# old mill rural services
accountants and financial advisers

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# Client update

## End of year planning

The end of the financial year for tax purposes is close upon us but there is still time to look at some key planning points.

One of the biggest changes in the last year was the introduction of the Annual Investment Allowance (AIA) for companies, sole traders and some partnerships. This was a tax change which, surprisingly, was actually beneficial for businesses who invest less than £133k per annum on new plant and equipment. Under the new regulations, 100% of the qualifying capital investment can be claimed, up to a limit of £50,000 per year. Amounts over and above this qualify for relief at the new (and reduced) 20% rate.

This opens up a number of planning possibilities. If you are likely to exceed the £50,000 limit in the year, it may be beneficial to delay some expenditure until the next tax year. Or conversely, if you are planning a big spend in the following year, it may be prudent to see if any amounts could be brought forward to utilise as much of the current year's allowance as possible.

Another matter to take into consideration is the option to make enhanced pension scheme contributions to reduce taxable profits – these need to be paid before the year end to obtain the tax relief. Accurate forecasting pre-year end is vital. It enables you to understand the amount of taxable profits you may have and determine the most tax effective pension contribution.

The advice in these situations is that if you feel there is a chance you may be affected, please talk to your accountant or financial adviser. We are here to help you.

### Quick Tax Hint 1

It is possible to claim relief against income tax, for capital losses arising on shares subscribed in EIS and private companies which are now considered to be of negligible value. (e.g. United Milk). If you think you may have some qualifying shares in this category, please contact us.

### Quick Tax Hint 2

Agricultural workers are entitled to claim a flat rate £100 expense within their tax code, saving tax of £20 for every employee where items such as protected clothing are not reimbursed.

### The change of use VAT Trap

When VATable costs are incurred in connection with the upkeep of farm properties, it is necessary to consider the extent to which they will be used for taxable business purposes. Most businesses recognise this, but what is often overlooked is the requirement, in certain circumstances, to adjust any claim if that intended use changes.

If, for example, an agricultural property is constructed for use in the farm business but, before that commences, it is let out, any VAT previously claimed might have to be adjusted. In such circumstances the problem can be avoided by 'opting to tax' the property before rent is received.

Adjustments can arise even when the intended use has actually been fulfilled, if the expenditure involved is significant. In some circumstances the use of a property must be monitored for 10 years, with any changes in the original level of taxable business resulting in a VAT adjustment.

### VAT rate change raises rent concerns

A recent court judgement ("Mason v Boscawen") has cast doubt over the ability of either a landlord or a tenant to secure a rent review where VAT is charged on the rent. The judge commented that a VAT rate change constitutes a change in the rental charge, which has the effect of restarting the three year rent review clock. With the VAT rate expected to increase again next year, it may be 2013 before a landlord or tenant is able to get an arbitrator validly appointed under an agricultural tenancy.

The Courts have recognised the difficulties associated with this ruling, and have called for an immediate change in the law. Until this occurs the ruling is a cause for concern.

If you have any queries relating to VAT matters please contact Mark Peters on **01392 214653**.

**Reducing payments on account**

Fluctuating farm profits have often meant that you pay tax in a year when you have low income and you pay less tax in a year when profits are high. H M Revenue & Customs have long recognised this and farmers are able to average good results with bad ones in order to pay less tax overall.

However, payments on account following a good year often mean that tax payments are increased only to have them repaid when next year's accounts are prepared. If you expect a reduction in profits, (meaning that your payments on account are too high) then you can apply to have your payments reduced. However, interest will be charged if it turns out that they have been reduced below the tax that eventually falls due for payment.

Averaging, when possible, can also play an important role in reducing payments on account. Even if no tax is saved in the process, it can improve your cash flow by averaging a good year with a lower result in the previous year. In this process you move part of your profit back a year, leaving a lower result on which the payments on account for next year are based.

Payments on account that turn out to be too high will obviously be repaid to you at some stage but we would rather these funds were in your bank account than the Inspector of Taxes!

**Diversification – the sting**

After years of being encouraged to diversify, HMRC are now applying a sting in the tail. They are looking for cases where they think businesses have been artificially separated for tax purposes. Most at risk would appear to be on farm tourist enterprises and VAT, but other businesses and other taxes are being questioned. If you are at all concerned about your diversified business structures please contact us to discuss.

**Inheritance Tax Threat**

For generations farming has been protected from the worst ravages of Inheritance Tax through the provision of Agricultural Property Relief. This has come under threat from the EU who suggest that it is discriminatory. The concern is that the government, who have been trying to nibble away at APR for years, may use this as an excuse to scrap it.

This is a major concern to the industry. Owned farms could be partly protected from this by Business Property Reliefs, which would be available on land and buildings. However this would not cover the farmhouse which for historic reasons often has a disproportionately high value for the business. An even bigger problem is potentially for Landlords of tenanted farms where the letting out of land is not considered a trade and therefore would not qualify for BPR. This raises visions of tenants being evicted for land to be taken back in hand – or estates being sold up. It is early days – but we suspect this will become a huge issue in the coming months.

**Capitalising on losses in the stock market downturn**

A stock market downturn can lead to opportunities, particularly for those investors who are in touch with their adviser regularly.

If you have a stock market portfolio or holdings in unit trusts or shares (not through an ISA), even if you don't wish to change the underlying investments or asset allocation, it might be an idea to consider selling these in order to create a capital loss.

This is particularly important if you may be generating a capital gain in the future, perhaps through sale of land, disposal of property portfolios or sale of a business, or when you gift an asset to the children to mitigate Inheritance Tax.

Taking action now, whilst the portfolio may be in a loss position, could generate a capital loss which can be offset against future gain. A capital loss can be carried forward indefinitely – although they do need to be reported on the tax return.

You can repurchase shares at the current market price after a thirty day period or your spouse could repurchase them before that (assuming a change of ownership of assets is acceptable!)

**Triviality**

For those of you who say "my farm is my pension" or "I don't believe in pensions"and therefore do not have one, there is a neat strategy which you may wish to consider.

If you have a total pension fund of less than 1% of the lifetime allowance (£16,500 for this tax year) it is possible to take the whole fund as a lump sum, rather than having to purchase an annuity.

This means that there are some very useful opportunities for profit extraction from a Company, or utilising higher rate tax relief, particularly where you have not previously held a pension or your current fund value is low.

Triviality lump sum withdrawals, as these are known, are available for those over 60, who haven't taken any other private pensions, and where the fund value is below this level. This threshold will be increasing to £18,000 in 2010/11. Speak to your accountant for tax planning opportunities.

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