Farming Update

issue 28 • spring/summer 21

FARM HOLIDAY ACCOMMODATION

BUDGET 2021

NEW MACHINERY

PARTNERSHIP OR COMPANY

MAKING TAX DIGITAL PENALTY REGIME

GENUS SHARES

BUDGET 2021: CLOUDS AND SILVER LININGS

With the jump in national debt over the last year, there was much pre-Budget speculation about possible adverse tax changes that could have affected farmers.

Abolition of Agricultural Property Relief, Capital Gains Tax reform, restriction of Pensions tax relief, and introduction of a Wealth Tax were all being threatened by commentators.

In the event, the March 2021 Budget avoided any of those major changes. We see this as an opportunity (perhaps temporary) for farmers to take steps to sort out their succession under the current benign tax regime which facilitates many lifetime gifts of trading and agricultural property without tax cost if implemented correctly and in good time.

Some of the recently threatened changes could still be introduced in the next few years; indeed perhaps as early as Autumn 2021.

Measures actually introduced in the March 2021 Budget include:

FAVOURABLE

- Trading losses of the 2020/21 and 2021/22 tax years can be carried back up to 3 years for tax relief, instead of the usual 1 year.
- Extension of the VAT reduced rate for hospitality and tourism. Where a farm holiday let is subject to VAT, the 5% rate will apply until 30 September 2021 and a 12½% VAT rate will apply from October 2021 until March 2022.
- For companies only, first year capital allowances will be available on 130% of the cost (instead of the usual 100% annual investment allowance) of some new plant and machinery expenditures in 2021/22 and 2022/23. Some of the relief will be clawed back later with disposal proceeds adjustments also inflated by 30%.

ADVERSE

- The value of most tax reliefs, bands and thresholds is being frozen until 2026. If inflation takes off, this will covertly increase the effective income tax, capital gains tax and inheritance tax rates.
- The corporation tax rate is being increased from 19% to 25% from 2023 for companies with profits exceeding £250,000. Companies with profit between £50,000 and £250,000 will face a partial increase.

While the actual Budget proved something of a relief to many, we urge farmers to plan now and take steps to deal with any overdue changes in property ownerships that can still be addressed tax efficiently. After one of the next few Budgets, it might be too late.

Please contact us if you would like to discuss your plans.

NEW MACHINERY: BUY NOW, PAY LATER

By the time you read this, the local machinery salesman may have been and gone. February and March is often when new equipment is purchased with the aim of reducing anticipated tax liabilities.

Recent years' high threshold for 100% annual investment allowance (AIA), coupled with zero or low rate HP deals, have helped the salesmen to magic away perceived high tax bills. However, there are several points the farmer should beware:

THE REAL COST

Despite 0% HP, the cash price of the equipment is a real cost. Payments may be spread over a number of years but, depending on your tax rate, buying a £10,000 machine eventually means losing (usually) between £6,000 and £8,000 cash that would otherwise have ended up in your bank account after paying the tax.

0% HP and 100% annual investment allowance often mean a large cash saving for Year 1, followed by large extra outlays in subsequent years. For Year 1, 100% tax relief and a reduction in the next year's tax payments on account are achieved despite paying perhaps only a small part of the equipment cost. For all the subsequent years, the HP repayments have to be paid and there is no tax deduction for them.

With BPS due to be phased out in the next few years, and some uncertainties still surrounding the successor ELMS regime, paying down debt (or investing in a pension) may be an attractive alternative use of the cash.

DELIVERY

Beware when the machine will be delivered. The normal rule is that expenditure is eligible for capital allowances when there is an unconditional obligation to pay for it. If the machine is on finance, capital allowances are only available if the machine has been brought into use. Either way, simply paying a deposit, getting a back-dated invoice or placing an order is insufficient to qualify for capital allowances – you normally need to have the machine on farm by your year end. Too often, insurance documents or the publicly available DVLA register provide unhelpful, contrary evidence.

TIMING OF THE PURCHASE

The expenditure limit for 100% annual investment allowance is often subject to temporary increase on a calendar year basis. For example, the current £1,000,000 limit presently runs only to 31 December 2021.

When the limit is reduced, a special transitional rule imposes an effective expenditure limit for 100% annual investment allowance that can be much lower than either the old or new headline limits.

For example, if the current £1m limit is not extended, but reverts to £200,000 from 1 January 2022, then the position for a farm partnership business with a 31 January 2022 year end would be as follows:

- £916,667 expenditure limit for the period 1 February to 31 December 2021 (being 11/12ths of the old £1,000,000 limit).
- £16,667 expenditure limit for January 2022 (being 1/12th of the new £200,000 limit).
- £200,000 expenditure limit for subsequent years.

In which case, the cost of a new tractor may qualify for 100% annual investment allowance if purchased up to December 2021 or from February 2022; but little of the cost might qualify if purchased in January 2022.

Before you commit to a major machinery purchase between 1 January 2022 and your next subsequent year end, we recommend checking whether the Chancellor has extended or changed the current £1,000,000 expenditure limit. An announcement should be made in Autumn 2021. If that limit is reduced, please contact us for advice before committing to a major machinery purchase after 31 December 2021.

Please contact us if you would like to discuss your plans.

FARM HOLIDAY ACCOMMODATION

Restricted overseas travel meant that many farm holiday cottages enjoyed an overdue upturn in bookings last season, and will hopefully maintain this improved popularity in 2021.

Furnished holiday letting profits constitute property income, but they qualify for special tax treatment:

VAT

Income from letting holiday accommodation (and from non-holiday lettings of up to 4 weeks) is normally standard rated for VAT, although a temporarily reduced 5% rate currently applies to September 2021, and a 12½% rate will apply from October 2021 to March 2022.

Traditionally, many holiday accommodation ventures have been run by different family members outside the main farming partnership, thereby staying outside a VAT registration.

INCOME TAX AND CAPITAL GAINS TAX

To qualify for the special income tax and capital gains tax measures, the following tests must be met:

- The accommodation must be made available for commercial holiday letting for at least 210 days in the tax year;
- The accommodation must actually be let out to the public for at least 105 days; and
- These day counts must exclude any occupation periods exceeding 31 days, and such longer term periods must not total more than 155 days in the tax year.

Two special elections ('averaging election' and 'period of grace' election) can sometimes help deem these tests to be met in circumstances where a strict day count test would fail.

Achieving furnished holiday letting status attracts the following tax advantages compared with other let dwellings:

- Fixtures and equipment in holiday lets qualify for plant and machinery capital allowances (including 100% Annual Investment Allowance).
- Finance costs qualify for full income tax deduction; relief is not restricted to the basic rate.
- The income is treated as earnings for pension contribution purposes.
- Capital gains can qualify for holdover, rollover and entrepreneurs' (now called 'Business Asset Disposal') reliefs, subject to meeting the usual detailed conditions.

INHERITANCE TAX

The special tax reliefs for furnished holiday accommodation do not extend to inheritance tax. Holiday accommodation will only qualify for Business Property Relief if it forms an integral part of a larger business that is mainly trading.

Please contact us if you have any queries about your property.

PARTNERSHIP OR COMPANY?

Clients often ask whether their farming business should convert to a limited company to take advantage of special corporate tax reliefs such as Research and Development Tax Credit or the new, temporary 130% capital allowances super-deduction. For most family farming partnerships, the answer is no.

Some business proprietors require the protection of limited liability, which dictates a company or LLP structure.

Before anti-avoidance legislation was introduced in 2014, major tax savings sometimes used to be achievable by adding a company into a partnership structure. Nowadays, a profit earning company needs to be actively trading.

A company structure can save substantial tax where profits are high and are mostly reinvested in the business; eg to build up stock, buy more farmland or pay down debt from previous farmland purchases. This is because the corporation tax rate is 19% (due to increase to 25% from 2023 if profits exceed £250,000), which is much lower than the 40% higher rate of income tax.

However, most family farming partnerships can avoid much – if any – higher rate income tax liability with conventional planning.

A four member partnership can have up to £200,000 profit (if the partners have no other income) before incurring higher rate income tax. Pension contributions and 100% annual investment allowance on plant and machinery additions help manage current year taxable income, while 2 or 5 year farmer averaging can help mop up previously unused reliefs and allowances.

Disadvantages with company structure include:

- The clear distinction between company and personal finances.
- The potential for a double tax charge on drawings: corporation tax on the company's profits and income tax on family drawings. A sole trader or partner is taxed on profit but not drawings.
- The benefit in kind regime, which can impose high income tax charges on private use of company assets (eg farmhouse and vehicles).
- More restrictive conditions for inheritance tax reliefs. Only a controlling shareholder can qualify for Agricultural Property Relief on company-owned land, while personally owned land qualifies for only 50% Business Property Relief if used by a company.

A carefully planned, limited company structure can be highly tax efficient for some businesses where profits substantially exceed drawings and there are plans to reinvest those excess profits into growing the business over the medium or long term. If the forthcoming changes to agricultural support increase the rate of consolidation of farming activity, we may see more farms structured as companies in future. However, the traditional partnership remains a more suitable vehicle for most farming families.

We would be glad to help you with tax-efficient structuring for your farm.

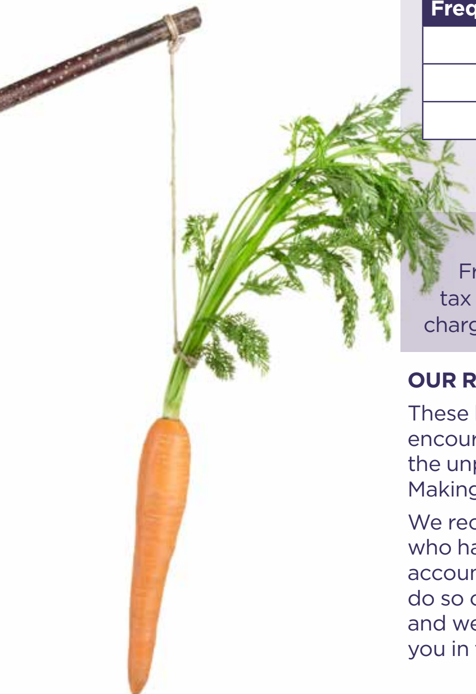
CARROTS AND STICKS: MAKING TAX DIGITAL PENALTY REGIME

In the last edition, we explained that the Making Tax Digital (MTD) regime is to be extended from April 2022 to all VAT-registered businesses and from April 2023 to all self-employed businesses and landlords with £10,000 or more of turnover and/or property rents.

Budget 2021 has announced a new, harsher penalty regime to be introduced simultaneously.

It will apply for:

- VAT periods from April 2022
- Income Tax from April 2023 (taxpayers subject to MTD) or April 2024 (other taxpayers)



LATE TAX RETURN SUBMISSIONS

Under the new regime, a £200 penalty will be triggered on reaching a points threshold. The points calculations for VAT and income tax will be separate.

Points will automatically be deleted after an expiry period from the record of a taxpayer who stays below the points threshold. Where a taxpayer hits the points threshold and incurs a penalty, the points will be deleted when the return is submitted.

The points threshold and expiry period will depend on the frequency of returns:

Frequency of returns	Points threshold	Expiry period
Annually	2	24 months
Quarterly	4	12 months
Monthly	5	6 months

Additional penalties will be charged in cases of extended delay.

LATE TAX PAYMENTS

From April 2023, a new 2% penalty is to be imposed on tax payments more than 15 days late. A 4% penalty will be charged after 30 days and daily penalties thereafter.

OUR RECOMMENDATIONS

These harsh changes will encourage compliance with the unpopular extension of Making Tax Digital.

We recommend that farmers who have not yet moved onto accounting software should do so over the next year – and we would be glad to help you in that transition.

We also recommend that farmers move away from using cheques to pay tax. Postal and cheque clearance delays frequently lead to ten or more days' delay in cheque payments being recognised by HMRC and can make it impossible for a taxpayer to prove the payment date. Paying tax electronically avoids these delays and uncertainties, thereby helping to avoid inadvertent interest and penalty charges.

IN THE MONEY: GENUS SHARES

Many farmers received free shares in Genus plc as part of the winding up of the Milk Marketing Board in the mid-1990s. At the time of writing, the share price is approximately £50 per share, and many of those free shareholdings are now very valuable: some farmers have Genus holdings worth around £100,000. The shareholders include many farmers who have since given up dairying.

We cannot advise on whether you should retain or sell shares, but we would like to highlight some tax implications.

OWNERSHIP

Firstly, it is necessary to understand who owns the Genus shares. The shares were originally issued to the owner of the dairying business; often a partnership. The members of some of those partnerships have changed over the years. On such a change, if ownership of the shares passed to incoming partners, there would have been a disposal at the time for capital gains tax (CGT).

Often, the share certificate is still in the original owner's name.

A partnership agreement and/or tax return disclosures at the time of a change in partners might provide some evidence as to current ownership.

Historic accounting records often provide no information because the shares had nil cost.

In the absence of evidence of a change in ownership, the shares are often still owned by the older generation – and, in cases where the value is £100,000, they are a significant asset from an inheritance tax (IHT) perspective.

CAPITAL GAINS TAX

Where the shares were acquired free by the current owner, the whole of any sale proceeds will represent capital gain.

If there are no other capital gains in the tax year of sale:

- Each individual has a tax-free CGT annual exemption (£12,300 each for the 2021/2022 tax year).

- The next slice of capital gains in a tax year is taxed at 10%. This slice is equal to the individual's unused basic rate income tax band.
- Any remaining gains are taxed at 20%.

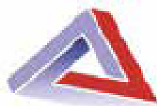
Clearly the CGT payable on a sale (if any) will depend on the value of the holding, the number of joint owners (each with their own annual exemption) and any other capital disposals in the same tax year.

POSSIBLE PLANNING MEASURES

Selling the holding piecemeal over a number of tax years may enable multiple annual exemptions to be utilised. So too may gifting part of the shareholding to a spouse.

Some farmers have CGT losses remaining from the abolition of milk quota in 2015. Those losses are set against the first capital gains in excess of the annual exemption.

Please contact us if you would like advice on your CGT position.



allotts
chartered accountants

Rotherham Office:

The Old Grammar School
13 Moorgate Road, Rotherham, S60 2EN
Tel: 01709 828400, Fax: 01709 829807, Email: info@allotts.co.uk

Doncaster Office:

Sidings Court, Lakeside, Doncaster, DN4 5NU
Tel: 01302 349218, Fax: 01302 321739, Email: donc@allotts.co.uk

Website:

www.allotts.co.uk

Directors:

Steven Pepper FCA
Neil Highfield FCA
Steven Watson BA ACA CTA
Mark Garrison BCom FCA DChA

Associate:

Lisa Empson BSc(Hons) FCA

Consultants:

Jackie Saunders BA FCA DChA
Tony Grice BA FCA Cert PFS

Specialist Sectors:

Farming & Agriculture
Charities & Not for Profit
Education
Medical Services
Sage Support
Professional Practices
Solicitors
Trusts & Estates

Allotts Services:

Business Services
Corporate Services
HR Services
Independent Financial Advisors
(Provided by Allotts Financial Services Ltd)
IT Services
Payroll Services
Taxation Services
VAT Services
Wealth Management

Allotts Chartered Accountants is the trading name of Allotts Business Services Limited

This newsletter is for general information only and is not intended to be advice to any specific person. You are recommended to seek competent professional advice before taking or refraining from taking any action on the basis of the contents of this publication.