Department of Agriculture

Farm Management Handbook

Finance Section

(Colour code: Blue)

FALKLAND ISLANDS GOVERNMENT TAXATION OFFICE

A General Guide to Falkland Islands Taxation for Individuals for the Tax Year 2015

1. Introduction

This brief guide to the Falkland Islands (FI) tax system is aimed at private individuals. This guide has been written in general terms, it does not have any legal force or bind the FI Government Taxation Office in any way. It should be read in conjunction with the Taxes Ordinance 1997, Medical Services Tax Ordinance 2010 and associated legislation and regulations.

Readers familiar to the UK tax system may notice some similarities in the FI legislation. However, there are differences, both of substance and in drafting and it is best therefore to treat the FI system as a totally different regime.

The FI tax year is 1st January to 31st December, submissions are required by 31st of July in the following year for Individuals.

2. What taxes are there?

The main taxes are Income Tax, Medical Services Tax and Corporation Tax. The Falklands do not have any wealth taxes, death duties, sales tax, VAT or stamp duties. There is no general tax on capital gains.

Employers are required to withhold POAT (Payments on Account of Tax) from employee remuneration (see point 6).

There are no withholding taxes except for a 10% tax on royalties paid to non-residents.

Credit will normally be given for foreign taxes either unilaterally or through the one Double Taxation Agreement, with the UK. Proof of foreign tax paid and confirmation it has/will not be refunded will be required.

3. Tax residency

An individual's entitlement to allowances/deductions and chargeable income depends on their residency position for tax purposes (please note that this differs to residency for immigration purposes).

Resident – present in FI for a total of 183 days or more during the relevant tax year.

Ordinarily resident – repeatedly resident in FI except for a temporary absence (not exceeding 2 complete tax years)

4. Income Tax

Entitlement to allowances/deductions and chargeable income:

Resident and / or ordinarily resident for tax purposes - assessed on worldwide income, entitled to the full Personal Allowance (PA) and may claim a deduction for Retirement Pension Contributions (RPCs), contributions to certain pension/retirement benefit schemes, subscriptions and charitable donations.

Not resident and not ordinarily resident - assessed on income from within FI and/or for duties performed in FI. Entitled to a proportion of the PA according to the number of days present in FI during the relevant tax year and may claim a deduction for compulsory RPCs and charitable donations only.

Rates and allowance:

Individuals are taxed on the first £12,000 at 21% and any remainder at 26%, after taking into account allowable deductions.

Husband and wife are taxed independently.

The Personal Allowance (PA) is £15,000 for the tax year 2015.

5. Medical Services Tax (MST)

Entitlement to deduction and chargeable income:

Income subject to MST is not determined by an individual's tax residency position, like it is for Income Tax. For individuals, MST is due on:

- all earnings from employment, including benefits in kind, where the work has been carried out in FI or wholly/mainly carried out in FI. MST is not due on pensions.
- self-employed persons on relevant profits which are made in FI or in a business carried on wholly/mainly in FI

Rates and deduction:

The rates for 2015 remain as:

Employees	1%	on gross earnings/benefits in kind
Employers	1.5%	on their employees gross earnings/benefits in kind
Self-employed	1.5%	on relevant profits

In June 2014, the MST threshold was increased to £60,000 but to be applied from January 2015. The threshold remains the same for 2015 and has the same entitlement provisions as the PA for Income Tax. There is also restriction for the entitlement to the Yearly Allowable Deduction for individuals who turn 17 years old in the tax year.

6. Employee taxation

There is a system of withholding sums (POAT - *Payments on Account of Tax*) from employee remuneration by employers set out in detail in the Payments on Account of Tax (Employees Deductions) Regulations. This system applies for both Income Tax and MST.

Non-residents should have tax deducted at a straight 21% (POAT for Income Tax) and 1% Employee MST. They can then either accept that tax has their final liability on that remuneration or submit a return to receive an assessment.

Resident individuals should have tax deductions made according to the monthly/weekly tax tables which take into account the PA and MST annual deduction.

There is limited taxation of benefits-in-kind, these are set out in detail in The Taxes (Benefits in Kind) Rules. There is a separate guide available on Benefits In Kind.

Any further Income Tax and/or MST due from the individual e.g. on self-employed profits, is collected through assessment after the end of the relevant tax year.

7. Exemptions

There are various items of income and categories of taxpayers who are exempt from FI Income Tax.

There are certain exemptions to MST e.g. individuals aged under 17yrs old. There is a separate guide available on MST.

8. Contacts

The Taxation Office is situated in a yellow Portakabin which can be accessed off St Mary's Walk or via the car park at the rear of Malvina House Hotel.

Please contact or visit our office if you have any enquiries concerning taxation.

FIG Taxation Office	Tel:	(+500) 28470
St Mary's Walk	Fax:	(+500) 27287
Stanley	Email:	general@taxation.gov.fk
Falkland Islands	Public	Mon-Fri 9am - 12noon
FIQQ 1ZZ	opening hrs:	(afternoon appointments by prior arrangement)

Any enquiries concerning Retirement Pension Contributions (RPCs) should be sent to:

Pensions Office	Tel:	(+500) 28415
FI Treasury	Fax:	(+500) 27144
Thatcher Drive	Email:	JAldridge@sec.gov.fk
Stanley		
Falkland Islands, FIQQ 1ZZ		

Income from Property Situated in the Falkland Islands and Let Out for Residential Use

Tax Treatment for Income Years 2014 & 2015

Introduction

This leaflet provides some basic guidance on the treatment for tax purposes under Falkland Islands (FI) legislation of income from property situated in FI which is let out for residential use. All sections referred to, unless stated otherwise, are those in the Taxes Ordinance 1997 (TO1997).

If you have property situated outside FI which is let out for residential use, please contact our office for details, as the tax treatment is different for that income.

The FI tax year runs 1 January to 31 December.

You need to declare to the FI Tax Office details of your income from property situated in FI, no matter what your tax residency status is.

What expenses can I claim against this source of income?

The FI has its own taxes legislation and any deductions given by non-FI tax authorities do not apply when calculating your income for FI tax purposes.

Generally rental income is treated the same way as any other business income and the general principles for outgoings and expenses that may be deducted from business income are:

- they were incurred during the relevant accounting period;
- they were incurred wholly and exclusively for the purposes of the business; and
- are not of a capital nature.

A set of accounts showing how you have arrived at your net taxable profit should accompany your relevant tax return. An example profit and loss account is shown below:

Income from property at XXX for the period 1/1/14 – 31/12/14

Gross	£6,000		
Expenses			
House insurance	480		
Mortgage interest	500		
Service charge	438		
Repairs & maintenance	100		
Net profit		£4,482	*(profit for MST purposes)*
Depreciation		£ 200	
Net taxable profit		£4,282	*(profit for Income Tax purposes)*

Capital expenditure (e.g. building improvements/alterations, assets) - may be eligible to depreciation allowances, please contact our office for further details and/or a copy of our guide on Depreciation Allowances.

Property not rented for whole period – only expenses incurred during the time the property was rented can be claimed. Expenses incurred whilst you were actively seeking a tenant and/or when the property was being prepared for rental may be considered.

Whole property not rented – only expenses incurred wholly and exclusively for the rental income are allowable, for example, if you have a 2 bedroom house with a kitchen and living room and you have a lodger who shares the house with you, generally you can claim ½ of the general house costs e.g. heating, electric, service charge

Medical Services Tax (MST)

Income from property situated in FI is subject to MST. Depreciation allowances are not allowable for calculating taxable profit for MST purposes.

UK / FI Double Taxation Agreement

The FI holds one Double Taxation Agreement, with the UK. Under Article 6 of that agreement, FI has primary taxing rights where property that is owned by a resident of UK is situated in FI.

If your FI property income is subject to UK tax, UK should recognise any FI tax already paid on your FI property income.

Please note

This paper is intended to give only broad guidance, and is not intended as a statement of law.
The points covered in this paper reflect current tax practice at the time of writing.
Special rules exist to deter tax advantages being gained by dealings between connected parties.

Questions and further information

If you have any questions or need more information on this subject, or any aspect of FI tax, then please contact or visit the Taxation Office. Alternatively you may wish to seek professional advice e.g. from a lawyer or accountant.

FIG Taxation Office	Tel:	+ 500 28470
St Mary's Walk	Fax:	+ 500 27287
Stanley	General email:	general@taxation.gov.fk
Falkland Islands		
FIQQ 1ZZ	Public opening hrs:	Mon to Fri 9am–12noon (afternoon appointments by prior arrangement)

FALKLAND ISLANDS GOVERNMENT TAXATION OFFICE

Tax Guide for Farmers for the Tax Year 2015

The following is a summary of the Falkland Island Tax system for the self-employed farmer i.e. those farms that are not run as limited companies. If you need to contact the Falkland Island Government Taxation Office (FIGTO) then our details are shown at the end of this summary.

Taxation, MST and RPC can affect farmers in a number of ways:

1. Your own tax affairs
2. Your own RPC contributions
3. The tax, MST and RPC of anyone that you employ
4. The reporting rules for contractors that you use

How Tax Affects You as a Self Employed Farmer

The following also applies to your business partners if you are farming in partnership. If you are self-employed then the profits that your business makes are taxable. Therefore you need to draw up business accounts every year to work out what your profits are. You will need to keep your books and prepare accounts for other reasons. You may need them for grant purposes or if you wish to apply for a loan.

Your accounts should be based on your business records. Business records should keep details of your income and your expenditure. It is up to you how to keep these records but FIGTO recommends that you keep books regularly and in as much detail as possible. Your accounts should normally be for the 12 months to 31 December each year. You may find the Agricultural Department booklets on bookkeeping helpful. Once you have prepared your accounts you need to adjust the profit or loss to take account of what is or is not allowable for tax purposes.

You then need to send these accounts (with the tax adjustments) to FIGTO every year as a part of your tax return by the 31st of July in the following year.

Accounts

Although the Tax Office staff are happy to help with a person's tax affairs it is not FIGTO's job to prepare accounts or give tax advice. You should consider obtaining professional advice.

What should I include in my accounts?
Your accounts should show your business income and your business expenses. The difference between the two is your profit, but this still may need to be adjusted for tax purposes.

Income
Your accounts should incorporate all the business income earned by you in the year. This will include:

- Any items sold, even though you have not received the money yet;
- Any cash sales;
- Any general agricultural grants or subsidies that you receive;
- Sales of any livestock;
- Any stocks that you take for your self should normally be included as income.

Your business income will not include:

- Sales of "capital items", such as equipment, land or buildings. These are dealt with separately – see our Depreciation Allowances guide;
- Agricultural grants given for the purchase of specific capital equipment. Again, see our guide on Depreciation Allowances;
- Any employment income. For example squidding work or road gang work for FIG. This should be included in your tax return on the "employment income" section and not as a part of your business accounts.

Expenses: What Can I Claim?

General Rules
There are some general rules of what you can and cannot claim as a business expense for tax purposes. You can only claim a tax deduction for business expenditure that is wholly and exclusively for business purposes. This means you cannot claim for private costs. For example you *cannot* claim for:

- Any money *you* take out of the business (your 'drawings');
- Personal telephone charges;
- Private vehicle running costs;
- Your own retirement pension contributions; these costs are allowable elsewhere on your tax form and should not be included as a business expense;
- Capital costs: tax relief for capital items such as machinery, vehicles and buildings is given by way of depreciation allowances. Capital items are assets that you keep in the business e.g. farm machinery, buildings etc. as opposed to items that you sell to make money from e.g. wool.

Special Cases
The cost of Livestock replacements can be deducted in your accounts as an expense. Although if the replacement is also an improvement on the quality of the previous animal then only a part of the cost can be deducted, the replacement expense. The 'improvement' part is not allowable as a deduction.

Depreciation Allowances
Further information on depreciation allowances is available on request from the Taxation Office.

Other Tax Reliefs:
Training - You can get extra tax relief for the costs of training your employees or yourself. You can deduct 1 ½ times the actual costs.

You as an Employer

You have a number of tax obligations as an employer. A brief summary of these duties is as follows. More details can be obtained from FIGTO. If you have employed recently then contact FIGTO and we will send you an Employers Pack giving you all of the forms and detailed instructions you need.

If you take on an employee
If an employee starts to work for you then you need to tell FIGTO. Fill in a New Employee form (EMP-03) and return it to the FIGTO within 7 days from the start of the employee's employment.

Every Payday
If the wages you pay are over a certain amount or the employee has main employment elsewhere then you must deduct tax – Payment on Account of Tax (POAT) and Medical Services Tax (MST) - from the wages and pay this to FIGTO. As an employer, you are required to pay MST on behalf of your employees, at a rate of 1.5% of their gross earnings. Individuals are not subject to MST until the month following their 17th birthday. POAT & MST deducted in one month should be paid to FIGTO by the 14th day of the next month. You also need to give us the pay and tax & MST details of your employees by the same date, the 14th of the next month. FIGTO can supply the forms for this in a paper format or also on a computerised format. FIGTO will also supply the Tax Tables that you need to work out how much tax to deduct from the wages.

Please be aware fines will be imposed for late filing of POAT returns (£50). Also, returns are required if you pay wages and no POAT is deducted or if you have no employees during part of the year.

When an employee leaves

If an employee leaves you have to tell us within 7 days after your employee leaves. You should give the employee a tax deduction certificate summarising the pay and tax details so far that year. You should send a copy of this summary to FIGTO.

End of the Year

At the end of each year we will send you a form for you to summarise the wages paid to *all* employees you had during the year, not just those that had POAT deducted. This form has to be completed and returned to FIGTO by the 2nd of February of the following year to which the income relates.

Other

If you are in doubt about whether someone is an employee or self-employed then contact FIGTO.

FIGTO charge penalties and interest if the POAT returns and payments do not reach us on time.

RPC and Your Employees

If you have employees then you may have to pay RPC for them (Employer's Contribution) and also deduct RPC from your employees' wages (Employee's contribution).

Please contact the Pensions Office to check the rules and rates for the contributions.

Payments to other Individuals

At the end of the year FIGTO will send you a form for you to report the amounts paid by your business to other Individuals during the year. This will **not** include payments to employees, Ltd companies or PLC companies. Some examples of Payments to other Individuals are:

- Someone from whom you purchase eggs
- A private person who charges for transport of wool or supplies
- Shearing contractor

This will be sent to you at the same time as we ask for the summary of the payments made to your employees during the past year.

Note: This is a brief summary of the law and practice at the time of writing. It is not binding in law and does not affect your rights of appeal. You should bear in mind that the information offers general guidance on how the rules apply, but whether the guidance is appropriate in a particular case will depend on all of the facts. You should therefore consult the Taxation Office on how the rules apply in your own case.

If you have any queries on Retirement Pension Contributions (RPCs) and pensions please contact the Pensions Office at the Treasury and not the Taxation Office.

Contact Points

FIG Taxation Office (FIGTO)

St Mary's Walk
Stanley
Tel: +500 28470
Fax: +500 27287
Email: general@taxation.gov.fk

Retirement Pensions Board of Management
The Treasury
Stanley
Tel: +500 28415
Fax: +500 27144
Email: jaldridge@sec.gov.fk

Opening hours:
Mon - Fri   8am – 12noon
(Closed 9 -10:30am Tues)
1pm – 4.30pm

P.O.A.T. (PAYMENTS ON ACCOUNT OF TAX) SYSTEM – A GENERAL GUIDE

1. INTRODUCTION

These notes are intended to assist employers and their employees in operating the POAT system. New businesses need to be aware of their obligations to account for POAT, and are advised to study this document and the relevant regulations. This guide has no legal force and for detailed guidance reference should be made to the Taxes Ordinance 1997 s83-96, and the Payments on Account of Tax (Employees' Deductions) Regulations 1997 (as amended by subsequent Payment on Account of Tax (Amendment) Regulations and Payment on Account of Tax(Employees' Deductions) (Amendment) Regulations).

2. GENERAL SCOPE OF POAT SYSTEM

POAT must be applied by all employers to *all* remuneration paid to employees or former employees (this includes directors). The only exceptions to this general rule are:

- Pensions or annuities
- Some payments to part time employees (broadly defined for a monthly paid employee as less than 60 hours/month and for a weekly paid, less than 15 hours in that week and less than 60 hours in the past 4 weeks. This covers *all* employment carried on by the individual concerned).

Example 1

Pat works 10 hours each week for Lady Ltd and 8 hours each week for Elizabeth Ltd. As her total hours each week exceed 15, both Lady Ltd and Elizabeth Ltd need to account for POAT on her salary.

It should be noted that non-resident employers are also within the scope of POAT as are non-resident employees. Employees working in connection with oil exploration and exploitation activities in a designated area are within the scope of POAT.

POAT is not tax in itself, but merely a payment on account. Once the individual concerned has submitted his Tax Return, any excess POAT over his actual tax liability will be refunded. If there is further tax to pay over and above the POAT, an assessment will be issued.

3. POAT DEDUCTIONS

Employers should normally use one of the tables provided to calculate the POAT deduction needed. Separate tables have been compiled for employees paid weekly and monthly.

Employers may use the formula shown in Regulation 5 if they find this easier than using the tables.

More than one source of remuneration (including directors)

3.1 Where an employer has an employee with more than one job he must seek guidance from the Taxation Office.

Tax Free Salaries

3.2 Where an employee receives 'free of tax' remuneration, the formula in regulation 10 of the POAT Regulations must be operated.

4. NON-RESIDENT EMPLOYEES

A flat rate POAT deduction of 21% should be made from this category's remuneration. The employee can either accept this as their final liability to Falklands Tax or alternatively submit a tax return.

Where an employer pays the POAT on behalf of the employee the amounts paid to the employee need to be grossed up for tax purposes so that the actual amount received by the employee is net of tax.

5. PAYMENT AND RETURNS

The employer must submit a POAT return for each calendar month by the 14^{th} of the following month together with payment for that month's POAT. If there are wages/salary but no POAT a return is still required or if during the year at anytime you do not have any employees a nil return needs to be submitted.

Failure to submit the form within the time period incurs a £50 penalty for each return that is late.

Failure to pay the POAT due within the deadline can render the employer liable to a penalty equal to the amount of the POAT due and paid late. Interest on late payment will also accrue.

An annual return of POAT is also required and this in addition requires details of taxable benefits-in-kind to be entered onto a separate sheet. A separate guide is available for benefits-in-kind. The annual returns have to be submitted by the 2^{nd} of February in the following year to which the income relates.

Within 7 days of the employee leaving their employment, the employer must provide the employee and the Taxation Office with a Certificate of Tax Deducted showing their total remuneration and POAT deductions made in that year. If the employee is still employed at 31 December that certificate has to be sent to the employee and Taxation Office within 31 days of the end of the year.

Interest and penalties may be charged in the event of the employer not fulfilling these obligations. POAT is a preferred debt in the event of the employer becoming insolvent.

6. NEW EMPLOYEES

The employer must notify the Taxation Office within 7 days of any new employee by completing and submitting a 'Notification of New Employee' Form. If you do not know the employee's Tax Identification Number (TIN) or if one has not yet been issued, leave the relevant section of the form blank and the Taxation Office will provide you with one.

7. MISCELLANEOUS PROVISIONS

POAT must be applied where a payment of remuneration is made. Certain employers may need to heed the provisions of sections 84 to 86.

8. CONTACT POINTS

8.1 Any enquiries concerning Payment on Account of Tax (POAT) should be sent to:

	Tel:	(+500) 28470
Taxation Office	Fax:	(+500) 27287
	Email:	general@taxation.gov.fk

St. Mary's Walk
Stanley
Falkland Islands

8.2 Any enquiries concerning Retirement Pension contributions should be sent to:

	Tel:	(+500) 27010
Pensions Office	Fax:	(+500) 27144
	Email:	pensionsclerk@sec.gov.fk

Falkland Islands Treasury
Thatcher Drive
Stanley
Falkland Islands

FALKLAND ISLANDS GOVERNMENT TAXATION OFFICE

A SELF-EMPLOYMENT GUIDE TO FALKLAND ISLANDS TAXATION (TAX YEAR 2015)

If you intend to become or are self-employed please inform the Taxation Office immediately. You will be required to complete a new business form; once this is processed you will be registered as self-employed and issued with an Employers Reference Number (ERN).

UNINCORPORATED BUSINESSES

These are generally taxed in a similar way to limited companies. However, assessable profits for a year of assessment will be based on the previous year's income (including any other taxable income e.g. remuneration from employment, bank interest, etc) and your total taxable income will be charged at the following rates of tax:

Income Tax	
First £15,000*	NIL
Next £12,000	@ 21%
Remainder	@ 26%
Medical Services Tax **	
First £60,000 *	NIL
Remainder	@ 1.5% (self-employed rate)

(Note: The MST threshold is first set against any relevant profits, any balance remaining is then used against any earnings and benefit in kind. The rate for employees is 1%)

* only individuals who are resident and/or ordinarily resident for tax purposes for the relevant tax year are entitled to the full amount. If you are not tax resident and not ordinarily tax resident this amount will be apportioned to the number of days you were present in the Falkland Islands and designated areas.

** Medical Services Tax (MST) is applicable on net profit before the deduction of capital allowances. MST is not an allowable deduction for calculating your taxable profits. A separate guide on MST is available.

Falkland Islands Retirement Pension Contributions (RPCs) for 2015 are £29.00 per week or £1,508 per annum, please contact the Pensions Office for further details.

ACCOUNTING PERIODS, PAYMENT AND FILING DATES

The normal accounting period is 1 January to 31 December for self-employed, which is in line with the tax year. However if you feel that this will be difficult to achieve due to the nature of your work you can contact the tax office to request an alternative accounting period.

Once you have prepared your accounts you need to adjust the profit or loss to take account of what is or is not allowable for tax purposes.

You then need to send these accounts (with the tax adjustments) to the tax office every year as a part of your tax return by the 31 July in the following year. There are penalties for late submission.

Non-resident and not ordinarily resident self-employed (applies if you have not been repeatedly tax resident in FI and present less than 183 days in the relevant tax year)

Self-employed profits, including profits from activities in connection with exploration, are subject to tax in the Falkland Islands. If the period of activity in the Falkland Islands is less than 12 months the accounts of the business, with a completed tax return, should be submitted to the Tax Office within 60 days of when activity ceases in the Falkland Islands. Please contact the Tax Office to request a tax return.

In accordance with the tax legislation in the Falklands you are required to deliver a copy of the accounts of your business (that is showing world-wide receipts and expenses and assets and liabilities) which include the period of activity in the Falkland Islands. In addition a copy of the trading accounts in respect of the period of activity in the Falkland Islands or if no trading accounts are available a profit statement setting out the results from the exploration activities carried on in the Falkland Islands.

CALCULATION OF TAXABLE PROFITS

Accounts should normally include all business income relating to and earned in the year, whether or not received. Capital gains are not chargeable to tax in normal circumstances.

Most items of business expenditure are deductible provided they are incurred wholly and exclusively for business purposes. Capital costs (e.g. a new Land Rover, improvements to buildings) are not allowable as business expenses, but should be eligible for depreciation allowance (see below). Special rules apply for certain types of expenditure:

a) Bad Debt - a deduction can be claimed for irrecoverable debts provided the Taxation Office is satisfied that these become “bad” in the relevant accounting period and that all reasonable steps have been taken to recover them.

b) Business Entertaining - this is not allowed as a deduction. There is a concession of an allowance of £100.00 per employee per 12 month accounting period including partner/spouse.

c) Vocational Training - a 150% deduction may be available for this (s102).

d) Pre-trading Expenditure - costs incurred before you actually start business are normally treated as deductible when you commence (s103).

e) Employee remuneration - this should normally be paid within nine months of the end of the period of account in order to be deductible in that period (s98).

ALLOWANCES FOR CAPITAL EXPENDITURE

Depreciation allowances **can be claimed** for Income Tax at the following rates on capital expenditure for business purposes.

Asset	Allowance per annum	Method of Depreciation	See Note
Plant, Machinery & Vehicles	up to 40%	Reducing Balance	1
Ships	Equal to 20%	Straight Line	
Buildings	Equal to 10%	Straight Line	2
Other Buildings	None		3

Note 1 The 'Plant and Machinery' category includes aircraft, fencing, office equipment, tools and equipment, etc. Pooling of assets can be used for plant, machinery and vehicles.

Note2 "Buildings" includes industrial, commercial, agricultural, mining, fishing and hotel buildings.

Note 3 "Other buildings" includes residential accommodation. Please note that there are special rules for depreciation allowances relating to residential accommodation – please consult the Taxation Office if in doubt.

No depreciation allowances are available on the cost of land although the expense of preparation etc. of land for construction of a building is specifically allowed.

The percentage allowances above are claimed on a "reducing balance or straight line" basis on written down value. When the asset is sold, there may be a claw back of allowances (Ss.116 –119 Taxes Ordinance 1997).

ALLOWANCES FOR CAPITAL EXPENDITURE - Petroleum activities

25% allowance

In arriving at the taxable profits, depreciation allowances can be claimed at the rate of 25% on capital expenditure on the acquisition of any machinery or plant which is used for the purposes of the offshore activities.

General rules

When the asset is disposed of, there may be a recapture of allowances already given.

Special rules – arrival & departure

There are special rules to cater for machinery and plant being introduced into the Falklands after acquisition and similarly withdrawn from the Falklands prior to disposal.

Note: This is a brief summary of the law and practice at the time of writing. It is not binding in law and does not affect your rights of appeal. You should bear in mind that the information offers general guidance on how the rules apply, but whether the guidance is appropriate in a particular case will depend on all of the facts. You should therefore consult the Taxation Office on how the rules apply in your own case.

CONTACT DETAILS

Taxation Office	Tel:	(+500) 28470
St. Mary's Walk	Fax:	(+500) 27287
Stanley	Email:	general@taxation.gov.fk
Falkland Islands		

Pensions Office	Tel:	(+500) 28415
Falkland Islands Treasury	Fax:	(+500) 27144
Thatcher Drive	Email:	pensionsclerk@sec.gov.fk
Stanley		
Falkland Islands		

FALKLAND ISLANDS GOVERNMENT TAXATION OFFICE

DEPRECIATION ALLOWANCES –FROM 1 JANUARY 2011

Introduction

Falkland Islands tax legislation does not allow tax relief for capital expenditure either as a direct deduction in business accounts or through depreciation costs. However there are special tax allowances available for certain categories of capital expense. This leaflet explains what can be claimed, how and when.

Depreciation allowances are not due on properties that are outside of the Falkland Islands, however a wear and tear allowance of 10% of gross income is allowable.

Tax Allowances for expenditure on capital items are called Capital Allowances, or Depreciation Allowances. The term 'Depreciation Allowances' is generally used throughout the Falkland Islands tax legislation and it is therefore used in this leaflet.

What capital expenses can I claim for?

Allowances can only be claimed in relation to business enterprises operated either as sole traders, partnerships or companies.

Depreciation allowances are available on the following capital expenses:

- Vehicles
- Ships
- Aircraft
- Plant and machinery
- Office equipment
- Buildings
- Fencing

Assets bought on hire purchase qualify for a depreciation allowance based on the original cost. Any associated interest charges would be claimed separately as business expenses.

Some of these categories are quite wide – if you cannot be certain that an item will qualify for depreciation allowances by reading this leaflet then you should raise the question with the Taxation Office.

Items must be used, or be intended for use, in the business in order to qualify for an allowance.

What capital expenses do not qualify for allowances?

Depreciation allowances cannot be claimed for capital expenses of a private or domestic nature.

Allowances cannot be claimed for land or livestock.

In cases where a building qualifies for depreciation allowances and land is included in the original cost, then it is necessary to separate the two in order that the cost of the land is excluded.

Revenue expenditure, for example expenditure for the repair and maintenance of a vehicle or building, does not qualify for depreciation allowances (it would, however, qualify as a tax deductible business expense subject to restriction based on the apportionment of private : business use of the asset).

If a fixed asset has a dual purpose, for example a vehicle is used partly for private use and partly for business purposes, then the depreciation allowance can be apportioned to allow relief on the business element. For further information on the apportionment of depreciation allowances you are advised to consult your tax advisor or the Taxation Office.

How do I make a claim for depreciation allowances?

When you submit your accounts to the Taxation Office you should also submit a list showing what depreciation allowances you wish to claim. The information that the Taxation Office will require is as follows:

a) Description of the fixed asset
b) Date of purchase
c) Cost
d) Whether or not there is any private use, and if so how much.
e) How much depreciation allowance you wish to claim.

Please note that e) above may be complicated by the fact that the categories of depreciation allow for different rates and methods but it is up to you to decide how much you wish to claim, subject to the business % maximum allowed for the particular asset.

Businesses should submit a **tax computation** with their accounts. A tax computation is a useful way to show how depreciation allowances are reconciled with the profits shown on the accounts and the taxable profits (adjusted profits shown on your tax return). If you are in any doubt as to whether or not we will understand how you want depreciation allowances, or any other adjustments, calculated, then it is essential to submit a tax computation.

What are the depreciation allowances rates?

The amounts that may be claimed each year are

Asset	Allowance per annum	Method of Depreciation	See Note
Plant, Machinery & Vehicles	up to 40%	Reducing Balance	1
Ships	Equal to 20%	Straight Line	
Buildings	Equal to 10%	Straight Line	2
Other Buildings	None		3

Note 1 The ‘Plant and Machinery’ category includes aircraft, fencing, office equipment, tools and equipment, etc. Pooling of assets can be used for plant, machinery and vehicles.

Note2 “Buildings” includes industrial, commercial, agricultural, mining, fishing and hotel buildings.

Note 3 “Other buildings” includes residential accommodation. Please note that there are special rules for depreciation allowances relating to residential accommodation – please consult the Taxation Office if in doubt.

How is the depreciation allowance calculated?

The depreciation allowance is calculated by reference to the original cost or value. If the cost of a vehicle is £6000 the maximum allowance will be 40% of £6000 which is £2400. If it were decided that only 25% should be claimed in the first year then the allowance for year 1 would be £1500.

The reducing-balance method is then used to calculate the opening balance for year 2:
£6000 - £2400 = year 2 balance £3600. The year 2 allowance would then be calculated at 40% of £3600 = £1440. The year 3 opening balance (known as the ‘written down value’) would then be £2160 ……. and so on…….

The straight-line method is then used to calculate the opening balance of a Building at a cost of £10000:
£10000 - £1000 = year 2 balance £9000. The year 2 allowance would then be calculated at 10% of £10000 - £1000yr1 - £1000yr2. The year 3 opening balance (known as the ‘written down value’) would then be £8000……. and so on…….

I may wish to calculate different depreciation allowances for my accounts to show the wear and tear on an asset over a set number of years. What would happen if I wanted to claim 40% in the first year on a vehicle that cost me £6000, in order to reduce my tax bill for that year, but at the same time I wanted to show the value of the vehicle in my balance sheet as reducing to 0 over six years?

You can do just that. Show the accounting depreciation rate (£1000 per annum) in your accounts as a wear and tear allowance, and adjust the fixed assets in the balance sheet accordingly. When you submit your accounts to the Taxation Office you should enclose a tax computation to show the accounting depreciation added to the net profit, and the 40% tax depreciation (£2400) subtracted.

What happens if I sell an asset that depreciation allowances have been claimed for?

If you sell an asset upon which depreciation has been claimed for more than the written down value at the start of that accounting period then a **balancing charge** will be incurred. A balancing charge is a claw-back of depreciation allowances. The following is an example of the calculation of a balancing charge:

A vehicle is purchased for £6000 and depreciation is claimed at 40% on a diminishing value basis over three years. In year three the written down value equals £2160 less the depreciation allowance @ 40% (£864) = £1296. The vehicle is then sold for £3000. Because the vehicle is sold for an amount in excess of the written down value a balancing charge must be calculated (if it was sold for less than the written down value, say £1200, then no balancing charge would be imposed – see *balancing allowance* below).

The balancing charge must be the lesser of the difference between the sale proceeds of the asset and its written down value (£3000 - £1296 = £1704) and the total amount of depreciation claimed during the ownership by the business of the vehicle (the total depreciation claimed = £6000 - £1296 = £4704). The result of this comparison is that the difference between the sale proceeds and the written down value is the smaller amount. When you submit your accounts to the Taxation Office you should therefore include a computation showing £1704 added to the taxable income arising to the business.

If the vehicle was sold for less than the written down value at the start of the accounting period during which it was sold, then a **balancing allowance** will arise. Example: the vehicle is sold for £1200. The taxable income of the business would be reduced by £96 (£1296 written down value minus £1200 sale price). Please note that special rules exist to deter tax advantages being gained by dealings with connected parties.

Do I *have to* claim depreciation allowances?

For tax accounting purposes you do not have to claim depreciation allowances.
If you choose not to claim depreciation allowances in a given year then you will have a higher written down value to carry forward to the next year. It should be noted, however, that if allowances relating to a particular asset are carried forward continually and remain unclaimed until the asset is scrapped, then the benefit of the allowance would be lost.

What happens if I want to bring something, say a vehicle, into my business after I have been using it for purely private purposes for several years?

You can bring the vehicle into your business, but not at the original cost. The opening balance for depreciation purposes will be *the value of the vehicle at the time that it is brought into the business*.

What will happen if I wish to remove that same vehicle from the business after several more years?

The value of the vehicle at the time that it is removed from the business will be compared to the written down value at the time of the withdrawal. A balancing charge or balancing allowance will then arise to compensate for any advantages or disadvantages that may have arisen in the depreciation claimed.

If I obtain a grant for part of the cost of some capital equipment, how will I adjust my tax depreciation?

This is best answered with a simple example: A farmer buys a tractor worth £10000. He is given a grant of £3000 to assist with the purchase.

The amount received in the way of a grant is not declared as income, and the expense of the tractor is not declared as expenditure on the Profit and Loss Account. Therefore the cost of the tractor is reduced by the amount of the grant (£10000 - £3000) and the opening balance for depreciation allowances equals £7000.

What is 'Pooling of Assets'?

Pooling of assets is only allowable for Plant, Machinery and Vehicles. This is where all assets are added together and the total is taken as the balance for the category. The total is then depreciated at up to 40% if you choose to do so. This cuts down on administration and eliminates confusion over values on the calculation of balancing allowances and charges when individual assets are sold.

Help and Advice

If you need more information on the tax treatment of depreciation allowances, or any aspect of Falkland Islands tax, then you are welcome to contact the Taxation Office. You may call or write to us at:

St Mary's Walk
Stanley
Falkland Islands

Public opening hours:	Mon - Fri	9am – 12 noon (afternoon appointments by prior arrangement)
Telephone number:	+500 28470	
Fax number:	+500 27287	
General Email address is:	general@taxation.gov.fk	

Please note that this paper is intended to give only broad guidance on depreciation allowances, and is not intended as a statement of law. The points covered in this paper reflect current tax rules at the time of writing.

Falkland Islands Government Taxation Office

St Mary's Walk, Stanley, Falkland Islands, FIQQ 1ZZ

Tel (+500) 28470 Fax (+500) 27287 Email general@taxation.gov.fk

Extra Statutory Concessions - Farmers

There are currently 18 Extra Statutory Concessions (ESC).

Included in this guide are details of the ESCs of relevance to self-employed/partnership farmers i.e. those farms that are not run as limited companies.

ESCs not included in this guide are:

ESC 9 -	Gratuities
ESC 12 -	Purchase of Own Shares (PoS)
ESC 13 -	Late Local Currency Elections
ESC 14 -	Taxation of Share Option Benefits
ESC 15 -	Associated Companies Relaxation of the definition of 'Relative'
ECS 16 -	Deferral of Date when tax is due for farm in and carry agreements
ECS 17 -	Taxation of Share Incentive Plans

Please contact the Taxation Office if you require details of any of the above ESCs or a full guide.

“Extra-Statutory Concessions”

There exists within the Falkland Islands taxation code several practices which have developed and persisted over the years, growing up as pragmatic reactions to legal anomalies or otherwise as sensible interpretations of the law in the instances where the strict wording of the law has proved inappropriate for addressing specific circumstances. These have often been acknowledged and approved by Exco, or sometimes may have developed internally as practical reactive solutions arrived at by the Taxation Officer and the Commissioner of Taxation. One of the specific recommendations of the Tax Policy Framework review carried out in 2002 and 2003 was that these unofficial practices be codified formally and published, primarily for the sake of accountability and certainty. Henceforth any such practices will be presented to Executive Council for their consideration and approval, then published and applied consistently and openly.

An extra-statutory concession is a relaxation in practice which gives taxpayers a reduction in tax liability to which they would not be entitled under the strict letter of the law. Most concessions are made to deal with what are, on the whole, minor or transitory anomalies under the legislation and to meet cases of hardship in a specific area where a statutory remedy would be difficult to devise or would run to a length out of proportion to the intrinsic importance of the matter.

Published concessions are of general application, but it must be borne in mind that in a particular case there may be special circumstances which will need to be taken into account in considering the application of the concession. A concession will not be given where an attempt is made to use it for tax avoidance.

ESC 3 Pension Income Allocation for Married Couples.

Amendment to the concession approved 18 December 2003

The Falkland Islands code of personal taxation is based upon the principle of Independent Taxation of individuals, regardless of their marital status or domestic arrangements. However, the combination of the move to this system from 1st January 2003 and the simplification of personal allowances introduced from 1st January 2004 have meant that some married pensioner couples after that date have significantly higher tax charges than they did under the previous system. To ease this situation, married people, where one or both are aged 60 years or over, receiving pension income of any type (Falkland Islands occupational or personal pensions) on or after 1st January 2004 may elect jointly in their tax returns for this to be treated as having been received equally between them. In this way their individual personal allowances may be used to reduce their joint tax liability in any year.

Explanation

For tax on income under Independent Taxation, each person's income is their own and only they can benefit from their tax allowances. However, the introduction of this system from 1st January 2003, followed by the abolition of the previously extremely generous age allowances from 1st January 2004, has significantly increased the tax liabilities of several pensioner couples. This was not an intended effect of the changes in 2003/04 and to obviate this negative impact married couples, where one or both are aged 60 years or over, in receipt of one or more pensions will be permitted to split their pension income equally between themselves in any year if they wish to, so that they can take better advantage of both their personal allowances. This reflects the fact that in many instances the pension will only be in the name of the principal earner over the years, usually the husband, although he will have effectively worked, and saved towards the pension, on behalf of them jointly throughout his working life.

The Tax Office will therefore invite all married pensioners aged 60 years or over in the year prior to the year of assessment, when submitting their tax returns for income received in 2004 and subsequent years, to elect jointly to share any one or more sources of pension income (eg. occupational or personal pension schemes or FIPS) equally between them if they wish. As the policy aim is to treat the pensions as being received jointly, there will not be a facility to split the pension other than equally – to do otherwise would be to invite couples to minimise their tax liabilities excessively.

ESC 4 Depreciation Allowances on Farmhouses

People in business for themselves are taxed upon a level of profits based on their business accounts. Under normal accounting principles the profit and loss account does not include capital expenditure, which is therefore not deductible for income tax purposes. However, the Falkland Islands tax code includes a stand-alone system of Depreciation Allowances to give relief for the reduction in value of capital assets over time. Allowances due under the relevant rules as laid down in Chapter 2 of Part 5 of the Taxes Ordinance 1997 are treated as an expense of the business in arriving at the amount of assessable profits. The legislation stipulates that deductions may only be given in respect of expenditure incurred for the purposes of the business, and that if a building is used partly for non-business purposes no allowance will be given in respect of the non-business use. This rule is disregarded in respect of farmhouses occupied as the private residence of the farmer, where otherwise one would expect to have to calculate a business / private split. All capital expenditure on owner-occupied farmhouses will therefore qualify for Depreciation Allowances.

This concession only relates to capital expenditure, and does not extend to expenditure on the maintenance, upkeep and ongoing expenses of running the farmhouse, which will still require to be apportioned between those expenses pertaining to the running of the business, which are allowable deductions in computing the profits of that business, and those pertaining to the private occupation of the house, which are not.

Other capital expenditure on buildings used wholly for the purposes of the business (such as barns, sheds, workers accommodation etc) will qualify in full for Depreciation Allowances under the normal rules.

Explanation

Prior to the land reforms of the 1980s many farmhouses were provided to managers and as such the companies owning them correctly claimed depreciation allowances. The practice of allowing full depreciation allowances, with no private element excluded, continued after the land reforms even though the occupiers of the properties were now self-employed people in business. This is wrong in law and arguably inequitable as no one else in business can claim the personal costs of their private house against their business income. In practice, farmhouses which are also the farmer’s residence will always have a considerable amount of private use, possibly even 100%. And certain items of capital expenditure on the farmhouse may easily be totally private, such as the building of an extension as a living room for example.

This issue was discussed during the Tax Policy Framework review in 2002/2003. As this has been a long held practice, and acknowledging the need to improve the quality of much of the housing in Camp, the review group did not propose stopping this practice at that time.

ESC 5 Taking or Provision of free meat in Camp businesses.

ESC 5A – Goods for Own Use

It is a long-established principle of tax law that where a person in business takes goods from the business for his or her own use or private consumption, the business accounts should be credited with the retail value of that item for the purposes of calculating taxable profits as if that had been a sale to a customer.

Where a person engaged in an agricultural business takes meat or other produce from the business, either for their own consumption or for any other private purpose, then no charge will be imposed for the purposes of Falkland Island taxation as long as the normal retail value of the goods concerned does not exceed £1000 in any tax year.

ESC 5B – Goods provided to employees

Section 8 of the Taxes Ordinance 1997 charges tax on 'gains or profits from any employment', whether received in money or otherwise. Many farmers will give free meat to their workers and their families, or allow these employees to take their own. This is strictly taxable under during the year as being a gain arising from the employment.

Where an employee or his/her family receives meat or other produce from the employers business then no charge will be imposed for the purposes of Falkland Island taxation as long as the normal retail value of the goods concerned does not exceed £1000 in any tax year.

Explanation

There are several longstanding non-cash practices in Camp which, although taxable under the law, have usually not been declared for tax purposes over the years and have not been pursued by the Tax Department. To take into account the many years over which this had been a normal feature of the Falkland Islanders' way of life, these are hereby formalised into published practice. Anyone in business or employed in agriculture will not be taxed on goods they take or receive free of charge, so long as the value of these does not exceed £1000 per year. For the purposes of this calculation, slaughtered meat should be taken at the value of the full carcass, rather than the higher potential retail value after butchery.

The figure of £1000 per annum allows for meat to the value of £20 per week. This figure should be kept open for review in line with inflation, but it should be borne in mind that this represents in itself a valuable concession unavailable to people engaged in any other business.

ESC 6 Use of company vehicles

[Amended 24 February 2005, coming into force effective from 1 January 2005]

Section 3(1)(b) of the Taxes (Benefits in Kind) Rules 2003 introduces a charge to tax, from 1 January 2004, on the benefit of a vehicle provided by an employer to an employee for his or her own use {or for the use by any member of that employee's family}, other than wholly for the purpose of performing the duties of that employment.

Under the Ordinance and Benefit in Kind Rules "employee" includes company directors.

The taxable annual value of having such a vehicle provided is £3000. There is an alternative taxable value of £40 per day if a vehicle is only made available on an ad hoc, rather than a regular, basis.

A vehicle provided by an employer to an employee is normally made available to enable the employee to carry out the duties of that employment. Where a vehicle is made available by reason of an employee's employment the legislation provides that it will be automatically treated as having been made available for private use. This means that a vehicle benefit charge will automatically apply.

However, the vehicle benefit charge will not apply if the employee

- is specifically prohibited from using the vehicle privately, **and**
- does not in fact use it privately.

Note that there are two parts to this test.

The mere prohibition of private use is insufficient on its own to prevent a tax charge. It is also necessary to show that a vehicle is not used for private motoring.

- Thus a provided vehicle will result in liability even if no private use is made of it **unless such private use has been specifically prohibited**

  AND
- even if the director or employee shows that private use of a vehicle has been specifically forbidden, there must be **no private use of it if a charge is to be avoided.**

Employees who are required to take a vehicle home because they are on call will not be charged on the benefit of that vehicle provided that it is only used in an emergency. For the avoidance of doubt we will not seek to charge a benefit on vehicles provided to public officers strictly in accordance with paragraphs 109 and 112 of Chapter K of General Orders.

Explanation
It is a fact that within the Falkland Islands it has become an established and long standing tradition for employees to use a vehicle provided by their employer, which is required for work purposes, for travelling from home to work and work to home, both at the start and end of the day and at lunchtime.

For the purposes of defining **private use** the use of that vehicle for travelling **directly** to and from work at the start and end of the day, and at lunchtime, will not be treated as private use.

If a vehicle is used for any other private purpose then a benefit in kind will arise and will become liable to tax. So, if on the way home an employee goes shopping that is a chargeable benefit. If, when on standby or on call the employee uses the vehicle to visit friends that is also a chargeable benefit. (ExCo 28 April 2011, paper 107/11 agrees a relaxation of this rule and allows home to work travel with occasional private use. If an employee is provided with a company vehicle and regularly uses it for private use this will give rise to a benefit.)

"So we will not seek to charge a benefit on a vehicle provided to doctors, firemen, power station workers, etc. who are necessarily obliged to have that vehicle at their home in case they are called out in an emergency."

has been replaced by

"For the avoidance of doubt we will not seek to charge a benefit on vehicles provided to public officers strictly in accordance with paragraphs 109 and 112 of Chapter K of General Orders."

This change has been introduced to point out that FIG employees are not allowed to use FIG vehicles for private purposes without permission except for a strictly limited amount when on-call duty or unless such use has been properly authorised whereby an appropriate hire charge is payable.

Please note that, in the event abuse becomes apparent and cannot be controlled, there is a high risk that this concession will be withdrawn and, as a consequence, the Benefit in Kind Rules would be strictly applied. This would mean that any use of a vehicle provided by an employer for travel to and from work, etc. would result in a charge to tax as a benefit in kind.

ESC 7 Clubs, Societies and Associations

Unincorporated associations are within the charge to Corporation Tax on their income. Any club or association with any type of structure will come within this heading. This will normally include any organisation which has officers (eg, a Treasurer and a Secretary perhaps) and engages in financial transactions. We have several organisations like this in the Falklands. Sports associations and social clubs, for example. All should come within the tax net as companies and be taxed on their income - except for registered charities, which are exempt. As a concession, the Taxation Office does not insist on annual returns and accounts from Clubs and Associations, and will not pursue Corporation Tax on the income of these bodies.

Some Clubs will employ staff and pay fees or honoraria to officers, who will pay Income Tax through the POAT system in the usual way. This is quite in order as long as the sums involved reasonably reflect work done.

However, should it transpire that in fact an organisation is being used commercially to generate income for the financial benefit of one or more of its members the concession will be withdrawn.

Explanation

Unincorporated associations are within the charge to Corporation Tax on their income. Any club or association with any type of structure will come within this heading. This will normally include any organisation which has officers (eg, a Treasurer and a Secretary perhaps) and engages in financial transactions. One aim of this rule is to prevent individual office-holders from being liable to income tax on income of the club.

We have several organisations like this in the Falklands. Sports associations and social clubs, for example. All should come within the tax net as companies and be taxed on their income - except for registered charities, which are exempt. Having said this, payments between members of a club are regarded as mutual transactions and not taxable.

It is a fact that most, possibly all, of these sort of organisations will make very small profits, if any. It is another fact that most will find it hard to separate members and non-members income. Some may have nothing approaching a formal Constitution. Many are engaged in charitable work, even though not exempt as charities themselves. Many have important social and historical functions among the people of the Falkland Islands.

Given all of these factors, the Taxation Office does not insist on annual returns and accounts from Clubs and Associations, except in the rare situation where an Association is run commercially with a view to making profits for the financial benefit of one or more individual members. (There may well be no such organisation in the Islands at the moment.).

It must be emphasised that this arrangement is strictly a concession to the correct legal position. Some Clubs will employ staff and pay fees or honoraria to officers, who will pay Income Tax through the POAT system in the usual way. This is quite in order as long as the sums involved reasonably reflect work done.

However, should it transpire that in fact an organisation is being used commercially to generate income for the financial benefit of one or more of its members the concession will be withdrawn.

ESC 8 Entertainment Expenses

From 1 January 2003, section 8(1)(b) of the Taxes Ordinance 1997 has charged to tax all "gains or profits from any employment" on all employees, including directors of a company, whether paid in cash or not.

So if an employer pays an employee a cash bonus as a reward that is taxable as part of their income. Consequently, a non-cash reward is also taxable as a "gain or profit" from that employment from 1 January 2003.

It is an accepted practice in the Falkland Islands for employers to "reward" their employees for completing a specific job on time, or to a high standard. That reward usually consists of a night out with all costs of the employee, and his/her family or partner, being paid for by the employer. Such entertainment costs will become "income" in the hands of the employee, chargeable to tax.

The Tax Office will allow, by concession, an exemption from tax on entertainment expenses provided, and paid for, by employers on behalf of the employee and/or for a member of the employee's family or household or their partner, subject to an annual financial ceiling of £100. This financial limit applies to each employee and includes the costs paid on behalf of a member of the employee's family or household or partner.

The exemption should be taken as covering any form of hospitality (dinners, parties, etc.) but not cash rewards. Any costs associated with the entertainment, such as transport or overnight accommodation, are also included in the exemption.

Section 99 of the Taxes Ordinance 1997 stops a business deducting from its profits any item of expenditure incurred in entertainment unless the Commissioner is satisfied that it was reasonably incurred for the purpose of that business.

This concession will allow the employer to claim those costs as a deduction against the business income, again subject to the maximum annual ceiling of £100 for each employee including the costs paid on behalf of a member of the employee's family or household or their partner.

If all of the actual costs incurred in the year on an individual employee and their family/partner exceed £100 then the excess of that amount falls chargeable to tax in the employee's hands. Similarly the employer cannot claim the excess over £100 as a deduction in the business accounts.

If the actual amount expended in the year is less than £100 then only the actual expenditure can be deducted from the business accounts.

ESC 18 Business Successions
[With effect from 1 December 2012]

This ESC is to allow for the transfer of assets of an individual or partnership in business to be transferred at written down value (WDV) to the new owners. Currently the assets on a transfer of a business would need to be at market value and this amount would be included in the business accounts before the transfer, which may give rise to a balancing charge. However after the transfer if the new owners have not paid for the assets they cannot bring the assets into the business with any value.

Example: a husband and wife own a farm and wish to transfer the business to their children on retirement at no cost. Currently the assets of the farm would be valued at market value and may give rise to a balancing charge in the accounts, which needs to be paid by the disposer who has not actually received any money to cover the charge. The children who continue in the business cannot bring the assets into the business as they have not paid for them and they also cannot claim any capital allowances.

The transfer of assets at their written down value will allow the smooth transfer of a business by those who wish to pass on their business to a relative. In addition it removes the problem of trying to establish market values when there has been no 3rd party sale, which would be at an additional cost to the disposer and to the Tax Office to verify the market value.

Conditions of transfer:

- The business must be transferred to a connected person(s) as defined by section 208 (2) of the Taxes Ordinance 1997.

- The connected person(s) must continue on in that trade.

- Section 62 of the Taxes Legislation which is currently only for Company Reconstructions will now apply for Individual and Partnership transfers of business.

- The trade must be carried on for 3 years after the transfer, unless the Commissioner states otherwise.

- In any other business transfers it will be at the Commissioner's discretion if the transfer at WDV will be allowed.

The previous owner(s) will not be able to claim writing down allowances in the final period as they have ceased trading. Under the Taxes Ordinance 1997 you must be carrying on a business to be able to claim allowances. The new owners will bring the assets in at the previous WDV as if they had always owned them.

It is hoped that this ESC, which is in line with the Islands Plan, will assist with the smooth transfer of a business between relatives, and as a result aid business development.

This ESC will be kept under review and may be withdrawn if it appears to be abused.