Ward and Co
CHARTERED ACCOUNTANTS
Agricultural Newsletter

SPRING 2024 | VOLUME 1 | ISSUE 1

Welcome!

We're delighted to welcome you to this first issue of our Newsletter, which aims to update you on many ongoing accounting and tax developments.

Over the past year, our team has grown considerably, with my daughter Rebecca Ward, Ian Smale and Cathy Barrow working alongside me, ably supported by a core team of managers including Adele Venner and Sara Smith. With four ACCA and AAT trainees at different stages of their exams, along with two new senior people joining shortly, Ward and Co applies our substantial professional expertise and experience to provide the service you require – vital as rules and regulations continue to change at a rapid pace.

With more accounts and tax compliance systems now managed digitally, we can assist clients on an advisory basis and will shortly launch our own online portal to streamline services even further. We also specialise in and use the main farm accounting software systems, including Xero, Farmplan, Landmark, Sum-IT, Sage and QuickBooks. All this is backed up by our strong third-party relationship with PFP, our fee protection specialists, who provide support on R&D and assistance on corporate tax and specialist areas where needed.

Stock markets, inflation and interest rates appear to have stabilised, although uncertainties continue, especially with the forthcoming general election looming. Against this background, our general advice is to keep things tight financially and ensure your business remains robust. Two to five-year fixed interest rates for savings and borrowings have recently dropped by an average of 1% and this is helping to restore confidence, possibly earlier than expected.

The following articles aim to keep you up to date and if you have specific questions, any member of our team will be happy to talk them through with you.

John Ward

John Ward

Tax Relief on Farm Improvements

Have you missed claiming the right tax relief?

It is surprising how much expenditure is incurred by farmers which is incorrectly classified as capital with either no relief or Structures and Buildings Allowances (SBA) at 3% per annum, instead of 100% relief as 'plant' or repairs.

Sometimes this results in farmers paying tens of thousands of pounds of unnecessary and incorrect tax. We can review this quickly when new clients work with us and all key members of our farm accounts team are well trained on the subject.

What can you claim 100% relief for?

The May case (TC6928), which we are experts on, secured relief for a grain silo while JRO Griffiths Ltd vs. HMRC 2021 (TC08203) confirmed relief as plant for a potato store. Silage clamps and slurry pits – defined as "a hole, dam or circular concrete structure where farmers gather all their animal waste together with other unusable organic matter" – are also eligible.

Associated expenditure – is permitted where it integrates. For example, the walls and roof of a CCTV room inside a building were allowed as plant in B&E Security Systems (TC00452). The difference between a building providing shelter qualifying for SBA at 3% and specific costs of walls and a roof around say a bulk tank or milking parlour with 100% relief should be considered. Sloping floors in the main Wetherspoon case (TC00312) were allowable as plant and slurry floors sloping into a slurry pit should qualify. As regards 'covers', if they are effectively just acting as 'saucepan lid equivalents' and they and the areas covered cannot be used for something else, they could be argued to form part of the slurry unit, albeit often with part of the costs covered by grants.

Repairs – replacing existing surfaces and structures are just that, as opposed to capital, albeit often with updated materials. A complete replacement of a shed on its own, however, is capital if the whole entity is replaced.

Moveable structures – The very recent Acorn Ventures Ltd (TC9006) case covering glamping pods is also relevant as it differentiates between permanent structures, which don't qualify, and less permanent ones, which do. Intention to move a pod or shed was also explored fully in the case, and proof supplied and accepted on the pods which were effectively glorified tents intended to be moved.

Applying the statute and case law to particular facts of each farm is important as every situation is different.

For an initial chat, please call Ian Smale on 01271 326762.

Succession Planning

Review your circumstances now – well before an election!

Changes to Inheritance Tax and Capital Gains Tax rules look more likely, especially with a general election due before January 2025, so now is a good time to review your position.

100% Agricultural and Business Property Relief for Inheritance Tax purposes has been in place since 1984 – previously at a rate of either 30% or 50% – while Capital Gains Tax is now 20%, but could increase.

We are highly experienced in succession planning and have produced our own guides and leaflets covering most technical aspects.

Often our first discussions centre on the ways forward, options and ensuring all members of the family are considered. We can then move on to Wills and work backwards.

Whether parts or all of a farm are to be retained until death, or gifting is to be made during your lifetime, we recommend you review the business structure and eligibility of assets to ensure maximum agricultural and business relief can be claimed.

First, consider that 100% Agricultural Property Relief on the agricultural value of agricultural assets is available after owning and using the assets in your trade of farming for two years or owning them for seven years with use for trading purposes by anyone. For many working farms the whole value will qualify for 100% relief.

Three sets of circumstances can give rise to problems:

Sustainable Farming Initiative (SFI) schemes – the Government launched a consultation paper in 2023 and intends to publish its results in 2024. Where schemes are entered into and trading diminishes, we advise recording all work and, in particular, evidence of still growing a grass or arable crop commercially with a view to profit. This can involve lime, fertiliser or manure and weed control, albeit on a lower basis. Being in charge and conditioning the ground and growing a crop can normally still take place – see Allen Case (TC05100) and Thomas Gill (TC07425) for relevant arguments. Schemes can be tricky to comply with and often the scheme rules require many detailed records, which are vital to maintain.

Diversification – Where farms are subletting or are running non-farming businesses, it is still possible with care to retain 100% Business Property Relief on the assets as well as the agricultural assets, provided 'in the round' you are primarily the farmer. This follows the rules and principles accepted in the Farmer and Balfour cases. If you are subletting, please take care to ensure you don't end up with a squatter! Our article on page 3 covers this.

Farmhouses and dwellings – with many farms home to more dwellings and more barn conversions taking place and values rising, maximising relief on houses or gifting barns or dwellings is important. Occupation for essential or necessary duties of partners should be recorded in the Partnership Agreement and evidenced factually, and occupation by farmworkers handled and documented with care. Gifting barns directly to individuals or trusts before planning is obtained is often discussed, but has its own issues and problems. Rebecca and John Ward and Cathy Barrow are constantly advising on many cases at any one time and cover a diverse range of circumstances.

Gifting Assets

Take care to consider Capital Gains Tax and Inheritance Tax rules, which need to be addressed separately and not be confused. For trading assets, 'holdover' elections can be made on a gift to avoid a capital gain being assessed at market value between connected parties, but this needs the recipient of the gift to understand the full implications and options. The recipient can take over the donor's base cost and gain, avoiding the donor having to pay Capital Gains Tax.

For Inheritance Tax purposes, if the asset gifted is chargeable for 100% relief on the day of the gift, then this relief is 'clocked'. Provided the asset stays in use for trading purposes and ownership is retained, even if the donor dies within the first seven years, there will be no tax. After seven years, the gift cannot be clawed back in any event.

Where gifting, it is important to avoid a Gift with Reservation of Benefit (GROB)—the Revenue will currently argue that if the donor just continues using the asset after the gift with no rent, he/she hasn't given it away at all.

Succession planning is complex and Ward and Co has developed strong links with specialist knowledgeable IFAs and solicitors so that, working in partnership, we provide Wills, life cover and related services to cover all aspects. Integrating accounts with Wills, pensions and life policies is key.

Top Tips for Commercial Lets on your Farm

Protect your interests!

If you have spare buildings for which you cannot, or do not wish to, obtain planning permission for residential use, commercial letting can be a profitable option. Key points for letting include:

Taxation

- Tax on rental income is at your highest annual tax rate.
- There should be no Class 4 NIC on rental income.
- The asset will become a 'non-trading' or investment asset, so check Capital Gains Tax and Inheritance Tax implications. It may be possible to obtain 100% Inheritance Tax relief under the Farmer Case principles if the farm is still 'in the round' primarily a farming business – see page 2.

Legal Agreements

- These are vital to control occupation and not devalue your assets by gaining at worst a 'sitting tenant' or at best unnecessary uncertainties. A simple licence agreement can be effective where the farmer wishes to keep full control and a short notice period. It is preferable to have non-exclusive possession for the licensee to occupy in these circumstances, and a willing licensee. Often the reason for a licence agreement only is that it can avoid rating issues or planning risks.
- A lease is the other obvious option, it can be expensive but allows for exclusive occupation.
- It is important also to control the access rights to the licensed/rented unit.

Other Points:

Vet the tenant

- Check Companies House, if a limited company or LLP, to see how strong their accounts are.
- Take references.
- Assess their reputation.
- Conduct credit checks.
- Do they 'fit' the location?
- Is access a problem to the property being let?
- Will they cause any issues with the farming operation?
- Consider personal guarantees to protect against the business failing.

Keep in touch

- Regular visits to the premises and chats with the tenant are important.

Points for the licence/lease

- Up front payment of rent on a monthly basis by direct payment is best.
- Upwards only rent reviews.
- Avoid tenants carrying out improvements to the property, if at all possible. If they do, tightly worded clauses are needed in an agreement.

What can the buildings be used for?

- Cover noise and 'quiet enjoyment'.
- Always video/photograph a property before the tenant moves in and get this approved by the landlord and tenant.
- Cover integral fixtures and fittings in particular and who repairs what.
- Cover hazardous substances, and health and safety issues.
- Is it a self-contained site or are other clauses needed regarding right of access?

Insurance

- Notify insurers and clarify premiums regarding buildings.
- Ensure the tenant has insurance for contents and their own public liability.

Using a land agent

- For larger sums or areas a land agent can avoid stress and risk.

Two Taxpayer Victories on Private Residence Relief Claims

The Lee and Ives cases have significance for property owners.

The Lee case confirmed Private Residence Relief for the majority of the gain where a site was owned for a long period but the house lived in for a shorter period – this can be significant for barn conversions. The Ives case shows the importance of evidencing the facts of physical occupation of a dwelling for private purposes to crystalise the exemption.

Private residence relief ownership period

Generally, where an individual has lived in a private house they do not pay Capital Gains Tax on the gain when it is sold – this is covered by Private Residence Relief (PRR).

This relief normally extends to 0.5 hectares (1.25 acres) of gardens and grounds used in connection with the house for private purposes. Additional grounds must pass a stringent test to qualify and must be 'necessary for the reasonable enjoyment of the property'.

This appears straightforward, but complications often arise. The increase in self-build sites and barn conversions etc is testing the boundaries of the statutory rules and developing case law. One area concerns sites or barns not occupied immediately on purchase or houses knocked down and replaced with newly built dwellings. These developments can extend over a number of years before physical occupation starts. The statute and historical cases on the subject are limited but a recent case has put the rules under a spotlight.

In the September 2023 judgement in the case of HMRC vs. Gerald Lee and Sarah Lee, the Upper Tribunal upheld the decision of the First Tier Tribunal (FTT) that the period of ownership for private residence relief (PRR) purposes relates to the ownership of the dwelling house and not the land on which the house is built.

In October 2010, the taxpayers Gerald and Sarah Lee bought a house with land. They demolished the original house and built a replacement, which was completed in March 2013 and they then occupied the property until it was sold in May 2014. The taxpayers claimed PRR on the whole gain on the grounds the replacement house had been their only or main residence throughout the period of ownership.

HMRC argued the period of ownership started when the land was purchased and the gain should be time apportioned between the length of time they had lived in the property and the period the land was held prior to occupying the house, and that PRR should only apply to the gain attributable to the period of occupation of the property. The total period of ownership was 43 months and as the disposal was in 2014/15, the gain attributable to the last 18 months would therefore qualify for PRR (being the final period exemption that applied at the time) and the gain attributable to the remaining 25 months would not qualify for any relief.

FTT concluded on reading the legislation that there was no clear definition of period of ownership and that it meant "the period of ownership of the dwelling house". The FTT therefore agreed with the taxpayers that the period of ownership for PRR purposes was the 15 months from when the new house was completed (March 2013) to the date of disposal (May 2014) and the whole gain should qualify for PRR. HMRC appealed but the Upper Tribunal agreed with the FTT decision and dismissed HMRC's appeal.

The implications of this ruling can apply equally to houses and barns.

Renovated Homes not trading

In the Private Residence Relief (PRR) case of Gary Ives vs. HMRC, the taxpayer renovated and sold three properties in five years, but the First Tier Tribunal found that he was not carrying on a trade and PRR applied in full to the gains.

Mr Ives acquired the various properties with a view to being nearer to family and he lived in all the properties while they were being renovated and his wife moved in when they were habitable. There were numerous third party witness statements supporting the intentions he stated and the reasons for the sales.

The Tribunal considered the badges of trade – tests determining whether the activities were trading in nature – and although many of the badges indicated trading when viewed in isolation, they accepted that it appeared all three properties were enjoyed as family homes with the intention of being permanent. The Tribunal also found that the houses were held as long-term investments and the transactions were not trading in nature.

This case demonstrates the importance of keeping appropriate evidence and a record of the facts where a property is purchased and renovated with a genuine intention to use it as the family home and not with a profit motive in mind.

PFP Professional Fee Protection

Tax Investigation Service

HMRC enquiries can be disruptive, intrusive, stressful and ultimately expensive, both for individuals and businesses.

In 2022/2023, HMRC opened 299,000 compliance checks and with a Government budget deficit of over £355 billion, we fully expect enquiries to increase this year. In the last quarter alone, HMRC recovered £4bn in taxes, nearly double the previous year's total.

Joining our **Tax Investigation Service** cannot stop you being targeted but it does give you peace of mind that we are here to provide all the support you need when HMRC knocks on the door. It does this by covering all our professional fees in the event of an enquiry and enabling us to provide expert advice and guidance, and to challenge HMRC robustly on your behalf where required.

Everyone is at risk of an enquiry

HMRC needs no reason to check your tax affairs. Every taxpayer who submits a tax return is at risk of being targeted. Many tax enquiries are conducted at random and you could be investigated even if you have done nothing wrong. Most enquiries result in no extra tax being charged, yet accountancy fees still need to be paid.

A sensible choice

Our **Tax Investigation Service** relieves the stress and avoids the disruption of an investigation to both your personal life and business. We have taken out an insurance policy in our own name that is backed by Professional Fee Protection (PFP), one of the UK's leading providers. This policy covers provision of our expert advice on your case to resolve any enquiry (up to our service limits) to your satisfaction.

Eliminates cost and stress

Our Tax Investigation Service will pay our professional fees in connection with most types of HMRC enquiry or full investigation for an affordable annual subscription.

Benefits include

As a subscriber to our Tax Investigation Service you receive access to a **free client legal helpline** available 24/7, 365 days-a-year, providing round-the-clock support from legally qualified advisors from one of the UK's largest law firms. The features include:

- Ability to contact the team about any commercial UK legal problem including but not restricted to:
  - Commercial litigation and dispute resolution
  - Employment contracts/restrictive covenants, disciplinary/grievance issues and unfair dismissal
  - Property and landlord/tenant queries
  - Pensions
  - Health and safety
- Unrestricted access to the service 24/7, 365 days-a-year
- Legal support on HMRC 'unannounced' visits

Our experience with PFP over 12 months has been totally positive and we are very happy with the relationship.

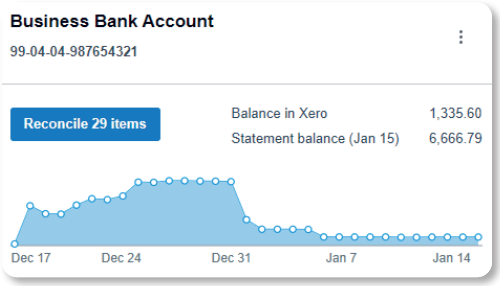
For further information, please do contact us.

Software Focus: Xero

Bank Reconciliations

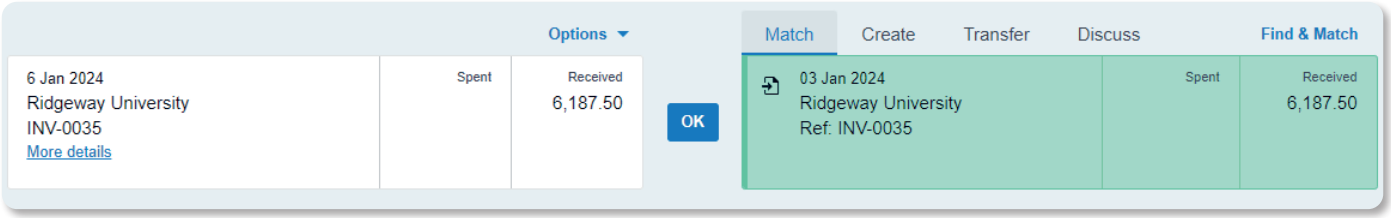
Reconciling the bank balance in your software to the actual bank statement is critical whatever accounting system you use.

As an example, Xero has a live bank feed which connects your Xero to your actual bank account, but this does not always mean that it is correct or agrees to your bank statements. This needs to be manually checked periodically and at least each time you submit a VAT return. Leaving this to your year end can create inefficiencies and demand unnecessary time to resolve, both easily avoided. Xero makes the bank reconciliation process easier by letting you know when bank statement lines are ready to reconcile. If the **'Reconcile [number] items'** does NOT display as per below, it indicates there are no bank statement lines to reconcile. The demo company below indicates that there are 29 statement lines to be reconciled.

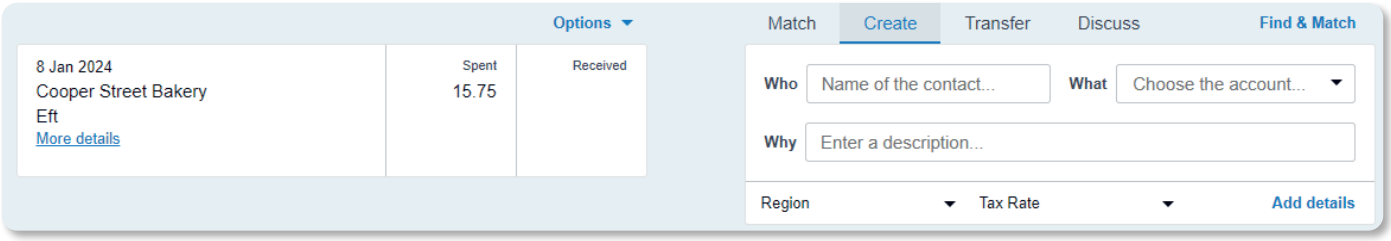


For each individual statement line on the Reconcile tab, you can either:

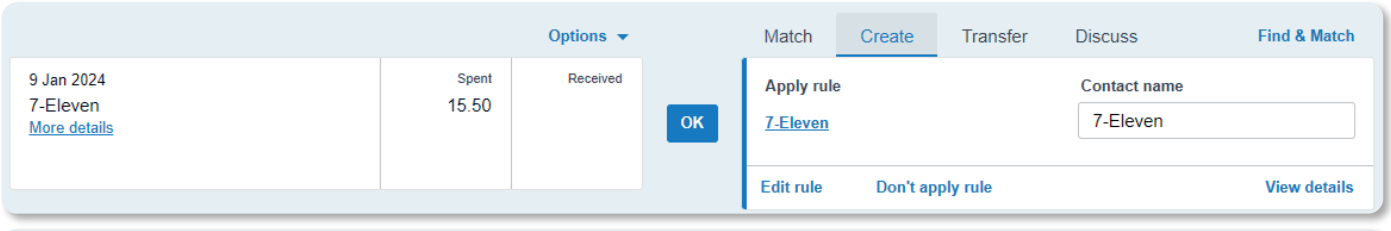
- Match it with an existing transaction in Xero, such as an invoice or bill that you have paid.

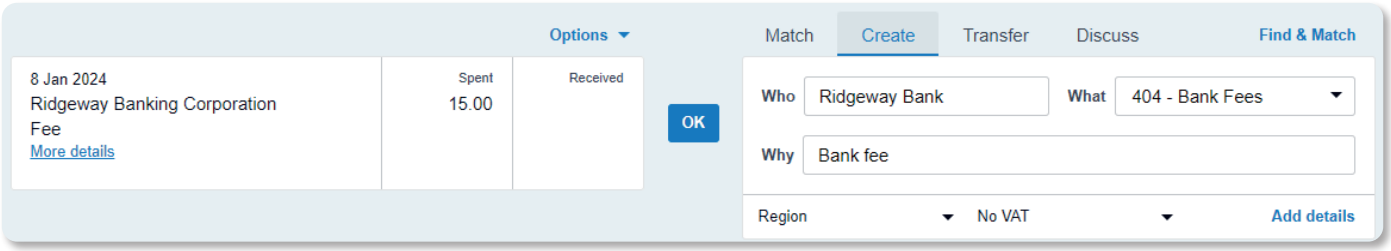


- Create a new account transaction, e.g. a spend/receive money transaction or a transfer of funds to another bank account that you have within Xero.



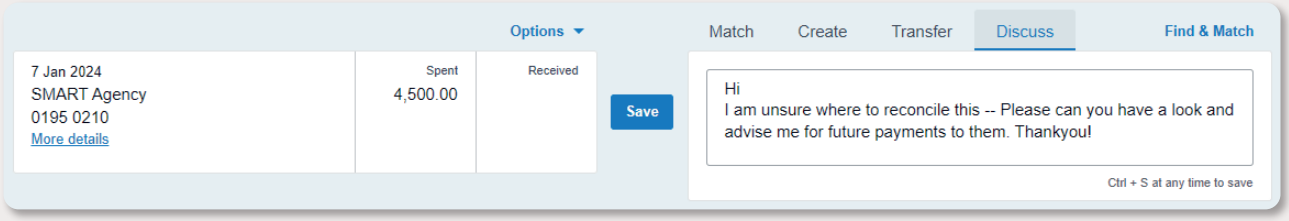
- Accept a transaction suggested by Xero, based on a bank rule that has been set up or a previously reconciled transaction,



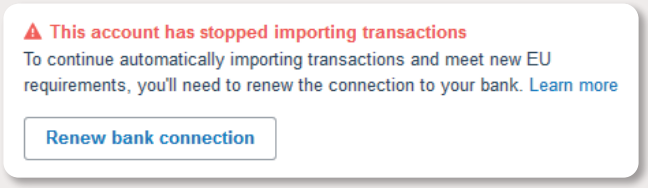


- or you can start a discussion with your Accountant/Bookkeeper if you're not sure how it should be reconciled, by adding a note for them to read.

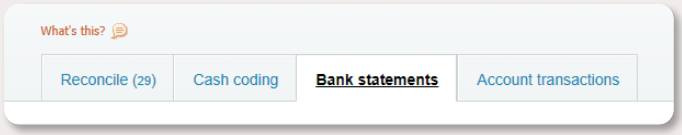
Reconciling Your Bank



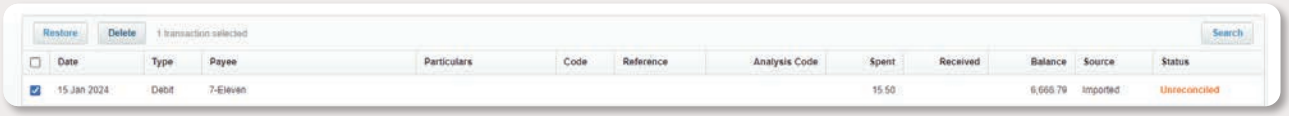
PLEASE NOTE! Every 90 days you MUST refresh your bank feed which links your bank account through to Xero. Unfortunately, there is no way around this as it is a legal requirement for the reauthorization to happen. It may ask you to sign into your online banking (however, this is only required for certain banks). Xero will typically give you several prompts when the link has expired such as the example below. All you must do is follow the on-screen step instructions.



If you find an issue with duplicated entries on the bank feed, then these can be removed by going onto the **'Bank statements'** tab,



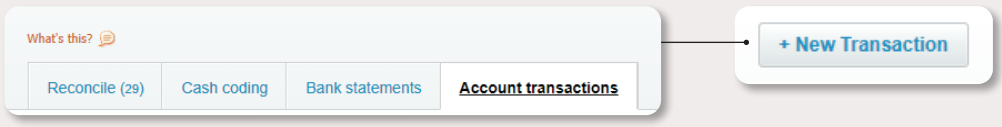
Ticking the box to the far left on the relevant transaction,



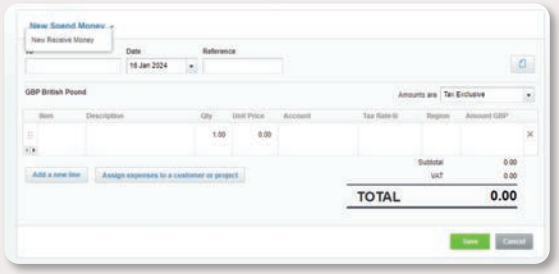
The option **'Delete'** will then appear, allowing you to remove the duplicated statement line. But also, if you make a mistake, you can restore a deleted statement line.

If your bank has missed a bank statement line, you can add this in manually by following the steps below:

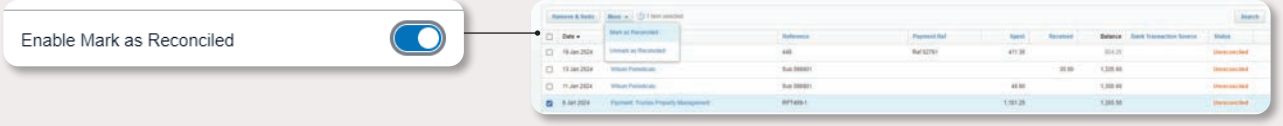
Go to **'Account Transactions'** tab in the bank... Select **'+ New Transaction'**,



Select **'New Spend Money'** or **'New Receive Money'**, and then fill in the remaining boxes and press **'Save'**,



To reconcile this, press the ? in the top right hand corner of the screen, turn on the box that enables you to **'Enable Mark as Reconciled'**, then select the transaction you want to reconcile by ticking the box on the left hand side of the screen, press the **'More'** drop down box, and select **'Mark as Reconciled'**.



Dairy Farm Comparison

In response to demand from our growing, strong core of local dairy farming clients, we aim to run a comparison for 2024/25 results which could show how your farm has performed against our Ward and Co client average. **Please let us know by email, phone, or in person, if you would like to participate and of any specific requests.**

Client Portal

Fast, easy, secure document management

With cyber crime increasing, we take online security very seriously and will be launching our new client portal very shortly.

This investment will provide client access to secure document management facilities. Accounts information, tax returns and other documents can be sent via Google Drive, Dropbox and similar services. Files can be uploaded via encrypted links to provide easy, safe document sharing as an alternative to email and PDF documents can be signed with e-signatures to save time. You can also respond to messages securely and scan documents to the portal via mobile phone apps. We will, of course, continue to provide a postal service if you prefer.

Payroll Portal

Complete HR tools

We have selected 'Keypay' cloud payroll software to create our online payroll portal. This gives clients and their employees individual access to a portal holding all documents in one location and can be used solely for payslips or as a complete Human Resource tool managing leave requests and time-sheet/ clocking in and out functionality, all linked in one software package.

KEYPAY

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RECRUITMENT
With an expanding client base we are still looking to recruit experienced team members. Please call Jayne Gillanders to book an appointment.

Sage

LANDMARK SYSTEMS

Farmplan
Time to grow

xero GOLD PARTNER

quickbooks ProAdvisor SILVER

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