

Briefing Note

Capital losses arising on end of SFP Entitlement

Introduction

The transition from the former Single Farm Payment (SFP) Scheme to the new Basic Payment Scheme is now well underway. As farmers and landowners try to understand how the new scheme will operate and what it will mean for them, the transition does bring with it a potential tax benefit that would be easy to overlook.

Capital Disposal

SFP Entitlements are treated as capital assets of the farming business. In the past, the sale of Entitlements would have been a disposal for capital gains tax purposes and any gain arising would have been eligible for rollover relief or, depending on the circumstances, entrepreneurs' relief.

Due to the way in which the Basic Payment Scheme has been introduced in Scotland (and Wales and Northern Ireland, but not in England), SFP Entitlements ceased to exist on 31st December 2014. The extinguishment of the asset in this way amounts to a disposal for capital gains tax purposes. As there will be no proceeds from this disposal, a capital loss could arise if the Entitlement has a tax base cost.

Quantifying the Loss

In many cases, farmers will have received a free allocation of Entitlement at the inception of the SFP Scheme in 2005. In these cases, the Entitlement will have no tax base cost because nothing was paid on acquisition. No loss will therefore arise on this Entitlement.

However, there will be many holders of Entitlement where a tax base cost does exist. For example:

- Holders who purchased all or part of their Entitlement, either as a single asset or as part of a larger acquisition of a farming business.
- Holders who inherited Entitlement on the death of the previous owner.
- Holders who acquired Entitlement by way of a lifetime gift, depending on whether a gift holdover election was also made at the same time.

Example:

Mr Farmer holds SFP Entitlement on 31st December 2014. Most of this was allocated to him in 2005 at the start of the SFP Scheme. However, in 2010 he purchased additional Entitlement from another farmer for £35,000.

Mr Farmer will be deemed to have disposed of his Entitlement for no consideration in the tax year 2014/15. He will crystallise a capital loss of £35,000.

For individuals, the capital loss will crystallise in the current tax year, 2014/15. For companies, the loss will crystallise in the accounting period in which the 31st December 2014 disposal date falls.

Using the Loss

The allowable loss from the disposal of Entitlement can be offset against a capital gain arising on the sale or disposal of other capital assets in the same tax year (in the case of individuals, 2014/15). If the capital loss cannot be used in full in 2014/15, it can be carried forward indefinitely to offset against capital gains arising in future years.

These gains may arise from the disposal of assets of the farming business, such as the sale of a field or a farm cottage, but the losses could also be offset against other gains that are not connected with the farming business, such as the disposal of stocks and shares or let properties.

Example (continued):

In 2014/15, Mr Farmer sells a farm cottage which had been let out on a series of Short Assured Tenancies over a number of years. The sale of the cottage gives rise to a capital gain of £60,000.

Mr Farmer will be able to offset the loss on the extinguishment of his SFP Entitlement of £35,000 against the capital gain on the sale of the cottage so that his net capital gains for 2014/15 will be £25,000. Assuming that he has no other disposals in the year, he will also be able to deduct the annual exemption of £11,000 so that the net gains chargeable to capital gains tax will be reduced to £14,000.

Milk Quota

A similar situation exists with Milk Quota which will cease to exist on 31st March 2015. Again, individuals who can establish that the Milk Quota has a tax base cost will be able to realise a capital loss in the 2014/15 tax year.

If you would like further information on this matter please speak to your usual Turcan Connell contact.

This note is intended as a brief summary on capital losses arising on end of SFP Entitlement. Information provided in this document and any opinions expressed are for general use and not personal to your circumstances, nor are they intended to provide specific advice. No responsibility can be accepted for any action taken in reliance of this note and specialist advice should be taken in every case. Turcan Connell would be happy to provide such advice.

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