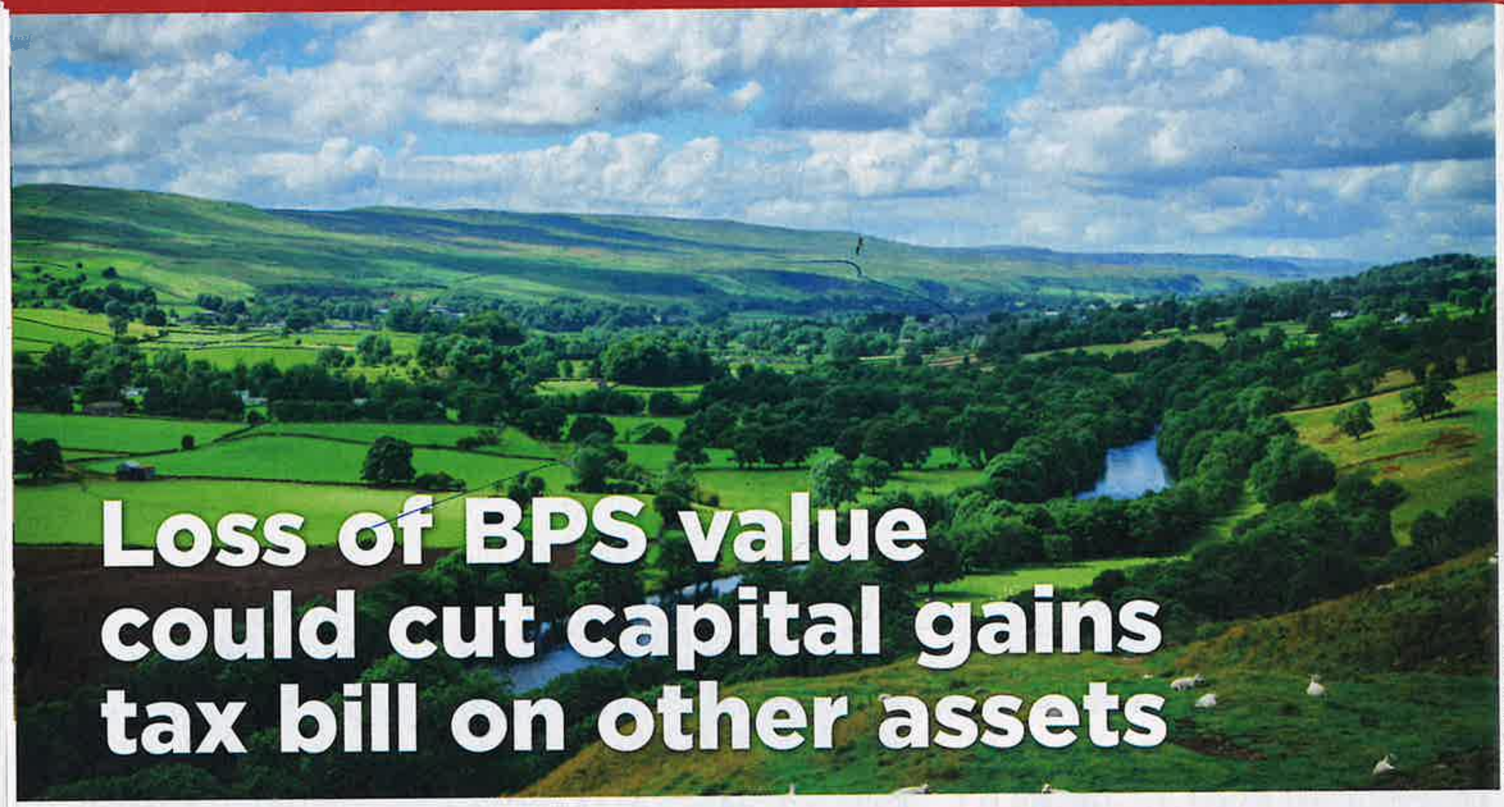

Loss of BPS value could cut capital gains tax bill on other assets

By Suzie Horne

BPS 2023 claims in England must be made by midnight on 15 May. After this, entitlements will have no value and will no longer be tradeable.

Those who bought, were given or inherited entitlements and have made taxable gains on other asset sales or other disposals have the chance to reduce their capital gains tax (CGT) bill. This can be done by making what is known as a negligible value claim, or possibly a claim for a loss on the extinction of an asset.

When milk quota was abolished in March 2015, many producers made negligible value claims on purchased quota, setting off their losses on then worthless milk quota against other capital gains.

In the case of BPS entitlement values, 100% of the purchase price can be offset against other gains, along with any agents' and legal fees directly attributable to the transaction, says Hampshire accountant Julie Butler of Butler & Co.

"Farmers should act now to plan for a claim," she advises. "While it may not affect a huge number of people, those who are affected could make significant CGT savings."

For entitlements that were gifted or inherited, their value at the time of the gift or inheritance is the starting point. "For tax there is no accepted definition of negligible value, but it generally applies to assets that have become worth next to nothing while the owner owns them," says Mrs Butler.

How a claim is made

Whether a negligible value claim or one for a loss on the extinction of an asset, the claim is made on the self-assessment tax return, which will soon start to be submitted for the year ending 5 April 2023.

"CGT losses can be carried forward to be set against other CGT liabilities indefinitely but the trick is to keep a clear record," says Mrs Butler.

"CGT losses cannot be carried back to set against income, so where there are gains in 2022-23 above the CGT annual allowance, and all losses brought forward have been used, a claim should be considered."

Who owns BPS entitlements?

The position of a sole trader is quite simple as any losses are offset against their own gains, says Mrs Butler.

Partnership gains can be complicated by the common issue of questions as to who owns what in a partnership – assets are often owned privately but used in the partnership business.

"Who paid for the entitlements and in whose name they are held could be key, also whose name they are registered in with the RPA adds another complexity to sort out.

"What do the accounts show and are they correct? What do the partners understand ownership to be? All of these need to be addressed, and not simply for the purposes of making such a claim."

Companies

Those trading as a company can offset capital losses against other capital gains in a similar way. ■

BPS VALUES ON GIFTED OR PURCHASED LAND

Things could be more complicated where land has changed hands with entitlements included in the price paid or in the value of the gift or inheritance, as is often the case.

"This should have been split and made clear on the legal documentation on the purchase or gift, but it is not unusual for the split to not have been clearly set out," says Julie Butler.

"Therefore, those who have purchased or been gifted land with entitlements should first check the documentation for their values."

Where no values are clear, records of entitlement values should be obtained from publications, brokers, agents or valuers, she adds.

TIPS FOR LINING UP CLAIMS

Check paperwork for purchased entitlement values – if these are not clear, check with accountants or valuers as soon as possible.

Check in whose name entitlements are held and sort any possible problems about partnership property or beneficial interests so that the right person/entity can make the claim.

There are several rates of CGT, with the highest at 28% on residences (only applicable where the property is not an individual claimant's main residence) – so setting losses on entitlement value against gains from the sale of residences could be the best use of these claims.