

AGRICULTURAL

Whitley Stimpson

CHARTERED ACCOUNTANTS AND BUSINESS ADVISORS



SPOTLIGHT

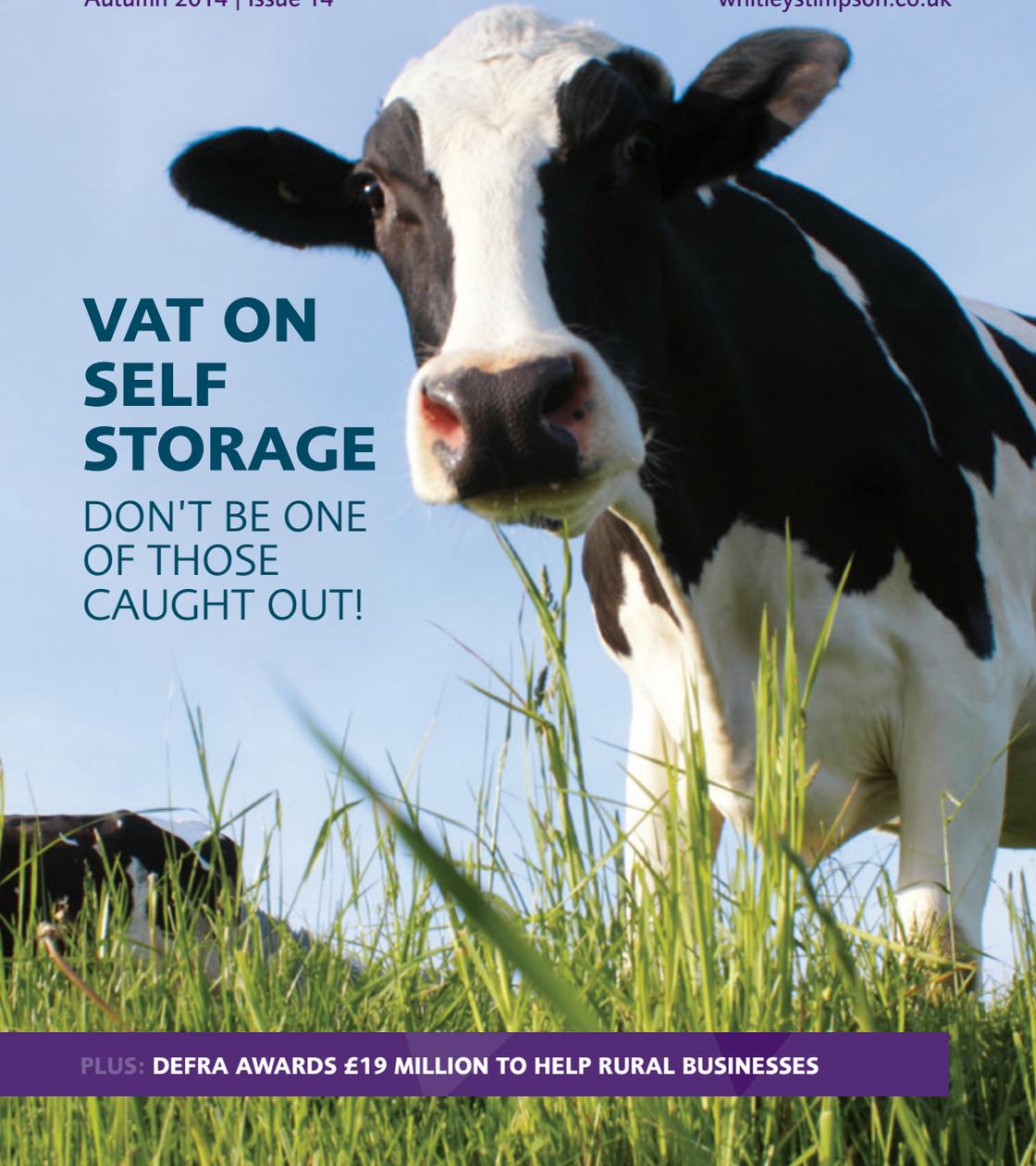
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VAT ON SELF STORAGE

DON'T BE ONE
OF THOSE
CAUGHT OUT!

PLUS: DEFRA AWARDS £19 MILLION TO HELP RURAL BUSINESSES



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WELCOME

Welcome to the Autumn 2014 edition of Agricultural Spotlight. Astonishingly it's September already! Summer 2014 has been kinder than recent years to most so we hope you all have had and continue to have a very successful harvest.

Nevertheless, rural life still continues, with developments across all aspects of the agricultural sector. This edition focuses on the tricky issue of VAT on renting storage units and a recent tribunal case involving tax relief on resurfacing work. We hope you take the opportunity to have look.

VAT ON SELF STORAGE

DON'T BE ONE OF THOSE CAUGHT OUT!

It has been nearly two years since the VAT rules changed relating to the rental of storage space, but many farmers are getting caught out. We highlight the current rules and what you should do about it if you think you have failed to charge VAT to your tenants.

The majority of a farmer's sales, such as livestock and cultivations, have VAT charged on them at 0%. This makes it very beneficial for farmers to be VAT registered, they can claim back the VAT on their purchases but don't necessarily have to charge it at 20%. Often this means a healthy repayment at the end of a VAT quarter.

However if the same farmer rents out one of their buildings to someone who, say, stores machinery in the building, then they may have to charge VAT at 20% and pay it over in their next VAT Return. If their tenant is not VAT registered, the tenant will not be able to claim the VAT back and it will effectively mean the rent for them is 20% more expensive.

So when do I have to charge VAT at 20%?

When you rent out a "relevant structure" for the storage of goods. This means a building or a unit, so could be a shed or even a static shipping container.

What was the case before?

Unless the building had a specific 'option to tax' then this used to be a supply of land and therefore exempt from VAT.

What does 'storage of goods' mean?

If goods are physically stored in a relevant structure then the structure is being used for the storage of goods. This is the case regardless of any intention of the supplier of the space or any agreement between the supplier and the customer.

Are there any exceptions?

Yes, fortunately for farmers the storage of live animals is exempt and rent will be exempt from VAT (subject to an option to tax). But the storage of cultivations is not exempt and falls within the definition of goods above.

Doesn't this mean I need to check up what my tenants are doing?

Yes. For example, if you rent a shed for washing cars but your tenants are actually using it to store car parts you could be liable for VAT without knowing it.

What if the unit is empty?

It depends on what the agreement is for. If you are renting the space for storage it doesn't matter if it is empty, you still need to charge VAT. If it is for offices for example, then the rent will be exempt (subject to an existing option to tax).

What if the space is used for the storage of goods and another purpose?

There is no hard and fast rule. Generally the overall use of the building will dictate if VAT is to be charged or not. So a building used for offices with a small storeroom at the back may not need VAT to be charged on it. But a warehouse with a small office will be fully treated as storage. Each case will need to be looked at on its own merits.

I have been renting out a shed for storage for tenants and have not charged them VAT. How do I correct this?

Speak to your accountant. Often the error will be small enough that you can correct it on your next return. If your tenant is VAT registered, they may accept an invoice for the VAT which has been missed. They will have to pay it but can claim it back on their next tax return. The problem is when your tenants are not VAT registered. They may object to paying 20% extra that they cannot reclaim. In that case you will be treated by HMRC as having charged rent inclusive of VAT and they will require you to pay over the VAT element.

VAT is an extremely complex area of taxation and you need the right support to ensure you don't fall foul of intricacies such as self storage. Whitley Stimpson Limited is vastly experienced in all areas of VAT, so for more information please contact a member of the agricultural team.

MILK PRODUCTION STAYS WITHIN UK'S QUOTA

The Rural Payments Agency (RPA) has received end of year details from milk purchasers and direct sellers of the amount of milk which was produced for sale in 2013/14.

The RPA has confirmed that there will be no wholesale or direct sales levy for the 2013/14 quota year.

The United Kingdom wholesale milk deliveries totalled 13.7 billion litres – 1.6 billion litres under the national wholesale quota. The UK's direct sales amounted to 109.7 million litres – 33 million litres under the national direct sales quota. The wholesale delivery figures have been adjusted for butterfat content.

The UK has not exceeded the national milk quota levels set by the European Union for 2013/14. The EU has the power to impose a levy but because UK producers have remained under the limit, there will be no wholesale or direct sales levy for the 2013/14 quota year.

This data is based on end of year declarations and the provisional outcome is subject to amendment in the light of inspection of purchasers' and producers' annual returns.

In addition, any business that buys raw or bulk milk direct from farmers has a duty to report the amount they buy on a monthly basis, so the industry can see how deliveries are running compared to the UK's quota allocation during the year.



RISK OF INCREASED TAX ON FARMHOUSES IN COMPANIES

More farmers could face taxes on their homes and other residential properties from 6th April 2015 when the threshold for the Annual Tax on Enveloped Dwellings (ATED) threshold falls.

ATED is a tax payable by companies that own high value residential property (a dwelling). It came into effect from 1st April 2013 and is payable each year. Properties valued at £2m upwards have been subject to this tax already. However from the 2015-16 tax year, this threshold falls to £1m and will fall further to £500,000 in 2016-17.

Companies owning properties valued at between £1m and £2m can expect an annual ATED bill starting at £7,000. Those companies affected have to submit an ATED return and make payment by 30th April of the relevant tax year. Late returns will carry penalties and unpaid tax will incur interest.

Fortunately for many farming businesses there are reliefs from paying ATED, notably where the property is:

- ▶ a farmhouse, if it is occupied by a qualifying farm worker who farms the associated farmland, a former long-serving farm worker or their surviving spouse or civil partner;
- ▶ or let to a third party on a commercial basis and isn't, at any time, occupied (or available for occupation) by anyone connected with the owner.

Even if the above applies, the company still must make an ATED return by 30th April as above to be able to claim the relief.



If your company owns a residential property which you believe could be valued at over £1m or even £500,000, now is the time to act. Speak to a member of the agricultural team at Whitley Stimpson Limited to avoid unnecessary late payment penalties.

HMRC LOSES CRUCIAL TRIBUNAL CASE



A recent tribunal case has highlighted the contentious issue of whether significant resurfacing or replacement expenditure is deductible from taxable profits. Although the business involved was a caravan park, the outcome is significant for all business which may incur similar costs.

The taxpayer was Cairnsmill Caravan Park which rented sites for static and touring caravans over 51 acres. In 2008, the owners restored the surface of the pitches let out short-term to caravan customers, an area of approximately three acres of grass.

To restore the grass surface to its original state would have required the area to be left largely vacant for about two holiday seasons to allow the grass surface to recover sufficiently. Instead, the taxpayer replaced it with a hard-core surface consisting of a foundation made up from a former airport runway surface and a top surface of loose gravel. The cost of the surface restoration work amounted to £89,210.

Cairnsmill Caravan Park claimed the full amount as replacement expenditure, therefore reducing its taxable profits. They argued that it was not an improvement nor was it a replacement of a whole asset, both of which would result in relief being denied.

HMRC contended that a new asset had been acquired: a new permanent surface for caravans to park on. They also contended that the park as a whole had been improved by the resurfacing.

The First Tier Tribunal agreed with the taxpayer. It found that the asset in question was the entire caravan park, not the pitches. Therefore Cairnsmill Caravan Park had

replaced not a whole asset, but just a small part of a much larger asset and it would count as a repair in this respect.

Furthermore, the Tribunal found that the resurfacing had not resulted in an overall improvement to the valuation of the caravan park. Other considerations suggested it was not an improvement. In fact it had generated complaints as it was not suitable for children to play on nor could awnings be easily fixed to it. Maintenance costs were also higher and even durability of the new surface came into question as the grass surface had been in existence for 50 years. For these reasons, it was rejected as an improvement and was deemed to be a replacement only.

Finally, the Tribunal judged that the expenditure on the resurfacing was also to benefit the short term trade of the

business. Waiting for two years for the grass to stabilise would have been a severe disruption to the trade, therefore the availability of the hardcore foundation to provide a quick and efficient replacement supported the taxpayer's claim for deduction against trading profits.

This case does highlight the fine line that many businesses, including farms, have to tread when it comes to claiming tax deductions for repairs and improvements. Each case must be looked at on its merits but cases such as Cairnsmill Caravan Park do help make the decision a bit easier.

If you are considering making significant replacements to any of your assets, do not neglect the taxation implications. Speak to a member of the agricultural team at Whitley Stimpson for greater piece of mind.

DEFRA AWARDS £19 MILLION TO HELP RURAL BUSINESSES

More than 2,500 rural businesses are set to receive a share of £19 million of government funding, specifically designed to boost the competitiveness of rural farming and forestry businesses. It is believed that this extra funding will support around 5,000 jobs across England.

Outgoing Environment Secretary Owen Paterson said: "Small businesses are the cornerstone of the rural economy, supporting local jobs, people and entire communities. That's why the government is awarding £19 million to over 2,500 small farming and forestry businesses to enable them to thrive as part of our long-term economic plan. This will help them grow and prosper and support around 5,000 jobs across England".

The funding is from the targeted Farming and Forestry Improvement Scheme (FFIS), part of the CAP-funded Rural Development Programme for England.

This funding, now in its third round, has provided over £34 million to help nearly 5,000 businesses, including farmers, foresters, woodland owners and horticultural businesses

grow their businesses and the rural economy. Combined with £51 million of industry funding, this will support around 10,000 jobs.

Examples of items which fall under categories are cluster flush, livestock handling facilities, automated footbaths, cow mattresses, automatic shedding gates, heat detection systems, heat recovery systems, automated variable speed controllers for water and vacuum pumps, slurry separators, slurry injectors, dribble bars, trailing shoes, rainwater harvesting, forestry grabs, wood chippers. Farmers contribute up to 50 per cent of the funding for these projects.

Financing the next big purchase is often complex and requires the right advice. If you would like to discuss any aspect of funding, please speak to a member of the agricultural team at Whitley Stimpson.

TAX RETURN REMINDER!

If you are submitting your 2013-14 Self Assessment Tax Return on paper, this must be received by 31st October 2014 or late filing penalties will apply. Most individuals and partnerships are entitled to file the tax returns

electronically. The deadline for those filing online is 31st January 2015, so if you still submit a paper return, speak to us at Whitley Stimpson to learn how we can file online for you.

REVIEW YOUR PARTNERSHIP AGREEMENT

Many farming partnerships do not have an up to date and tight partnership agreement. Unfortunately in certain circumstances this can result in considerable financial and emotional distress when there is a dispute between partners. The following case highlights one such instance.

Mr & Mrs Ham were dairy farmers who owned a farm, dairy herd, machinery and other assets. They admitted their son into the partnership in 1997 and drew up a partnership agreement.

Unfortunately the agreement was not sufficient when the son decided to retire from the partnership a few years later. Under the agreement, the parents could purchase the son's share at its "net value" rather than wind up the partnership. The issue was what the "net value" was. The son argued for an up to date market valuation of the assets; the parents contended that the 'book value' should be used, being the figures shown in the latest accounts.

The case went to the Court of Appeal which ruled in favour of the son, saying that the valuation should be based on the same terms as if the whole business was sold and each partner took their own share. Therefore market value was appropriate as no one would sell their assets at the value they were stated at in the accounts.

A partnership agreement which entitled a leaving partner to their share of capital rather than the assets may have saved the situation. The judge expressed sadness that a lack of clarity in the agreement's drafting had caused so much "anxiety and expense" to the family.

A strong partnership agreement is crucial to the smooth running of any partnership and clarifies matters in times of dispute. For more information about how we can help further, please contact us.

TALK TO SOMEONE WHO UNDERSTANDS THE REAL ISSUES

Accounting for agriculture, farming and rural business is a specialist area that requires expertise and an understanding of the industry. Our dedicated team come from farming backgrounds and offer a clear understanding of the issues facing farmers.

We provide professional knowledge and hands-on experience in the agricultural sector. We have worked with agricultural businesses for over 80 years, providing the expert advice that is required to help you enhance the potential of your farming business.

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