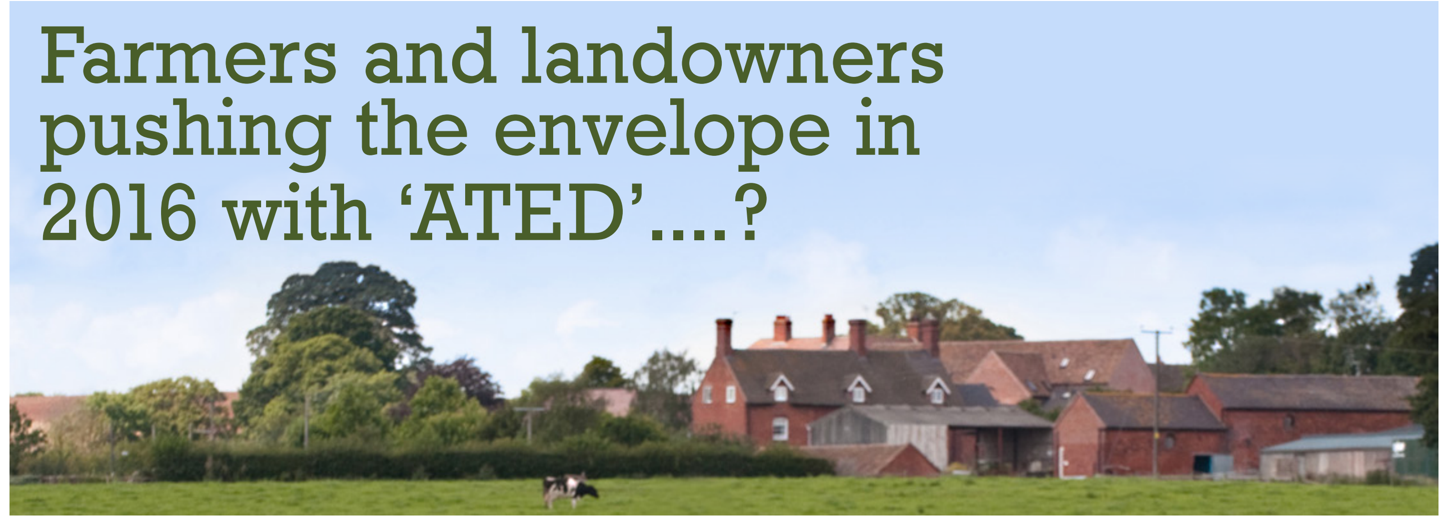
Farmers and landowners pushing the envelope in 2016 with 'ATED'....?



We have seen several instances in recent years whereby seemingly innocent situations and circumstances of farming and landed estate clients have become caught up in changes to tax rules aimed at others. One of the more recent but perhaps lesser known changes which may require consideration over the next few months relates to the curiously named 'Annual Tax on Enveloped Dwellings' (ATED), which could impact on any company owning higher value residential property.

Anti-enveloping tax charges were introduced in the Finance Acts of 2012 and 2013 and were aimed primarily at Stamp Duty Land Tax (SDLT) avoidance and non-domiciliary property ownership structures, whereby property ownership was taken within the wrapper of a Limited Company. The intention was to discourage this enveloping technique by imposing an annual tax (ATED) combined with increased Capital Gains Tax and SDLT rates. The ATED charge may be relevant to farming and landowning clients holding residential property in a company and may require returns to be lodged to either pay the tax or claim relief, by 30 April 2016.

The ATED charge applies where a company, or a partnership with a company member ('corporate partner'), owns a residential property over a certain value. The introductory rates in 2013-14 were set sufficiently high as not to trouble most farming and estate clients, except for those with a house valued at in excess of £2m, but these rates have steadily reduced and the de-minimus value for the current year of £500,000 will bring many far more modest residential properties into consideration.

The ATED tax charge is payable based on the value of the property, as follows:

Taxable value of the interest on the first day of the period or within the charge	Annual chargeable amount 2016-17
More than £500,000 but not more than £1 million.	£3,500
More than £1 million but not more than £2 million.	£7,000
More than £2 million but not more than £5 million.	£23,350
More than £5 million but not more than £10 million.	£54,450
More than £10 million but not more than £20 million.	£109,050
More than £20 million.	£218,200

There are a number of exclusions and reliefs for property rental businesses, property developers or traders, properties open to the public, farmhouses and dwellings used by employees but it is important to note that reliefs require to be claimed.

The ATED runs in years commencing 1 April and returns and tax payments are required by 30 April at the beginning of each ATED return period. Returns and payments for the year 2016-17, commencing 1 April 2016, are therefore due by 30 April 2016. Until last year a full ATED return was required to claim reliefs due but fortunately it is now possible to make a shorter relief declaration return.

Farmers and landowners owning land through a Limited Company, or partnership with a company member, should consider whether this includes a residential property valued over £500,000, the potential tax charge and any reliefs applicable. Valuation information or advice may be required and HMRC also run a pre-return banding check facility. Returns for the year commencing on 1 April 2016 should be prepared and submitted to HMRC by 30 April 2016.

Should you require any assistance regarding ATED tax charges or HMRC returns, please get in touch.

Mark Thompson CTA ATT |
mark.thompson@renniewelch.co.uk

Michael Heath |
michael.heath@renniewelch.co.uk

Auto enrolment reminder

Auto enrolment is now in full swing, with many small businesses now approaching or having already reached their staging dates.

Here at Rennie Welch we have partnered with NOW: Pensions to offer a simple and efficient Auto Enrolment scheme to both existing and new payroll clients.

NOW: Pensions is an independent, multi-employer trust serving thousands of employers and hundreds of thousands of employees from a wide range of sectors. In April 2013, NOW: Pensions became the first master trust to attain the NAPF's new PQM Ready Standard. The benchmark shows employers that NOW: Pensions is a well governed pension scheme with low charges and good member communications.

If your staging date is approaching and you haven't yet found a solution to meet your Auto Enrolment needs, please get in touch with your usual Rennie Welch contact or Alan Robson (alan.robson@renniewelch.co.uk) in our payroll department, who can give you more information on NOW: Pensions and how the scheme will work for you.

Isla Young BSc (Hons) CA |
isla.young@renniewelch.co.uk

Bookkeeping for Farmers

We now offer bookkeeping advice and processing to clients on Farmplan Business Manager software. This software is designed specifically for agricultural businesses and when used to its full potential can provide informative and up to date financial reports throughout the year.

Farmplan also offer payroll software which is fully compliant with Auto Enrolment requirements.

Within the office we can provide you with training and processing on a wide variety of bookkeeping systems.
If you wish to discuss your current method of record keeping, or are considering changing to a different system please get in contact with us and we will happily advise you on a package that will best suit your requirements.

Tracy Lee | tracy.lee@renniewelch.co.uk

What would you like to see covered?

If there are topics that you would like to see covered in future issues please let us know and we will endeavour to include these going forward. Please contact Isla Young on 01573 224 391 (isla.young@renniewelch.co.uk).

Partners
Gordon Chisholm CA | gordon.chisholm@renniewelch.co.uk
Colin Crombie CTA | colin.crombie@renniewelch.co.uk
Gill Adamson CA CTA | gill.adamson@renniewelch.co.uk
Martin Thomson FCCA | martin.thomson@renniewelch.co.uk
Mark Thompson CTA ATT | mark.thompson@renniewelch.co.uk

Associate
Steven Reid CA | steven.reid@renniewelch.co.uk

Consultant
George Young CA | george.young@renniewelch.co.uk

01573 224391 mail@renniewelch.co.uk

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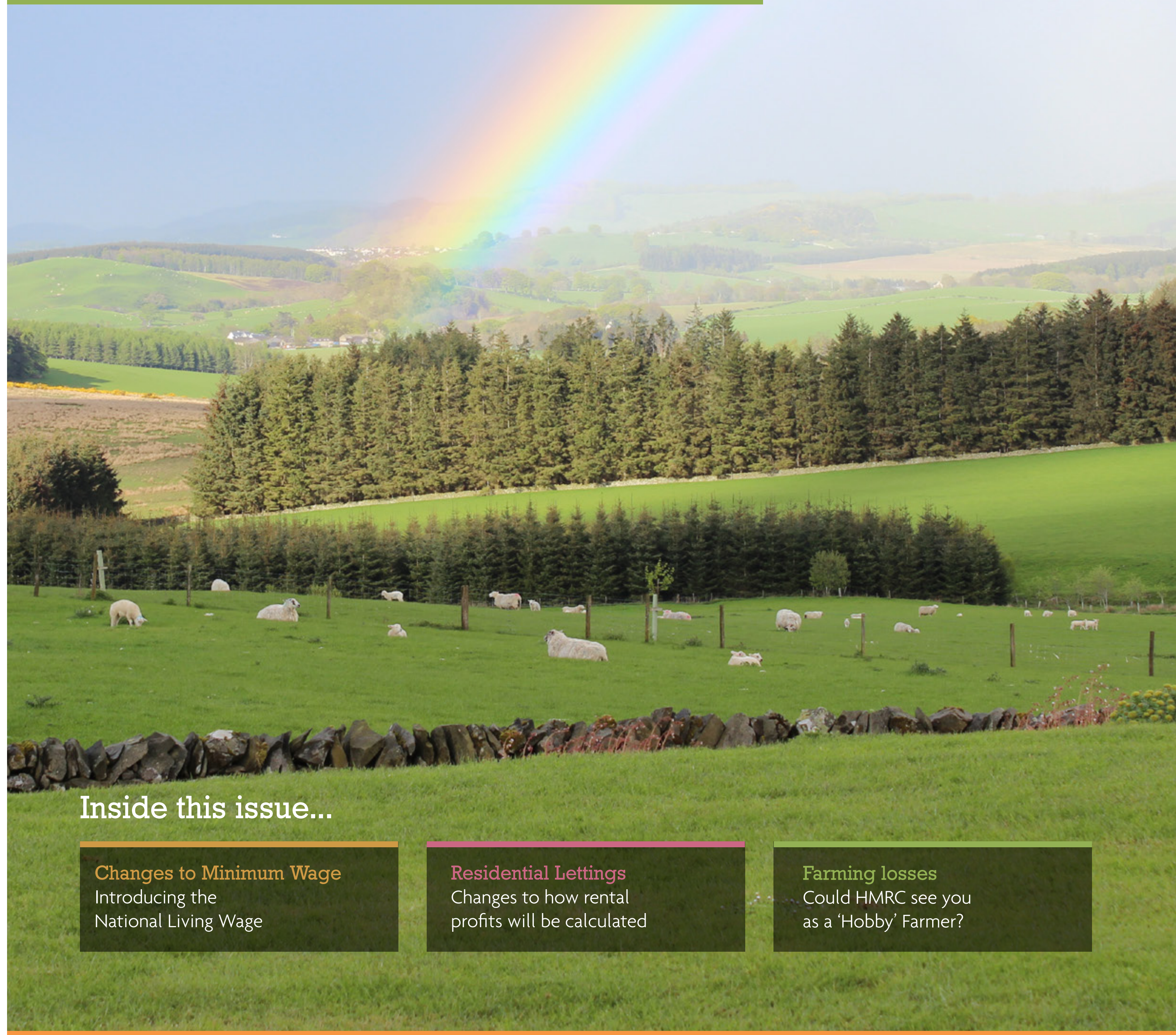
Farming Matters

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



Inside this issue...

RENNIE WELCH
accountants : audit . tax . investment . IT

Welcome

to our third edition of Farming Matters.

On so many levels it has been a dreich winter. We have had rain and more rain with precious little sunshine to raise the spirits.

Prices for commodities remain depressed and then there are the well documented problems with the entitlement payments and the resultant cash flow issues. As Spring is just around the corner, we can hopefully look out with more optimism and our articles, this time, are there to stimulate a bit of thought and act as a reminder of things that may not have been to the forefront of a farming mind of late.

Payroll has seen a lot of changes of late and yet still more appears with the new living wage coming in from the 1st of April 2016 and of course there is still the ongoing issue of auto-enrolment which will hit more of the smaller employers from this year. For those of you with residential lettings there are major changes coming in 2017/18 with tax relief on interest being restricted to basic rates which has a host of implications. We have also looked at taxable losses and some of the complications that can emanate from a sustained period thereof. Finally, we look at farmhouses that are held in companies and the potential tax charge arising therefrom. This seemed to be an unintended consequence of a tax change in 2012 and 13 but by lowering the limits there are potentially a number of Border farmhouses coming into the equation and returns may be required for these properties.

I do hope that you find these articles interesting and helpful and of course if there are topics that you would like to see us cover in future editions, then please let us know, as we want the bulletins to be contemporary and interactive.

Gordon Chisholm CA | gordon.chisholm@renniewelch.co.uk
Senior Partner

Changes to Minimum Wage and National Living Wage

The National Minimum Wage was first introduced by the Low Page Commission back in 1999, with little change other than the annual rises over the years.

However from the 1st of April 2016, a new element, called the National Living Wage, will be introduced for employees over the age of 25. This rate will be set at £7.20 per hour in 2016.

The National Minimum Wage will continue to apply to those under 25 years old at rates depending on their age. These range from £3.87 per hour for 16-17 year olds to £6.70 per hour for those over 21 but younger than 25. Different rates apply for Apprentices.

The National Living Wage will apply to the majority of workers including agency, casual and agricultural workers. There are however some exemptions including the self employed, company directors and family members.

Failure to pay the correct rate be it National Minimum Wage or National Living Wage is of course illegal, as is falsifying records. Penalties are high at 200% of the amount owed, and a maximum fine for non-payment of £20,000 per worker.

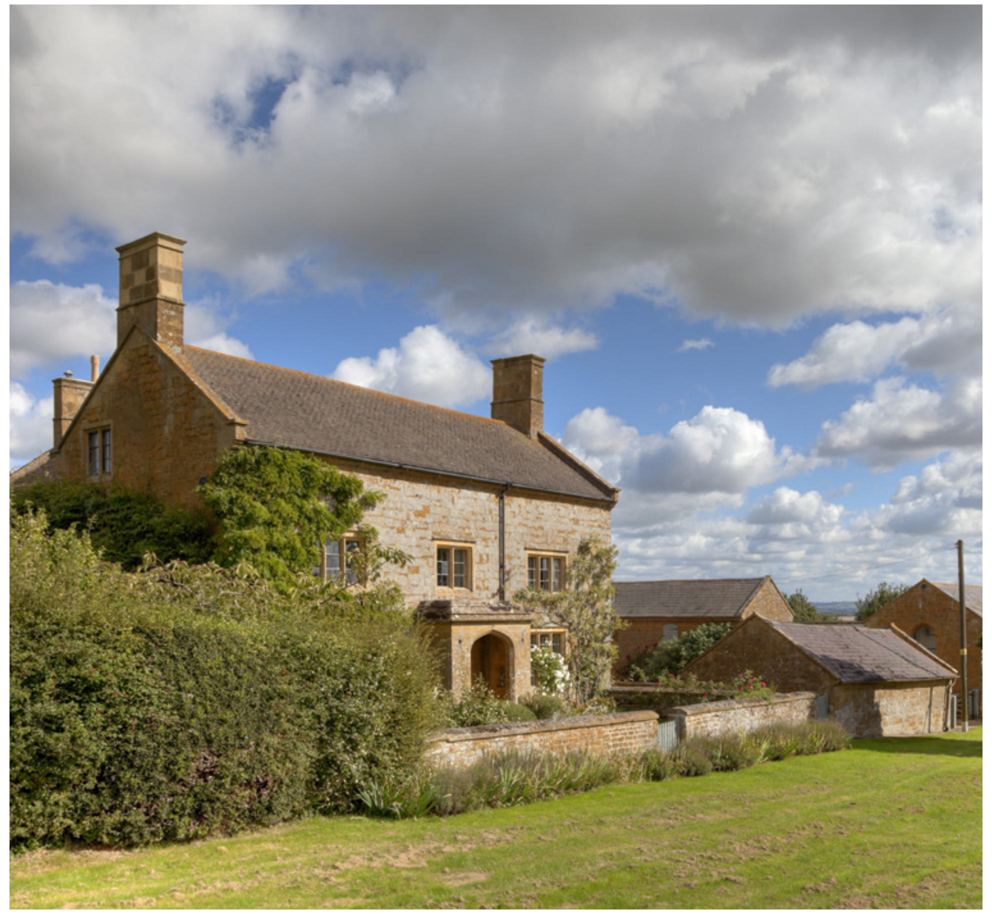
There is a further recommended wage rate confusingly named the Living Wage. This is a voluntary rate, which is set by the Living Wage Foundation and is calculated according to the basic cost of living in the UK. The current rate for most of the U.K. is £8.25 per hour with £9.40 per hour in London.

To help compensate Employers for the increased cost is a rise in the Employment Allowance. This allowance, which was introduced in April 2014, gave Employers an allowance of £2,000 of Employers National Insurance. From 6th April 2016 this will rise to £3,000 per tax year.

Gail Kristiansen |
gail.kristiansen@renniewelch.co.uk

THE NATIONAL LIVING WAGE

Residential Lettings & The Restriction of Finance Costs



There were a number of significant tax announcements in the post election Summer Budget in 2015 but the most significant proposal for owners of residential property lettings was the new restrictions on finance cost deductions, which are to be introduced gradually over a four-year period from 6 April 2017. This could impact on farm cottages if they are let out and interest deductions are claimed.

Currently, interest payments made on mortgages are a fully deductible payment when computing an individual's rental income. However, from 6 April 2017, residential property business profits must be computed without the deduction of interest payments and a tax reduction at basic rate will be introduced to allow relief for finance costs. The amount on which you can claim relief will eventually be restricted to the basic rate of tax – currently 20%. The restrictions will be phased in over a four-year period, with the restriction fully in place by 2021.

Although the new rules will affect higher and additional rate taxpayers the most, basic rate taxpayers will also be affected if they have substantial interest costs. For landlords who have substantial borrowings, this may have a significant impact with landlords potentially paying more tax in connection with their property business than they make in rental profits, in the most extreme cases. This is likely to have an even greater impact should interest rates increase.

These rules are relevant to individuals, trustees, partnerships and limited liability partnerships, however companies are unaffected by the changes. In addition, commercial properties, including furnished holiday lettings are not subject to these changes.

Those who pay tax at higher and additional rates, or with substantial interest costs, may wish to consider the most appropriate structure for their rental business. It could be beneficial to review how properties are held amongst families, and landlords could look at options such as operating as a limited company, so that these rules will not affect them. There are considerations to be made regarding Capital Gains Tax and property transfer taxes, along with the recent changes to dividend taxation, when embarking down this route, however reliefs may be available in some circumstances to reduce the costs of transition.

The preferred route going forward will depend on individual circumstances. If you feel you may be affected by these new changes, please do not hesitate to contact us.

Magnus Leonard |
magnus.leonard@renniewelch.co.uk

Farming losses

If you are a genuine farmer with a run of losses, you may use the losses to reduce your taxable income from other sources and therefore reduce your tax liability.

Correct? Possibly not…

The "Hobby Farming" rules have been around since 1960 when the Inland Revenue became concerned over taxpayers farming for recreational purposes rather than commercial reasons. The rules were extended in 1988 and the so-called "5 year rule" was introduced. The aim was to prevent taxpayers with substantial income from other sources taking up farming for the sake of recreation, lifestyle or status and using any losses generated by the farming trade against their other income to reduce their tax liability.

The rule is that trade loss relief against general income is not available for the loss, if a loss calculated without regard to capital allowances, was made in the trade in each of the previous 5 tax years.

The loss relief is not prevented if the reasonable expectation of profit test is met. The test is met if a hypothetical competent farmer carrying on the activities would reasonably expect future profits but at the beginning of the prior period of the loss, the activities were not expected to become profitable until after the end of the current tax year. In short, could the losses have been envisaged at the start of the run of losses and could the long term intent be evidenced?

In determining whether the hypothetical competent farmer carrying on the activities in the current tax year would have reasonably expected a profit, regard must be had to:

- The nature of the activities
- The way in which the activities were carried out in the current tax year

Until recently HM Revenue and Customs had not in practice been keen to target genuine farmers, particularly those operating at a significant scale. The general view was that genuine farmers were largely unaffected. However, over the last few years more cases have drawn attention from HM Revenue and Customs.

With many farmers encouraged to diversify in recent years, it must be noted that income and expenses from diversified activities on the farm should be treated separately to the trading farming income and expenses. Allocating expenses and overheads to the diversified activity correctly could be crucial to ensure the farming trade profit or loss is correct.

When these activities are viewed separately to the farming trade for tax purposes, it may be the case that there is a run of farming losses and the income from diversification is what is producing a profit for accounting purposes. These farming losses will only be available to use against other income for 5 years.

If you have experienced a run of farming losses or are considering a change of agricultural activity or diversification, please let us know and we will help you avoid any unexpected pitfalls.

Ann Rogerson BA ATT |
ann.rogerson@renniewelch.co.uk