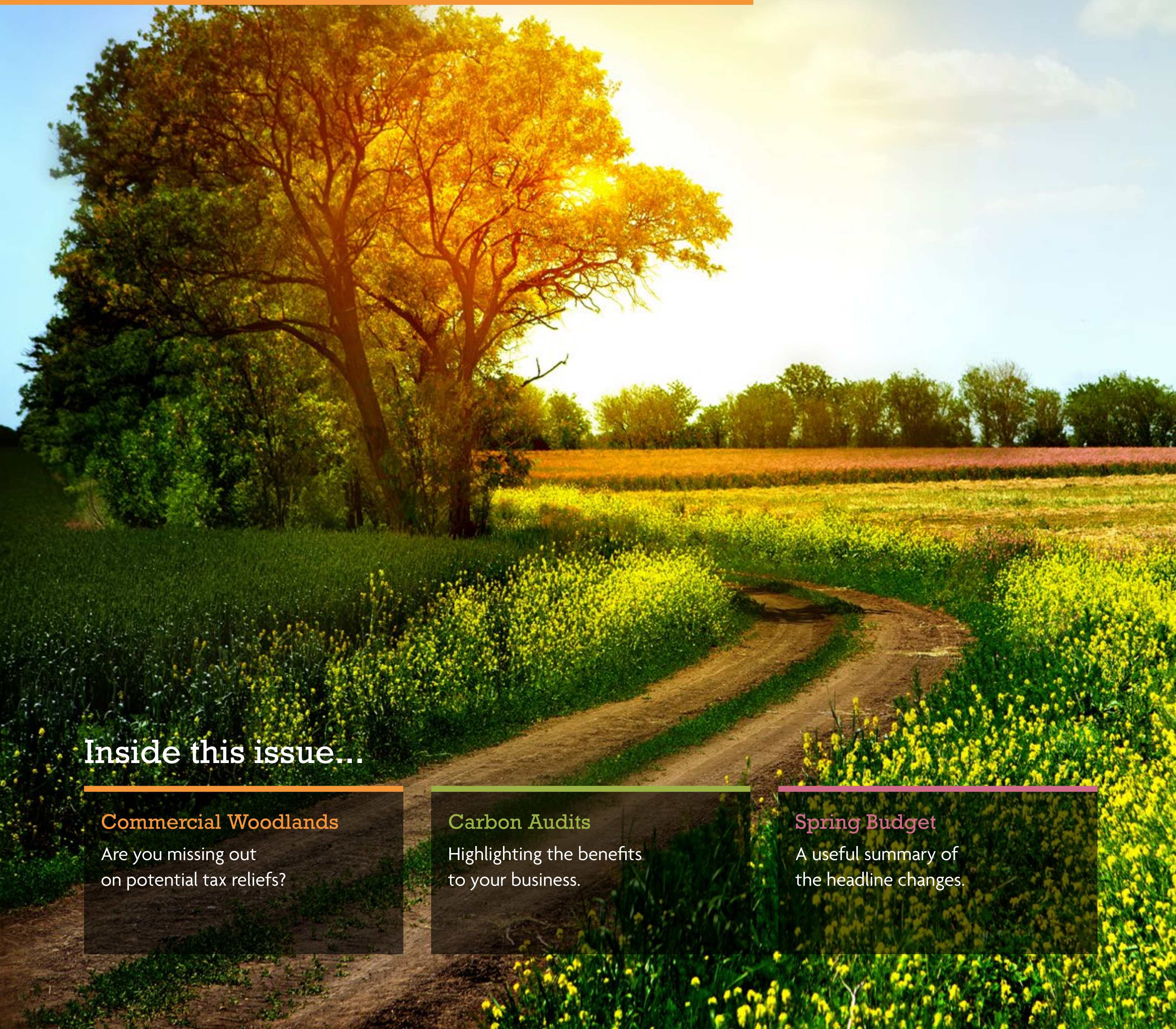
ISSUE 18 | **SPRING/SUMMER 2024**

Farming Matters

Information and advice to help you grow your business | **renniewelch.co.uk**



Inside this issue...

Commercial Woodlands
Are you missing out on potential tax reliefs?

Carbon Audits
Highlighting the benefits to your business.

Spring Budget
A useful summary of the headline changes.

Welcome

Welcome to our eighteenth edition of Farming Matters.

The clocks have sprung forward, but, unfortunately, the rain seems to fall incessantly, and spring work remains, frustratingly, pending! In the Borders, the winter crops do look like they may have a bit of potential, but we really could do with some sun and warmth.

We have had our 2024 budget from the Chancellor, which Magnus Leonard will take you through in his article, but we will be seeing an election in the UK at some point in the coming months so there is every likelihood that we will have another one, if there is a change in government. It is certainly going to be interesting watching the political and economic position evolve as the year unfolds.

This time around there is an interesting article from Lynn Gemmell, our VAT specialist, about VAT and dog exercising fields which will be very helpful to those in that situation.

We are delighted to introduce our 'Guest' writer, David Owen, from Owen Farm Services. David is very involved with the carbon audit process and so his piece covers the carbon audit environment which is likely to become part of the future Whole Farm Plan.

Finally, our associate, Lynn Miller, has been looking at trees and commercial woodlands and has written a very concise piece on this subject. It can be an area that is not fully considered, and I hope that Lynn's writing stirs the imagination.

I do hope that you find these articles helpful, however if there are topics that you would like us to cover then please let us know as we want to make the bulletin dynamic and interactive.

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Tax Relief for Trees – Wood you Believe it?

A frequently overlooked area of tax when considering the use of farmland is the potential tax relief available where there are commercial woodland activities in place. These reliefs can be incredibly valuable, given the current value of, and market for, woodlands and timber, but what are these reliefs and how can we protect them?

WHAT IS A COMMERCIAL WOODLAND?

The tax legislation refers to "woodlands managed by the occupier on a commercial basis and with a view to the realisation of profits", but what does this mean in practice?

The general understanding is that this would consist of a sizeable area of land, covered with growing trees of some size and maturity, for use in the production of timber, on a commercial basis.

It is important that there is evidence in place to demonstrate either the past and ongoing production of timber, or a future intention of timber production, for example where the growing trees are being managed but have not yet achieved sufficient maturity to be harvested for timber.

Having a woodland management plan in place, including a felling plan, is one way to help evidence the commercial nature of the occupation.

The commercial occupation of woodlands can offer many valuable tax advantages.

WHAT ACTIVITIES ARE EXCLUDED?

Not all woodlands qualify as "commercial woodlands" for the purpose of the tax reliefs. Examples of activities that are excluded are as follows:

- *Short rotation coppice*
  This involves the intensive cultivation of trees, planted at high density, harvested at intervals of less than 10 years – i.e. short-term timber production. This activity would be treated as farming trade.
- *Growing of Christmas trees*
  Treated as part of farming trade or, where operated as separate Christmas tree farm, considered to be a tree nursery and treated as market gardening trade.
- *Amenity usage*
  Where the woodland is primarily used for conservation and/or leisure.
- *Agricultural usage*
  E.g. woodland shelter belts.
- *Commercial woodland let out by owner in return for a rent*
  In this case, the rental profits would be chargeable to tax as income from a property business. This differs from the granting by the owner of the right to enter a qualifying commercial woodland and fell trees, which would be covered by the exemption.

FARM WOODLAND PREMIUM SCHEME

Income received under the Farm Woodland Premium Scheme is always taxable as farming income, whether or not the woodland qualifies as a commercial woodland.

ACTIVITIES EXTENDING BEYOND NORMAL PREPARATION OF TIMBER

In some cases, the activities may go further than the normal preparation for marketing the timber and into a separate trading activity, for example where the timber is processed beyond the point of sawing the timber into planks. Where the activities go beyond that point, the timber will be treated as having been transferred to the trade at the market value of the sawn planks, with the subsequent sales being included in the trading accounts at full value.

WHAT RELIEF IS AVAILABLE?

Income Tax/Corporation Tax

Profits and losses from the commercial occupation of woodlands are exempt from Income Tax and Corporation Tax.

This means that while the proceeds from the felling and sale of timber are not subject to Income Tax or Corporation Tax, equally no relief is available for the costs incurred in establishing and managing the woodlands, and no capital allowances are available in respect of the plant and machinery used for this purpose.

Care must be taken that all income received and expenditure incurred in respect of commercial woodlands is separately identified and accounted for when dealing with the farm accounts. Separate nominal codes could be set up on the farm accounting software to aid this as part of the bookkeeping process.

Capital Gains Tax

Where a commercial woodland is disposed of, any gain arising on the sale of the trees from that woodland are exempt from Capital Gains Tax.

This exemption does not extend to the underlying land (the solum) on which the trees are growing, which is subject to Capital Gains Tax as normal.

It is therefore vital that separate valuations are obtained in respect of the growing trees and the underlying land, as these valuations will be needed when calculating the tax position on the overall disposal.

The underlying land is treated as a business asset, and as such, where the disposal is by way of a gift, or the proceeds are reinvested into replacement business property, it may be possible to defer the capital gain on the land, and hence the Capital Gains Tax liability, via a claim for holdover relief or rollover relief.

Inheritance Tax

The three main forms of relief available for Inheritance Tax purposes are as follows:

- *Agricultural Property Relief (APR)*
  Woodlands may qualify for APR if they are occupied with agricultural land and their occupation is ancillary to that of the agricultural land, for example, woodlands used as shelter belts. It is unlikely to apply to commercial woodlands.
- *Business Property Relief (BPR)*
  Woodlands may qualify for BPR if they are being actively used in a business and certain other conditions are met. If the woodlands qualify for 100% BPR, Inheritance Tax will not be payable on either the trees or the underlying land.
- *Woodlands Relief*
  Where APR and BPR are not available to exempt the woodland for Inheritance Tax purposes, it may, subject to certain conditions being met, be possible to defer the Inheritance Tax payable on death in respect of the value of the growing timber, but not the underlying land, via a claim for woodlands relief.

  Instead of Inheritance Tax being payable on death, it is deferred until such time as the timber is disposed of and charged on the net proceeds of the sale at that time, assuming that full consideration is given. If full consideration is not given, e.g. the timber is gifted, tax is payable on the net value of the timber at the date of disposal.

  When claiming woodlands relief, there is a risk that the Inheritance Tax ultimately payable when the timber is disposed of may be higher than the Inheritance Tax that would have been payable without the claim, where the value of the timber is likely to increase. This should be considered when deciding on whether to make a claim.

VAT

The sale of felled timber, or the grant of a right to fell, is subject to VAT at the standard rate. The sale of land with standing timber is exempt for VAT purposes.

SUMMARY

The commercial occupation of woodlands can offer many valuable tax advantages.

It is important that evidence is maintained which demonstrates the commercial management of the woodlands with a view to the realisation of profits from the production of timber.

Care must be taken to identify relevant income and expenditure when preparing the farm accounts and present these in the appropriate manner. Using specific nominal codes on the farm accounting software can help with this.

The exemptions available for commercial woodlands do not extend to the underlying land on which the growing timber stands. It is therefore vital that separate valuations are obtained for the growing timber and the underlying land. Whilst not subject to the commercial woodland exemptions, the underlying land is classed as a business asset and as such, other reliefs such as holdover relief and rollover relief may be available to defer gains arising on disposal.

Finally, planning is key in establishing whether a woodland will qualify as a commercial woodland and maintaining that status! If you would like to discuss this further, we would be happy to arrange this upon hearing from you.

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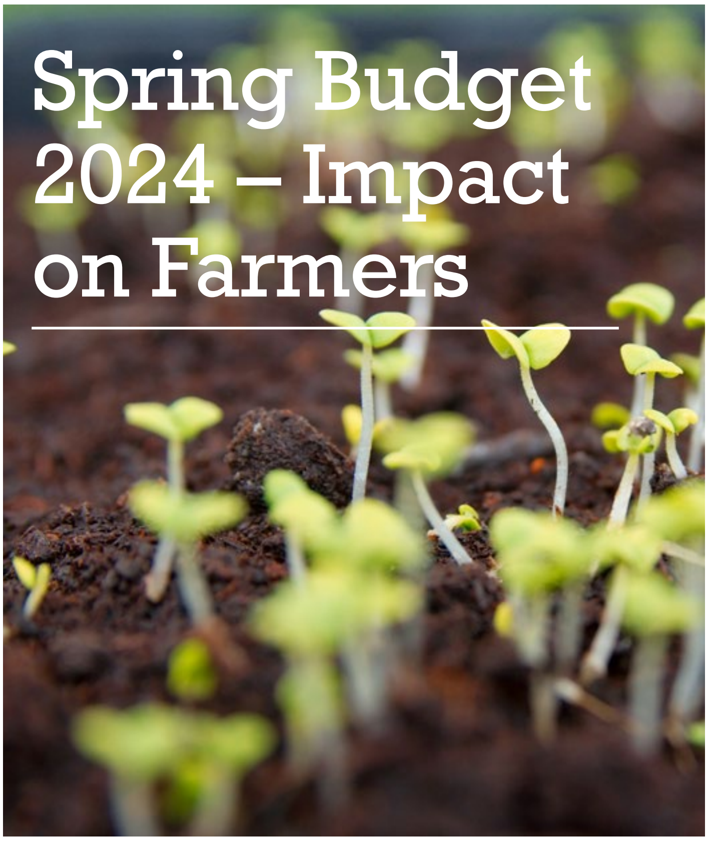
Spring Budget 2024 – Impact on Farmers



Chancellor Jeremy Hunt presented the 2024 Spring Budget to the House of Commons on 6th March 2024. Although there were few specific changes relating solely to the farming industry, there were a number of general updates to tax rules announced which could have an effect on farmers. Some of the main changes have been summarised below.

NATIONAL INSURANCE CONTRIBUTIONS

As was widely expected, a 2% cut to the main rate of national insurance for the self-employed and those operating as partners in a partnership was announced. The main rate of national insurance for the self-employed and partners has now reduced to 6% with effect from 6th April 2024, compared with 9% at the beginning of the tax year. A similar cut of 2% was announced for employees, bringing the main rate down to 8% from 6th April 2024.

FURNISHED HOLIDAY LETTINGS (FHL)

For any farmers that also operate Furnished Holiday Lettings (FHL), it was announced that favourable tax treatment that can apply when a holiday let meets certain conditions to be treated as a trade, would be scrapped from 6th April 2025.

Currently, where a property qualifies as an FHL, it can receive favourable tax treatment over a standard residential let, such as, full tax relief for mortgage interest costs, capital allowances and potentially favourable CGT rates on disposal.

Although at the time of writing full details of the changes have not yet been published, from 6th April 2025 it is expected that short-term lets will be treated the same for tax purposes as properties let on a long-term basis.

HIGH INCOME CHILD BENEFIT CHARGE (HICBC)

The high income child benefit charge (HICBC) which looks to claw back child benefit amounts from ‘high earners’ was also reformed. If you or your partner are in receipt of child benefit, and, from 6th April 2024, one of you (this does not need to be the person claiming child benefit) earns over £60,000, the child benefit will gradually be clawed back until that individual earns £80,000, at which point the child benefit will be withdrawn in full. The previous thresholds were £50,000 and £60,000 respectively.

Furthermore, from April 2026, it was announced the HICBC would be reformed further to take into account the combined income of a household rather than just the top earner. Further details on how this will be implemented are to be published in due course.

VALUE ADDED TAX (VAT)

The VAT registration threshold was increased from £85,000 to £90,000, with the deregistration limit also increasing from £83,000 to £88,000. These new limits will apply from 1st April 2024.

CAPITAL GAINS TAX (CGT)

In terms of capital gains tax (CGT), no major changes were announced. The higher rate of CGT on the disposal of residential properties was reduced from 28% to 24% from 6th April 2024 in a slight surprise.

Farmers will be pleased to know that there were no changes announced to CGT gift relief, which can be a valuable relief when making lifetime gifts of business and agricultural property.

INHERITANCE TAX (IHT)

There was speculation that IHT would be scrapped entirely, however this never materialised. The IHT nil rate band and residence nil rate band continue to amount to £325,000 and £175,000 respectively. No major changes to either business property relief (BPR) or agricultural property relief (APR) were announced, which again is a benefit to farmers.

APR was in fact extended to include land managed under an environmental agreement, with, or on behalf of the UK Government and a number of other approved bodies. APR will be available from 6th April 2025 but will apply to agreements entered into prior to this date provided the other conditions to qualify for APR are met.

The CGT and IHT reliefs currently available remain an important factor when considering farming succession plans, and, in particular when looking at lifetime gifting and planning. However, with a general election due to take place by January 2025 at the latest, there is no guarantee that these valuable reliefs will remain in place, if, for example, a new government comes into power. A crystal ball is required!

If you are considering your succession plans and would like to discuss the tax implications of the options available, please do not hesitate to contact Magnus Leonard.

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Dog Exercise Fields – What About VAT?

Secure fields for exercising and walking dogs, doggy playgrounds and agility fields are becoming increasingly popular where dog owners are looking for secure, safe spaces to give their pets the exercise and experience of the outdoors that they deserve.

With a captive market of loving doggy owners, this is a great way to generate additional income from surplus land.

Practical matters in terms of constructing secure fencing, possible planning permission for change of use if the land is no longer used for agriculture purposes, purchase and installation of climbing and play equipment, and the setting up of a booking system etc., all take priority as you get your new venture off the ground.

However, have you considered whether there are any VAT consequences?

To establish the VAT position/treatment of income to be generated, it is necessary to consider the exact nature of the use of the underlying land/field.

If a customer is given a time slot to enter the field and so would have exclusive use of the space for their allocated time and no other services were provided (other than perhaps free poo bags or access to water, which may simply be seen as ancillary to the supply of the land and are for 'better enjoyment' of the use of the field) then this may be classed as a licence to occupy or grant of a right over land and so exempt from VAT, in the absence of an option to tax. If opted to tax, the supply of land here would be taxable at 20%.

You might now be thinking; have you opted to tax this land in the past? When was that? Should you opt to tax now? Would it be beneficial?

However, the field might also include agility obstacles or play equipment for the dogs to use, in which case, the admission may be more than a right to use the land and could instead be admission to a 'dog exercising and agility facility'. Accordingly, the nature of the supply is changed, making it a standard rated supply of services, whether the underlying land is opted to tax or not.

If you are therefore already VAT registered and this activity is undertaken within that VAT registered entity, be that a sole trade, partnership or a company, then it may be that VAT is due on the income generated. Alternatively, you may now have a source of exempt income which would make you partially exempt and could mean a restriction to the amount of VAT you recover on expenditure.

If not already VAT registered, then if the income from this activity is taxable in nature, it needs to be taken account of in determining whether you need to be VAT registered. HMRC do impose penalties where VAT registration is late or missed, so care must be taken!

If engaging in this type of activity, or you are considering it, we would highly recommend having a quick chat with us so we can advise on your VAT obligations before they come back to bite you further down the line.

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The Benefits of Carbon Audits

On 26th March 2024, the Scottish Government unveiled further information on what farmers and crofters will have to do to receive agricultural support payments from 2025 onwards. Although the schemes aren't changing until 2027, from 2025 there will be changes to some of the things you will need to do to receive support.

As part of the move to the new framework, changes from 2025 include the introduction of the first Whole Farm Plan conditions, which require farmers and crofters to complete two baselining activities from a list of options including carbon audits, biodiversity audits, soil analysis, the creation of animal health and welfare plans or integrated pest management plans.

We recommend that our clients carry out a carbon audit at least every three years. Funding is available for a new carbon audit every three years and to refresh your carbon audit annually through the Farm Advisory Service and the Preparing for Sustainable Farming Fund.

The benefits of carrying out a carbon audit for your business include:

- Energy and cost savings
- Supply chain resilience and efficiencies
- Regular risk mitigation
- Future-proofing the business
- Environmental and social benefits
- Enhanced reputation to purchasers.

If you don't have a carbon audit in place, we will be happy to help with this. These are currently fully funded through the Preparing for Sustainable Farming Fund and the Farm Advisory Service. Please contact the office for more information.

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BUAS Bursaries

Did you know Scotland is hosting the Royal Agricultural Society of the Commonwealth Conference in June?

Held 20th–27th June and focusing on the "Next Gen" (ages 25-40) in agriculture, the conference is a week-long opportunity to hear from leaders of agriculture from across the world and form connections with like-minded individuals who will undoubtedly be big names within agriculture in years to come.

To find out more about the conference please visit **www.therasc.com**

The Border Union Agricultural Society is offering a 50% bursary for up to 10 delegates from the society's area. If you or someone you know is interested in attending, then please get in touch with **info@borderunion.co.uk** to find out more!