Whitley Stimpson

CHARTERED ACCOUNTANTS AND BUSINESS ADVISORS

Agricultural Spotlight

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PARTNERS IN YOUR PROGRESS

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Welcome to the Spring 2023 edition of our Agricultural Spotlight.

In this most recent edition of our Agricultural Spotlight, our tax experts voice their concerns regarding the government's consultation on the guidelines for agricultural property relief. You can find some helpful tips for a stress-free year end, as well as cautions regarding extra tax burdens related to ATED.

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

Top tips for a stress-free year end

As we enter the new tax year, it is important to plan ahead by keeping your accounts in order. This helps prepare you and your accountant for a stress-free year end.

Leaving your accounts until the last-minute could result in delays as your accountant chases the inevitable missing information, as well as inaccurate reporting and ultimately, paying the wrong amount of tax.

But with some simple preparations, this can be avoided according to Ian Parker, Director of Whitley Stimpson.

By ensuring all transactions are documented and all purchase codes are correct throughout the year, a great deal of time and effort can be saved in producing and submitted the farm's final accounts.

Ian said: "We know farmers are incredibly busy when the tax year is coming to an end, either preparing for lambing or calving or drilling spring crops but setting aside a bit of time to ensure the accounts are in order will save a huge amount of time and stress in the long run.

"Neglecting to do this could store up real headaches for both farmers and accountants. If information is missing or incorrectly entered, producing the final accounts becomes a much more difficult task and can even result in penalties for late submission or inaccurate accounting, which can lead to paying the wrong level of tax."

To ensure this doesn't happen, Ian recommends a number of checks farmers can do before submitting accounts to the farm accountant. These include:

Review account code transactions

Ensure the codes used in your accounts are consistent can be very difficult for an accountant to assess the accuracy of transactions if this isn't the case. If they have to spend time unravelling these, it could cost both time and money.

Ensure stock values are correct

This is another common issue farmers can struggle with. It is essential you provide accurate calculations for the areas of crop growing or livestock numbers by age category. And beware of double counting. When crops leave the farm around year end, for example, there is a risk they are included in the closing stocktake and, in the debtors, when receipts are reviewed after year end.

Produce all documentation for unusual or one-off receipts and payments

All transactions must be documented and evidenced, so be sure to include all documentation for one-off receipts and payments, otherwise your accountant will have to chase you.

Provide copies of any new loans or hire purchase agreements

As many farms have a mixture of borrowing agreements, documentation around new facilities must be sent to your accountant at year-end.

Distinguish between new and repair expenditure

Expenditure on buying new items or repairing existing items, such as fencing, is treated differently. So, make sure you inform your accountant which bracket certain outlays fall into.

Ensure depreciation values are correct

With supply side issues affecting farm machinery at the moment, big ticket items are holding their values well, meaning depreciation rates are impacted. Providing insurance values for tractors and other large plant will help your accountant set depreciation at the right level.

Provide evidence regarding private proportion adjustments

This particularly applies to private mileage and farmhouse costs. Provide a split of mileage used for the business and private mileage.

If the farm business is run from the farmhouse, expenditure around council tax, energy use, and other expenses for business tax relief should be calculated. However, this can be a grey area and one you might need your accountant to support you with. If so, get in touch with them early so it doesn't delay filing your final accounts.

Ian Parker added that although this might sound like a long list, working through it in time for year-end is likely to be far less time consuming than dealing with multiple enquiries from your accountant.

"If you get this in place in time for year-end, you will be able to relax once it's done," he said.

"But if you leave it for your accountant to sort out, be prepared to spend a lot of time going back over the year's transactions and trying to remember what each one relates to."

For assistance on getting your year-end accounts in order, contact Ian on (01295) 270200 or email ianp@whitleystimpson.co.uk.

Government consults over future of agricultural property relief

The Government has launched a consultation into the current rules around agricultural property relief from inheritance tax and whether these will prevent farmers changing to more environmentally friendly forms of land use.

The consultation was announced the March Budget and has been instigated to assess whether the current tax treatment is fit for purpose as the agricultural sector moves from the Basic Payment Scheme to the Environmental Land Management Scheme.

The consultation will also look at creating frameworks to support ecosystem service markets – markets that farmers and land managers can tap into to attract private investment in exchange for providing services such as carbon sequestration and improved biodiversity.

Typically, ecosystem service markets involve the use of land to create units of economic value, such as carbon credits, which can then be sold.

Currently, the main schemes include:

- Woodland carbon units
- Peatland carbon units
- Pending issuance units
- Biodiversity units
- Nutrient mitigation.

The consultation is set to run between March 15 and June 9.

Concerns raised

According to the Government's briefing paper, concerns have been raised by some tax advisors and industry representatives that the current scope of agricultural property relief is a potential barrier to some agricultural landowners and farmers making long-term land use change from agricultural to environmental use.

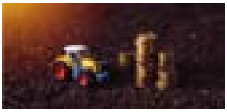
"The aim (of the consultation) is to explore the extent to which the current scope of agricultural property relief may represent a barrier and, if necessary, potential updates to the scope of the existing land habitat provisions in the relief," the document states.

The Government is also using the consultation process to explore a recommendation in the Rock Review to restrict the application of 100 per cent agricultural property relief to farm business tenancies of at least eight or more years under the Agricultural Tenancies Act 1995 and secure agreements under the Agricultural Holdings Act 1986.

The Rock Review suggests this would encourage property owners to grant long term tenancy agreements and encourage tenants to enter long term environmental agreements.

Too early to talk about outcomes

With the consultation just having been launched, agricultural tax expert Ian Parker, director of Whitley Stimpson, said it is too early to second guess what the outcome might be.



However, he said that the Government was unlikely to stick to the same taxation system when Britain's farming industry was undergoing the biggest changes in a generation.

Radical changes to the way farming is funded could lead to radical changes to how it is treated for tax, Ian warned.

He said: "The way farming and land management is funded is undergoing a fundamental shift, so it is no surprise that the Government is looking closely at the tax treatment of large parts of the industry.

"That said, agricultural property relief is important to family farms, that any changes could have far reaching consequences for the future viability of farming businesses.

"So, we would urge the Government to adopt a cautious approach to changing this vital tax treatment and ensure any changes they do make do not disadvantage farmers in any way.

"We will be watching the progress of consultation closely and will be keeping our farming clients up to date with any progress. However, if you are concerned about the process at all, don't hesitate to get in touch."

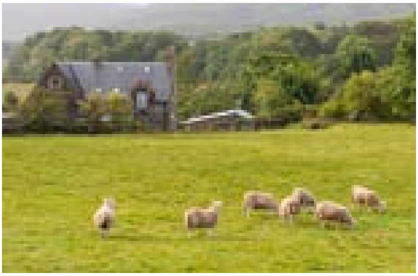
Any changes would apply to England only as tax is a devolved issues for Scotland, Wales, and Northern Ireland.

To find out more about the consultation, go to https://www.gov.uk/government/consultations/taxation-of-environmental-land-management-and-ecosystem-service-markets.

For any advance on tax planning, contact Ian Parker on (01295) 270200 or email ianp@whitleystimpson.co.uk.

Principle Private Residence and the potential pitfalls of your garden

Many people with large houses have considered selling off part of their garden to a developer, to realise some value from their property without completely selling up.



Perhaps the kids have left home and there is no need for such a large plot of land anymore, or age means they no longer want the responsibility of managing a big garden.

But what many people don't realise is this can lead to a Capital Gains Tax (CGT) burden, despite the fact that the land is part of their main or only residence.

This is due to a concept called Principle Private Residence (PPR) which sets out the circumstances under which Capital Gains Tax is or isn't levied when selling off all or part of your estate.

Private residence relief

Under the regulations, if you are a homeowner you are exempt from paying CGT on the disposal of their property if the following conditions apply:

- You have one home and you've lived in it as your main home for all the time you've owned it
- You have not let part of it out, a lodger excepted
- You have not used a part of your home exclusively for business purposes (a temporary or occasional office does not count as exclusive business use)
- You did not buy it just to make a gain
- The grounds, including all buildings, are less than 5,000sqm (just over an acre) in total.

It is the final point that can cause issues for homeowners looking to sell off part of their garden for development. It is also where the regulations become murky at best.

If the house, grounds, and any outbuildings are less than 5,000sqm then CGT won't apply if all or part of the plot is sold for development.

This is because 5,000sqm is the figure HMRC regard as being required for the 'reasonable enjoyment' of the property by the owners.

Therefore, land outside of the 5,000sqm sold for development should be liable for CGT and this rule is likely to apply in the vast majority of cases.

But, when presiding over whether to levy CGT or not, HMRC do take into consideration the size and character of the dwelling and may conclude an area larger than 5,000sqm is required for the reasonable enjoyment of the property, meaning a larger area could qualify for CGT relief.

The assessment for this is generally based on comparisons with other, similar sized properties within the local area.

As HMRC rarely likes to do itself out of tax money, it should be assumed that in the vast majority of cases, they will rule that a dwelling does not qualify for reasonable enjoyment beyond the allotted 5,000sqm.

However, the principle has been tested in court in a well-known First-tier Tax Tribunal (FTT) case where HMRC charged CGT on a couple who sold their 0.94-hectare plot for development.

Property owners Leslie and Catherine Phillips appealed the decision and the judges found in their favour, ruling that the dwelling, which was large and in a rural area would appeal to somebody looking for a larger house and more space around it for privacy and other reasons, and therefore the whole area qualified for PPR.

PPR can be a difficult area to navigate for owners of large properties surrounded by large plots. If you're considering selling off part of your garden for development and require advice, get in touch on (01295) 270200 or email ianp@whitleystimpson.co.uk

Why farm partnerships are vital for farm businesses

Most farm businesses owned and run by more than one person are subject to farm partnership.

Farm partnerships are particularly common among farming families. They are also used to establish new farming businesses between two or more unrelated people because they create business efficiencies and tax relief.

However, they're not without their drawbacks, the main one being they require no formal written agreement to create. This can often lead the business directors – particularly members of the same family – to fall into the trap of thinking there is no need to write down the conditions of the partnership.

Unfortunately, however, this leaves all members of the partnership vulnerable in the event it breaks down, which so often occurs between relatives.

Farming partnership agreements

Ian Parker, Director of Whitley Stimpson and farm business expert, says for this reason, having clear documentation that defines the conditions of the partnership is vital to protect all parties.

Without this, Ian says, disputes over land and property ownerships can easily arise should the partnership fall apart, with each partner assuming they have a charge on the assets.

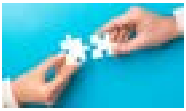
Ian said: "It is very common for the partners to share in the profits of a farm partnership but at the same time, not own the land being farmed. This might be owned by other partners in the arrangement.

"But without a formal, written farming partnership agreement in place, this might not be clear. So, in the event of a partnership breaking down, the beneficial owners within the partnership might feel they have a claim on the farm business assets that they're not actually entitled to.

"In the event of a legal challenge against them, the partners who do own the land may have to pay out a lot of money to prove their case if there is no formal partnership agreement in place.

"If a farming partnership breaks down in the absence of such an agreement, the fallout, particularly for families, can be very messy indeed."

Inheritance tax and new borrowing facilities



Ian added that the lack of a written farm partnership agreement can also cause problems relating to inheritance tax (IHT).

"Many farmers believe that the hope value of farmland will be covered by Business Property Relief (BPR), but this isn't always the case," he said.

"If the assets are not partnership assets and just held by individuals but used by the partnership then you are only eligible for 50% business property relief. Given how much hope value can amount to, this could leave a very large IHT exposure."

Finally, Ian said, it is becoming more common for banks and other lenders to require a formal farming partnership agreement prior to approving further business funding.

"This is just another reason to get a formal, written agreement in place," he said.

“Going into business with your family does not mean you don’t need a written agreement. In fact, in our experience, farming families are prone to disagreements, so protecting each member with a farm partnership agreement will serve a lot of time, money, and heartache should the partnership need to be dissolved.

“My advice would be if you don’t have one in place, get one sorted out and review it annually to ensure it is always accurate, relevant and up to date.”

For more information on farm partnerships and farm partnership agreements, get in touch on (01295) 270200 or email ianp@whitleystimpson.co.uk.

Incorporated farm business? Don't be caught out by ATED

The low corporation tax rate of recent years has seen many farms convert from the traditional sole trader or partnership arrangements to limited companies.

This is generally beneficial, but it does come with an entirely different set of tax rules which often cause confusion to the newly converted.

One area that seems to be particularly misunderstood relates to the Annual Tax on Enveloped Dwellings (ATED) which was introduced in 2013. This states that all companies owning residential property worth more than £500,000 in the UK will face an extra tax burden.

With house prices rising rapidly, particularly in the more desirable rural areas, many farm businesses with a farmhouse are becoming subject to this little-known tax, which may come as a shock to the farmer.

Property must be a dwelling

To qualify for ATED, the property must qualify as a dwelling. According to the Government, this means the property could be partly or wholly used as a residence and includes buildings such as flats, houses, bungalows, and cottages, along with any gardens, grounds, and buildings that make up the full plot.

It does not include buildings such as hotels, guest houses, halls of residence, military accommodation, care homes or prisons.

Properties are revalued every five years with the last valuation taking place on April 1st, 2022, to establish the level that ATED should be charged at for the 2023 tax return.

Tax relief for farmhouses

However, the good news is that many farmers will qualify for relief from ATED. This is because relief can be claimed for occupation of a farmhouse as long as certain conditions are met.

These conditions include that the occupant is a director or employee of the incorporated farming company (or partnership where one of the partners is a company or collective investment scheme such as a unit trust) and that their day-to-day occupation is primarily the trade of farming.

A final condition is that the farmhouse must be located on the land used for the trade of farming by the farming business.

Whitley Stimpson Director and farming expert Ian Parker said newly incorporated farm businesses need to assess the impact of ATED and review whether or not they are fulfilling the conditions required to qualify for relief.

He said: "Whereas many farm businesses will quality for 100% relief from ATED, it cannot be assumed that they meet all the criteria necessary.

"If this is the case, they could end up with a large and unexpected tax bill. This is a particular concern for farming business that have recently become incorporated and don't fully understand ATED and how it relates to their business.

"If in doubt, we would encourage everyone to seek professional advice on this matter as this will undoubtedly help farmers save a significant amount of tax."

For more information about ATED and claiming tax relief, 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 our agricultural experts

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