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*Ref: Property Taxes*

24 April 2025

Land Use Consultation
Department for Environment, Food and Rural Affairs

Via email: landuseconsultation@defra.gov.uk

**Land Use Consultation**

*Introduction*

This consultation by the Department for Environment, Food and Rural Affairs [1] sets out an analysis of the scale of long-term land use change required to deliver the government's missions for growth and clean energy, to boost food security and to meet statutory climate and nature targets. It is intended to support the government's commitment to building 1.5 million homes. The consultation will inform the development and publication of a Land Use Framework in 2025

Much of the consultation is outside our remit. The CIOT's expertise lies in taxation. However the last question of the consultation is concerned with making government effective in policy co-creation, the aim being to ensure the government speaks with one voice on land use by coordinating land related policies across departments. We believe it is important that

- there is a clear strategy for the taxation of land, property and construction to underpin effective cross-governmental engagement and to help to ensure that the tax treatment is embedded in the development of the wider policy, and
- that taxation should form part of that cross-governmental working to ensure that, at an early stage, the tax position as it affects land use coheres with wider government policy.

*A clear strategic direction for property taxation*

[1] https://www.gov.uk/government/consultations/land-use-in-england

A clear strategy for the taxation of land, property and construction is a central requirement as without it the tax system becomes divorced from and may conflict with wider strategic content. For example, a consultation in 2023[2] considered the narrow issue of how to ensure that farmers and landowners are not put off entering into environmental schemes due to the loss of Agricultural Property Relief (APR) for inheritance tax purposes. The resulting Finance Act 2025, section 61 allows existing agricultural land to benefit from the relief if moved into certain environmental schemes; but did not extend the relief to other (e.g. brownfield) land used for such schemes. There is now an imbalance and lack of neutrality; whether land used for identical environmental purposes will or will not attract APR relief depends on what it was used for prior to the environmental usage.

This has the consequence that:

- there is a relief for moving agricultural land away from food production, potentially undermining policy in relation to food security without increasing the environmental capital of the UK (to the extent that agricultural land is already in relatively environmentally friendly use); whereas
- there is no corresponding relief or incentive to use brownfield sites for environmental schemes, to the extent that would enhance the environmental capital of the UK (by encouraging migration of environmentally "unfriendly" sites towards more environmentally friendly use).

Potentially counterintuitive results such as these can make it difficult for taxpayers, and advisers, to interpret what is often complex tax legislation in line with the intentions of Parliament. There are several areas in which the policy rationale for certain reliefs, including APR, is unclear and that, in turn, makes it difficult to anticipate the intended interaction between such reliefs and other land related policy objectives (such as environmental schemes or food security). Piecemeal tax reform without a clear strategy for reliefs layers complexity on an already imperfect and sometimes incoherent system.

*Effective cross government design should include taxation*

If consideration of taxation is absent from cross government co-design or tax is included at too late a stage the successful implementation of the policy is likely to be undermined /delayed by uncertainty in relation to arising tax issues, sometimes with unintended consequences. A current example of where tax appears to have been considered at a stage when the policy was already in place is the development of Biodiversity Net Gain and other private investment mechanisms for improving natural capital. Our members indicate that this area is currently very challenging because of lack of guidance and so many areas of uncertainty in relation to the direct and indirect tax treatment. We acknowledge and support the way these issues are being addressed collaboratively now[3] but suggest that the optimal process is to co-design taking into account the tax system, alongside other levers, from an early stage of development.

*Housing*

Land, property and construction taxation should be part of the wider agenda to achieve the government's commitment to build 1.5 million homes, related infrastructure and clean energy supply. The Land Use Framework will help inform suitable locations for new homes and infrastructure. However, it is important to recognise that the tax treatment of land is a key driver in property decision-making by landowners whose land may be suitable for housing development.

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[2] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1142783/M4114_and_M5086_-_Call_for_evidence_and_consultation_on_tax_and_environmental_land_management_-_FINAL_VERSION.pdf

[3] HM Treasury and HMRC Taxation of Ecosystem Service Markets Technical Working Group has been established to identify solutions that clarify the tax treatment of the production and sale of ecosystem service credits and associated units.

Aspects of the current tax system provide tax barriers to housing supply, for example the tax system includes features that give rise to potential dry tax charges[4], loss of reliefs and potential double charges in the use of a land pooling mechanism where multiple owners of different plots are involved in land assembly for housing development. The aim of a pooling mechanism is to equalise values in recognition that all the land is integral to the development whether used for high value prime residential or for community infrastructure or green space. By contrast an un-pooled route development model initially involves the developer securing an interest over the land while planning permission is obtained, with final disposal and full payment to the individual landowners following grant. Our position is that the tax system should in principle operate neutrally so as not to artificially promote one route to development and penalise another thereby distorting the choice and potentially operating in a way that is contrary to wider policy objectives.

Identifying tax barriers to housing supply that do not reflect government policy is, we suggest, essential to the development of the land use principles and co-design. The upcoming consultation on Land Remediation Relief is part of this picture. The objective of the tax relief is to incentivise the regeneration of brownfield land and reduce the pressure to develop greenfield sites, objectives that accord with the government's policies on biodiversity and food security. However, the relief has been in existence for 23 years with limited changes and it is not clear that the definitions of contaminated land and derelict land, the scope of the relief, and the mechanism of support (how tax relief is delivered) are working as intended.

*Energy performance*

The government is currently consulting on improving the energy performance of the private rental sector.[5] The Department for Energy Security & Net Zero's consultation makes only a passing reference to tax. However, we have responded[6] to the consultation to request that the uncertain tax treatment of work undertaken to reach the new energy performance standards is addressed and to highlight the impact of differing VAT liabilities on the proposed cost cap for the installation of energy saving materials in rental properties. Considering the tax effects and whether the tax system coheres with the wider strategy at the consultation stage should help to ensure the government's proposals work as intended.

The same principle applies to specific areas of tax policy. The Real Estate Investment Trust is a tax efficient vehicle to invest in real estate, introduced in 2007. REITs make up a significant component of the built sector. The REIT regime broadly requires that 90% of profits within the regime are distributed to and taxed in the hands of investors. The tax legislation identifies what classes of income are included in the regime. It does not include the business activity of generating renewable energy off-site (for example from solar/wind farms) to directly meet the energy demands of tenants and reduce carbon emissions from the buildings in REIT portfolios. This means that activity is not part of the look through regime and therefore potentially within the scope of corporation tax. Evaluating specific tax regimes against wider strategic policy as part of cross-governmental co-design seems a positive step.

We trust these suggestions and examples are helpful and will contribute positively to the co-design process.

Yours sincerely

Leigh Sayliss

Chair, CIOT Property Taxes Committee.

[4] Dry tax charges occur when the liability to tax arises at an earlier point than the receipt of proceeds from the transaction.
[5] https://www.gov.uk/government/consultations/improving-the-energy-performance-of-privately-rented-homes-2025-update
[6] https://www.tax.org.uk/ref1491

**The Chartered Institute of Taxation**

The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

Our stated objectives for the tax system include:

- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
- Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
- Greater certainty, so businesses and individuals can plan ahead with confidence.
- A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
- Responsive and competent tax administration, with a minimum of bureaucracy.

The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.

Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.