



# Whatever the outcome food will be on trend



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The crystal ball was out at our Annual Farming Seminar as historical trends were considered in the context of the new world order. As ever, the future appeared opaque, shrouded in the uncertainties over subsidies, exchange rates, import tariffs and world supply and demand.

Nobody appeared to be gambling on stability so the introduction of new averaging relief rules for sole traders and partners, considered hereafter, may be opportune.

Other articles address the valuation concept of agricultural value, the application of the principal private residence rules in a farming context and the onward march of the Making Tax Digital proposals which were temporarily halted to allow the 'snap' general election

If all this is too much we conclude with a look at Company Reorganisations, hopefully demonstrating less complicated options for shareholders wishing to trigger their own Article 50 than those set to enthrall us over the coming months.

Amidst all the uncertainty I predict that food will remain in fashion.

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## Averaging of Farming Profits



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In issue nine of our newsletter, we reported that an alternative method of ironing out the volatility in farming profits was introduced in the Finance Act 2016.

Prior to April 6 last year it had been possible to make a claim to average two consecutive years' profits where one of the two years was 70% or less than the other - with a more complicated

marginal relief where profits were between 70% and 75% of each other.

With effect from the 2016/17 tax year, it is now possible to make a claim to average the profits of five consecutive years where the average of the profits for the first four years and the profits of the fifth year is 75% or less than the other or where the profit of one or more, but not all, of the five tax years is nil.

Note the change to a 75% volatility test, with the removal of the marginal relief. Farmers will also still have the option of making a two year averaging claim where profits of one year are 75% or less than the adjacent year. A five year claim may also include years which have been subject to a two year claim in which event it is the already averaged profits which are included in the five year claim.

As ever, the new rules give both greater flexibility in tax planning and additional computer-related complexity. Consideration may need to be given to the timing of asset purchases to take advantage of capital allowances which might be used to reduce profits to nil and perhaps create a loss.

It will be necessary, not only to have a clear record of the historic profit profile but also to try to anticipate any future significant fluctuations going forward. This would ensure that as far as possible the correct decisions are taken to harness the most advantageous applications of the new rules.

Here at Whiting & Partners we are beginning to see the complexity of the various scenarios as we prepare 2016/17 tax calculations and forecast some of the 2017/18 farming results.

## MTD Postponed Briefly!



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You may have read, heard or seen that Making Tax Digital (MTD) was removed from the 2017 Finance Act, along with other contentious issues that were announced in the Budget, so that the Bill could proceed through Parliament following the Prime Minister's decision to pursue a 'snap election'. It is fully expected that MTD will be reinstated as originally planned when the new government is formed.

Sole Traders and Partnerships with a turnover of £85,000 or more will start to come into

the MTD programme from April 6 2018, this will mean that these business will have to start submitting accounting information quarterly and to strict deadlines. This will also apply to landlords with income over £85,000. Companies and those with business and rental income between £10,000 and £85,000 will be caught by the new requirements over the following two years.

The proposals also make clear that manual cashbooks will no longer be considered adequate records by HMRC and spreadsheets will only be allowed if linked to qualifying software.

Our view is that cloud accounting software is likely to be the optimum solution for most of our clients. We are recommending that where new software is required it be should adopted now so giving the opportunity to bed in the software before quarterly submissions become compulsory.

These changes will be imposed.

Early warning of them will enable appropriate systems to be introduced with the potential for producing better management information.

We have forged strong links with Xero, QuickBooks Online and Sage who are the main suppliers of this software and we can offer assistance where needed.



## Accurate Valuation is Vital



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Agricultural Property Relief for Inheritance Tax is available against the agricultural value of qualifying assets. This assumes that the property is subject to a Perpetual Covenant prohibiting its use other than as agricultural property. Consequently any hope or development value is not relieved although Business Property Relief may, if the circumstances fit, sweep up the value otherwise unrelieved.

The definition of agricultural property includes woodland and buildings used in connection with the intensive rearing of livestock or fish occupied with agricultural land or pasture where that occupation is secondary. It includes such cottages, farm buildings and farmhouses, together with the land occupied with them, deemed to be of 'character' appropriate to the property.

Clearly, a claim to APR depends upon occupation of land. If the use of property is non-agricultural then APR will not apply. Other dangers arise where the farmhouse has become a home in retirement or where buildings are redundant.

Agricultural valuations of farmhouses are regularly investigated on the basis of the level of involvement of the farmer in the business. This may be particularly likely where contract-

farming arrangements are in place. The yardstick of agricultural value being 70% of market value now has little validity against the much more searching approach being adopted by HMRC.

For landlords a particular threat can be the increase in value stemming from urban encroachment. 'Hope Value' can exist and it can generate Inheritance tax liabilities, long before development can proceed.

If property has significant non-agricultural value, take steps to mitigate the tax risk.

## Farm Tenancy – Maximise your PPR Claim



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When self-employed farmers occupy a property under the terms of a tenancy it is, for Principle Private Residence purposes, seen as a main residence regardless that they don't own the freehold of the property.

They must ask the question 'Am I making the most of my PPR claim?'

If another residence has been purchased with the intention of living there once the tenancy has ceased, a nomination can be made to elect - within 2 years - which property will be

the main residence for PPR purposes. Once a nomination has been made it can be revised at any time.

It's possible the farmer never actually occupies the residence due to a change in circumstances. For example, if a partner has 10 years remaining on a tenancy and they purchase a property they intend to occupy on retiring, they can elect for this property to be the main residence for PPR purposes. If after three years their circumstances change and they no longer intend to occupy the property, it would cease being treated as their main residence but will qualify for PPR relief for the period of three years and the final 18 months of ownership.

If it has been let, then Letting Relief would also be available to reduce any chargeable gain.

A farmer with two residences to occupy as a main residence should always make an election, which would open up the opportunity of changing the nomination in future if, again, circumstances change.

Without a nomination, then HMRC would apply the default approach and, after considering all the facts, would decide which property should be the main residence.

Obviously, careful thought is needed in deciding which residence to nominate. If consideration is received from the tenancy, for example via surrender, the amount received will be charged to Capital Gains Tax. In principle, PPR should be available but it could be constrained if a different residence has been nominated.





## Reorganising – Plan Carefully



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There are various scenarios in which corporate reorganisations may be helpful to farmers.

For example, brothers or cousins may have succeeded to ownership but do not share the same future vision. Alternatively there may be family members who are shareholders through inheritance but have no other interest.

One generation possibly wishes to pass the farm on to the next generation while retaining some ownership or subject to receiving a capital payment to fund their retirement.

A badly planned reorganisation can have a tax cost that is prohibitive. With careful planning however, tax costs can be kept to a minimum while transferring the farm down to the next generation or dividing it between family members.

Different technical options may be available including gifting the shares and signing an election to hold over any capital gain. The business must not have diversified too heavily into holding investments.

If the departing generation require a return but the younger generation cannot find enough cash to buy the shares, it may be possible to complete a company purchase of own shares. This requires sufficient distributable reserves and cash for the Company to buy the shares and could unlock Capital Gains Tax treatment and possibly Entrepreneurs' Relief.

Without sufficient reserves or cash, or where the parents would like to retain a shareholding in the business, an alternative would be to create a new company to acquire the shares in the existing company. Advantageous tax treatment, within certain parameters, may be possible in these circumstances.

There are several ways of splitting the farming company between family members including statutory demergers and reduction of capital demergers. Which method is used will depend on a full analysis of the facts to ensure that tax charges, if any, are kept to an absolute minimum.

One further possibility is separating the business into a group of companies under a holding company with different classes of shares, one representing each subsidiary. Each family member can receive shares relevant to 'their' subsidiary company.

There are, in short, many options and almost any objective can be achieved but the real challenge is to keep costs to an acceptable level.

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## Annual Farming Seminar

Our 2017 Farming Seminar – 'The State of British Farming' – attracted a wide regional audience comprising farmers, owners and associated agricultural professionals.

Graham Redman and Michael Haverty of The Andersons Centre demonstrated, using DEFRA statistics, how each segment of UK agriculture has delivered in recent years. More compelling was the importance of predicting and planning any economic outcomes forced by Brexit.

After an eventful 12-months the prospect for the next year is more of the same. UK farming has tackled challenges in the past and, as Brexit unfolds, will face more. One good thing about working in the eastern region is that we have some of the best performing farms and so should be well placed to cope with these challenges.