

# Landed Estates Update

DRIVING LIFELONG PROSPERITY

Autumn 2016



Welcome to the current edition of Landed Estates Update, our publication for landowners and those advising on Landed Estates. As the new shooting season gets underway, we look at the tax issues that need to be considered when running a shoot.

## HOW IS THE SHOOT RUN?

There are a number of different ways a shoot can be run; at its simplest the shoot will be a private 'in-hand' arrangement, with the guns being family members and friends. A contribution may be made towards the cost of the shooting. At the other end of the scale the shoot will be commercial, with all the days sold to paying guns. Another alternative is a syndicate, normally consisting of a number of members who rent the shooting on a farm or estate for a season. In this case, the members each contribute to cover the cost and the landowner may also be a member of the syndicate.

## IS THE SHOOT A BUSINESS?

The key to deciding the tax treatment of a shoot is to understand whether it is a business. Whilst it would be obvious to many that a commercial shoot is a business, what about a private shoot?

The badges of trade should be considered for income tax and for VAT a shoot is not considered to be a business if:

- 1 only friends and relatives shoot;
- 2 there is no advertising of the shooting;
- 3 the shooting accounts show an annual loss at least equal to the usual contribution made by a 'gun' over a year; and
- 4 no shoot costs go through the accounts of any business.

If the shoot is not a business, income tax and VAT do not need to be considered. Any losses arising from the shoot cannot be offset against other income of the landowner.

## TAX IMPLICATIONS OF THE SHOOT AS A BUSINESS

### TAX ON PROFITS

If the shoot is a business, any profits, including from the sale of game, will be subject to income tax, or corporation tax if the business

is run through a company. Relief should be available for any losses.

Where a shoot is providing both commercial and private days, the costs have to be adjusted for private use when calculating the profit or loss for the year. If the shoot is run through a company, private shooting by the directors or their family will give rise to a benefit in kind (see below), but the expenses do not need to be adjusted.

If shooting rights are let to a syndicate, they will be treated as income from property and taxed accordingly. If the rights are let by a farming business, the receipts can be treated as part of the farming income provided they are small.

### VAT

A sporting right is the right to take game or fish from land and is normally standard rated for VAT. This may not be the case if they are included within a land sale or lease.

If the shoot is not a business, VAT is not charged on any contributions made by the guns and no VAT can be recovered on the expenses. Where the shoot is a business, VAT will need to be accounted for if the sales exceed the registration threshold, currently £83,000. If the shoot is carried on as a part of a VAT registered business, e.g. the farm,

VAT will need to be accounted for regardless of the turnover. Where there is a mixture of business and private shooting, only the VAT on the business element of the expenses can be reclaimed and it is necessary to apportion it accordingly.

A syndicate does not normally make a supply of sporting rights to its members. Consequently it does not need to account for VAT. However, if the syndicate regularly sells days shooting to non members, or it makes taxable supplies of other goods or services, it is in business. If it is required to register, the syndicate must then account for VAT on all supplies, including those to its members.

If the landowner grants shooting rights to a syndicate of which they are a member for less than their market value, VAT must be accounted for on the full value. If any other services are supplied to the syndicate by the landowner, VAT should be charged in the normal way.

#### SPORTING EXEMPTION

It may be possible to organise the shoot so that VAT does not have to be accounted for, even if the registration threshold is exceeded, by virtue of the sporting exemption.

To qualify for the exemption the shoot must provide the shooting to individuals and be an eligible body. Broadly, this is one that is non profit making, is not able to distribute any profits and cannot make payments to connected individuals. This will prevent any profits from the shoot being passed back to the landowner, so is unlikely to be attractive to many shoots.

#### WHAT BUSINESS STRUCTURE SHOULD BE USED?

The shoot can be run through an existing business, such as the farm, or alternatively be set up on its own in, say, a limited company. This may be done because the shoot is being run by a different family member or for



**NICHOLAS SMAIL**

Partner

01242 680000

[nicholas.smil@hazlewoods.co.uk](mailto:nicholas.smil@hazlewoods.co.uk)

commercial reasons, with the landowner wanting limited liability for the shooting activities.

If the shoot is included within an existing business, VAT will need to be accounted for if that business is registered. If it is a separate business, e.g. within a company, VAT will only need to be accounted for if the turnover of that business exceeds the threshold.

The choice of structure may also impact on the inheritance tax position of the estate. Many estates are structuring themselves to qualify for 100% Business Property Relief (BPR) by ensuring that they are run 'wholly or mainly' as a trading business. A commercial shoot that is run as part of the estate business will add further weight to the trading side of the business, potentially benefiting the claim for BPR.

If, however, the sporting rights are let to a separate business, they will be an investment business when looking at the trading status of the estate as a whole. Depending on other activities being undertaken they could, in the worst case scenario, cause the estate to lose BPR.

#### PAYE/NIC

Most shoots will employ a gamekeeper who will normally be a full time employee and the salary will need to be paid with tax and National Insurance (NI) deducted at source. Under Real Time Information Reporting (RTI) the payment has to be notified to HMRC on or before the day it is made. Pension auto enrolment will also need to be considered. Any tips given to the gamekeeper are treated as income and should be subject to the deduction of tax and NI.

The shoot will also have beaters and pickers up to assist with the shoot days. The nature of the working relationship will need to be looked at to determine if they are employees or self employed. Assuming they are employees, they may be regarded as daily casuals, in which case they can be paid without the deduction of tax and NI. To qualify as a daily casual they must be taken on for one day or less, be paid off at the end of that period and have no contract for any further employment.

Where the shoot is already running a payroll, e.g. for the gamekeeper, the amounts paid will need to be reported to HMRC under RTI in the normal way. If there is no payroll, the shoot is required to keep a record of the beaters' full names, addresses, date of birth, gender and National Insurance number, as well as the amount paid to them. The rates of pay will need to comply with the national minimum wage or national living wage.

#### BENEFITS IN KIND (BIK)

It is common for an estate to provide the gamekeeper with a house and a vehicle. HMRC accept that an estate providing an agricultural worker with a house will not be a benefit as it is necessary for the proper performance of the duties. This should apply to the gamekeeper. HMRC are currently reviewing the BIK when accommodation is provided by the employer, so things could change in the future.

Where a vehicle is provided there will be a BIK charge unless private use of the vehicle is specifically prohibited under the terms of the employment contract, or the vehicle is a pool vehicle. To qualify as a pool vehicle, the vehicle must be used by other estate employees and not normally kept at the home of the keeper overnight. Given the nature of a keeper's job, prohibiting private use is likely to be the more effective way of preventing the vehicle BIK charge. Providing the keeper is provided with a commercial vehicle they would only be subject to the van charge, which is considerably less than that for a car.

If a shoot is run through a company and the family is able to shoot without paying this will give rise to a BIK. The benefit will be calculated as the cost to the company of providing the day's shooting, rather than the rate which is charged to third party guns.

#### CONCLUSION

There are plenty of potential tax traps when running a shoot, regardless of its size. However, with good advice and careful planning these can be avoided. A well run shoot can be a good source of income for the estate, as well as potentially having significant inheritance tax benefits.

Staverton Court, Staverton, Cheltenham, GL51 0UX  
Tel. 01242 680000 Fax. 01242 680857

[www.hazlewoods.co.uk](http://www.hazlewoods.co.uk) / @HazlewoodsAgri

**HAZLEWOODS**  
DRIVING LIFELONG PROSPERITY