



FarmingFocus

Time is running out for the opportunity to bring tax relief forward...

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The maximum annual spend on capital expenditure that qualifies for 100% Annual Investment Allowance (AIA) is to reduce from £100,000 to £25,000 from 6 April 2012 (1 April for companies). At the same time, the annual writing down allowance (WDA) will also reduce from 20% to 18% (10% to 8% on certain assets). For a business with a year end other than 6 April, the limits are time apportioned so for those whose next year end is after 6 April 2012, the new limits have already come into play.

You therefore have to decide if it is beneficial to bring forward capital expenditure to secure higher tax relief. In most cases it will be, but not always. For example, a business with a 31 March year end has not spent anything approaching its year end. If it spends £150,000 on qualifying plant before 31 March it can claim 100% relief on £100,000 and 20% on £50,000.

If the expenditure was delayed to say 25 April, tax relief would be restricted to 100% on £25,000 and 18% on £125,000.

The date an asset is acquired can dramatically affect entitlement to tax relief so it is very important to make your purchase at the correct time to maximise relief. Getting it wrong can be costly but do take care as the allowance will be affected by other expenditure already incurred in your financial year. Despite the temptation to bring forward capital expenditure, if this is not a sensible commercial decision, you should not let tax incentives override commerciality.

It is important to understand what HMRC consider as the date of purchase. HMRC regard acquisition as the date when there becomes an unconditional obligation to pay, normally date of delivery but there are special rules for assets acquired on HP.

Integral features... a reminder for this 'new' capital allowance...

Although agricultural buildings and industrial buildings allowances have disappeared, the relatively new allowance for expenditure on integral features can be very valuable. Normally only a 10% WDA, soon to become 8%, can be claimed on integral features but the 100% AIA can also be claimed. It is normally beneficial to claim AIA on expenditure on integral features rather than on other plant and machinery to preserve the higher WDA.

When you acquire new business premises, it is almost certain that a claim for tax relief can be made for integral features as well as plant and machinery within the building.

Likewise if you are having business or commercial property investment premises constructed, there is likely to be a considerable element of the cost that qualifies for tax relief as integral features or as plant and machinery. It is important that this valuable tax relief is not lost and qualifying expenditure is identified as early as possible.

Each of the following is an integral feature and often part of a building or structure:

1. An electrical system (including a lighting system)
2. A cold water system
3. A space or water heating system, a powered system of ventilation, air cooling or purification and any floor or ceiling comprised in such a system.



Agricultural Property Relief (APR)... a reminder

APR is on the list of tax reliefs to be examined by the Tax Simplification office, so if tax free succession is to be achieved it is important that current owners of farms do everything possible to qualify for APR.

APR claims may fail where arrangements put in place years earlier met the then qualifying conditions, but have since been overtaken by changes in family circumstances or style of farming.

Conditions for APR have to be satisfied continuously either by farming in hand for a two year period or the land let for agriculture for a seven year period prior to the relevant

date. If the conditions are not fully satisfied relief will be wholly denied as there are no apportionment provisions.

Ideally evidence should be retained supporting the agricultural character, such as old sale particulars and other evidence that the property has been a working farm. It is not helpful applying for planning permission on 'redundant' farm buildings, applying for a reduction in council tax or rates if properties are not occupied or referring to the deceased's occupation as 'retired farmer'. It is often overlooked that pasture grazed by recreational horses does not qualify as agricultural occupation.

Buildings can be even more of a problem. To qualify they must be occupied with the agricultural land and be of a character appropriate to that land for the requisite two or seven years. Evidence should be retained supporting the fact that they are being used for agricultural purposes. Once again buildings used for housing recreational horses will, as for pasture, prevent relief being available.

We emphasise that this is just a brief summary, not comprehensive and intended as reminder to discuss your current circumstances with your adviser or ourselves.

Further notes on the Farmhouse

- Everybody knows that farmers never retire!

In addition to this, we are all living longer so absence from the farmhouse due to illness is more likely than in the past and this can cause a problem for APR. If, for example, the occupant has to be taken into hospital or care APR will be denied if the property is used to fund care costs. Relief should continue to be available if the absence is for less than two years, if the house is kept ready for the expected return of the occupant and the house continues to function as the farmhouse.

HMRC continue to argue that relief is not due if there is no 'realistic' prospect of return, although who is qualified to offer this opinion is not explained.

If the farmer has relatives or can afford carers and so remain in occupancy of the house, HMRC will probably not raise the question of agricultural occupancy. Those with no relatives and unable to afford home care must expect their qualification for APR to be challenged by HMRC and at risk of failing to qualify for APR.



If you would like to discuss any of the issues raised in this edition of Farming Focus, please contact Mike Reed on (01908) 605552 or your usual Mercer & Hole contact using the contact details below.

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