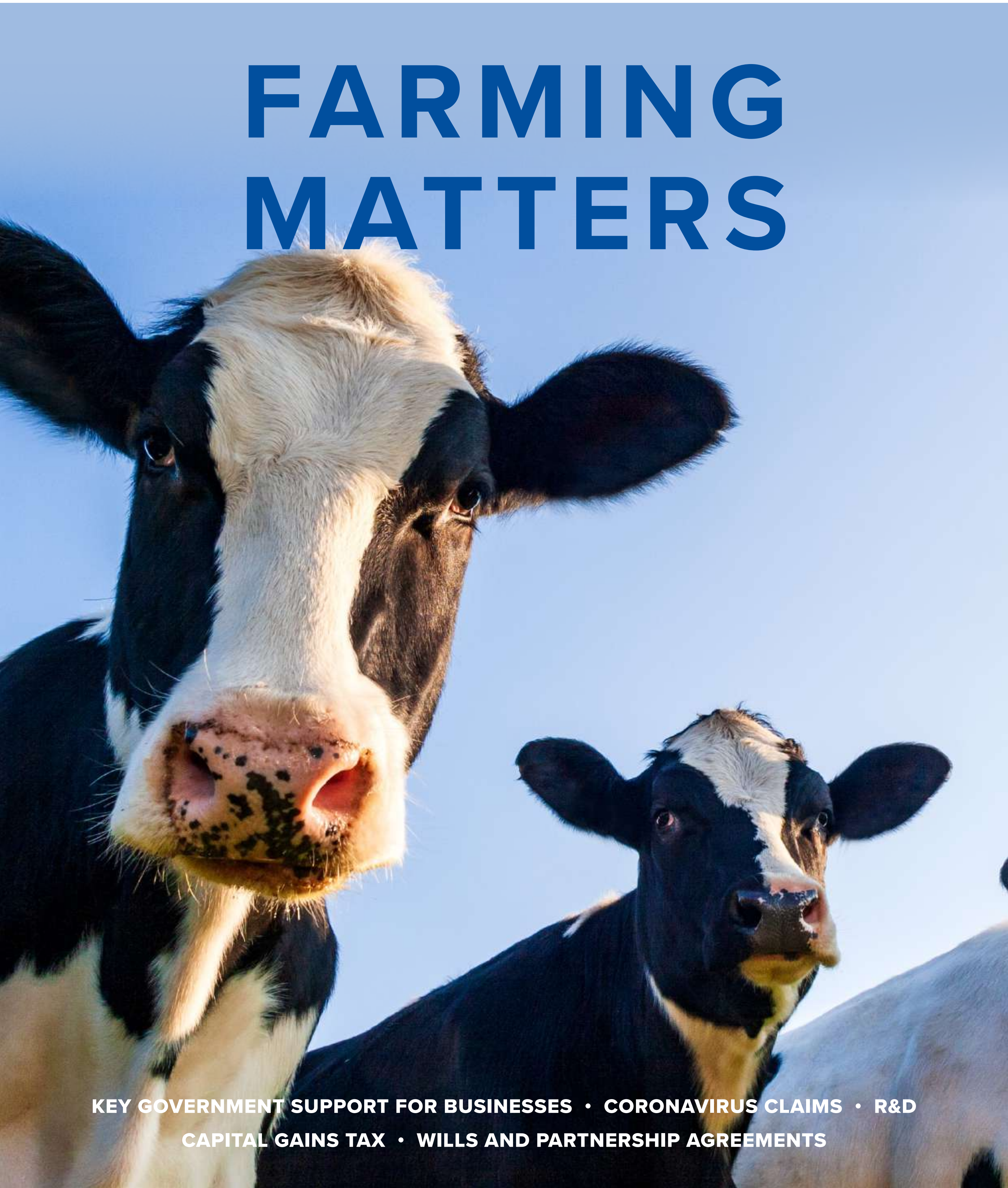
PKF FRANCISCLARK
Chartered accountants & business advisers
SHAREDAMBITION

SUMMER
2020

FARMING MATTERS



KEY GOVERNMENT SUPPORT FOR BUSINESSES • CORONAVIRUS CLAIMS • R&D
CAPITAL GAINS TAX • WILLS AND PARTNERSHIP AGREEMENTS

WELCOME

TO OUR SUMMER NEWSLETTER

When asked early in the New Year what I thought 2020 had in store for the agricultural sector, I confidently stated I thought the word to sum up 2020 would be 'transition' - I was wrong! 2020 will be remembered for one thing and one thing only, the coronavirus.

Who would have thought just six months on, the world would have changed so much? I would like to hit the rewind button and go back to happier times as we entered, what I hoped would be, the next roaring 20s, but sadly that is not possible. Life goes on and we must all now look forward in what remain nervous and uncertain times and see how the economy and rural sector bounces back...

...That said, I believe that as an industry, agriculture should come out of the pandemic with its head held high. It has, for the most part, simply carried on working hard, as normal, and has kept the country fed and watered in its hour of need.

Everyone will have been impacted by Covid-19 to a greater or lesser extent, but I do believe that the robust nature of the farming sector has enabled the industry to be better placed to cope with all of the adversity thrown at it.

Hopefully society will remember the critical role farmers played as the world slowly returns to normal. More importantly, let's hope the politicians do that too as they continue trade negotiations with the EU, USA and others. You can say what you like about President Trump, but he certainly supports the farmers who have elected him. I am not so sure that the same can be said of our Government.

With further delays to EU negotiations ruled out, there is now very little time to arrive at a deal. The threat of a no deal, whilst no longer on the front pages, remains. As such my fears of the impact of a no-deal on the farming sector also persist.

The Agricultural Bill has passed through the House of Commons and has reached the House of Lords. There have been warnings that the planned changes to the farming rules put British farms in competition with others and could be catastrophic. Whilst this might be over stating the point, it was extremely disappointing to see MPs vote against the amendment that would have compelled ministers to apply UK food and farming standards to future trade deals. In a world where the environment and animal welfare standards are important to the consumer, I am not sure that seeking a level playing field in terms of food standards is too much to ask for. The recent announcement of the creation of a Trade & Agriculture Commission to protect UK farmers is clearly welcomed and we shall see how effective this is.

The other issue confirmed in the Agriculture Bill relates to direct government support. When you think about the amount of government funds used to support the sector (at present £3bn per annum) this fades into insignificance when compared to the funds committed to support the overall economy during the crisis.

The Bill confirms the phasing out of direct payments to English farmers from 2021 to 2027, to be replaced with a new 'public money for public goods' system. Defra has already said that the Basic Payment Scheme (BPS) for 2020 will stay the same, and the overall budget for agriculture will not change until the end of the current parliament in 2024. The centrepiece of the Government's new 'public money for public goods' approach will be its Environmental Land Management (ELM) scheme.

It is important to note that DEFRA has recently relaunched it consultation on plans for this and farmers and other interested parties will have the chance to shape the future of the scheme by taking part in one of six free on-line webinars in July. The deadline for responses is the 31 July.

Given the importance in this scheme going forward I strongly recommend that farmers look to join these webinars and contribute where you can; it might be your last chance.

Looking at this edition of Farming Matters, as expected, we do have a look at the support currently available for the sector and Mike Butler passes on some advice as to taking care when making such claims. Despite what others might say this is not free money, there is no such thing!

We also look into the planned changes in relation to the Annual Investment Allowance that many use to keep their tax bills down and R&D tax credits that can be very valuable for innovative farmers farming through a limited company.

This issue finishes with a selection of articles with the general theme of succession and protecting the family farm, a topic that remains very relevant especially with many commentators continuing to suggest significant changes to capital tax legislation to assist in funding the rapidly growing deficit.

Overall I hope that there is something of interest for everyone and hopefully by the next time I write, the world/economy will have been able to bounce back a bit more, a successful harvest will have been brought in and we will be able to look forward to some happier times.

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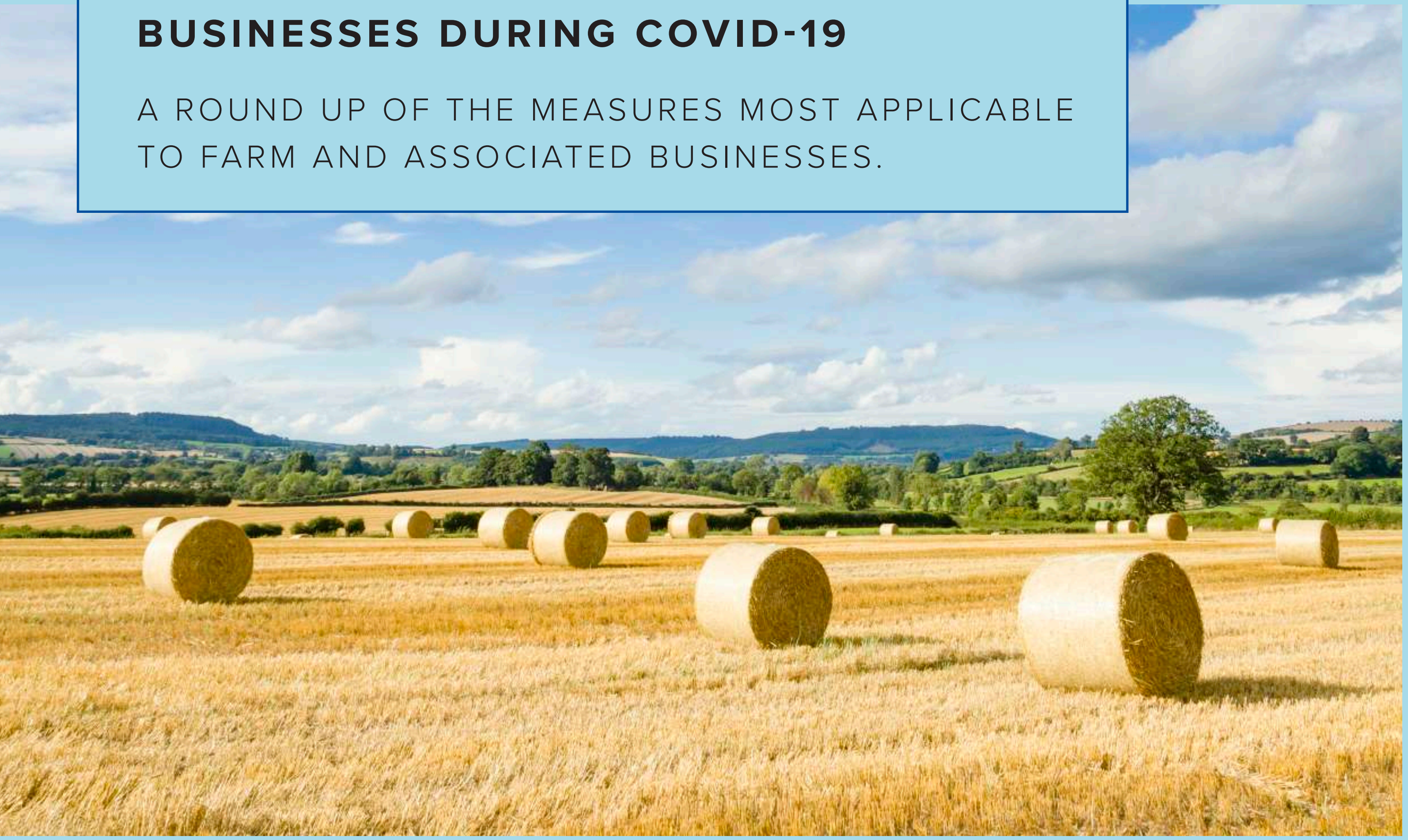
KEY GOVERMENT SUPPORT FOR BUSINESSES DURING COVID-19

A ROUND UP OF THE MEASURES MOST APPLICABLE TO FARM AND ASSOCIATED BUSINESSES.



Self-employed income support scheme (SEISS)

- Available to self-employed or a member of a trading partnership. Trading profits below £50,000 and earn more than half of income from self-employment. Deadline for making a claim in period one is 13 July. Period two runs from 14 July - please note to claim in period two, you must be negatively impacted by the pandemic after this date.

Coronavirus Job Retention Scheme:

- Changes to the scheme from 1 July – part time furlough is available
- These changes have increased the complexity (and therefore financial and time costs) – so thought needs to be given before offering to employees
- All claims under the previous scheme must be made before 31 July at the latest
- Employers will need to start making contributions towards the costs of the scheme:
  - August - Employers pay NI & pension contributions
  - September - Government pay 70% of furlough pay, employers must top up 10% (minimum furlough pay is 80% of normal pay)
  - October - Government pay 60%, employers must top up 20%

Coronavirus Business Interruption Loan Scheme (CBILS) & Bounce back loans (BBLS)

- CBILS - loans from commercial lenders, annual turnover less than £45m
  - Government guarantees 80% of individual loans
  - Loans up to £5m, but generally are limited to either 2 x annual wage bill or 25% of turnover
  - Interest and fees paid by Government for 12 months
  - Finance terms up to 6 years
  - No personal guarantees needed for facilities under £250,000
  - After first 12 months interest levels will be set by individual lender
- BBLS - aimed at SMEs, micro businesses and other businesses requiring smaller loans
  - Government guarantees 100% of individual loans
  - Minimum loan of £2,000, maximum is £50,000 or 25% of business turnover
  - Interest and fees paid by Government for 12 months
  - Finance terms up to 6 years
  - No personal guarantees needed
  - Interest rate is set at 2.5% per annum

Deferral of tax payments

- VAT payments during the period 20 March to 30 June 2020 can be made until 31 March 2021. No penalties or interest for late payment will be charged in the deferral period
- Income self-assessment - payments on account due by 31 July 2020 will be automatically deferred until 31 January 2021. You do not need to be self-employed to be eligible for the deferment, you simply need to have a self-assessment return already filed

Grants - for those farming businesses with applicable diversified activity

- Business rates:
  - Grant of £10,000 funding for small businesses that pay little or no business rates and are eligible for Small Business Rate Relief (SBRR) or Rural Rate Relief if eligible you should have been contacted by your local authority - you do not need to apply
  - For all retail, hospitality and leisure businesses in England a 100% business rates holiday for the next 12 months
- Grant for retail/hospitality and leisure businesses:
  - 12 month business rates holiday for all retail, hospitality and leisure businesses in England
  - Grant of £25,000 for retail, hospitality and leisure with property of rateable value between £15,000 - £51,000 or £10,000 for rateable value below £15,000

Dairy Response Fund

- Opened for applications 18 June. Submitted to the Rural Payments Agency, payment expected 6 July. Maximum grant of £10,000, expected to cover 70% of lost income during April and May
- You need to supply evidence of reduction of base price of 25%+ (comparing February and March 2020)
- No cap for number of farmers or total funding available

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We have provided advice and support to our clients during this difficult period and we will continue to do so. Our Coronavirus Hub on our website continues to be updated regularly and is worth a look pkf-francisclark.co.uk/coronavirus-updates/

If you have any questions about any of the points raised here, please do get in touch.

WOULD YOUR CORONAVIRUS CLAIMS PASS A CHECK BY THE TAXMAN?

Many agri-businesses adversely affected by the pandemic have taken advantage of the various government support schemes, and in many cases these have been a real lifeline.

However, there may yet be a sting in the tail as HMRC looks to claw back illegitimate or unnecessary grant payments.

It appears likely that tax officials will review the validity of claims for grants from the Coronavirus Job Retention Scheme (CJRS) and the Self-Employment Income Support Scheme (SEISS), as well as Coronavirus Business Interruption Loans (CBILs) and the generally smaller Bounce Back Loans.

Farmers who have taken advice will be aware of the need to make sure all claims can be justified in case they are scrutinised. Throughout this crisis we have been advising clients not to make claims willy-nilly, or to view these support schemes as free money.

Others may have claimed without careful consideration of their eligibility and will need to consider if they are able to prove they have been adversely affected enough to justify their claims.

Unfortunately there is a lack of clarity about how much a business needs to have been adversely affected to make a claim. The risk is that this may be open to variations in interpretation, which could leave claimants exposed in any review by the taxman.

What we do know is there is growing pressure on HMRC to check the validity of claims across all sectors and an understandable desire to make sure publicly-funded support has gone only to those businesses and individuals who meet the relevant criteria.

This is very much a live issue. A second round of SEISS grants will be available for businesses which have been adversely affected by the pandemic from July 14 onwards, with applications opening in August.

Even if you claimed first time around, you will need to reassess your eligibility when deciding whether to submit a claim this time. For example, beef prices have recovered and are currently higher than pre-lockdown levels, so in that sector it may be more difficult to justify a claim if it is reviewed at a later date.

We do not know the exact method any review by HMRC will adopt, but as some of the support payments are taxable - including SEISS grants - we anticipate any amounts received may need to be separately disclosed on self-assessment forms, enabling the taxman to focus on those who have made claims.

Therefore, it's vital to ensure your records are in good order - just like the rest of your tax affairs - and that you have evidence to support valid claims. The consequences of not doing so could be severe.

You may also want to check if any fee protection insurance you have chosen to take out covers the costs of your accountant supporting with any enquiries relating to coronavirus claims. PKF Francis Clark clients who have our cover can take comfort in knowing that our costs in supporting them to deal with an enquiry by HMRC are covered.

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DON'T LEAVE CAPITAL EXPENDITURE UNTIL THE LAST MINUTE!

Agricultural businesses often need to make capital investments in order to improve efficiencies, expand or simply keep up with the latest technology. These can be obvious additions such as a new tractor or a trailer, but also the less obvious, such as moveable hurdles or concrete panels.

When the level of the Annual Investment Allowance (AIA) was first introduced in 2008 it was to encourage investment and allowed businesses to write off 100% of the cost of qualifying assets against their taxable profits, up to a certain limit.

This limit started at £50,000 and has been as high as £1m since 1 January 2019. This £1m temporary increase to encourage investment is due to come to an end on 31 December 2020. The current 'permanent' rate of AIA is £200,000 which is a significant reduction.

Many businesses may not spend close to £1m, or even £200,000. However, these limits are pro-rated across a financial year and so the accelerated tax relief business owners get with an AIA limit of £200,000 can actually become a much smaller figure depending on when your spend takes place. Let me go through an example.

You have a 31 March year end and every year around January you may consider the financial performance for the year and what capital purchases are necessary for your business. Any purchases made before the year end, assuming they meet all the qualifying criteria for AIA, are then deducted from your taxable profits.

So, if £250,000 of machinery was purchased in March 2020, this would have been deducted in full from your taxable profits. However, if this spend is replicated in March 2021 you will only be able to deduct £50,000 (see below) in full from your taxable profits and the rest at a reduced rate.

April 2020 to December 2020:
AIA limit £1m x 9 months = £750,000

January 2021 to March 2021:
AIA limit £200,000 x 3 months = £50,000

The key point here is the timing of your capital expenditure. If you usually look to spend towards the end of the tax year (i.e. in the last few months) then you can only spend a maximum of £50,000 on capital and get 100% tax relief. Any expenditure above this in the period will have a slower rate of tax relief. The important message is do not leave all your capital expenditure until early 2021.

As always we would never advise to purchase machinery just to defer tax but if the expenditure is required for the good of the business then try and ensure that the asset is on-farm by Christmas, to maximise the tax benefit.

There will be an economic statement released in early July and there is likely to be a Budget in the autumn where the Chancellor may announce the continuation of the £1m limit, but this cannot be relied upon. Therefore, keep an eye out for any announcements that are made and if
you have any questions regarding capital expenditure and the AIA limit please do not hesitate to contact your local PKF Francis Clark adviser.

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R&D - TAX RELIEF FOR YOUR FARMING COMPANY

We know that the field of agriculture involves a huge amount of science, innovation and an increasing amount of technology. We think, and the evidence suggests, that many businesses in the sector are potentially missing out on R&D tax credits, tax relief and tax rebates that could be worth significant sums of money.

What constitutes qualifying R&D is not defined by a decisive test, however the increasing amount of science and technology that all farmers and food producers are bringing into their production processes means that the scope of what is covered under R&D may be broader than you may think.

If there is some element of your work that you cannot do and to do this you need to create a solution which isn't available in the marketplace - then you could be eligible to claim R&D tax credits. This could be using technology in a new way or even designing new technology to improve or create a process, device, service or product to ultimately mean that you can run and grow your business.

Whether the project achieves its objective or not does not matter and any field of science or technology may be the focus of an R&D project.

We continue to work with a number of our rural clients and have obtained significant tax rebates which, if I am honest, have exceeded my expectations. Some examples of successful claims include:

Dairy Farm:

- Investigation into the impact of using different herbs and the grass length on the dairy herd
- Improving animal welfare by investigating methods of reducing lameness in the herd
- Trials on different calf rearing methods and the affect these methods have on the herd

Pig Farm:

- Trialling different feeds to eliminate tail biting
- Trials on achieving the optimal antibiotic dosage to eliminate SEP. Also to see which stock had the greatest success rate of the treatment
- Development of a new trailer for the pig swill

Arable Farm:

- Disease prevention
- Development of new irrigation system
- Trials for improvement in crop yield

Diversification:

- Integration of renewable technology to the farm

I have always been relatively cautious in this area (I am an accountant!) and have been put off by boutique R&D firms who seem to adopt a here today, gone tomorrow cavalier attitude in facilitating large claims, often inflated to increase the fee based on a percentage of the claim, that I felt might not withstand the scrutiny of a tax investigation. However, I am confident that our approach is one that would help our clients claim the amount they are entitled to, whilst maintaining our long term relationship.

Unfortunately a business can only claim if it is liable for corporation tax, so the business must be set up as a limited company. We acknowledge that this is frustrating for the many farm businesses doing great innovative work but who operate as a partnership or sole trader.

Right now I appreciate that most agri-businesses are working very hard to deliver for the UK, but that cashflow is being stretched – a successful claim would certainly alleviate that.

I believe that if you trade as a company and were to ask yourself the question, "Have I been innovative in what I do with my business?" the answer is likely to be yes and this is worth exploring.

We identify, prepare and submit a wide range of R&D claims with clients across a broad range of sectors and have huge experience in this area, so don't let the perceived complexity of making a claim put you off.

If you'd like to discuss this further please let me know and I can arrange a no-obligation call with both myself and one of the R&D team here at PKF Francis Clark.

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NEVER A MORE IMPORTANT TIME TO GET YOUR HOUSE IN ORDER

With so much happening over the last few months and with it now being such a busy time on farms, many farmers will have plenty to do without the distraction of thinking about Wills, inheritance tax (IHT) planning and succession.

Families can spend a lifetime building up businesses and the thought of that hard work being put at risk by poor planning is heart breaking. Yet, as we discuss in more detail in a later article in this newsletter, the majority of farmers either don't have a Will or have a Will that is out of date and not suitable for their wishes.

With the high values now associated with agricultural property and the farming businesses themselves making up a large part of the family wealth, failing to plan for either short term unexpected issues or longer term events will almost certainly lead to a significant leakage of value and could possibly put the viability of the family farming businesses at risk.

There are a number of areas where farmers need to be aware that they are exposed to risk if their plans are not up to date, agreement has not been reached within the family and paperwork has not been drawn up properly. Those risks can include:

- Paying inheritance tax (IHT) where you incorrectly assume that all assets were covered by IHT reliefs such as Agricultural Property Relief (APR). These relief are not guaranteed
- Finding that assets may pass to an individual who does not protect them in the same way as you might have hoped
- Leaving your Will in a way which doesn't necessarily meet the promises you made to the family. This leaves your estate open to a potential estoppel claim which, if nothing else, will result in eye watering legal costs
- Not dealing with non-farming siblings fairly, which could have been addressed with some careful and strategic planning if thought about in advance. This can include non-farming sons or daughters who later resent the fact that their siblings inherited everything

When we take on a new farming client often we ask simple questions such as: Who owns the farmland? Is the land a partnership asset or is it owned by the individual? These may seem like simple questions, but the answers can have a fundamental impact on the tax treatment for assets.

For example, if an individual owns a farm outside of the farming partnership including land with hope value or cottages with tenants, then a significant proportion of the value of the farm would not attract full IHT relief.

Another example is where farmers trade as a limited company and where the two brothers own 50% of the shares in the company so that neither has control. That means that none of the farmhouses they occupy will attract any APR at all and therefore will be fully exposed to IHT.

Another area coming under scrutiny is the likely challenge to the status of being a farmer for IHT purposes. In particular contract farming agreements are increasingly coming under review by HMRC to determine whether or not they are, in effect, a sham tenancy arrangement. As pressure in this area increases, it is likely that such arrangements may have to change. Perhaps the landowner will have to revert to in-house farming or otherwise accepting that the benefits of being a working farmer are unlikely to be achieved in their circumstances and therefore plans need to be made accordingly.

HOW WOULD YOU COPE WITH THE LOSS OF AGRICULTURAL PROPERTY RELIEF?

There has been an increased level of activity from clients responding to possible changes to the available tax reliefs. These reliefs are still being reviewed by the Office of Tax Simplification who have said there is a possibility of altering or indeed removing APR from the IHT reliefs available. You may think that sounds catastrophic and indeed even for working farmers there are adverse consequences should this take place, including the potential complete loss of IHT relief on farmhouses.

Should Business Property Relief remain, many working farmers will continue to attract some form of IHT relief but as mentioned above, those that are not actually genuine working farmers may find that any form of relief could be lost completely. Furthermore, even for those genuine family farming businesses, the position of IHT relief could still be at risk, particularly where there is a lack of understanding as to who owns what assets and how they are owned.

SO DO YOU GENUINELY KNOW HOW MUCH TAX YOUR ESTATE WOULD PAY IF YOU DIED TOMORROW?

The solution is remarkably simple. Firstly try to have discussions amongst the family, take advice from those that can genuinely advise you and put in place the appropriate planning and paperwork that meets both yours and the family's aspirations.

We continually revisit this aspect of our client's affairs as part of our pro-active working relationship with our farming and agri-business clients. Whilst saving tax on annual profits is a given, we are perhaps more focussed on the strategy for the business and making sure assets are safe. Are you that focused too? After all you would be furious if your quad bike was stolen. Well don't let inheritance tax steal your family's future!

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CAPITAL GAINS TAX ON UK RESIDENTIAL PROPERTY

For years the process has been the same; after the end of each tax year you supply us with your tax return information and this is reported to HMRC by the following 31 January.

On 6 April 2020, part of this process changed. When you sell or make a gift of UK residential property and there is capital gains tax (CGT) due on the disposal, it must be reported to HMRC and the CGT must be paid within 30 days of the completion. These new rules apply where the exchange date falls on or after 6 April 2020. All other tax return information should be supplied to us as previously.

Given that farming property has the tendency to be passed down through generations, arriving at the figure on the CGT due comes with added complications. Historic valuations may be required and these take time; quite often more than 30 days. Other considerations may need to be taken into account such as mixed use properties or those that have been used as main residences during ownership. It is important that you let us know of a potential sale really no later than the property going on the market. This will allow us to consider the CGT implications as fully as possible, seeking valuations as required.

However, the issue does not end with the sale of residential property. If you are looking to gift assets and the gift will include UK residential property (perhaps a farm cottage or a holiday let), you will also need to consider how any CGT due on the sale will be paid. Under the old rules, depending on the timing of the gift, you had up to 21 months in which to work out the tax and indeed source the funds to pay it. With only 30 days to do this, and with no sales proceeds the money needs to be available in time and the deadline is all too easy to miss if there are any hold ups.

Gains reportable to HMRC are also now done via the new CGT on UK property service. To access this you will need a Government Gateway account. As part of HMRC's move to interacting with taxpayers more digitally, the process for setting the CGT account requires a 'digital handshake' between you and us (as your agent). If you own valuable residential property via a company and file ATED returns, you may be familiar with this process. However, for most this is a change from simply signing and returning a paper form to allow us to communicate with HMRC. If you need any help setting up an account, please do get in touch. If a trust is involved, we would advise Trustees to contact their usual PKF Francis Clark contact before setting up the CGT account as we have seen various issues occur in this situation.

Due to the current pandemic, HMRC has so far relaxed penalties so that none will be charged for late submissions up to 31 July 2020 inclusive. This means that completions up to and including 30 June need to be reported by 31 July 2020 to avoid late filing penalties. However, completions from 1 July 2020 must be filed within 30 days of completion otherwise late filing penalties will apply.

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DO NOT DIE INTESTATE!

Given the value of assets of the average family farm it always surprises me just how many farmers don't have Wills. When asked everyone intends to make one, but all too often it gets left on the 'to do' list until it is too late.

I appreciate that for a lot of people the thought of making a Will is an uncomfortable piece of admin that they put off for as long as possible; but if you take one thing from this article that is get a Will written as soon as possible. DO NOT DIE INTESTATE! There are a lot of misconceptions about what happens when someone dies without a Will (dying intestate). Some people assume that everything will pass to their spouse and that their spouse or child will be able to simply act in their place to sort out their affairs. Sadly it doesn't work like that.

If you die without a Will there are a very specific set of rules that will be applied to divide up your assets. If you have a spouse they will receive your personal belongings, £270,000 and half of the balance of your estate. Your children will share the other half of your estate between them. There are different rules depending on the combination of relatives that you leave behind - and these are fixed and inflexible.

As well as where your assets go, a Will also provides for who will deal with your estate when you have died - your 'executors'. Your executors have authority from death to deal with your affairs. If you don't leave a Will, your 'administrators' (the people who deal with your assets in the absence of a Will, usually close relatives) will eventually be able to deal with your affairs, but not until probate is granted, which can be many months after your death.

Where you have a business that needs to continue after death, particularly one such as a farm where work needs to continue immediately, not having a Will can end up being a very expensive and time consuming problem. Without a Will there is no executor, and so no one has the immediate ability to deal with your business. Bank accounts will be frozen and the business will not be able to pay its creditors, purchase stock or take on new customers. So an emergency trip to a solicitor for some specialist work will be needed.

Another piece of 'admin' that is often postponed is a partnership agreement. A partnership agreement governs the rules under which the partnership works, and is therefore a crucial document. But very often it gets pushed to the bottom of the to-do list. In the absence of a partnership agreement, on the death of a partner the partnership will automatically terminate. This will mean that the partnership will need to be wound up - no new work can be taken on, no new stock purchased and existing stock sold or the business prepared for sale. It is highly unlikely that this is what the partners would have intended and would clearly be very disruptive.

To put it simply there is no advantage in dying intestate, it is expensive, it is messy and is unlikely to leave your estate the way you want it to.

Ensuring therefore that your affairs are in order in the event of your death and that you have a Will and a partnership agreement and that these are up to date and reflect your current wishes can save a lot of heartache for your family and expense in trying to untangle your affairs after your death.

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