance					
Rent	76	49	64	54	
Finance	26	19	27	20	
Net Farm Income	**206**	**124**	**142**	**96**	

SURVEY ANALYSIS

We are delighted that our benchmarking service is still providing robust assistance to clients – it has been running continuously since 1992 and is used widely in the industry including Government departments.

As reported last year we have changed the method of ranking the results from the Arable Farming to the Rural Business Profit. As income other than farming has become more important, we now include all non-farming profits within the ranking.

This year for interest we have also included results of our benchmarking for direct drilled crops and farmers who practice conservation agriculture.

The results of the 2018 harvest show a considerable improvement over the previous year with average arable output increased by 15% to over £470 per acre, however the average margin before rent and finance, which is arable farming before BPS, is still breaking even. This is a very important point for working on a strategy for a business.

Some of the key points are:

- The top 25% produce more output from arable inputs, with inputs at 30% of output compared with the average at 39% of output.
- Depreciation and contracting and hire is 54% of the average total labour and machinery cost making it the cost to focus on.
- The BPS is 85% of the average Net Farm Income and 53% of the top 25%
- Environmental payments have reduced per acre over the two years
- On average there is a loss of £40 per acre on contract farmed land where labour and machinery at £221 is higher than the margin of £181.
- Rental income is around 35% of average Net Farm Income and 20% of the top 25%
- The direct drill margin ranges from top 25% at £111 per acre, averages £35 and competes well with conventional farming but uses considerably less capital in the business. One of the key indicators we have developed is machinery capital per tonne and it is interesting that those direct drilling have an investment of £97 per tonne of wheat compared with £110 for conventional establishment.

BREXIT STRATEGY

There have been thousands of words written about farming businesses getting ready for Brexit over the past few years. Most are focused on cutting costs and becoming more productive. But haven't individual farmers and their families been trying to do this in any case over the years? We believe that getting ready for Brexit is not so simplistic and is much more of a fundamental strategy than cutting costs.

We have been having some deep and serious discussions with several farming families over the past few months. Some of these have been very successful businesses.

The questions we have been discussing with clients are:

- Are you the right person to be running this business? Based on health, age, marital status and importantly technical ability?
- Are you enjoying running the business and ready to embrace the proposed changes?
- Do you have a natural successor – son or daughter who will be trained and committed to take on the business
- What does your wife/husband think?

It is important that these meetings include the wider family – all siblings of the next generation – what we call our Family AGM. Having worked in Australia and New Zealand these are the natural questions that would be asked.

Let us consider some scenarios:

- A high performing business with no natural successors and land owned. The farmer and his wife may be heading for retirement age (mid sixties) and no longer enjoy running the business. It may be sensible to sell part or all of the business and consider part retirement.
- A 500 acre arable farm with a very keen successor. Unlikely to be viable as a stand-alone business in the future. An option is contracting the farm out and the successor gain more lucrative employment as a farm manager or agronomist
- Large arable business with several buildings and residential properties with a successor. Focus on increasing the rental income from commercial lets – a target would be to gain rental income to equal the BPS payment – thereby replacing the BPS with rental income
- Many average sized arable businesses would benefit from collaborating with neighbours – initially sharing machinery in a separate entity and if it works share farm the arable with all members of the group