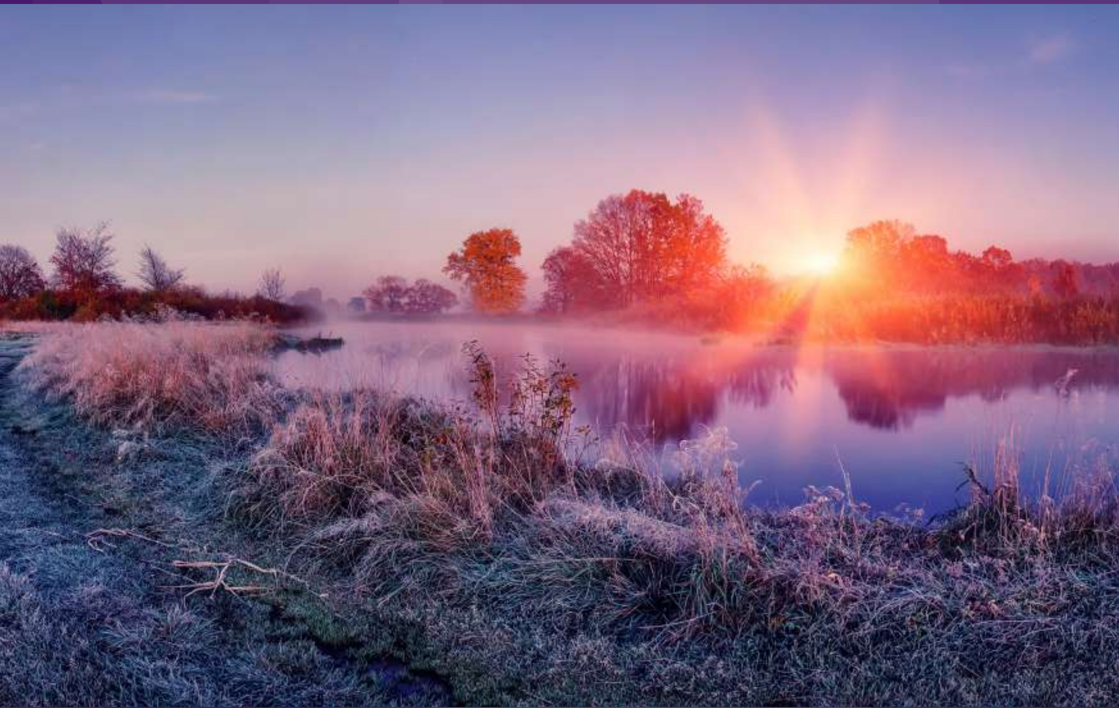
Whitley Stimpson

CHARTERED ACCOUNTANTS AND BUSINESS ADVISORS



Agricultural Spotlight

Winter 2022 | Issue 26

PARTNERS IN YOUR PROGRESS

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Contents

Welcome to the Winter 2022 edition of Agricultural Spotlight.

The latest issue of our Agricultural Spotlight features an overview of the Autumn Statement with a farming perspective, a brief look at carbon credit schemes, information about rising scams and how to spot and report them, plus some more positive news about averaging your profits over a two- or five-year period.

We hope you find this information valuable and we look forward to bringing you the next edition in the new year.

The Autumn Statement 2022 – how will farming be affected?

With inflation at a 40-year high fuelling the much talked of cost of living crisis, a £55bn hole in government finances following Kwasi Kwarteng's disastrous mini-budget, and a looming recession, many people approached November's autumn statement in a state of trepidation.

Media reports suggested this was to be the start of a great economic rebalancing with the prospect of tax hikes and swingeing cuts on the cards to raise some cash and plug the hole.

But what unfolded when Chancellor Jeremy Hunt took to his feet wasn't quite as draconian as many expected. Although the announcements he delivered on November 17th will certainly impact businesses and individuals, the effects are likely to be less severe than many people feared.

So, how did farming get on and what will be the impact on food production across the UK? In this post by Ian Parker, Director of Whitley Stimpson, we take a look.

A series of small changes

It's fair to say that rather than any one huge change that will impact farms across the UK, the Chancellor introduced a range of smaller measures. The question is, will these add up to have a significant effect on British agriculture?

Certainly, one of the biggest changes is the increase in the national living wage. This is to go up from £9.50 per hour to £10.42 per hour for 23 year olds from April next year.

Food production is a labour intensive sector which means there are parts of the industry that will be seriously affected by this change, and it is unlikely they will be able to pass all of this extra cost on, especially with other input costs soaring. It is hard to see, therefore, how this move will help to achieve another of Mr Hunt's main objectives from the autumn statement – that of reducing inflation.

Another area that could disproportionately affect farmers is the halving of the capital gains tax allowance from its current rate of £12,300 to £6,000 from April. It will then half again from 2024 to £3,000.

This will drive up tax duties for any farmers selling farmland or agricultural property that has seen a significant increase in value since they've owned it, so if you are currently considering divesting of any significant assets, it may be worth bringing that sale forward, particularly as the Chancellor did not increase Capital Gains Tax rates as many feared he would.

Personal tax

Changes in personal taxation may hit some farmers, although this is likely to be a minority as they only affect the top earners. In an effort to increase tax revenues and plug the gap in the finances, the top rate of income tax, 45p, will be payable from £125,140 from April 6 2023 instead of £150,000. This will see any farmers earning £150,000 or more now pay around £1,200 extra in tax next year.

But whereas few will sympathise with those earning six-figure salaries, a closer look shows that what the Chancellor didn't do may end up making a bigger impact than what he did.

By freezing the personal tax allowance and income tax thresholds, he effectively introduced a stealth tax that will see more people pushed into the higher rate of income tax as wages increase to help families deal with the cost of living crisis. Whereas doing this enabled Mr Hunt to announce fewer tax hikes in his autumn statement – a PR win he may have thought at the time – many families could end up feeling the pain of this decision. Ultimately, however, it is the government that may end up paying the highest price.

Another change that might affect farm business director incomes is the changes to dividend allowance. This is to be cut from £2,000 to £1,000 from April next year and then to £500 in 2024, meaning an extra tax burden of between £88 - £400 depending on their annual takings.

Whereas these changes will affect high earners and directors across all industries, it comes at a particularly sensitive time for farmers as Basic Payment Scheme (BPS) payments are being phased out and the government continues to heap confusion onto the future of Environmental Land Management Scheme (ELMS). Farm incomes are falling, and increased tax burdens will only add to the stress already felt by farmers up and down the country.

The real impact of the Autumn Statement

So, farmers will certainly feel the impact of the autumn statement, but perhaps not to the extent that they and others were expecting. Where exactly, then, did the axe actually fall for farming?

Interestingly, the brunt of the economic fallout is being felt by the government department responsible for farming in the UK – DEFRA.

An already beleaguered department, and on the sharp end of multiple cuts since the 2008 crash, DEFRA has once again been the subject of a significant budgetary cut.

Almost £500m is to be stripped from the department's finances over the next two years, equating to 10.6% of its total budget.

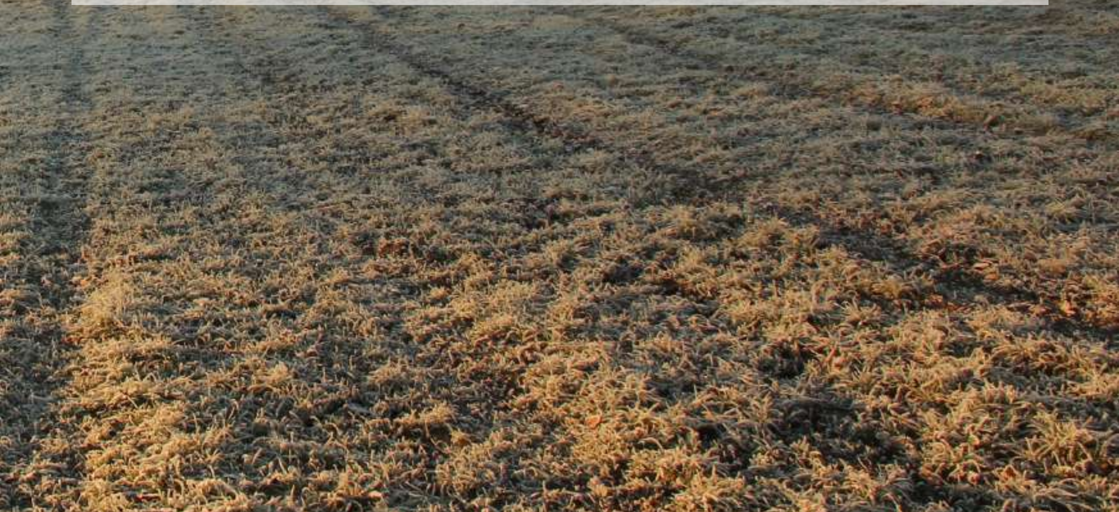
Such a significant cut is likely to leave the already chronically under-funded department even less able to do its job of supporting farming and protecting the environment.

Not only does this throw up major environmental concerns such as the inability of DEFRA to crack down on sewage spillages into the UK's waterways, it could also lead to further doubt surrounding ELMS and the future of farm payments.

As a result, this single cut constitutes the biggest single impact of the autumn statement on farming. It perhaps also provides insight into exactly how much the government values UK farmers and how much they're prepared to invest in them.

Compared to defence, transport, education and the other top tier departments, DEFRA's budget is already tiny. But what it supports is at least of equal importance to any of those, more so in fact, because without farmers, none of those other departments would be able to function.

The production of food fulfils the most fundamental human need there is and those who work tirelessly to do that deserve better. Sadly, the cuts made to DEFRA as a result of the autumn statement seem to suggest the government disagrees.



A taxing issue

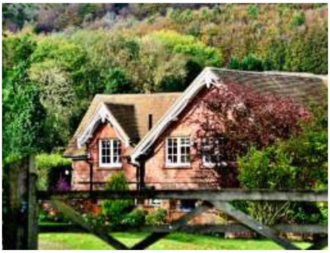
As some of you might have seen in the agricultural press, HMRC is ramping up investigations into agricultural property relief (APR) with reported inspections increasing by nearly 30% in the year to March 31, 2022.*

The reason for the spike is likely to be two fold. Firstly, it is a rebalancing of activity from the COVID pandemic when investigations were scaled back, and secondly, with the government trying to balance the books as a long recession appears on the cards, they're looking to maximise income from all sources.

APR is a very valuable relief from Inheritance Tax as it effectively exempts agricultural assets from death duty and allows them to be passed on to the next generation.

But the benefit comes with conditions, and it is in not abiding by these that some farmers come unstuck. This can be an extremely costly mistake, however, and all efforts must be made to ensure farmers don't lose APR and end up bestowing huge tax bills on the next generation when the assets are passed on.

The Elephant Test



One of the main areas of contention when it comes to APR is the farmhouse. Until a few years ago, it was possible to get 100% APR on farmhouses but recently the law has been interpreted differently, meaning in many cases as much as 30% of the value of the farmhouse might not qualify.

Now for the farmhouse to qualify, it must pass the Elephant Test.

The Elephant Test came out of a legal case that was scrutinising the eligibility of a farmhouse for APR. The presiding judge said that you would know an elephant if you saw one, and that a genuine farmhouse was the same – you could immediately recognise a genuine one when you saw it.

The official name for this is character appropriate, which unfortunately is a rather subjective view. What it basically means is that to qualify for APR, a farmhouse must be in keeping with the rest of the farm.

If, for example, you live in a three bedroom house with a muddy porch that sits on 500 acres of land you farm yourself, then it is highly likely the house will qualify for 100% APR. That is because it is proportion to the size of the land being farmed and the income derived from that land. It is also obvious that the dwelling is used by the farming family.

If, on the other hand, you live in an eight bedroom mansion surrounded by 50 acres, and you try to claim APR on the house, well you might be in for a shock. Or at least, you will when the HMRC turn up to investigate.

The simple fact is, an eight bedroom mansion is in no way proportion to a small holding of 50 acres so would not be considered character appropriate to the level of farming activity that could take place, and therefore wouldn't qualify for APR.

Obviously, these are two extremes, and in between lies many a grey area.

Another related area to watch out for is the addition of leisure items such as a swimming pool or tennis court. As nice as they are to have, swimming pools and tennis courts are not integral to farming, so the extra value they bring would not qualify for APR.

Other reasons for investigation

After issues with the farmhouse, the most common reason why farmers lose APR is down to changes in the use of land. The regulations state that to qualify for APR, land must be used for agricultural purposes such as growing crops or rearing livestock for two years before it is passed on if occupied by the owner, or seven years if it is not.

Therefore, if HMRC becomes concerned the land is not being used for commercial agriculture, it will launch an investigation. If the investigation proves HMRC's suspicions and the land is being used for something else, APR is likely to be lost.

Another farmhouse-related problem that could spark an investigation is if you live in the farmhouse but don't farm the land yourself. In this circumstance, the land may well qualify for APR but the house may not. So, if you're claiming APR for the full estate, you may get a knock at the door.

Other situations that will lead to an investigation and the loss of APR include using farmworker accommodation as a holiday let, the non-agricultural use of farm buildings, and turning land over to non-government run rewilding schemes.

A cottage with an agricultural occupancy condition that is used a holiday let will no longer be eligible for IHT and may even lead to the owner being served with a planning notice. As well as losing APR, business property relief (BPR) is unlikely to apply either, as HMRC regards holiday accommodation as an investment activity rather than a business activity.

For farm buildings to qualify for APR, they must be in agricultural use and not left empty or derelict, or be employed for some other use such as storing caravans or converted into stables. Any such breaches will incur a loss of APR.

Rewilding schemes are more complicated. Land that is put into government-run environment schemes are eligible for APR, but not if a third party plants trees of rewilds the land outside of available schemes, so farmers need to be aware of this.

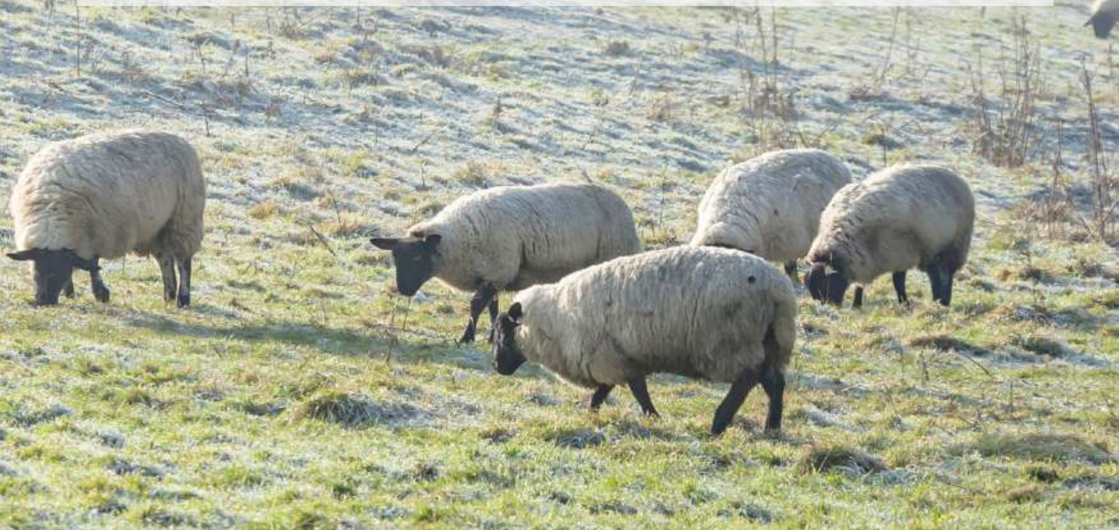
APR is also available on land where trees are ancillary to the farmland such as in a shelter belt and does not cover a large area compared to the whole farm.

Honesty is the best policy

When it comes to claiming APR, honesty is always the best policy and the way to avoid an investigation.

However, if you're concerned about whether you are claiming APR correctly, or you want to apply but are not sure which parts of your farm quality, get in touch on (01295) 270200 or email ianp@whitleystimpson.co.uk.

*https://www.fwi.co.uk/business/business-management/tax/advice-for-farmers-as-hmrc-steps-up-apr-claim-investigations



Voluntary carbon credit schemes – welcome new revenue or storing up problems?

Regenerative farming is a buzz word at the moment. With a host of incentive schemes popping up to encourage farmers to do more to protect the environment and language of all its own – think carbon credits, rewilding, sequestration, and more – it's no wonder there's a good deal of confusion around.

Add to this the indecision over ELMS – the government's flagship framework designed to fund food production and environmental restoration at the same time – and it's easy to see why many farmers are left wondering what the future will look like, how they will access funding and when clear guidance might finally be available.

With such uncertainty, it can be tempting to look at one of the many voluntary carbon credits schemes to bolster farm income. These schemes often promise new revenue streams from carbon trading which enables large companies to offset their greenhouse gas emissions with the purchase of carbon credits.

It sounds tempting, but are these schemes all they're cracked up to be?

How does carbon trading work?

Carbon trading involves farmers or other landowners sequestering carbon into soils, crops, or other vegetation to become net carbon negative – that is, they absorb more carbon than they produce. Tree planting schemes have become very popular for this among non-farming landowners, but farmers can achieve it by planting a range of different crops including cover cropping, companion crops, various forms of grass leys, field margins and other vegetation, or by peatland restoration for upland farmers.

The amount of carbon sequestered is then measured by the organisation or business running the carbon trading programme, and this is converted into carbon credits which can be sold on carbon markets. The standard measurement is one metric tonne of carbon sequestered is equal to one carbon credit.

Carbon credits tend to be bought by governments or companies unable to completely cut carbon from their operations or supply chain to offset their emissions. The money, minus a commission for the company running the scheme, then goes to the farmer.

So far, so good. So what could possibly go wrong?

Are carbon credit schemes worth it?

In our view these schemes, as laudable as most of them might be, should be approached with caution.

There are a number of reasons for this.

Firstly, the carbon credits market is yet to be regulated by government or the Financial Conduct Authority (FCA). There is some voluntary regulation in place, but nothing as robust as a properly funded, independent body like the FCA.

This leaves them open to abuse and there have been a number of high-profile scams in the past. Although these tend to be directed at the carbon credit purchaser rather than the producer, they have nevertheless left a bitter taste for all parties.

There have also been issues around accurately measuring the amount of carbon emitted by the company wanting to buy carbon credits, and the amount sequestered in soil by farmers. Whereas measurement techniques are getting more accurate, this is definitely something that needs to be taken into consideration when looking at these schemes.

Another important consideration relating to schemes not underpinned by the Woodland or Peatland codes is whether there are any covenants and legal protection in place to protect you and your business should the scheme fail for reasons beyond your control. Without these, you could be vulnerable.

The financial implications of carbon credit schemes

As well as the drawbacks listed above, there could be some potential financial pitfalls relating to these schemes as well.

With the farce currently surrounding ELMS, the government hasn't been clear on how voluntary carbon credit schemes might affect agricultural property relief (APR) and business property relief (BPR). Although it is expected a solution will be found that leaves these important tax reliefs in place, that is yet to have happened.

Another more serious concern we have been hearing about is that some banks may take a dim view of farmers entering into these schemes, which can have consequences for refinancing.

Although they would never admit it publicly, there is a sense among parts of the banking community that voluntary carbon trading might restrict the uses land can be put to, making banks less willing to lend based on that land.

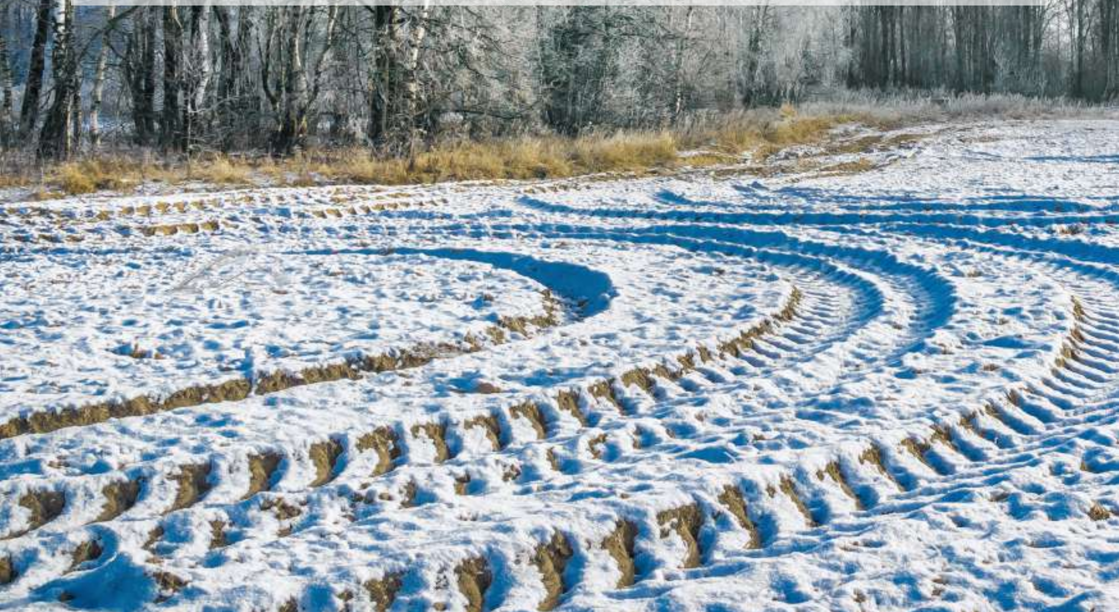
This could have major impacts on a farm business if it becomes commonplace, and something farmers need to take very seriously if considering one of these schemes.

As a result, Ian Parker, Agricultural Expert and Director of Whitley Stimpson, advises caution when looking at voluntary carbon trading.

"Although they might promise a long term revenue stream, there are still a number of potential issues with these schemes," he said.

"Our advice to farmers is to look before you leap. There are undoubtedly some good schemes available, but the lack of regulation and the potential impact on access to other forms of finance could store up serious problems."

If you're considering getting involved in a carbon trading scheme and would like some advice, get in touch on 01295 270200 or email ianp@whitleystimpson.co.uk.



Farms scams on the rise

With the cost of living crisis putting a squeeze on everyone's pockets, the incidence of online scams and frauds is, perhaps unsurprisingly, going through the roof.

According to the Citizen's Advice Bureau, more than three quarters of UK adults have been targeted by fraudsters in 2022 already, up 14% on last year.

Sadly, farms and farmers are not exempt from the scammers and there has been a rise in the number of online scams targeting farms across the year.

Many are the same as other people and businesses are facing, but there are some specific to farming that you need to watch out for. Here are the most common:

Invoice fraud

Invoice fraud is where scammers impersonate an invoice from a known supplier, but with different bank details. Often, this might be accompanied by an email explaining why the bank details have been changed, in case the recipient notices.

Brazen fraudsters might send the invoice directly to the farm, but there are also more sophisticated scammers who can actually intercept email invoices from suppliers, tweak the payment details, and then send them on. This is much harder to detect and recently led to one farm being tricked out of more than £8,000.

To avoid this type of fraud, it is imperative you keep a record of all your supplier's bank account details and if they are changed in any way, speak to your supplier to confirm they are correct before paying the bill.

Farm subsidy fraud

Similar to the bank frauds that most people have been targeted by, farm subsidy fraud involves farmers receiving emails, texts, and phone calls from people purporting to be from the Rural Payments Agency (RPA). The communications often link to fake websites designed to look like the RPA or the DEFRA website and ask the recipient to confirm their personal details or payment information.

These can be difficult for people to detect, especially for older farmers who are less tech savvy than their younger counterparts. The only advice we can give is to never give out personal details, bank information, or any other confidential information online. If you receive one of these communications, get in touch with the body who claims to have sent it and check if it is legitimate or not. Chances are it won't be.

False advertisements

This is another scam that is becoming more common – machinery offered at low prices online or on social media. Buyer beware though, it may be stolen.

To avoid the chances of buying stolen machinery, remember the old adage, if it looks too good to be true, it probably is. Check the vendor is legitimate by ensuring they have an address, contact details and that you can view the machinery before you buy. Ensure there is a good reason why it is cheaper than market value and check all identifying features such as serial numbers and paperwork.

If you're still suspicious, walk away. You're far better off paying a little bit extra and having the peace of mind the police won't be seizing your machinery any time soon.

Tax rebate scams

Everyone loves a tax rebate, which means it can be easy to believe you're due one and overlook the prospect it is a scam. But very often, it will be. This is particularly the case in the wake of COVID-19, where scams link the rebate to the pandemic to make it look like you paid too much tax during this time.

The scams usually take the form of an email or text claiming to be from HMRC asking for personal details and directing people who receive it to imitation websites. It is an easy scam to fall prey to.

However, remember, HMRC will never contact you by email, text message, or social media offering a tax rebate. So if you receive any of these communications saying you're due one, it's false.

Internal fraud

Although not exclusive to farm businesses, with the cost of living as high as it is, you never know when employees or even family members might be tempted to dip their hands into the till. Employee fraud is far more common than you might think and whereas you might feel family ties would prevent someone from theft, desperate times can lead to desperate behaviour.

We're not saying watch your staff like a hawk, or start to suspect them when there is no evidence, but keep an eye on your bank account and look for any unexpected payments. It might be hard to find out someone is stealing from you, but it is better than not finding out.

Reporting a scam

If you feel like you might have been the victim of one of these scams, or any other type, the best thing you can do is go straight to the police and report it. Report it to your bank too and check if you are covered by your insurance.

It would then be a good idea to speak to your internet provider about increasing your security if it came by way of an email, so future phishing emails are blocked.

Bitter sweet breaks

January can be the most miserable of months. With the Christmas and New Year celebrations over, the resolutions to lose weight already broken, and the long, cold, dark nights showing no sign of abating, it can really get people down.

January is also miserable for another reason – it is when the highest number of relationships fall apart. So many couples give it one last chance and stay together through Christmas, often for the sake of the kids, only to find in January that things haven't improved and it is time to go their separate ways.

There is scant amount of good news in these scenarios, but one recent announcement by the government will give separating couples a little more peace of mind.

Capital gains tax

Currently, separating couples exchanging assets, be they investments, personal possessions, or property other than the main residence, must do so before the divorce is completed and in the same tax year as when they decided to separate, if they want to avoid paying Capital Gains Tax. This means that if they decide to separate in January, they may only have until April 6 of the same year to transfer any assets to one another.

If they transfer assets after the divorce is completed and in the following tax year, then CGT is likely to apply.

But changes in the law due to come in in April this year should relieve a lot of the stress around the transfer of assets. Following a review of the situation earlier this year, the government is extending the time couples can make CGT transfers, commonly called 'no gain, no loss' transfers, to up three years after they cease to live together, and for an unlimited time if the assets are subject to a formal divorce proceeding.

Farming families

The change will bring particular comfort to farming couples and families who are going through a breakdown. Dividing the assets of a farming business, particularly if both parties are directors, can be a significant undertaking that couples might not want to do when emotions are high and feelings of loss are raw.

Having an extended time to do this will enable couples to come to terms with what has happened before addressing the issue of the farm business assets and decide on the best outcome for all parties. The new rules are due to take effect from April 6, 2023, the start of the new tax year.

If you are going through a difficult situation and need to discuss the best way forward for your farming business, get in touch on 01295 270200 or email ianp@whitleystimpson.co.uk.

A good average...

Christmas is coming, the goose is getting fat, please put a penny in the old man's hat.

Or not, because Christmas is swiftly followed by January, and we all know what that means … those dreaded January tax bills. The old man is going to have fend for himself this year, I'm afraid.

This is particularly the case currently as the price of wheat meant a lot of farmers, particularly the big arable boys and girls, had a cracking year last year. Profits were up and as tax bills will be based on profits in the 12 months to April 5, 2022, that might make for some eye watering sums.

So, is there anything that can be done to smooth those tax bills out and make them more palatable in the year's most depressing month? Well yes, actually, there is!

Averaging profits

If you're concerned about facing a crippling tax bill that essentially penalises you for being good at your job, you may be able to average them out over the past two or five years, to make your tax burden less bothersome.

The regulations governing this were introduced in April 2016 and unsurprisingly, they come with some conditions. For example, to average your profits over a five year period, the average of the previous four years' profits and the fifth year's profits cannot be in within 75% of each other.

The same rule applies for average over two years – the current year's profits and the previous year's must not be within 75% of each other. If a farmer makes a loss in any of those years, this will be treated as zero for tax purposes, but the losses remain available for standard tax relief.

To qualify, averaging claims must be made within 12 months of the normal self-assessment filing date for the latest year to which the claim relates.

Income tax only

Although averaging is undoubtedly a good way to make tax more manageable, it does have some restrictions.

Firstly, it applies to income tax only, not corporation tax, so isn't available to incorporated farm businesses. Partners in a farming partnership can claim averaging pro rata to their share of the business.

Initially, new entrants into agricultureal cannot access the scheme as it requires a minimum of two years' trading history, and it cannot be used for non-farming income streams such as diversification projects, rental incomes, or renewable energy schemes.

But if you meet the criteria, averaging can be an effective way of spreading out your tax bills and perhaps bringing you enough peace of mind to enjoy the festive season. Maybe you can afford to give the old man a little loose change after all!

If you are expecting a large tax bill in January and you think average might be one way to deal with it, why not discuss it with our experts? Get in touch on 01295 270200 or email ianp@whitleystimpson.co.uk.

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 90 years, providing the expert advice that is required to help you enhance the potential of your farming business.

Meet the agricultural team

Ian Parker
Director
ianp@whitleystimpson.co.uk

Martin Anson
Director
martina@whitleystimpson.co.uk

Owen Kyffin
Director
owenk@whitleystimpson.co.uk

Banbury

01295 270200

ban@whitleystimpson.co.uk

Penrose House
67 Hightown Road
Banbury
Oxfordshire
OX16 9BE

Bicester

01869 252151

bic@whitleystimpson.co.uk

Claremont House
1 Market Square
Bicester
Oxfordshire
OX26 6AA

High Wycombe

01494 448122

hw@whitleystimpson.co.uk

29-31 Castle Street
High Wycombe
Buckinghamshire
HP13 6RU

Witney

01993 700010

wit@whitleystimpson.co.uk

13-15 High Street
Witney
Oxfordshire
OX28 6HW

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