

Agricultural Focus

DRIVING LIFELONG PROSPERITY

Winter 2024

SPOTLIGHT ON DIVERSIFICATION



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INSIDE

- Should battery storage be considered for farm diversification?
- Wedding venues – do they qualify for business property relief?
- Do you need to revisit your will?
- 10 Tax changes to consider before 5 April 2024
- What is in stock?
- Meet our team...with Will Teesdale

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DRIVING LIFELONG PROSPERITY

Should battery storage be considered for farm diversification?

Developers are now actively approaching farmers and landowners to seek sites near to grid connections for battery storage systems. Battery storage enables energy to be stored and then released at times of high demand. This is an emerging industry which has the potential to grow, and we are seeing clients asking us for advice in this area.

WHAT ARE THE RED FLAGS TO WATCH OUT FOR WHEN CONSIDERING PROCEEDING?

→ Lengthy agreements

Option agreements are used prior to signing heads of terms, allowing the developer the opportunity to obtain planning permission, connection to the grid and ensure the project is viable. Obtaining grid connection can be a lengthy process, leading to option agreements being 8-10 years to ensure connection is obtained prior to exercising the option. If the option is exercised, the landowner will be granting a lease over their land, which generally runs between 20-40 years. Due to the length of the agreement, it is important to consider the structures that are in place.

→ Land ownership

When entering into an agreement it is important to understand the land ownership and how it interacts with the farming business before decisions are made. Consultation with professional advisers at an early stage will help iron out the position. If there are plans to leave the battery storage land to a non-farming son or daughter, it is important that succession has been thought about and discussed as well as wills and partnership agreements aligned.

→ Rent payments

The annual rent payments can be a fixed rate per acre and/or derived from battery storage capacity. Land agents with experience in this sector, will be able to advise and negotiate the best commercial deals for landowners.

→ Easements

Connection of the battery storage site may require cables to cross neighbouring land, this may be problematic and early discussions are advised.

HOW COULD ENTERING INTO AN AGREEMENT AFFECT THE TAX POSITION?

→ Option receipt

The option agreement payment is taxed on an individual as a capital receipt, falling under capital gains tax. If received into a company, it is taxed as a capital gain at the prevailing corporation tax rate.

→ Rental receipt

The rental receipts are taxed as income in the hands of the landowner. Consideration should be given to the long term implications of the income generated and where and how this will be taxed and used.

→ Inheritance tax (IHT)

Agricultural property relief (APR) - the battery storage land will no longer be used for agricultural purposes and, therefore, will not qualify for APR. For smaller farms this may lead to a loss of APR on the farmhouse. The farmhouse needs to be character appropriate to the land farmed to obtain APR, the reduction in farmed land may result in the farmhouse not meeting this definition.

Business property relief (BPR) - will the business continue to be mainly trading (greater than 50%). Battery storage income is considered non trading income, akin to rental income, which may tilt the business away from being mainly trading. In this situation, consideration should be given to moving the land outside of the trading business.

IN SUMMARY

Hosting a battery storage facility can financially benefit the business now whilst protecting the legacy and livelihood for future generations. It is expected the demand for renewable energy will continue to increase and getting the right advice at the outset is key to avoiding future problems.

If you want to find out more about the impact of entering into an agreement and the associated tax planning options, please get in touch.



Wedding venues – do they qualify for business property relief?

In recent years, many farming businesses have looked to create new income streams.

Renovating disused farm buildings for residential use, or to create a bespoke wedding venue is a popular choice, but care is needed to understand the inheritance tax (IHT) implications. In particular, whether the business in the round remains “wholly or mainly trading” and will continue to qualify for business property relief (BPR).

In October 2023 the case of the late Helen Butler was heard by the First Tier Tribunal (FTT). The deceased taxpayer had an interest in a farming partnership, of which the main source of income was from its wedding venue.

The tribunal found that the wedding business was one of mainly holdings investments and denied personal representatives’ claim for BPR relief on her interest in the farming partnership, resulting in an IHT bill of £1.6 million.

The key facts of the case, and the rationale behind the tribunal’s decision is set out below.

THE FACTS

The asset in question was the deceased’s interest in farming limited liability partnership (LLP), the main activities of which were:

- farming;
- commercial lettings; and
- a wedding venue business operating from an historic barn on the farm.

The taxpayer and HMRC all agreed that the commercial lettings part of the business was investment activity and the farming a non-investment activity.

As the wedding business was the most significant aspect of the LLP’s activities, how it was categorised would determine the nature of the whole LLP.

THE WEDDING BUSINESS

By the time of the taxpayer’s death, many of the functions of the wedding business were outsourced.

Outsourced activities

- The LLP entered into an agreement with Country House Wedding Venues who would manage the bookings at the venue and provide the majority of the marketing and social media for the venue.
- Galloping Gourmet (GG) were the exclusive caterers for the site. This was the largest cost associated with the wedding and the customers liaised directly with GG, rather than with the LLP.

- GG fitted out its own kitchen at the site and provided management services throughout the wedding day.
- GG provided the designated person for the purposes of the wedding license and not the LLP.
- GG met with suppliers and collected copies of the PAT certificates and briefed them on the venue.

Activities of the LLP

- It had various regulatory obligations relating to health and safety, it provided certain furniture such as tables and chairs, as well as heating and technical support.
- The team showed prospective customers around the venue and organised open days.
- Assisting with traffic marshalling before and after the wedding.
- Cleaning the venue and maintained the garden and grounds.
- Providing a dance floor for use by the wedding party.
- Prior to the wedding the LLP’s maintenance team would set up tables, chairs, garden furniture, bunting and a wireless microphone.

APPROACH TAKEN BY THE FTT

When reaching their conclusion, the tribunal looked at each of the different services received by the wedding party, and considered whether the LLP’s involvement in those services was one of holding investments or not.

The services supplied by the LLP were considered on a spectrum ranging from hiring a village hall (investment) to providing a fully serviced conference venue (non-investment) and found that the wedding business was predominantly on the investment side of the spectrum.

They found the majority of the services provided by the LLP were not necessarily specific to running a wedding venue but would apply to any venue held as an investment.

SUMMARY

If you have introduced new income streams to your farming business or restructured how an existing business is run by outsourcing some of the activities, we recommend you review the impact on the IHT position of the business in light of the approach taken by the tribunal in the above case. If you have any questions, please do get in touch.



Do you need to revisit your will?

For such a crucial document it is surprising that the last will and testament can so often be out of date, if it exists at all. This makes a difficult time even more difficult for those left behind, and can result in additional professional fees charged to the estate.

While solicitors are the experts in advising and drawing up wills, your accountant can also have a significant role to play, particularly where there are interests in land, property, partnerships or company shareholdings. Collaboration between your accountant and your solicitor will ensure a joined-up approach.

A well worded will can stand the test of time, with the broad plan for the estate contained within the will and a letter of wishes to run alongside. A letter of wishes is not legally binding but provides guidance to those managing your estate and can be updated easily over time.

It is advisable to review your will every five years as a minimum; however, the following circumstances should also be a trigger to review:

- **Not having one!** Even if you think you are too young to need one; if you have children, you should have a will.
- **Changes to business structure.** Partnership interests or company shares may not be in the will simply because they did not exist when drawing up the document. You may intend these business interests to pass to family members in the business but, if the will is silent on this, these interests could pass to the residuary beneficiaries instead.
- **Executors.** Are your executors still alive? Are they still willing to act as executor and do they have mental capacity?
- **Validity of specific legacies.** If a piece of land or property has been incorporated into a company this can no longer be specifically bequeathed as a separate asset. Similarly, if land and property is on a partnership balance sheet, your beneficiaries may not be able to inherit the land outright in the first instance.
- **Partnership agreement.** Often a partnership agreement sets out terms for dealing with the death of a partner. The will needs to take these provisions into account.
- **Change in assets.** For example, if you have sold land for development then an asset used in the farming trade has been converted primarily to cash. Does the will distribute this value to beneficiaries in the proportions you expected?
- **Marriage.** Getting married nullifies an existing will, a new one is required.
- **Divorce.** If there was no beneficiary other than your divorced partner, then you will be treated as having no will, leaving your estate to be distributed in accordance with the intestacy rules.

10 Tax changes to consider before 5 April 2024

a. What has changed?

1. PENSION TAX RELIEF

- a. The annual allowance for 2023/24 has increased from £40,000 to £60,000 and the lifetime allowance has been abolished.
- b. Plan the optimum contribution to be made prior to the tax year end to achieve maximum tax efficiency – watch out for net relevant earnings, and high-income allowance tapering which will restrict the tax relief.

2. CHARITABLE GIVING TAX RELIEF

- a. If an individual or corporate donor donates to a non-UK charity after 15 March 2023, UK tax reliefs (such as gift aid) are only available if the charity has 'asserted their UK charitable status'.
- b. You should review which charities you support and ensure your intended tax implications remain.

3. CASH BASIS

- a. From 2024/25, the cash basis will be the default method of calculating profits for trading income, the turnover thresholds for cash basis, the £500 interest deduction cap, and loss relief restriction will be removed.
- b. Consider if the cash basis would be beneficial for your business, though it is not available when farmers averaging is being claimed.

4. CAPITAL GAINS TAX

- a. The annual exemption for 2023/24 has decreased to £6,000 and will decrease further to £3,000 from 6 April 2024, with trusts continuing to have an annual exemption of 50% of an individual.
- b. Planning should be undertaken to identify this year's realised capital gains and any unused exemptions for tax efficiency.

5. AGRICULTURAL PROPERTY RELIEF AND WOODLANDS RELIEF

- a. The geographical scope of agricultural property relief and woodlands relief will be restricted to only property located in the UK from 6 April 2024.
- b. Planning should be undertaken to identify if any lifetime transfers should take place before 5 April 2024.

b. What should you do?

6. CAPITAL ALLOWANCES

- a. From April 2023, the super deduction for companies was replaced by full expensing. Companies can claim a deduction equal to 100% of their qualifying expenditure in the year that expenditure is incurred. The annual investment allowance continues at £1 million per annum.
- b. Before 5 April 2024, unincorporated businesses should consider how best to utilise the annual investment allowance available to them, especially around transitional profits arising as a result of the basis period reform.

7. RESEARCH AND DEVELOPMENT (R&D) TAX RELIEF

- a. From 1 April 2024, some changes will come into force, including merging of schemes, changes in intensity thresholds and a requirement to file digitally with an additional information form.
- b. Companies should consider the impact these changes will have on their cost benefit analysis and understand how the changes will affect them.

8. VAT - DIY HOUSEBUILDERS, FROM 05/12/23

- a. Any person who is building their own home and wishes to reclaim the VAT incurred under the DIY Housebuilders Scheme, will now have six months from completion to submit their VAT refund claim rather than three.
- b. Since claimants can only make a single claim, the time extension should be well utilised to ensure their claims are complete and correct and no VAT is lost by omission.

9. PAYROLL AND NATIONAL LIVING WAGE

- a. The national living wage will increase from £10.42 to £11.44 in April 2024 and the accommodation offset rate increase from £63.70 to £69.93 per week. Expected changes to the real time information submitted to HMRC is expected to increase from 2025/26, when employee working hours will be required.
- b. Employers should review wages and any salary sacrifice arrangement in place and make any necessary changes.

10. NATIONAL INSURANCE CONTRIBUTIONS (NICs)

- a. Main rate employee NICs reduce from 12% to 10% from 6 January 2024. Self-employed NICs reduce from 9% to 8% from April 2024 and Class 2 NIC will no longer be payable on profits over £6,725 from 6 April 2024.
- b. Employers should make sure the changes are reflected in their payroll calculations.

What is in stock?

The general accounting principle for valuing stock is at the lower of cost or net realisable value, meaning it can be valued at the cost of production, or open market value if lower.

As it can be difficult to arrive at exact cost for the rearing of livestock or, for crops in store, HMRC allows farmers to use the deemed cost method, which allows farm stock to be valued at a specific percentage of its open market value.

A stock adjustment known as the 'MARS adjustment', resulting from a case won by MARS in 2007, can allow farmers to make a one-off stock adjustment for tax purposes.

WHAT IS THE MARS ADJUSTMENT?

The cases of Mars UK Ltd v Small and William Grant & Sons Distillers Ltd v HMRC in 2007 considered how depreciation was included in closing stock values.

They concluded that the year-end valuations of items produced must contain an element of depreciation. As when producing goods, the indirect costs of production would include the depreciation of the machinery used in the production process.

It was agreed a tax adjustment could be made to reduce the value of closing stock by the depreciation included. As this is just a tax adjustment, there is no effect on the accounting profits of the business.

HOW CAN THIS IMPACT FARMING BUSINESSES?

The symmetry between the production of Mars bars and agricultural stock is that both processes involve:

- Expensive machinery, with high spec tractors now costing in excess of £300,000, and combines costing in excess of £500,000.
- Large quantities of finished stock or stock in production at the year end.

CAN THE MARS ADJUSTMENT APPLY TO ALL FARMING BUSINESSES?

The MARS adjustment can apply to any arable farmer who uses their own equipment within their farming business and depreciate these assets through their profit and loss account.

The adjustment does not apply to farms or estates who employ a contractor to do all contracting works, or where a share, or contract farming agreement is in place.

The MARS adjustment can apply to livestock businesses where machinery is used in the process of rearing or producing, albeit the depreciation cost and adjustment will be lower.

ARE THERE ANY CONCERNS?

When adopting the MARS adjustments, the complexity at arriving at an exact £/tonne or £/head figure can be complicated; however, a common-sense approach can be taken to arrive at a realistic adjustment figure.

WHEN CAN THE MARS ADJUSTMENT BE ADOPTED?

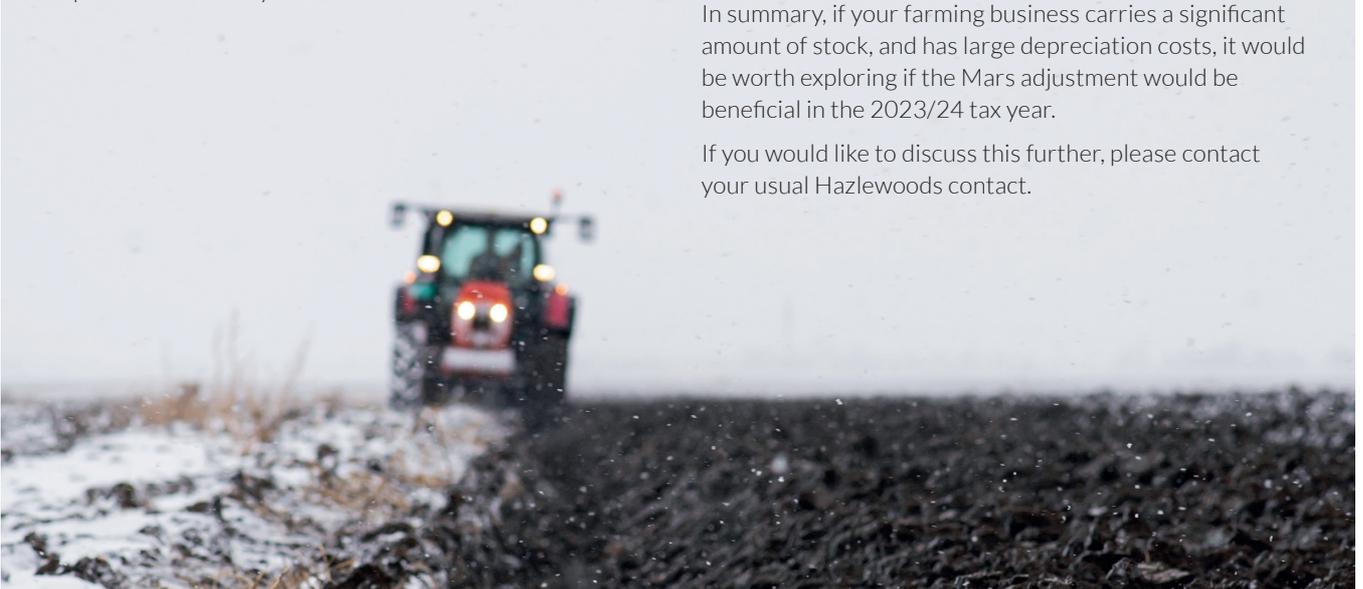
The MARS adjustment can be adopted at any point; once made, future valuations should be on the same basis to remain consistent. It would be worth considering a change in the 2023/24 tax year to coincide with the change in basis period, or in a year when your farming business is carrying a higher than normal amount of stock.

As this is a tax adjustment only, this will have no impact on accounting profits.

SUMMARY

In summary, if your farming business carries a significant amount of stock, and has large depreciation costs, it would be worth exploring if the Mars adjustment would be beneficial in the 2023/24 tax year.

If you would like to discuss this further, please contact your usual Hazlewoods contact.



Meet our team

A Q&A with Associate Director in the Farms and Estates team, Will Teesdale

TELL US A BIT ABOUT YOUR CAREER SO FAR?

My accountancy career started in 2007; I trained and worked for a variety of mid-tier firms in London, having moved from South Wales where I grew up.

I moved to the Cotswolds with my young family in 2018; the main reasons being, more space, and the opportunity to work in industry for a while. I worked for Dyson for about four and a half years which gave me a brilliant insight into corporate tax, VAT, and pretty much an overview of every other tax!

I made the decision to move back into practice and gave a lot of thought to the sort of firm I wanted to work for. Hazlewoods had such a great reputation and seemed like a great fit for me. I thought working in the Farms and Estates team would give me the opportunity to understand some of the issues my neighbours were facing and put me in a position to be able to help.

WHAT IS IT LIKE BEING AN ACCOUNTANT IN THE AGRICULTURAL SECTOR RIGHT NOW?

Long term succession planning is always in the background of everything that we do. There's a dual angle to the advice we provide. Making sure we advise on what is right for the business and family now, but always considering the longer-term impact.

On a day-to-day basis, diversification is on so many people's minds and is discussed in a couple of our articles in this issue. Amongst other reasons, the pandemic certainly focused many businesses on developing a structure, and format which is resilient to change.

Biodiversity net gain and solar energy generation/storage has been a popular new income stream for some. For us, understanding how it works for future generations is proving really interesting. These projects can have eye-catching numbers which grab people's attention, and understanding the detail of what is being signed up to is so important.

WHY HAZLEWOODS?

The clients are one of the best things about Hazlewoods! They always provide us with great opportunities to stretch ourselves and the working relationships are so positive. It's very rewarding when you know someone values what you have done for them, or their business.

The Farms and Estates team has a great reputation and I enjoy working for a team that is helping to drive the whole firm forwards.

Our professional network is also something to be proud of; our clients have such complex affairs, they know we won't be able to answer everything, so it's great to be part of such an amazing network of professional advisers.



MEET THE TEAM



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