CHARTERED ACCOUNTANTS, TAX CONSULTANTS & FINANCIAL PLANNERS

ALBERT GOODMAN

AG RURAL INTELLIGENCE WINTER 2015

WELCOME

Welcome to our agricultural newsletter, which we hope gives you some tips and ideas for your business. Whilst writing this, it led me to thinking how we, as a farming group of accountants, keep up to date with practical and tax matters relating to agriculture.

I chair a group of agricultural accountants throughout the UK called RAG. We are an exclusive bunch of 12 accountancy firms, who meet on a six monthly basis enabling us to be at the leading edge of accountancy and tax advice to our farming clients. Combined we look after around 8,000 farms so we can easily get industry experts along to our meetings to inform and update us.

Three of our team attend these six monthly meetings, and we also hold a large agricultural conference for around 60 accountants, once per year somewhere in the country looking at farming and tax matters. This year we went to Cambridge looking at organic vegetable growing and Camgrain.

We also make sure that we give input and learn from other organisations. Sam Kirkham has recently become a committee member of Somerset CLA and she looks forward to working with the committee members and for the benefit of the rural community. Not only do we keep up to date, but we can help others with our commercial agriculture and taxation knowledge which is surely, a great win-win for the industry and for Albert Goodman.

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THE FARMING COMMUNITY NETWORK

As we head deeper into winter, many of you will be considering the question of what lies ahead in the coming months. For some the focus will be facing the uncertainty of the weather, for others it will be about how your business rides the financial storm and just how markets are going to respond into the start of 2016. Maybe it's neither of these, instead the present stresses of family life occupy your waking and sleeping mind. So with the kitchen radio playing in the background, 'Tis the season to be jolly' may not be the most pleasing or easy phrase to hum along to as you contemplate the challenges that this season brings to farming life.

At times such as these, it's important for you to know that you are not alone. The Farming Community Network is a charity dedicated to supporting farmers through times of difficulty or distress. We operate a national helpline and respond to requests for help with farm business and farm family issues covering a wide range of reasons for calling. Whatever the issue may be, you can be assured you will get the support you need through one of our 400 dedicated volunteers. We also work proactively through our Business Change Programme. This combination of mentoring from an FCN volunteer and third party professional business consultancy, helps farms who need to re-shape their business, to survive and become sustainable. So please remember, don't struggle on in silence, ask how we can help.

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THE WIDENING SCOPE OF THE ANNUAL TAX ON ENVELOPED DWELLINGS ("ATED")

The Annual Tax on Enveloped Dwellings (ATED) is a tax charge on residential property owned by 'non-natural persons' i.e. a company, a partnership with a corporate partner, or a collective investment scheme. It does not apply to commercial property.

Extension of ATED to properties valued at more than £500,000 from 1 April 2016

When the Government first introduced ATED on 1 April 2013 it only applied to residential properties valued at more than £2 million. However, the Government extended its scope to residential properties valued at more than £1m with effect from 1 April 2015. Furthermore, properties valued at more than £500,000 will be subject to ATED from 1 April 2016.

The charge is based on a banding system. Assuming the property was owned by the company on 1 April 2012, it is the value of the property at that date which is used for banding purposes. The property will then need to be re-valued every 5 years to check which band it falls in to.

The table below demonstrates the widening scope of ATED to properties valued at more than £500,000.:

Value of property	Annual tax charge – year commencing 1 April 2015	Annual tax charge – year commencing 1 April 2016
More than £500,000 but not more than £1m	Not applicable	£3,500
More than £1m but not more than £2m	£7,000	£7,000 + CPI
More than £2m but not more than £5m	£23,350	£23,350 + CPI
More than £5m but not more than £10m	£54,450	£54,450 + CPI
More than £10m but not more than £20m	£109,050	£109,050 + CPI
More than £20m	£218,200	£218,200 + CPI

Potential pitfalls and quirks of the ATED regime

The regime is deceptively complex and contains many traps which could prove very costly for the unwary. Some of these are summarised below.

1. **A penal filing and payment regime**

   There are very tight deadlines for the submission of ATED returns and payment of ATED. Those already in the regime must file a return and make payment for the year commencing 1 April 2016 by 30 April 2016. Different time limits apply where a company comes within ATED for the first time during a financial year.

2. **Reliefs must be claimed in an ATED return**

   Where a company wishes to claim relief from the ATED charge, perhaps the property is used in a commercially run property letting or property development business or is a farmhouse occupied by a qualifying farm worker, it must file a return to claim the relief.

   Failure to file a return renders a company liable to pay penalties typically amounting to £1,300 per year, even where no ATED is found to be due.

3. **Different interests in the same residential property held by connected persons**

   Where a company owns a leasehold interest valued at £750,000 and a controlling shareholder holds the freehold interest valued at £1.25m the value of the lease and the freehold will be aggregated and ATED is charged on the "marriage value". The company would pay ATED based on the £2m-£5m band.

4. **Partial ownership of a residential property**

   Where a company owns a share in a residential property, whether as joint tenant or tenant-in-common or as a corporate partner in a partnership, it is liable to pay the ATED charge based on 100% of the value of the property.

   For example, a company owning 50% of a freehold property valued at £2.5m is liable to pay ATED based on the £2m - £5m band, and not the £1m - £2m band. £23,350 would be payable for the 2015-2016 year.

5. **Farmhouses**

   Farmhouses are granted relief from the charge where it is occupied by a qualifying farm worker who farms the associated farmland. There are strict tests to meet the exemptions so please take advice early on.

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VAT TREATMENT OF DIVERSIFYING THE USE OF FARM BUILDINGS AND LAND

Many farming businesses are looking for different ways to supplement their main source of trading income. There might be land and farm buildings that are not currently being utilised and the option of a neighbouring farm using them may be appealing. As with any source of income the VAT treatment must be considered and is based on what is being supplied.

You could have the following situations:-

- Bare land is provided for livestock to graze under a license, commonly referred to as 'grass keep'. This is seen as an extension of animal feed and is zero rated.
- Bare land and buildings are used by you to rear another farmer's livestock. This is seen as providing cattle rearing services and is standard rated.
- Buildings are rented for storage of goods such as farm machinery or crops. This is seen as 'self-storage' and is standard rented.
- Buildings are rented for the storage of livestock
  - If the owner of the livestock has an agreement to use the building for an agreed duration, has exclusive use and you have no involvement with the livestock this is classed as a 'licence to occupy' and is an exempt supply (unless an option to tax is in force).
  - If you are responsible for and are involved in the day to day care of the livestock then you are seen as 'keeping/caring' for them so are providing a service as well as shelter. This is standard rated. In addition any animal feed also supplied is considered to be part of this service and is also standard rated.

What is defined as keep/providing a caring service can be subjective as a recent First-Tier Tribunal case (D Owen, A Owen TC4469) has proved. The tax payer was feeding and watering the cattle but this was thought not to be enough to constitute a full caring service and it was decided that the tax payer was making an exempt supply of land and any additional services also formed part of that exempt supply.

The definition of 'care' has been a subjective and long argued issue within the equine sector for the VAT treatment of stabling and livery charge (due to the majority of that sector's customers being private individuals and not VAT registered). However within the farming sector, transactions are usually between two VAT registered businesses where output tax charged by one would be recoverable as input tax by the other.

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THE STATE PENSION – WHAT'S CHANGING?

The Government's most radical shake up ever of UK pensions has resulted in some significant changes to the state (old age) pension, largely to reflect increasing life expectancy. Whilst farmers already in receipt of the full basic retirement pension (currently £115.95 per week) will be unaffected, most of those yet to retire will be subject to a later state retirement age, rising to between age 66 and 68 currently. Payments into the scheme, by way of National Insurance Contributions (NICs), will now be for 36 years rather than 30 years previously, in order to qualify for the new so called 'flat rate' state retirement pension, of just over £150 per week.

Those aged 55 and above can now apply online (at www.gov.uk/state-pensions), for a free state pension statement. This statement shows the individual's so called foundation amount, which is the amount of entitlement that they've amassed to date, allowing for any periods when they may have been 'contracted out' of either the state earnings related pension (SERPs), or the state second pension (S2P).

For a limited period, those individuals with gaps in their NIC record will have the opportunity to pay voluntary (Class 3 and Class 3a NICs) which would increase both the number of qualifying years and the weekly 'flat rate' state pension, that the individual will ultimately receive.

Mindful that the state pension is subject each year to a 'double-lock' increase, it's well worth ensuring that your own NICs record is as full as possible, by the time you retire. If you are aged 55 or over you should take steps to review your position immediately.

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CASH GENERATION

Lack of profits may not damage a business short term, but lack of cash will destroy a farm business very quickly.

As I write this, payment of the Basic Premium has started to flow into farm bank accounts, which for all, is a welcome injection of cash. For many other farms, this year's subsidy payment has already been promised several times over to creditors.

Given the current low farm commodity prices for many, cashflow will become increasingly tight, particularly next spring. My thought has turned to ways of finding additional cash, which will help farm businesses pay their way through the recession, and enable them to take advantage of opportunities when prices improve.

I have tried to set out some alternative ways of generating cash below along with some advantages and disadvantages of the method, in no particular order.

	Method of cash generation	Advantage	Disadvantage
1	Late payment of creditors.	Short term can work, but only for very short term cash problems.	You lose credibility with suppliers and there can be a risk of creditors taking action against you or your business.
2	Sale of surplus plant and machinery, or sale of scrap metal.	Quick cash generation without affecting business performance. Tidy up farm.	
3	Refinance plant.	Cash inflow reasonably quickly if you have machinery that can be refinanced.	Additional loans to repay. May not be possible with old plant.
4	Cash in off farm savings (Genus shares for example).	Generally easy to do and quick.	Leaves a lack of a safety net for business owners.
5	Draw down a pension policy.	Often 25% of a pension can be taken as a tax free lump sum.	Needs specific advice from Pension Specialists, which takes time.
6	Cease or cut back an enterprise.	Selling livestock can generate almost instant cash.	There may be long term damage to a farm business unless this is well planned.
7	Sell an asset, such as land or buildings, or a property.	Potentially large sums of cash can be generated.	This may affect the future viability of the business and have significant tax consequences. It can take several months.
8	Increase overdraft.	Quick access to cash.	May be difficult if you cannot prove business viability.
9	Use credit cards	Can be a quick method of generating cash.	Paying these back can prove difficult. Interest rates may be very high.
10	Forward sell next year's arable crop.	Quick cash for a percentage of next year's crop.	What happens next year?
11	Send family members out to work.	Weekly or monthly regular income.	May adversely affect the business or family life.
12	Sell crops or other stock faster than normal.	Brings forward sales and cash.	This may not maximise profit from an enterprise.

I am sure that even the best run business can, with some imagination, think of ways of generating extra cash, which will be invaluable at this time. Timing this to make sure that the cash is always available is also critical, so taking some action, for many, is also one key to success.

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ANNUAL INVESTMENT ALLOWANCE (AIA) REMINDER

The AIA provides a 100% deduction for the cost of most plant and machinery (not cars) purchased by a business, up to an annual limit and is available to most, but not all, businesses.

The maximum amount of the AIA was temporarily increased to £500,000 from April 2014 until 31 December 2015. The level of the maximum AIA will now be set permanently at £200,000 for all qualifying investment in plant and machinery made on or after 1 January 2016.

Where a business has a chargeable period which spans 1 January 2016 there are transitional rules for calculating the maximum AIA for that period.

The timing of the expenditure around 1 January 2016 is critical for businesses with a chargeable period which straddles this date. For example a company with a 31 March year end has an AIA limit for the year to 31 March 2016 as follows:

April 2015 – December 2015 9/12 x £500,000 = £375,000

January 2016 – March 2016 3/12 x £200,000 = £50,000

Total £425,000

However any AIA available on expenditure in the second period would be limited to the time apportioned maximum in that period. So, for expenditure incurred on or after 1 January until 31 March 2016, the maximum amount of relief will only be £50,000. Therefore for those with a 31 March year end, if expenditure didn't take place before 31 December, delaying the expenditure until 1 April may be appropriate. For alternative year ends please see table below:

Year end	Annual AIA	Restricted AIA from 1 Jan 2016 to year end
31-Jan	£ 475,000	£ 16,667
28-Feb	£ 450,000	£ 33,333
31-Mar	£ 425,000	£ 50,000
30-Apr	£ 400,000	£ 66,667
31-May	£ 375,000	£ 83,333
30-Jun	£ 350,000	£ 100,000
31-Jul	£ 325,000	£ 116,667
31-Aug	£ 300,000	£ 133,333
30-Sep	£ 275,000	£ 150,000
31-Oct	£ 250,000	£ 166,667
30-Nov	£ 225,000	£ 183,333

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MORE BAD NEWS FOR LANDLORDS

The recent pre-budget statement brought with it more bad news for residential landlords. From April 2019, a payment on account of any capital gains tax (CGT) due on the disposal of residential property will be required to be made within 30 days of the completion of the disposal. This will not affect gains on properties which are not liable for CGT due to Private Residence Relief. Currently, CGT is not payable on a disposal of an asset until 31 January following the tax year in which a disposal is made. So a disposal made on the 6 April 2016 will not result in a tax bill until 31 January 2018.

In addition higher rates of SDLT will be charged on purchases of additional residential properties (above £40,000), such as buy to let properties and second homes, from 1 April 2016. The higher rates will be three percentage points above the current SDLT rates.

The higher rates will not apply to purchases of caravans, mobile homes or houseboats, or to corporates or funds making significant investments in residential property. The government will consult on the policy detail. We will also be looking to ensure there will be exemptions for businesses buying properties to house employees such as farm workers.

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SURVIVAL OF THE FIT-EST?

How are solar companies reacting to the planned dramatic government cuts to subsidies and for a future in a subsidy free market?

The domestic market has been hit hardest with cuts of 63.5%, bringing the tariff for installations under 10kWp down to 4.39p per kWh from 12.03p per kWh; other tariff categories have also been reduced by up to 58%. On the plus side, pre-accreditation for the feed in tariff (FiT) has been reintroduced. The changes come into effect from the 8th February 2016, with limited scope for projects to be able to receive the current tariff before the 15th January 2016 cut off. In addition to changes in the FiT, support under Renewable Obligation Certificates (ROCs) has been removed for all solar projects as from the 1st April 2016.

The tariff changes will have implications for clients considering smaller scale installations, particularly those under 10kWp, with payback periods increasing significantly under the new tariffs from 5 to 7 years previously to well over 10 years, making it uneconomical unless capital costs reduce.

With solar manufacturers and developers, such as Southern Solar, going into administration, where does this leave those customers? The panels themselves should be subject to a limited period warranty and if an insurance backed warranty will provide additional comfort in the event that the panel manufacturer goes under. However, if there are faults in the installation of panels during the lifespan of the project and the developer is no longer operating, this could have implications for the ability to claim under these warranties and businesses may have to find the money themselves to rectify any problems. Meanwhile, for solar project owners who have entered into an ongoing operations and maintenance (O&M) contract any amounts paid upfront to installers who have since gone into liquidation are likely to be irrecoverable.

Businesses that are high energy users, such as dairies, may start to be approached by developers looking to enter into Power Purchase Agreements (PPA) and benefit from reduced electricity costs. These arrangements have the potential to provide acceptable returns to the developer without additional support from tariffs. Banks and other finance providers indicate that they are already starting to see projects which are financially viable without the FiT, generating sufficient energy savings to create a return, albeit at a lower level than previously.

Some argue that subsidy cuts will result in grid parity being delayed and that the sector will grind to a halt, the more optimistic players suggest that the sector can be subsidy free within the next six months. This optimism may be reflected in the way solar developers are 'land banking', whereby they enter into option agreements with land owners so that they are ready to act as soon as projects are feasible without subsidy support. Those land owners who are approached should ensure that they are confident in the strength of the developer and should seek suitable legal advice to fully understand the implications before entering into an option arrangement.

Interest in energy storage has gained momentum in the last 12 months and this has been boosted further by the tariff cuts. Whilst most would consider that costs are still too high to make economic sense, a large number of developers are running trials and undertaking their own research to ensure that they are well positioned to take advantage of the technology as soon as it becomes viable. Developments in energy storage will provide opportunities for businesses where grid connection has previously been an issue or where the pattern of electricity generation has not met their consumption needs, for example solar panels on the roofs of cold storage for potatoes which has a high electricity cost in winter.

Many had hoped that Ministers would moderate the extent of tariff reforms but these cuts are likely to have severe repercussions across the sector. The developers most likely to survive are those that constantly evolve in response to the ever changing environment for renewable energy and the resulting technology advances will also create beneficial opportunities for businesses.

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FURNISHED HOLIDAY LETS - AN INVESTMENT

In the recent case of Anne Green v HMRC the First Tier Tribunal found that the five furnished holiday lets (FHL) were not a trading business and therefore did not qualify for business property relief (BPR) for relief from inheritance tax (IHT). The Tribunal found that the business consisted mainly of making or holding an investment.

There was a communal laundry room, a cleaner and caretaker on hand, and Mrs Green accepted the bookings and managed some of the availability. However as the guests were doing their own laundry and it was stated in the welcome pack that they must clean the cooker, microwave and utensils before departure, as well as setting the heating, and only to contact the caretaker if there was a property-related emergency, she was not seen as providing enough services for the business to be trading.

This case, although similar to the 'Pawson', involved a larger business with five large holiday lets but it was ruled that scale is not a relevant factor. The Tribunal looked at the cost of services provided as a percentage of turnover to support whether a premium was paid for the services provided. They ruled that the premium was paid due to the location of the property over the services provided.

If a successful claim for BPR is required, taxpayers must provide as many additional services as possible and those services must not be regarded as investment activities, such as daily laundry and cleaning, provision of meals, welcome packs and the arrangement of holiday activities.

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FRAUD IN AGRICULTURE

Every business is at risk of fraud, be it directly by electronic means or old fashioned con-artists. In a world where data and communication is cheap, many of the more recent scams are sent via email.

Aside from the risks affecting all businesses, enterprising con-artists have realised that this time of year – just as the BPS cheque arrives – is the best time to target farmers. Whilst email scams are sent out in their millions, a new form of 'phishing' has emerged, which starts with a telephone call targeted at a specific individual.

Lloyds Bank recently told the sad case of a farming customer of theirs who received an 'urgent' call late one night from a man claiming to be from the bank. The story from the caller was that the customer's account had been compromised and he needed to move the funds to a secure account immediately as a temporary measure. Of course, the 'secure' account was that of the fraudster making the call.

Eventually the customer realised what was happening but it was too late and the 'secure' account had already been cleared out. During that one telephone call he lost £350,000. In the aftermath, it was discovered that he had 'malware' on his computer and the caller had, over the previous weeks and months, been able to gain a profile of the customer. Crucially, this included details of his bank account and recent bank payments made, which he then used to convince the customer that he was from the bank. So in this case, even though the fraudster wasn't able to gain access to the bank account directly, the customer himself was convinced to make the transfer.

We must always be aware of the risk of fraud in any business, but for those in agriculture this time of year requires extra vigilance. The advice from Lloyds is to speak to your bank immediately if you have a suspicion about anything. And if you get an email from HMRC telling you to claim a tax refund – give your accountant a call.

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WHAT CAN WE LEARN FROM TEAM SKY?

precision nutrition

health performance profitability

The dairy markets are still turbulent and exhibit little sign of improvement. The red meat market is flat and any improvements in end prices appear anaemic. So how do we cope or counter the industries current malaise? I have been inspired by Team Sky's performance within cycling and their constant drive for improvements across a range of areas. So how can we apply this to agriculture?

The basic premise is all about marginal gains, which might not account for much individually, however if you improve a 100 things by 1%, then this can lead to a huge improvement across the whole business!

If we break the business down into distinct segments, then this can help with identifying opportunities.

Nutrition – Are you feeding the right diet to the right animals? For example, are you over feeding late lactation dairy cows or not maximising live weight gains in finishing cattle? Or the increased efficiency of gain within younger animals? Are you optimising the use of home grown feeds and can you improve both the quantity and quality of home grown feeds and forages next year? Planning now can help ensure a better chance of success.

Management – Do animals have enough feed space? Are the feed surfaces/troughs cleaned every day or at least weekly? Water troughs are often overlooked, yet need cleaning as a minimum weekly. All of these can lead to marginal gains in animal performance.

Staff – Discussing with staff, the current financial predicament and explaining the "why" as to the need for a particular task can help employees performing tasks more conscientiously and consistently.

Whilst there are very few quick fixes, a diligent approach and a striving for continuous improvements will help alleviate some of the challenges ahead. And set the business up on a stronger footing for when the markets do improve, which I am sure will happen (just not tomorrow!!)

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