IPTI Xtracts
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Business rates on diversification projects: What farmers need to know

Farmers with incomes from diversification projects could face significant bills from their local authority if they overlook the potential pitfalls associated with business rates, an agricultural consultant warns.

Business rates are essentially a property tax imposed on non-agricultural diversifications such as holiday lets, farm shops and wedding venues, explains Charles Baines of consultancy firm Laurence Gould.

Strictly agricultural ventures are exempt from paying rates, but one of the first pitfalls to be aware of is what is classified as an agricultural use, Mr Baines says.For example, a grain storage facility is agricultural when it is used by the farmer to store his own grain.

"But if it is let out to another farmer to store grain – it ceases to be an agricultural use and is liable for business rates," he says.

Non-agricultural projects that could be deemed ancillary to the farming operation – such as renewable energy generation – are acceptable as long as the power is consumed by the farm.

Anaerobic digesters, wind turbines or solar schemes producing more than 50kw of power and exporting directly to the National Grid may not be seen as agricultural.

Co-operate with local authorities

Farmers can wrongly assume that a venture qualifies as agricultural and face significant rates bills dating back to 1 April 2017 if the local authority finds out about the diversification at a later date.

Ignoring business rate assessments, whether it is a letter from the Valuation Office over a newly completed project or over a previously undisclosed venture, can prove costly, Mr Baines warned.The rateable value (RV) is set by a ratings officer and is open to the individual's discretion.

The decision made will be based on the officer's perception of market rents appropriate for such ventures and can be far higher than the amount actually achieved if the venture was let to a third party to operate.

It is better to co-operate fully with the ratings officer, providing all the information requested, so that he/she makes an assessment on the facts rather than inflated assumptions.

Appealing an inflated assessment is a long and onerous process, currently taking up to three years for determination.

Calculating the rateable value

The ratings officer will calculate a rateable value based on an estimated rent per square metre which is then multiplied by the total area.The business rate is then applied, which is 48% of the rateable value (RV) in Scotland and England, and 51.4% in Wales.

For larger businesses with an RV above £51,000, business rates are 49.3% in England and 50.6% in Scotland, while Wales remains 51.4%.For example a big covered barn measuring 1,100sq m storing non-agricultural goods may be assessed by the ratings officer at £20/sq m.

The total RV is therefore £22,000 and the business rate in England or Scotland at 48% would mean a rate bill of £10,560/year, albeit paid in instalments.

Who pays?

Another area where agricultural businesses can be caught out is who is liable to pay.

The liable party is the 'occupier' of the rateable property or 'hereditament', but practically this could be the owner or the tenant.

Again, this is down to the ratings officer and can be open to interpretation. For example, a diversification providing a number of container storage units will, most likely but not always, be deemed as one rateable area and paid by the owner rather than each tenant of the individual containers.It is more difficult to assess who should pay when a diversification covers larger individual projects such as a row of interconnected industrial units on a farm. A line could be drawn around all of the units and the rateable area then viewed as the entire venture – in which case the owner could face a huge bill and be liable to pay all of the business rates.

On the other hand each individual industrial unit may be deemed to be a hereditament and the tenant of each one would pay their own rates, leaving the farmer without a business rate bill. It is vital then that the liability is set out in properly formalised agreements that define who is the occupier in each case and the area they are occupying.

The terms of agreement can then be presented to the ratings officer when the business rates are being assessed.

Small business rate relief

A lot of farm diversifications may fall into the small business category where the rateable value applied is less than £12,000. In these cases the owner can apply for Small Business Rate Relief and, if successful, will not have to pay anything. Above this figure there is a band of tapered relief up to £15,000. That means the liable party will pay a percentage of the business rate within that band.

For example, a value of £13,500 which is exactly half way between £12,000 and £15,000 would mean a 50% rates bill.

Other relief

There are other ways of reducing liability through rates relief which can be found on the gov.uk website.

These include:

- Charity relief – This can attract an 80% reduction for registered charities and maybe up to 100% at the discretion of the local authority.
- Empty property relief – If a building is unoccupied, relief can be claimed for three months and maybe up to six months if the use of the building is deemed to be industrial such as a warehouse.
- Hardship relief – A business with marginal profitability can apply for a reduction in rates if it can be demonstrated that the rates being charged will cause financial difficulty, and applying the relief is in the interests of local people.
- Transitional relief – This phases in any increase in business rates

Appeals

The 'Check Challenge Appeal' process is open to business owners who want to challenge the Valuation Office's rateable value. However, this is ideally a process to avoid because it is long and onerous. The authority will require detailed evidence proving why the rateable value they have settled on is too high or unfairly imposed on the liable party. Evidence such as accounts showing true income being achieved backed up by comparable rents paid by similar enterprises in the same area.

The appeal process can take up to three years and should not be entered into lightly. It is far better to co-operate early and offer figures to the local authority at the outset.

Business rates checklist

- Co-operate with authorities at an early stage
- Get formal agreements with tenants defining what they are occupying
- Avoid appeals by working with authorities in advance
- Include business rates liabilities in diversification planning
- Don't ignore business rates
- Don't assume a project will be classified as agricultural
- Don't assume the tenant will always be liable.

UK budget heralds cut in business rates for public toilets

The provision of public toilets across the UK could soon be improved following an announcement in the nation's recent budget.

Chancellor Philip Hammond declared that owners of washroom facilities will no longer be required to pay business rates. The new ruling will apply to all standalone facilities for public use whether these are publicly or privately owned.

Public toilets have traditionally been liable for business rates in the same way as other non-domestic premises such as shops and offices. Local authorities are not legally required to provide toilets, and as a result such facilities are often closed down by councils when keen to cut costs.
Public toilet provision in the UK has been declining for a number of years. The British Toilet Association estimates that 40 per cent of public washrooms have disappeared in the past decade.

UK councils stopped maintaining around 13 per cent of all public toilets between 2010 and 2018 and there are believed to be 37 areas across the UK where there are no council-run washroom facilities whatsoever.

Why councils should be wary of business rates reforms

News today that Britain's high streets are facing their toughest trading climate in five years with a net loss of more than 1,000 shops so far this year does not come as a surprise. Indeed, the chancellor was responding to similar concerns when he announced a cut to business rates bills for smaller businesses not currently benefiting from existing small business rates reliefs at last week's Budget.

The Treasury was quick to confirm that councils will be compensated for the £1bn cost of this tax relief, but that is almost beside the point. In recent years successive chancellors have repeatedly proved unable to resist the temptation of tinkering with business rates to address a perceived unfairness or unintended consequence of the current system.

The regularity with which this has been happening over the past few years should make local government think twice about plans to fund councils through the full localisation of business rates for two reasons.

Firstly, it suggests business rates in their current form are unfit for the modern world. The disparity in rates (not to mention taxes, but that's another story) paid by internet-based businesses and those with a more traditional presence in our towns and cities is one of the most obvious areas in need of reform. The government has proposed a new digital sales tax but detail is light and the idea has been rejected by the British Retail Consortium as "tinkering". They are calling for a wholesale reform of the system.

Secondly, the government's continued ability to "tinker" with business rates at a national level gives lie to the very concept of localisation of business rates.

The recent Hudson review of local government finance processes at the Ministry of Housing, Communities & Local Government highlighted the complexity of the tax: set nationally, collected locally and spent by both national and local government. This has led to confusion amongst business, with councils unfairly shouldering much of the blame for the rate rises following last year's revaluation for example.

The full localisation of business rates as currently proposed, with increases set nationally and required to be revenue neutral overall, will only add to the confusion while the level of redistribution required between councils will further undermine the notion of localisation.

Amongst the stated aims of the government's fair funding review currently working up options for council funding beyond 2020 is to increase transparency and simplicity of the local government finance system. The Hudson review noted that the introduction of business rates pilots was a major driver behind the near doubling of variables required to calculate the local government finance settlement this year.

It seems unreasonable to ask local government to hitch its future to an increasingly impenetrable system creaking under the pressures of the modern world and piled high with a mish-mash of reliefs and exemptions over which it has no control. Localisation in name only hardly seems worth the bother.

Amazon delivers further misery to UK high streets

On Thursday, Amazon unveiled the architectural plans for a new "fulfilment centre" covering the north-east. Such is the banality of its design, it will fail to dazzle and amaze anyone who passes it on the A66 outside Darlington. Nobody will be distracted by its grey exterior and shed-like construction. The Angel of the North will look down and cry.

And yet this architectural crime will be nothing compared to the damage it is likely to cause to high streets across the north-east, and none more so than Darlington's, which has already lost many of its bigger shops.

Analysts at PwC say the north-east has seen a net loss of 72 shops in the first half of 2018. These are the outlets of multiple retailers and the report therefore leaves outside its ambit the many independent shops that have gone to the wall.

The north-east was not even the worst. The West Midlands lost 89 of its larger shops.

Among the latest to announce closures are Evans Cycles, Debenhams, House of Fraser and New Look. Marks & Spencer is shrinking its high street footprint, as are many others.

The trend is unstoppable and affecting everywhere. London is not immune, despite the welter of tourists charging through the West End and beyond. London saw 448 large shops open and 716 close, giving a net loss of 268.

Former chancellor George Osborne knew the high street was dying back in 2015. A smart cookie, he hatched a plan to put councils in charge of business rates, the tax that all bricks-and-mortar businesses pay based on the rentable value of their property.

Just a quick look at the Amazon shed shows that its rentable value will be a fraction of the shops it replaces. And in the town centres, the trajectory for rateable values is only going down.

Osborne's scheme is inspired by the US, where mayors and local governments bargain away tax revenues in return for factories, distribution sheds and the like being located in their areas. Jobs, any jobs, are their priority.

Which raises the questions, are the 3,500 Amazon jobs on the outskirts of Darlington the equivalent of shop worker positions in the town? Not when towns are hollowed out, tax revenues plummet and the quality of local jobs slumps.

Kirklees Council sends snail farmer to investigate business rates scam

The owners of the business have been ordered to pay £16,000

A snail farmer was sent to investigate how a business premises was being used after Kirklees Council became suspicious about activity at the building.

Owners of 25/27 Westgate in Dewsbury, Brent Street Properties, have been ordered to pay £16,000 for falsely claiming the properties were being used as a snail farm.

But shrewd officers from Kirklees Council had heard of such a scam in other parts of the country which was used to avoid paying the correct amount of business rates - and sent a real snail farmer to investigate.

After surveying the premises he confirmed it was not set up for any form of snail farming.

The case was heard at Kirklees Magistrates Court on October 17, when Kirklees said the buildings were leased under sham agreements for a peppercorn rent to recently set-up companies. These companies would then claim to be snail farmers.

The snail farmer gave evidence in court about his discoveries.

Eamonn Croston, Kirklees Council's service director of finance, said: "The council does not tolerate any form of sham agreement to avoid payment of rates. The team has worked hard to bring this prosecution to a successful outcome.

"Such schemes and dishonesty to hinder collection of revenue is something that Kirklees will continue to pursue.

"We hope this prosecution will act as a serious deterrent."

Land value tax: the least-bad tax

Tax land. They're not making any more of it.

Adam Smith, Milton Friedman, MoneyWeek and the Labour Party are all fans of a land value tax. But what exactly is it and how would it work? Simon Wilson reports.

What is a land value tax?

It's a levy paid on the value of the land upon which a property (or no property) sits, rather than a tax on a property itself. The basic idea behind the tax is that pieces of land get their value from their location, rather than the calibre of the development on them. And what gives a location value is what is going on around it. Is it close to the centre of a city? Is it in an area with great transport infrastructure, good schools, hospitals, and so on?

Why does that matter in tax terms?

Because the owner of the property hasn't paid for all the infrastructure that determines the location's value. Someone else has: generations of taxpayers.

And a land-value tax (LVT) is a good way of reimbursing them for their efforts, and sustaining the state spending that underpins the society – and thus the land value – of the property. In economic theory, then, an LVT (which has at various times been known as a site valuation tax, split-rate tax, or site-value rating) is a straightforward attempt to collect tax on what economists traditionally called the "unearned betterment" part of the value of a property – the rise in value that has nothing to do with the owner's efforts and everything to do with the community's.

Is it a new idea?

Not at all. Land-value taxes have their roots in the ancient principle that people enclosing common land for agricultural use had a duty to share some of the resulting crops. Around 300BC, the Chinese philosopher Mencius advocated the elimination of taxes and tariffs on goods, and the introduction of an urban land rent. In Anglo-Saxon England the unit of land measurement called the hide (around 120 acres) was used to assess peoples' liabilities and obligations for such things as the maintenance and repair of bridges, fortifications and manpower for the army. A thousand years later, in The Wealth of Nations (Book V, chapter 2), Adam Smith argued in favour of a land tax, on the grounds that it would fall on the owner of the land, and not harm other economic activity. "Nothing could be more reasonable," he concluded. Economist David Ricardo, too, was a strong advocate.

And more recently?

In modern times the most famous proponent of a land-value tax was the late 19th-century US journalist and free-trade campaigner Henry George, whose masterpiece Progress and Poverty sold more copies in the 1890s in the US than any book except the Bible (and inspired a board game called the Landlord's Game, a forerunner of Monopoly). Later, Winston Churchill was a big fan, as was the free-market guru Milton Friedman, who regarded a land-value tax as "the least-bad tax". These days, LVTs are supported by commentators ranging from MoneyWeek and Martin Wolf of the Financial Times to the likes of Labour's Jeremy Corbyn and John McDonnell. The idea found its way into the party's 2017 election manifesto.

What's the case in favour?

Fairness and efficiency. The tax is very easy to collect, and very hard to avoid – land can hardly be concealed offshore. The rich will tend to pay more as they have more land. Proponents argue that an LVT would act as a strong disincentive to property speculation (landowners who accumulate prime land for that purpose would face a big bill) and would help smooth out cycles of boom and bust, making property more affordable to the young. Moreover, unlike current property taxes, an LVT encourages development. People would have an incentive to put idle and underused land to more productive use as any improvements to the land or the property aren't taxed. Finally, while most taxes tend to discourage investment or interfere in markets, LVTs don't distort economic activity. Rather, they help increase long-term stability and growth by fostering more productive use of capital, and help government finances by bringing in revenue efficiently and quickly.

Sounds great. Why aren't LVTs common?

Forms of land-value tax have been levied (at the local level) in Pennsylvania, Kenya, New Zealand, Australia, Denmark, and Estonia – and in Hong Kong, Singapore and Taiwan. So they are not untested. However, a big reason why they are not more common is that they are hard to implement since land is hard to value.

Its price is not made explicit when property is sold; its value has to be estimated by subtracting the value of the buildings from the overall price. The scope for disputes and legal challenges against a levy on a hypothetical value is clear. Second, voters are typically hard to persuade of the merits of any tax on property. And opponents worry that LVTs would be unfair on asset-rich but low-income homeowners.

Why else?

Third, land ownership is less concentrated in the hands of a small number of super-wealthy individuals than it was a hundred years ago, while the very rich hold a smaller proportion of their wealth in property than most of us. And they run the risk of constituting a one-off windfall tax on the current generation of land owners, since once they are introduced, land values would fall to reflect future tax liabilities. So they are not the easiest sell politically.

However, the Institute for Economic Affairs says that valuation problems are exaggerated: with 30 countries already using a form of LVT, the administration doesn't seem insurmountable; it's largely a matter of political will. And on that front, note that we still don't have enough taxes coming in to fund all our spending, while an ageing workforce implies lower tax revenue in future. New wealth taxes can only be a matter of time, and an LVT is the obvious one to try.

NORTHERN IRELAND: Retail NI calls for action on business rates

Retail NI has called for business rates reform after it was announced in the Budget that English independent retailers would get a third off their rates, while their Northern Ireland counterparts received no reduction.

Retail NI chief executive Glyn Roberts said: "Our members deserve the same as their English counterparts and we urged the secretary of state to urgently address this issue in the absence of devolution. Northern Ireland lags hugely behind the rest of the UK when it comes to business rate relief and our members are being forced out of business because of the huge cost of rates."

At a meeting in City Hall, attended by the secretary of state, Belfast City Council and business representatives, Retail NI welcomed the Treasury's £2m for regeneration efforts following the recent major fire in the Belfast.

He added: "The Department of Finance needs to transfer the £2m Treasury funding to Belfast City Council as soon as possible to allow the vital rejuvenation work in Belfast City Centre to begin."

WALES: Business improvement districts in Wales call for Welsh Government to cut business rates

BUSINESS improvement districts in Wales are now urging the Welsh Government to adopt the cut in business rates announced by the chancellor of the exchequer in last week's budget. Philip Hammond, who is the chancellor of the exchequer, announced last Monday a one-third cut in business rates for smaller retail firms to boost the high street.

Business rates are a devolved matter and it will be for the Welsh Government to decide whether the discount to be applied in England will also be offered to businesses in Wales with a rateable value of £51,000 and under.

In the budget, Mr Hammond estimated the two-year discount, which comes into force in England next April, could save small retail businesses £900 million. And today, Welsh BIDs are calling on the Welsh Government to adopt the cut at the same level and at the same time as England. A spokesman for Welsh BIDs said: "The chancellor's cut, while having no effect on the large chains facing trading difficulties, has the potential to be a lifeline for many smaller retailers – particularly independents who make up the majority of BID memberships. "It is vital the Welsh Government adopts the measures announced by the chancellor on Monday and implements the rate cut in full next April. "Anything less will put smaller retailer in Wales at a huge disadvantage compared to their competitors and counterparts in England. "High streets across Wales are facing incredibly difficult times and we urge the Welsh Government to take this opportunity to ease the cost pressures on smaller retailers."

He added: "We are also calling on the Welsh Government to look at establishing a similar Future High Street Fund, as proposed in the Budget, for Welsh retailers. "This would signal the Welsh Government's longer-term support for Welsh high streets and the vital role they play in our towns and cities."

WALES: Prison sentences for council tax debts to end in Wales

"Outdated and disproportionate" prison sentences for getting into council tax debt will be scrapped in April.

Finance Secretary Mark Drakeford said he would consider new measures to deal with people refusing to pay in Wales.

At least 62 people were jailed in Wales and England in 2016-17 over the issue - nearly a third of them from Wales.

In January, a legal challenge brought after a woman was unlawfully jailed over debts to Bridgend council found potential errors in similar cases.Melanie Woolcock, from Porthcawl, was given an 81-day sentence by Bridgend magistrates in July 2016 for failing to pay £10 a week towards her debt.

From 1 April next year, Mr Drakeford said it will "no longer be possible to start proceedings to commit an individual to prison for council tax debt". He added: "The payment of council tax is vital to maintaining the local services which we all rely upon every day, "However, it is also right that those who are less able to contribute are treated fairly and with dignity. "The sanction of imprisonment is an outdated and disproportionate response to a civil debt issue."Councils will look at how they tackle the issue and share good practice with other authorities. Welsh ministers said out of 14 local authorities who replied to a consultation, 11 agreed in principle with removing the option of jailing people for non-payment.But "most were also opposed to the idea of removal without implementing other measures to prevent an increase in deliberate refusals to pay council tax".

Mr Drakeford said: "There is little evidence of a relationship between the use of the committal process and collection rates while there is growing evidence that collection levels and arrears are best managed through early engagement with citizens."