



## Landowners need to prepare for new buildings levy

For more information, please contact Andrew Heskin on 01775 711333



By Andrew Heskin

**Landowners planning to market their land for new developments, or those who plan to construct new buildings on their estate, need to take action now ahead of a proposed levy which comes into force this year.**

From 6<sup>th</sup> April 2010 the Government plans to introduce the Community Infrastructure Levy, a fee that would be charged on all new buildings requiring planning permission.

In many cases, the value of land sees a boost when planning permission is granted, and

the Government wants to harness this uplift to help fund the infrastructure required by the new development. In theory, it would give local authorities extra resources to invest in vital facilities such as roads, schools and hospitals.

At the moment, it is thought that the authorities who prepare development plans will also be the charging authority, and that the fees payable will be set by each local planning authority.

So any landowner planning for developments on their land would be wise to make a move sooner rather than later. Despite the recession hitting the construction industry hard, there is still pressure for more homes in the UK – the government intended to build five million new dwellings between 1996 and 2021 and is already behind schedule.

However, there are calls for agricultural buildings to be exempt from the levy before the Bill comes into force in the spring.

The NFU, CLA, TFA and CAAV have joined forces to stop the levy that they are calling a 'tax on food production'. They argue that there is no uplift in land value when permission is granted for agricultural developments, and that developments such as livestock housing or commodity storage have a minimal impact on infrastructure.

We will, of course, keep you up-to-date with any developments in this area, but in the meantime landowners seeking to make the most of their estate's value would be wise to seek the advice of their accountant.

# Avoiding disputes over farm business partnerships

For more information, please contact Bill Creasey on 01775 711333



By Bill Creasey

**The continuation of a farming business can be wrecked by legal wrangles over who owns what, so it is important that all farming businesses take professional advice when drawing up a partnership – and ensure their**

**documentation and records are fully up-to-date.**

The issue returned to the forefront in recent months with a decision of the Inner House of the Court of Session in the Stated Case of Longmuir (Appellant), which mainly revolved around Section 21 of the Partnership Act 1890.

This section states that, unless the contrary intention can be proven, property bought with money belonging to the partnership is deemed to be owned by the firm, regardless of the name appearing on the ownership deeds.

In this case, a family partnership of mother and son bought a neighbouring farm using partnership funds, and only the son's name was entered on the title deeds.

When the mother died without leaving a Will, the son argued that the neighbouring farm was his alone, while his sisters (who were not involved in the partnership) said that part of the farm rested in their mother's estate and should be distributed amongst all of her heirs.

The court decided it was clear the farm was acquired with partnership cash and was therefore classed as a partnership asset. Consequently, the brother had to share the neighbouring farm's value with his sisters in the division of the mother's estate.

From the results of this case we can see that if the farm was intended to belong to the son alone after the mother's death, his name should have been placed alone on the title deed, and the partners' collective decision should have been recorded in a minute and kept with the partnership papers.

It is acceptable for a partnership to farm land that is solely held by one partner, so when acquiring assets it is vital you consider these matters fully and keep them properly recorded. Another mistake the family made in this matter was to record the value of the neighbouring farm on the balance sheet – if this is the case it could well be presumed that the asset has become partnership property.

Any special circumstances such as this should be discussed fully with an accountant. Of course, a Will or other testamentary could have been used to make the mother's intentions clear. This would have ensured the farm passed to the next generation farmer rather than being divided among her offspring.

The Partnership Act 1890 can be interpreted in many ways. Those considering farming partnerships should seek expert advice on whether a partnership is appropriate for their circumstances and, if so, invest in a properly drawn up partnership deed, setting out the rights and entitlements of the partners.

# New rules on water supplies

For more information, please contact Andrew Heskin on 01775 711333



By Andrew Heskin

**New rules designed to protect the supply of drinking water came into force on 1<sup>st</sup> January 2010, bringing about potential extra costs for farmers who have diversified their businesses.**

The Private Water Supply Regulations 2009 require property owners who supply water to people outside their own families to provide scientific evidence of the water's quality.

Farmers who, for example, offer holiday lettings in converted outbuildings are likely to fall under these regulations, since they will normally be providing the water on a 'private' basis from the farm's own supply.

The new regulations, which replace the Private Water Supplies Regulations 1991, introduce new standards for drinking water and specify monitoring and risk assessment procedures to ensure these standards are met. These checks will be carried out by local authorities who are allowed to charge up to £500 for a risk assessment and £100 for each sampling visit.

Under the regulations, Local Authorities should provide information on all private supplies that they are aware of by 30<sup>th</sup> June 2010, and sampling at these sites to check for bacterial or chemical contamination must begin by January 2011.

Farmers who fear they may be caught out by the new regulations should get in touch with the Environment Agency to see what evidence is already held about their water supplies.



# New Year's resolutions for managing your business

For more information, please contact Paul White, Business Consultant, Brown & Co, Spalding on 01775 722321



By Paul White

As we welcome in the New Year, this can represent a good, or at least convenient, time to review the business you are managing for the year ahead.

With many farming and rural businesses seeing their margins

squeezed through low sale prices for combinable, root and vegetable crops, anything that can be done to improve profitability would, in most cases, be welcome.

With 2010 upon us, here are a few suggestions you might consider as New Year's resolutions for your business:

- 1. Review office management procedures:** the majority of management decisions should be backed up with good financial information. If you currently do not have access to good actual data, now is the time to review this.
- 2. Produce a budget:** if you do not set yourself targets, you will not be able to measure your financial performance throughout the year. Whilst most budgets invariably prove to be wrong, they do provide information that can be used to assist with management decisions.
- 3. Prepare a cash flow:** with higher costs than in previous years, larger tax bills and the likelihood of, for many, less income because of poor crop prices, cash flow predictions may well exceed last year's level and, indeed, existing overdraft limits. To be forewarned of this is helpful.
- 4. Review your current financial performance:** whilst profitability for many has been variable over the last few years, the gap between the top and bottom 25 percent is large

and growing. Standard data is available to help benchmark performance or specific help is available.

- 5. Establish if there are opportunities to diversify:** approximately 45 percent of businesses in the Eastern Counties have diversification income, compared with 75 percent in the South. A review of management skills, buildings and land available, investment capabilities and desires should prove a good starting point for finding diversification opportunities.
  - 6. Look at the opportunities to expand:** whilst the openings to buy farmland may be limited, opportunities to rent, contract farm or set up a formal labour/machinery joint venture may be more probable. Economies of scale can be achieved in a number of ways and, in many cases, reduce labour/machinery costs by more than 25 percent.
  - 7. Maximise grant and subsidy funding:** the annual Single Payment should be maximised and can be hedged against currency movements. Environmental Stewardship, whilst not loved by all, may be a requirement to satisfy objectives under the Campaign for the Farmed Environment and should be considered carefully.
- Significant grant funding, approximately 50 percent, is available for diversification, water resource management projects, adding value to agricultural products, collaboration and renewable energy, as well as other projects. This should always be given serious consideration.

- 8. Reappraise the management skills within the business:** this might be the practical management skills, business and financial management skills or assistance received from outside professional advisors. Apologies for the sales pitch!!! Where skills gaps exist, it is very important that these are filled, especially where they are critical to ongoing decision making or the financial stability of the business.

Opportunities will be there for those who look and an appraisal of the assets of the business, whether they are personnel, land, buildings or finances available, should be made to ensure they are working as hard as they possibly can to provide a sufficient return on capital commensurate with the risks involved.

As a farmer's son, I know only too well that farming is not solely about the money; however, to have a little more would always be welcome.

I wish all of the clients of both Brown & Co. and Moore Thompson a prosperous 2010.



- ◆ Raising finance
- ◆ Succession issues
- ◆ Taxation planning
- ◆ Outsourcing
- ◆ Land transaction planning
- ◆ Tax legislation
- ◆ Property transaction planning
- ◆ New ventures and diversification

# Clearer guidance on Inheritance Tax and stud farms

For more information, please contact Chris Wright on 01945 465767



By Chris Wright

HMRC have produced clearer guidance on the qualification of stud farms for Agricultural Property Relief (APR) for Inheritance Tax (IHT).

The HMRC IHT Manual (IHTM) gives guidance to HMRC officers, saying

that a stud farm can be:

"...taken to include the breeding and rearing of horses on a stud farm and the grazing of horses in connection with those activities, and any buildings used in connection with those activities may be regarded as farm buildings."

HMRC officers are advised to look at the wider picture when deciding whether a stud farm should qualify for agricultural relief, noting the information they have on the file and supplemented information from other HMRC sources, such as the tax papers for the business or SAV (Livestock).

The difficulty is that there is no precise definition of what constitutes a stud farm. Obviously there must be an element of horse

breeding and the normal requirements for commerciality will apply.

But other issues that will be factored into the decision on whether reliefs can apply include:

- ◆ The age of the deceased both at death and at the acquisition of the farm
- ◆ The length of the period of ownership
- ◆ The number of horses held at the date of death and the breeding record in recent years
- ◆ Details of advertising and publicity for the stud, plus full particulars of sales
- ◆ Accounts of the enterprise, and details of the precise nature of the trading activity, including purchases and sales of horses

With any other horses, there will need to be a link with agricultural use, for example, where horses are used as draught animals on a working farm, the grazing of such horses will constitute agricultural use.

This will also be the case where the horses being grazed are declared to be part of the food chain under the horse passport scheme. The grazing of horses used for leisure pursuits will not constitute occupation for agricultural purposes. Where horses are grazed in connection with, for

example, a livery business run by the deceased/transferor, business relief may apply.

The claim for Agricultural Property Relief will come under scrutiny and HMRC will try and establish the nature of the business. It must be remembered that there is a huge amount of independent information available to HMRC.

Commerciality and "purpose of gain" are essential for IHT reliefs to be achieved. There are vast sums of potential IHT to be saved if the running of the operation is commercial, businesslike and capable of surviving HMRC scrutiny.



WWW.MOORETHOMPSON.CO.UK

**Spalding Office**

Bank House, Broad Street, Spalding, Lincolnshire, PE11 1TB

Tel: 01775 711333 Fax: 01775 711307

**Wisbech Office**

Monica House, St Augustines Road, Wisbech, Cambridgeshire, PE13 3AD

Tel: 01945 465767 Fax: 01945 476692

**Market Deeping Office**

Bank Chambers, 27A Market Place, Market Deeping, Peterborough, Cambridgeshire, PE6 8EA

Tel: 01778 380850 Fax: 01778 380757