Agriculture & Property

SPRING 2023 NEWSLETTER

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Private Residence Relief – potentially costly traps for those with more than one home

Private Residence Relief (PRR) is a valuable Capital Gains Tax (CGT) relief when disposing of property in which you reside. PRR is the reason we generally dispose of our homes free of CGT. For those who have a legal or beneficial interest in one property in which they have resided in for their entire ownership period, PRR is simple to apply and full relief for CGT purposes will be given, with no CGT due on the disposal of a main residence. There can, however, be complexities attached to PRR. Here, Tom May considers the complications multiple properties and periods away can bring.

Do I need to make a nomination for my main residence?

When an individual owns more than one property, or is renting another property as their home, careful thought is needed. When you acquire a second property, you may need to consider which property is your main residence, and to write to HM Revenue & Customs (HMRC) to nominate this property as your main residence.

In the absence of a nomination, HMRC can determine which property is your actual main residence, based on their interpretation of the facts, which may be counter to your intended PRR claim. You have two years from every time your combination of residences changes to nominate a property as your main residence.

It is vital to note that a married couple (and civil partners) can only have one main residence. A nomination by one spouse or partner takes effect for both parties.

What if I live away from my property for a period of time?

There are some reliefs available for those who live away from their property for a period of time, which allow for their PRR claim to still be valid. This is known as 'deemed occupation'. An individual can live away from their main property for up to three years for any reason, four years when working away from home for work within the UK, and finally an unlimited amount of time if they work abroad. For these periods of absence to be valid for PRR, the individual must return to their residence after this period of absence. Additionally, the final nine months of ownership of a property qualify as 'deemed occupation'. This does not, however, count as the individual returning to their residence after a period of absence.

If you own a property and have to live away from your owned property and rent another property as a home, even though you do not own a second property, you are considered to have had a change in your combination of residences. In the absence of a nomination, HMRC will determine which of the two properties is your main residence. This could invalidate your PRR claim. It is therefore important that a nomination is made to ensure that your PRR claim is not denied.

The only circumstance where this does not apply is when the property is occupied under licence. A licence is a permission to reside in a property which may be gratuitous or contractual. An example of a gratuitous licence is staying with family and friends, where commercial rent is not charged. An example of contractual licence would be staying in lodgings or a hotel.

PRR is an extremely valuable relief and these two areas are only some of the potentially very costly pitfalls which can be faced. An apparently simple relief can in reality prove very complex to apply, with rules having unexpected mathematical results. It is important to plan ahead and monitor your position regularly to ensure you will benefit fully as circumstances change. We are happy to discuss your circumstances and how to optimise your PRR position. Please do get in touch.

Rural highlights from the Spring Budget 2023

Dan Martin breaks down the Spring Budget 2023 and how it may affect your business. The Spring 2023 Budget was focussed on stimulating the economy, driving people back into the workforce and bringing down inflation. There are a number of announcements from the budget which may impact your rural business.

Capital Allowances

The 130% super-deduction which companies have benefitted from since April 2021 ended on 31 March 2023 as expected.

From 1 April 2023 to 31 March 2026, the Spring Budget introduced 'full expensing', whereby companies who incur expenditure on new and unused qualifying plant and machinery will receive a 100% First Year Allowance. A temporary 50% First Year Allowance will also be available on new and unused special rate plant and machinery.

These new expensing rules apply to companies, and therefore will not apply to most farming businesses which are structured as partnerships.

Partnerships continue to benefit from the Annual Investment Allowance (AIA). The AIA has been permanently increased from £200,000 to £1million, meaning businesses can claim 100% tax relief on qualifying expenditure.

The permanent increase to the AIA is welcomed, as investment in machinery and vehicles are key to farming businesses.

Research and Development (R&D)

The agricultural sector has an abundance of activity around innovation, new technology and efficiency. Agricultural companies which are investing in new technology may be able to claim an extra deduction against their profits for qualifying expenditure.

The budget introduced reforms to the regime, whereby from 1 April 2023 the Government will introduce an increased rate of relief for loss-making R&D intensive SMEs. Eligible loss making companies will be able to claim £27 from HMRC for every £100 of qualifying expenditure.

Agricultural Property Relief (APR)

The government has issued a consultation to determine whether 100% APR from Inheritance Tax (IHT) should apply when farmers make long-term changes from agricultural to environmental land use.

Questions over access to APR for land in some aspects of Environmental Land Management schemes continues to hold up many decisions about entering into these long-term commitments. This is therefore a welcome consultation, which will seek to give some certainty for future decision-making.

The government will restrict APR and woodlands relief for IHT purposes to assets situated in the UK.

Making Tax Digital – Basis Period Reform

As part of the government's Making Tax Digital (MTD) project, changes have been made to alter the rules under which trading profits made by self-employed individuals and partnerships are allocated to tax years.

From 6 April 2024, individuals and partnerships will be taxed on the profit arising in the tax year, rather than their chosen accounting date. This will potentially accelerate when business profits are taxed.

Most rural businesses act through a sole trade or partnership. This measure will therefore affect those who do not currently prepare accounts to 31 March or 5 April.

Pension Reforms

The Pension Annual Allowance (AA) will increase from £40,000 to £60,000 per annum from 6 April 2023.

From 6 April 2023, where a taxpayer's adjusted income exceeds £260,000, the AA is tapered by £1 for every £2 of income in excess of £260,000, down to a minimum of £10,000.

The current pension lifetime allowance (LTA) charge is being abolished from 6 April 2023. The LTA results in tax charges to apply on crystallisation of pension funds if the LTA (currently £1,073,100) is exceeded.

Individuals may be able to receive 25% of their pension savings as a tax-free lump sum when they become entitled to their pension benefits. This is currently capped at 25% of the LTA and going forwards, for most individuals, will remain capped at £268,275.

Personal Tax

There are various changes which may result in higher tax bills if your income exceeds certain thresholds.

- Additional rate tax threshold to reduce from £150,000 to £125,140
- Dividend tax-free allowance to reduce from £2,000 to £1,000 for 2023/24 and £500 for 2024/25.
- CGT annual exemption to be cut from £12,300 to £6,000 for 2023/24 and to £3,000 for 2024/25

VAT penalties update: Points mean penalties

In this article Emma Russell takes a look at the way in which HMRC charges penalties for late VAT return submissions and late VAT payments has changed. All VAT return periods starting on or after 1 January 2023 will be caught under the new VAT penalty system.

There are now separate penalties for late submission of a VAT return and late payment of VAT to HMRC. The previous surcharge based scheme applied to both late submissions and late payments of VAT. This has been replaced by a points based system.

The changes apply even if submitting a nil or a repayment VAT return. Businesses which are usually in a reclaim position, such as farmers, will now face penalties for late submission.

Late filing penalties

The deadline for submitting a VAT return remains one calendar month and 7 days after the end of the VAT return period.

If a VAT return is submitted after the deadline, you will receive one penalty point, in the same way as driving licence 'points'. Once the penalty point threshold has been met, a fixed penalty of £200 will be issued. The penalty point threshold varies depending on the frequency of your VAT returns:

Submission frequency	Penalty points threshold
Annually	2 points
Quarterly	4 points
Monthly	5 points

Further £200 penalties will be issued for every late submission after that, while you remain at the points threshold.

Exceptions

The late submission penalty rules do not apply to:

- The first VAT return if you are newly VAT registered.
- The final VAT return after you cease your VAT registration.
- Any one-off returns that cover a period other than a month, quarter or year.

How and when are points removed?

Penalty points expire after 2 years, as long as you are not at your points threshold. If you are at the points threshold, the only way points can be removed is by meeting the following conditions:

1. All returns in the subsequent period of compliance (dependant on the submission frequency as detailed below) have been submitted on or before the due date.

Submission frequency	Period of compliance
Annually	24 months
Quarterly	12 months
Monthly	6 months

2. All VAT returns which were due within the previous 24 months have been received by HMRC on time.

Late payment penalties

The new late payment penalty system will apply in two stages, fixed penalties and daily penalties. The later the payment, the higher the rate of penalty charged:

Up to 15 days	None
Between 16 and 30 days	Fixed: 2% on the liability at day 15.
At 31 days	Fixed: 2% on the liability at day 15, plus 2% of liability at day 30 (i.e 4% if not paid)
After 31 days	Daily: Accruing 4% per annum charge of liability until the balance is paid in full.

Late payment interest

Late payment interest continues to be charged at the Bank of England base rate plus 2.5%.

Interest is charged from the first day the payment is overdue, until the liability is paid in full. Late payment interest also applies to late submission and late payment penalties.

Period of familiarisation

HMRC have given businesses a grace period to become familiar with the new VAT penalty system. They will not be charging late penalties until after 31 December 2023 if the VAT liability is paid with 30 days.

For further information please get in touch with your usual contact at Ellacotts.

Ellacotts Agriculture & Property team news

Promotion to Partner

Claire Rigby has been promoted to partner with effect from 1 December 2022. Claire joined Ellacotts in 2009 as a trainee and since then has progressed through the firm. Working in the Agriculture and Property team she has worked with a large number of agricultural and land-owning clients and has built a particular specialism in equestrian related matters.

Promotion to Senior Supervisor

Zoë Keys has been promoted to senior supervisor with effect from 1 February 2023. Zoë joined Ellacotts in June 2012 as a trainee and has shown particular flair for trust and estates, working closely with some wealthy families and their landed estates.

Promotion to Assistant Manager

Edward Nichols has been promoted to assistant manager with effect from 1 February 2023. Ed joined Ellacotts as a senior in June 2022 following his qualification as a chartered accountant in 2018. Whilst at Ellacotts, he has built on his knowledge and prior experience gained at other firms and further strengthens the management team.

Promotion to Assistant Manager

Laurence Edmunds has been promoted to assistant manager with effect from 1 April 2023. Laurence joined Ellacotts in May 2021 as a part qualified senior and has transitioned from a more audit background to now help farmers with regards to business advice, accounting and taxation matters.

New Manager

Dan Martin joined Ellacotts as a manger in March 2023. Dan joins Ellacotts from another accountancy firm where he worked as a tax manager following attaining his ACA and CTA qualifications. Dan has a keen interest in agricultural and equestrian businesses and his tax knowledge adds further depth to the team.

Meet some of the team

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