AUDIT • TAX • ADVISORY

Agriculture & Rural Business **Newsletter**

Issue no.3 September 2021

Now, for tomorrow

mha | An independent member of bakertilly INTERNATIONAL

Introduction

Welcome to our September edition of the MHA Agriculture & Rural Business Newsletter

Another summer, another harvest and at the time of writing, the crops are in the sheds and farmers are breathing a sigh of relief – all be it for a short period of time though as there's still plenty to do and important decisions to be made.

As those in the agricultural sector are only too aware - the rural economy affects every person in the country - from the food that we eat, to the countryside we walk in. It's a sector that's going through a seismic change - managing labour shortages, dealing with erratic weather patterns and the overhauling of a payment system through to feeding the nation, producing & harvesting sustainable resources and environmental stewardship – to name a few.

Whilst we can't offer solutions to all these matters, we hope that the articles included in this edition may help with some of the current issues and give food for thought. In addition to looking at improvements with Capital Gains Tax, the simplification of MTD and a good news story about storage facilities, we discuss a new grant scheme for farmers in protected areas, review the 2020 Total Income From Farming report and take a look at your opinions on DEFRA.

A varied content
for a diverse sector

Total Income from Farming 2020– First estimate

At the end of May DEFRA released their first estimate of Total Income from Farming (TIFF). This replaces the estimate made in December (the difference being that it is now based on facts rather than guesswork), and the results are, as expected, disappointing.

TIFF represents the return to the business owner after deductions of direct and indirect costs and depreciation, but before drawings and proprietor's wages – therefore it is very similar to the annual accounts which a business will produce (rather than a Cashflow summary). For 2020, the key result is a reduction in TIFF of 15.7% (£786m). This is the lowest result since 2016 and is somewhat below the income figures which DEFRA used when assessing the impact of subsidy removal following the Health and Harmony consultation in 2018. It is also the lowest value in real terms since 2007.

The practical background to the poor result is well known. The autumn of 2019 was unrelentingly wet and as a result much winter wheat land was undrilled, and eventually went into lower yielding spring barley, which itself suffered from poor planting conditions, followed by drought, followed by a wet harvest in places.

This analysis is evidenced within the report, with wheat outputs down by 36% compared to a reduction in barley sales of less than 2%. DEFRA had previously reported that the wheat acreage was down by 22%, rape acreage was down by 27% and barley was up by 54%.

The oilseed rape crop was also significantly lower, down by nearly 40%. To some extent this may be weather related, but it will also reflect the move away from the crop altogether in the absence of an effective solution to the problems of cabbage stem flea beetle following the banning of neonicotinoid seed treatments.

Finally, the operating problems in the arable sector were compounded by the impact of Covid on "inseparable non-agricultural activities" (diversifications), income from which fell by 20% (£310m) which accounted for a fairly significant part of the overall TIFF reduction. Like the headline figure, this will cover a range of outcomes, with some diversified activities completely closed for the year but with others, such as farm shops, experiencing something of a boom.

There are, however, some brighter spots within the report. The livestock sector performed well, contributing an increase in output of £490m (3.4%). Unit prices for both crops and livestock were higher and direct costs were generally lower, despite increased grain prices which are reflected in both seed costs and livestock feed. Some overhead costs actually dropped, with wages down 3%, external rents down nearly 8% and interest down by 10% - following a trend which has been developing over the last three years, and possibly indicating some restructuring ahead of the subsidy reform which will start to bite in 2021.

New grant scheme for farmers in protected landscapes

A new scheme for farmers and land managers in protected areas was announced by DEFRA on 24th June 2021. The scheme will stand outside existing environmental schemes and can fund up to 100% of eligible projects.

The scheme is available for those within a National park, the Broads or Areas of Outstanding Natural Beauty (AONB) in England, or those outside such areas whose project benefits the protected areas. The project must deliver on at least one of the themes: -

Climate
including carbon capture and flood risk

Nature
including habitat improvement, biodiversity and habitat connection

People
giving greater opportunity to enjoy and understand the landscape or for more diverse audiences to do so

Place
meaning the conservation and enhancement of the landscape, historic structure and features and improving the resilience of nature friendly sustainable farm businesses

Activities that the programme might support include:

- promoting connectivity between habitats
- replacing stiles with gates on public footpaths, for easier access
- conserving historic features on a farm, such as lime kilns or lead mining heritage
- supporting a locally branded food initiative that promotes the links between the product and the landscape in which it is produced
- action to reduce carbon emissions on a farm
- gathering data and evidence to help inform conservation and farming practice

The scheme is not as restrictive as the existing agri-environment schemes, and whilst obviously projects cannot be funded twice over, those which do not fall within the current support schemes may be supported under the new scheme based on estimated costs. The rate of funding will be up to 100% for projects which will not give rise to a commercial gain or a smaller proportion where a business might benefit from the project. Assets funded by the project must be maintained for at least five years.

Applications, which will be awarded dependent on outcomes, value for money, sustainability and likelihood of delivery, should be made between 1st July 2021 and 31st January 2022 through the relevant national park or AONB authority. All projects must be completed by 31st March 2024. No detail of maximum amounts or budgets have been given, but since the appraisal process distinguishes between schemes claiming more or less than £5000, it would appear that fairly worthwhile grants may be available.

New report suggests improvements to make CGT work better.

In its second report on Capital Gains Tax (CGT) the Office for Tax Simplification (OTS) has highlighted fourteen areas where the tax could easily be made simpler, fairer, and easier to understand. Whereas the previous report looked at fundamental changes to the structure of the tax (none of which have yet been implemented, but may well be under active consideration), the latest report suggests relatively minor changes to remove anomalies.

Key suggestions include:

- Integrating the reporting and payment of CGT into the existing "single taxpayer account", and reviewing the new system for reporting and paying tax on residential property disposals which many regard as barely fit for purpose)
- Simplifying share pooling calculations where an individual has assets managed by different investment managers.
- Improving the private residence nomination rules for those owning more than one residence
- Reviewing the rules for paying CGT where an asset is sold on deferred payment terms and clarifying the treatment of corporate bonds which are sometimes issued in these circumstances.
- Reviewing an anomaly which can arise where a taxpayer is disadvantaged after building a new private residence in the garden.
- Extending the duration of reliefs on the transfer of assets on divorce
- Reviewing the cumbersome rules for Enterprise Investment Schemes which can restrict practical operation.
- Reviewing the rules for the currency issues arising where foreign assets are sold.
- Expanding the roll-over provisions which apply where land is acquired by compulsory purchase.
- Removing a tax anomaly which arises where a freeholder extends their own lease.

The report contains a substantial section on land and property issues and recognises the existing concerns about the possible CGT implications of diversification, and the new worries about the treatment of environmental schemes (although it comes to no strong conclusions). It also highlights the pitfalls in development land pooling arrangements and suggest new legislation to make such arrangements tax neutral. Finally, it recommends HMRC provide improved guidance in several areas including clarity on where Business Asset Disposal Relief is available to a farmer who sells land but needs to carry on trading to remove the existing crop.

Potential Development Land what you need to know

“Build Back Better” has been Boris Johnson’s mantra, especially since the Coronavirus pandemic, and whilst the underlying current of this relates to the wider economy, wrapped within it is the requirement to tackle the under-supply of housing in the UK.

The current government has committed to target the supply of 300,000 new homes per year by the middle of this decade - a date which is creeping up on us - though some commentators suggest this target will be missed by up to 10 years.

Many landowners will have likely had some experience in either selling some land for development or perhaps putting sites forward into local area plans. The process can be very lengthy, costly and time consuming, but the rewards can be life-changing in some circumstances.

So, what do you need to do when you have some land which you might want to put into a local scheme, and you want to explore it further?

Firstly, get your team of professionals lined up to support you. Be this your legal advisers, land agents and your accountants, the process can run much more smoothly if there are clear lines of communication from the outset. There are some planning opportunities that may need to be taken well in advance of any potential sale, so as soon as there is a possibility, communicate it.

Next, have a think about the size/scale of any potential development and the impact it will have on the remaining land. How much of an impact will there be on the business (if there is one)? What land is left? An important question to consider is how close the development is to any residence you have – will you want to stay near to the development of these new houses, or would you be looking to relocate as part of this? Some of the potential planning opportunities available will require consideration of some difficult questions, so it is important to think them through, and discuss within your family and/or with business partners.

Another question to ask is who owns the land? Often, we find this isn’t always as expected, so getting this ironed out from the start will help. The ownership question also presents a planning opportunity. You may want to consider who benefits from the sale. There are tax factors to consider here. It’s important to remember that whilst you might want to target maximising the post tax value of any sale, you may by robbing Peter to pay Paul and could find that you have exposed yourself to paying another tax at a higher rate. Not ideal if an elderly and unwell landowner is receiving a large sum of cash, 40% of which could be lost shortly afterwards to Inheritance Tax.

These questions may bring about changes in ownership, and perhaps for some, structural changes. There will be multiple factors to consider, so again the importance of communication with the professional team is vital so the ideas can be interrogated, flexed and implemented to achieve the desired outcome. Within this, there may be opportunities to obtain an improved tax position, for example the retirement of family members from a partnership.

Having a plan for your proceeds is also important, especially when there is more certainty in the sale. And There are lots of options. For some, spending the proceeds will not be difficult, and this of course depends on the size and scale of any development. However, it is prudent to make a plan for the proceeds, so once these are received you have a guideline to follow. This does not need to be set in stone, but certain elements of it will need to be factored in. In particular, the individuals or company selling the land will very likely have some tax liabilities to settle, so make sure you produce a cashflow showing the timeframe of when these liabilities occur. There may also be VAT to pay out of the gross proceeds - again consider the timing of this and how much it takes out of the proceeds.

Some may use the opportunity to repay debt or borrowings for example, so ensure you have run the figures and looked at the timing of the cashflows involved; you want to avoid repaying borrowing now, only to have to find funding for the tax liabilities later down the line.

By getting your advisers involved in this process, you will ensure that the outcomes are clear, and all parties know where they stand. For example, the purchaser of the land may not want to pay you for the whole site up front, resulting in some element of deferred payment. It is vital to consider when the tax point arises (usually on exchange of contract) and the cashflows between then and when the liabilities arise. A common pitfall is not entering into an agreement whereby the tax liabilities present themselves before later tranches of a deferred payment plan. This timing may also impact your personal spending of the net proceeds.

There can also be some other oddities that are thrown into the situation too. For example, should all of, or an element of, the development be part of a Compulsory Purchase Order (CPO), then there are different rules and potential reliefs available which may be worth exploring.

Below are five top tips to consider when you are faced with this situation. Although, in summary it's about getting ahead of the planning and looking at how any development will impact you or your business moving forward. Having a clear pathway and visibility of the costs (tax) and when they will arise will ensure the process is as smooth as it can be.

1. Engage your professional team and make them aware of the opportunity - open lines of communication
2. Confirm the land ownership, consider the beneficiaries of any sale and this in turn may result in potential changes to ownership/structure.
3. Do not sign any agreements before you have taken professional advice.
4. Make sure you map out the cashflows, watching out for tax liabilities and deferred payments.
5. Stay focussed on the rest of your business. Whilst the development opportunity might present a big pay-day, the day-to-day activities still need to be addressed pending the outcome of the sale.

Good News for Capital Allowance Claims on Storage Facilities

Business owners, and farmers in particular, have for some years been arguing that modern storage and processing facilities are far closer in design and use to a large and complex piece of machinery than they are to a simple building which keeps the contents safe and dry.

The difference is key for tax purposes, since buildings will only be due a modest “structures and buildings” allowance of 3% annually, whereas plant and equipment can be eligible for Annual Investment Allowance, which can mean 100% relief on expenditure up to £1,000,000 per annum (at least for the time being – the relief is due to return to £200,000 in January 2022).The position was tested before the First Tier Tribunal (FTT) in 2019 in the case of May vs CIR. That case concerned a bespoke grain store with complex grain handling features and a construction that effectively made it unsuitable for anything other than that particular use.

After some detailed examination the Tribunal came to the conclusion that the structure was in fact a silo and fell within the definition of” plant” for tax purposes. Subsequently, HMRC have taken the view that this was a very special set of circumstances and it appears that attempts to widen the application of the points at issue in other circumstances have met with resistance.

Details of a further case were released on 12th July 2021. In the case of JRO Griffiths Ltd vs HMRC, the taxpayer appealed against an HMRC decision to deny capital allowances on a potato store. Although the store had the appearance of a warehouse, it had a specially designed structure which facilitated the storage, drying, gassing and delivery of crisping potatoes. The cost of the store was about five times greater than would have been the case for a simple warehouse.

HMRC contended that a distinction should be drawn between the machinery within the building and the building which housed the equipment. The FTT agreed with the taxpayer that both the building and its equipment constituted a silo, and the interpretation of the word “silo” should not preclude crops other than cereals. Moreover, not only was the whole construction a silo, but it was also a cold store, notwithstanding that it did not contain significant mechanical refrigeration. On both grounds, therefore, all the expenditure would qualify for capital allowances as “plant and machinery”.

Farmer's Opinion on DEFRA 2019-20

On 22nd July DEFRA released the second in what has now become an annual review of the relationship between DEFRA and the country's farmers. Key findings from the survey, based on some 1200 responses from farms of all sizes, were:

- Farmers on 63% of holdings said they either fully (7%) or roughly (56%) understood DEFRA's vision for farming. The comparable figures from the 2019 survey were 67%, 10% and 57% respectively, apparently indicating that DEFRA's vision had become less clear to respondents over the last year.
- Farmers on over half of holdings (54%) indicated that they will need to make changes to their farm business in the next 3-5 years. This was a slight increase on the 52% figure in 2019.
- Approximately 89% of farmers on holdings said that DEFRA paying for environmental outcomes will be very (68%) or moderately (22%) important to their business in the future. Last year the figures were 66% and 20%.
- Farmers on just over half (51%) of holdings feel positive about the future of farming (with 8% saying they felt very positive and 43% somewhat positive). Overall, the level of positivity was higher than the 48% seen in 2019.

Other findings deeper within the report were that:

28% of farms were planning to improve productivity.

23% of farms were looking to grow in size.

61% felt they were confident that they could respond to changes in the future.

These questions were not asked in the previous survey. There was, however, some consistency in the view towards DEFRA itself - in both years:

39% saw it primarily as an inspection and enforcement regime and a similar proportion saw it as a customer or partnership arrangement.

40% of respondents felt that their relationship with DEFRA would develop positively in future, up from 37% in 2019.

HMRC Simplifying (or not!) MTD for Farmers

On 20th July HMRC confirmed a further development in the introduction of Making Tax Digital (MTD). From 2023/24, tax for the self-employed will be assessed on a fiscal year basis with transitional arrangements in 2022/23. This will affect all sole traders or partnerships which make up their accounts to dates other than 31st March/5th April. In future businesses can continue using non-fiscal year ends but will need to apportion them into fiscal years for tax purposes.

These changes are likely to be particularly challenging for farming businesses, where a partnership is the most common business structure and autumn is the "natural" year end. HMRC do not have data on how many farms might be affected but they believe 33% of all partnerships will fall within the transitional rules so the proportion of farming partnerships is likely to be much higher – given that DEFRA statistics show some 180,000 individuals are in farming businesses, it is likely that several tens of thousands will be affected.

During the transitional year taxable profits will be based on all accounting periods ending in 2022/23, plus the profits arising between end of the latest period and 5th April, less any overlap relief brought forward.

Using the example given in their announcement:

A two partner partnership has profits for the year ended **30 September 2022 of £130,000** and for the year ended **30 September 2023 £92,000.** The profits for the tax year 2022 to 2023 for each 50% partner are as follows:

Current year basis element

year ended
30 September 2022 –
130,000 / 2 = 65,000

Plus transitional element

1 October 2022 to
5 April 2023 –
(92,000 x 6/12) / 2 = 23,000

Total profits

for 2022/23
are £88,000
from which each partner can deduct their overlap relief.

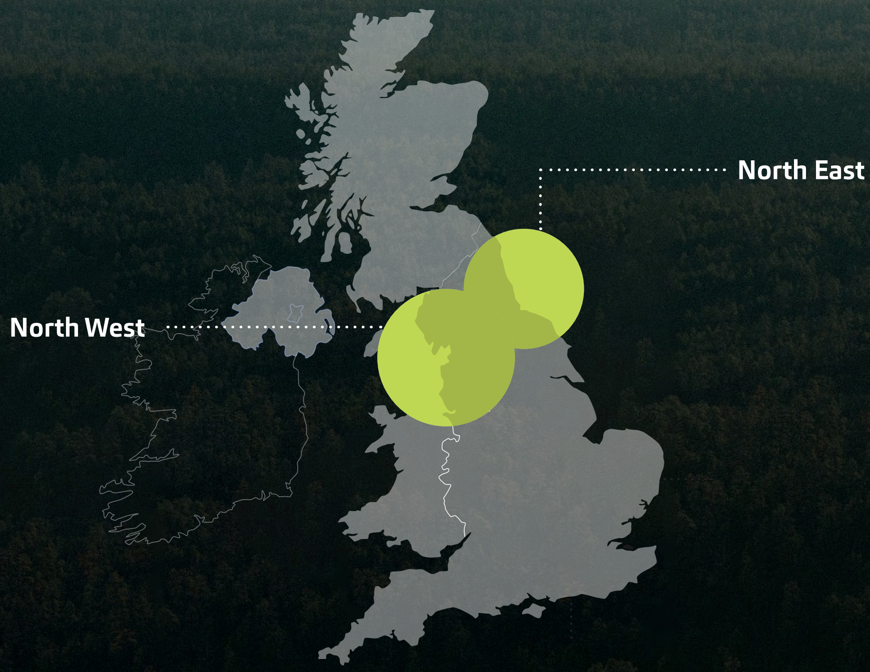
Where a partner had profits (after overlap)

exceeding what would be the "normal" profit
(in this case =£65,000)
an election can be made to spread the excess over the next five years.

“

We know this is going to happen during a period of flux, with changes in the subsidy regime, more successions going on and the usual volatility from prices and yields. Add into that mix the reduction in capital allowances from January 2022, the impact on profits from the timing of sales, two year and five year averaging, the choice of year end in the future and the transitional provisions and the whole thing becomes very complex indeed. This seems to be what happens whenever HMRC try to make things simpler so farmers should start planning for this sooner rather than later.

MHA Agricultural Contacts



David Missen
Head of MHA Agriculture

Based in Norfolk with over 35 years' of experience working with agricultural businesses, David is a published author and ICAEW speaker. He also farms a small arable and solar farm in North Norfolk.

North West

Yvonne Coulston

MHA Moore & Smalley
Agricultural Manager
Farming & Rural Business

Based in Kendal Yvonne has responsibility for all the MHA Moore and Smalley agricultural clients. She oversees the Farming and Rural Business team who specialise in this field and has over 15 years' experience. Outside of the office Yvonne enjoys running and wild swimming - no matter what the weather.

yvonne.coulston@mooreandsmalley.co.uk | +44(0)1539 729 727

North East

Chris Hodgson

MHA Tait Walker
Tax Associate
Head of Agriculture & Rural Business

Based in Gosforth, Chris lives in Newcastle upon Tyne and his brother runs the family farm. He has three 'children' aged 25, 23 & 12, is an active member of his local Church.

chris.hodgson@taitwalker.co.uk | +44(0)1912 850 321

London, Midlands & South East

Sarah Dodds

MHA MacIntyre Hudson
Partner
Head of Agriculture & Rural Business

Based in Peterborough, Sarah lives on a mixed Lincolnshire farm with her husband and two sons aged seven & nine. In her spare time Sarah enjoys playing tennis.

sarah.dodds@mhllp.co.uk | +44(0)1733 568 491

South West

Andrew Perrott

MHA Monahans
Rural Partner
Rural & Landed Estates

Based in Swindon and covering Oxfordshire and the South West, Andrew grew up on the family farm, which he still helps manage. He is married to a vet, has two children aged eight and three and spends his time sailing and running after the family.

andrew.perrott@monahans.co.uk | +44(0)1793 818 300

MHA MacIntyre Hudson
London City (Head Office)
6th Floor, 2 London Wall Place
London
EC2Y 5AU

T: 0207 429 4100

MHA Monahans
Swindon (Head Office)
38-42 Newport Street Swindon
SN1 3DR

T: 01793 818 300

MHA Moore & Smalley
Preston (Head Office)
Richard House,
9 Winckley Square,
Preston,
Lancashire, PR1 3HP

T: 0177 282 1021

MHA Mtaxco
Peter House (Head Office)
Oxford Street
Manchester
M1 5AN

T: 07720 072121

MHA Tait Walker
Newcastle (Head office)
Bulman House – Regent Centre
Gosforth
Newcastle Upon Tyne
NE3 3LS

T: 0191 285 0321

Now, for tomorrow

An independent member of bakertilly INTERNATIONAL