

In this edition...

1. Making Tax Digital and Xero
2. Power of Attorney fee refund scheme launched 1 February 2018
3. Saving Stamp Duty Land Tax on property purchases
4. Residential lets
5. How much is at stake if we lose APR?
6. A BPR win – a review of a recent DIY livery case

Making Tax Digital and Xero



Making Tax Digital or “MTD” is the government’s reform of the tax system, making it more effective, more efficient and simpler for taxpayers in the long run. Plans for MTD have been in the pipeline since the 2015 Budget. However back in July 2017, the government released an updated timeline of how MTD will be phased in.

The first businesses to be affected will be those who are VAT registered with a turnover above the VAT threshold (currently £85,000). These businesses will have to keep digital records for VAT purposes from 1 April 2019 onwards. This includes small business and landlords. From 1 April 2019 these businesses will be required to provide their VAT information to HM Revenue and Customs (HMRC) through MTD software. HMRC have confirmed that businesses will not be required to make quarterly updates for any other taxes until at least 2020.

At Ellacotts we are here to help. We have been working with the cloud accounting provider Xero to ensure clients are maintaining the digitalised records HMRC require. Xero is an online accounting software specifically designed for small businesses and is simple and easy to use. It allows you to link your business bank account to the software so that all of your bank transactions are imported straight from your bank account, enabling you to keep up to date with your bookkeeping. If required, you can use it to raise invoices and send them to your customers, as well as giving your accountant or land agent access so they can view your data as quickly as you enter it. It is also based in the cloud so can be accessed from any device, anywhere, at any time. There is nothing to install, upgrades are free and everything is backed up automatically. There’s even an App so you can review your finances whilst out and about.

As a Xero platinum partner, Ellacotts offer a discount on the monthly subscription fee. We have a team of cloud accounting specialists here to help set you up and provide training as required. 1 April 2019 may feel like a long way away, but it is only one accounting period away for most of our clients, a great time to have a practice run. It’s best practice to change accounting software at the start of a new accounting period so please contact us now, before your year ends, so we can talk through your requirements and provide you with the help you require.



Power of Attorney fee refund scheme launched 1 February 2018

We advise many of our clients to take out a Lasting Power of Attorney (LPA) to protect themselves and their businesses should they become unable to farm through illness or accident. Unless someone has been appointed to deal with finances, the risk of disruption to the farm could be significant.

A LPA is a legal document which allows you, whilst you have mental capacity, to nominate someone to look after your affairs if you lose capacity.

There are two types of LPA:

1. Finance and property
2. Health and welfare

Just because you give a trusted person power of attorney over your health, that doesn’t mean they will automatically gain control over your financial affairs and vice versa.

If you have registered a Power of Attorney (Lasting or Enduring) between 1 April 2013 and 31 March 2017 you may be due a refund for some of the application fee. How much you can reclaim depends on when you paid for the Power of Attorney, but the maximum amount due is £54.

Either the person who made the Power of Attorney or the person appointed by the donor is able to make a claim, however the refund must be paid to the donor.

For more details about how to claim and how much you are likely to receive please go to: www.gov.uk/power-of-attorney-refund

If you are considering taking out a LPA, it is important to seek legal advice from a solicitor who specialises in farming, as it is important that it ties in with your Will, partnership agreement or shareholders agreement. If you would like further help and assistance, please do not hesitate to contact us.

Saving Stamp Duty Land Tax on property purchases

Stamp Duty Land Tax (SDLT) was introduced in 2003 and is charged on the purchase of interests in land and buildings at rates running from 0% to 15%. This is not a simple tax and there are a number of reliefs that can benefit landowners. Here are four useful tips:

1. Multiple dwellings relief

A relief is available to reduce the rate of SDLT for purchasers of more than one dwelling. This relief can reduce SDLT when buying multiple dwellings and is calculated on the average price for each dwelling. Therefore, if a property investor buys five cottages for £560,000, the normal SDLT would be £34,800. However, the average price per cottage is £112,000 (£560,000 divided by five). A claim for multiple dwellings relief means that the SDLT on each dwelling would be at 3% giving £3,360 each. For five cottages, this gives SDLT of £16,800, a saving of £18,000!

2. Non-residential rates for buying six or more dwellings

The SDLT rates are higher for residential properties (up to 15%) than for non-residential purchases (up to 5%). If six or more dwellings are bought in the same transaction, the purchaser can choose whether to apply the non-residential rates or residential rates but with the benefit of multiple dwellings relief. This means that the two methods need to be compared with some complex calculations to consider.

3. Partition relief

It is quite common for farmland to be jointly owned by separate individuals, perhaps because they inherited the assets through a Will. If the owners decide to divide the land, this can be achieved without SDLT arising. Where two or more people are jointly entitled to land and there is a partition or division of the land, this is not treated as an exchange. The giving up of a share in one part of the land is not treated as chargeable to SDLT for the acquisition of a share in another part.

4. Partnership changes

There are special rules for land moving into or out of partnerships and transfers between partners. The rules are complicated but, broadly, no SDLT will arise on these transactions if the partner's individual share in the partnership matches the share in the land. If the shares do not match, a proportionate SDLT charge will arise unless all of the partners are closely connected (e.g. spouse, parents, children or siblings).

The SDLT rules are very complicated and we recommend that specialist tax advice always be taken before a land transaction is carried out. Please let us know if you would like to speak to one of our specialists.



Residential lets

If you are renting out a property, you may find the way it is taxed and the reliefs available against your Income Tax liability may not be what you expect.

Joint rental income

Property can be owned in unequal shares as tenants-in-common and rental income is normally split according to the ownership of a property. However, for married couples or civil partners who jointly own a property, the income is split 50:50 by default, regardless of ownership. So if the husband had a 99% interest in a property and the wife 1%, the rental income would still be taxed 50% to husband and 50% to wife.

It is however possible to make a joint election for the income to be split to reflect the beneficial ownership. This can be done via HMRC Form 17. This must be notified to HMRC within 60 days of the date you wish the election to take place and submitted with a certificated declaration of trust to prove the ownership split.

Please note these rules do not apply to rental properties held in a partnership or furnished holiday lets.



Restricted finance costs

Previously, landlords have been able to deduct 100% of finance costs (e.g. mortgage interest, fees, commission) against their rental income, reducing their income tax liability.

From 5 April 2017, 25% of the finance costs no longer counts as a deductible expense and from 5 April 2018 this will increase to 50%.

The percentage of finance costs not deductible from income are being phased as follows:

2017-18	2018-19	2019-20	2020-21
25%	50%	75%	100%

On the amount not deducted in the year, landlords will only be able to claim a basic rate tax reduction for that portion of finance costs. This tax reduction will be calculated as 20% of the lower of:

1. Finance costs not deducted from income in the tax year
2. Profits of the property business in the tax year
3. Total income of the individual (excluding savings income & dividend income) that exceeds the personal allowance in the tax year.

Therefore in 2017-18, 75% will be fully deductible from income to arrive at rental profits and a tax reduction will need to be calculated above for the remaining 25% not deductible from income. By 2020-21 no finance costs will be deductible and the tax reduction will need to be calculated.

Any excess finance costs may be carried forward to future years if the reduction has been limited to 20% of the profits of the property business.

The impact of the restriction to finance costs is complex and depends on your individual circumstances. If you would like more information on either of the above, or believe you may benefit from altering your split of rental income, please contact us today.

How much is at stake if we lose APR?

HMRC has recently published a paper on the influence of Inheritance Tax (IHT) reliefs and exemptions on estate planning. This suggests that a future budget may contain proposals to raise more IHT by reviewing the availability of Agricultural and Business Property Reliefs (APR and BPR).

APR can give up to 100% tax relief on the agricultural value of farmland, farmhouses, buildings and assets, if owned and used for farming for two years prior to death. It is also available if the asset has been owned for at least 7 years prior to death, and throughout that period has been occupied by another for agricultural purposes. This 7 year ownership condition allows individuals to own farmland and not farm it personally. It is this relief that is most at risk as it can be exploited by non-farming individuals to shelter from IHT.

If APR were to be abolished farmers would then need to rely on BPR to reduce their IHT liability, in order for them to keep their businesses together to be passed down to the next generation.

It is often beneficial for IHT purposes for land which is owned personally and used for the purposes of a trade carried on by a partnership, of which the landowner is a partner, to be included on the partnership balance sheet. This allows it to qualify for 100% BPR as opposed to 50% when held outside the balance sheet if all other conditions are met.

Assets that are rented out, e.g. rented farm cottages, have no BPR when held outside the business. If introduced into the business it may be possible to obtain 100% BPR based on the Farmer and Balfour cases as long as the whole partnership remains wholly or mainly trading.

Currently the “wholly or mainly trading” test is whether more than 50% of the business is trading rather than investment. The factors which are looked at are turnover, profit, asset value, time spent and in the round. An area the government could easily change to make BPR harder to achieve is to increase this trading test to 80%, which is the percentage required for Capital Gains Tax tests.

We are already seeing an increase in scrutiny from HMRC on APR and BPR claims, which are being challenged more than ever before. If you are relying on these reliefs, do take advice to ensure you meet their strict requirements and can, if required, defend claims made.

Now is a good time to review your lifetime estate planning and gifts, whilst these valuable reliefs are still available and not restricted in value. Please speak to your usual Ellacotts contact, or telephone one of our offices, if you wish to discuss these reliefs further.

A BPR win – a review of a recent DIY livery case

Business Property Relief (BPR) can provide Inheritance Tax Relief on business assets at a rate of 50% or 100% of their value. This relief can be very valuable but to support a claim HMRC require the business to be a trading business: defined as not wholly or mainly dealing in securities, stocks or shares, land or buildings or in the making or holding of investments.

Historically, BPR has been denied to businesses that essentially let out land as this is deemed an investment and not a trading activity. Therefore, BPR would typically be denied on DIY liveries, as this is usually just the letting of a stable with some grazing, and any grass liveries where only grazing rights are provided.

The matter as to whether a business is trading or not is more of a grey area when it comes to part and full liveries with a range of services provided. We have recently seen an increase in the denial of BPR on furnished holiday lets on the basis that HMRC view them to be a letting of property, even with multiple services provided. It is therefore surprising and pleasing to hear that HMRC's decision to deny BPR on a DIY/ part livery business has been overturned by the First Tier Tribunal (FTT).

The case

The late Mrs Vigne owned 30 acres of land from which she provided livery services. As well as providing stabling and grazing for her livery clients she provided the following services:

1. The provision of worming products, including administering them where and when necessary, on a quarterly basis.
2. Providing the horses with feed during the winter months.
3. Removal of manure from the the fields.
4. Undertaking a daily check of each horse.

HMRC initially denied BPR but this was overturned by the FTT as they considered that the Vigne's livery business was not “wholly or mainly” that of “holding investments” due to the additional services provided to the horse owners meaning that the business was more than a DIY livery. They also considered the level of care Mrs. Vigne provided and the responsibilities she undertook and said that there was no doubt that the business was a genuine livery business, developed so as to be a recognisable livery business offering significantly more than the mere right to occupy a particular parcel of land.

This decision demonstrates that livery business can qualify for BPR. However, it does appear to contradict recent legislation concerning furnished holiday lets whereby, with even significant levels of services provided, the letting of the accommodation itself is still considered to be a business of wholly or mainly of holding of investments. It is therefore not surprising that HMRC have appealed the decision made by the FTT with the hearing scheduled for 13 July 2018. We await the outcome and will report in due course.





Ellacotts appointed as Camgrain auditors

Ellacotts are delighted to be appointed statutory auditors for Camgrain, one of the UK's largest farmer owned storage co-operatives, established in 1983.

John Thame commented:

“Camgrain’s purpose is to add value to their members’ crops and maximise returns through competitive marketing in unique supply chains, prompt harvest movement, expertise in storage and cost-effective drying charges. It is now more important than ever for farmers, in the context of Brexit, to regularly review their cost base and effective use of farm assets, such as farm buildings.”

Forthcoming events

In the next few months we'll be attending a number of events around the country. Here are just a few. We'd love to see you there!

Kenilworth Show | Saturday 9 June

Stoneleigh Park, Kenilworth, Warwickshire

Cereals | Wednesday 13 – Thursday 14 June

Chrishall Grange, Duxford, Cambridgeshire

Blakesley Show | Saturday 4 August

Maidford, Northamptonshire

Bucks County Show | Thursday 30 August

Weedon Park, near Aylesbury



Meet some of our Agricultural team



Mark Dickin

Partner
mdickin@ellacotts.co.uk



Steve Gardner

Manager
sgardner@ellacotts.co.uk



Louise Hosking

Director
lhosking@ellacotts.co.uk



Helen King

Partner
hking@ellacotts.co.uk



Laura Morse

Assistant Manager
lmorse@ellacotts.co.uk



Kerry O'Reilly

Manager
koreilly@ellacotts.co.uk



Rachel Rahman

Manager
rrahman@ellacotts.co.uk



Claire Rigby

Manager
crigby@ellacotts.co.uk



Andrew Slack

Consultant
aslack@ellacotts.co.uk



Chris Slatter

Independent Financial Adviser
cslatter@ellacottsworld.co.uk



John Thame

Partner
jthame@ellacotts.co.uk



Joanne Wright

Director
jwright@ellacotts.co.uk

Banbury

Countrywide House
23 West Bar
Banbury
Oxfordshire
OX16 9SA
+44 (0)1295 250401

Kettering

Vantage House
2700 Kettering Parkway
Kettering Venture Park
Kettering
Northamptonshire
NN15 6XR
+44 (0)1536 646000

London

Suite 100
99 Bishopsgate
London
EC2M 3XD
+44 (0)203 6937315

For more information about Ellacotts and our services, please visit www.ellacotts.co.uk

If you would like to update your mailing preferences, please email solutions@ellacotts.co.uk

Information of readers:

This material is published for the information of clients. It provides only an overview of the regulations in force at the date of publication, and no action should be taken without consulting the detailed legislation or seeking professional advice. Therefore no responsibility for loss occasioned by any person acting or refraining from action as a result of the material can be accepted by the authors or the firm.

