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VAT treatment of land intended for the construction of new social housing

Response by the Chartered Institute of Taxation

1. Executive Summary

1.1. The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 20,000 members, and extensive volunteer network, in providing our response.

1.2. We are responding to the consultation on the VAT treatment of land intended for the construction of new social housing, which proposes a VAT relief when supplying land to the provider of social housing.

1.3. We are supportive of the proposal to introduce a new VAT relief on the sale of land intended for the construction of new social housing, as such reform would reduce contractual complexities for landowner, developer and housing association and it comes at no overall additional cost to the government, as zero-rating can currently be achieved without it, albeit with uncertainties, additional difficulties and costs.

1.4. We consider the current certification process can be easily adapted to accommodate the proposed relief based on the buyer's certified status.

2. About us

2.1. 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.

2.2. 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.

2.3. 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.

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

3. About You

3.1. ***Question 1: Are you responding as: another type of organisation***

3.2. We are a professional body in the UK for advisers dealing with all aspects of taxation. See section 2 for further details.

3.3. ***Question 2: If you answered 'landlord', 'developer', 'social housing provider' or 'another type of organisation' please provide the following details of:***

a. ***the size of your organisation:*** We have over 20,500 members
b. ***where are you established and where do you operate:*** We are UK established and our office is in London.
c. ***what are your organisation's priorities when considering VAT implications in land acquisition and development?*** Our objectives for the tax system include:
    i. A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
    ii. Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
    iii. Greater certainty, so businesses and individuals can plan ahead with confidence.
    iv. A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
    v. Responsive and competent tax administration, with a minimum of bureaucracy.
d. ***what are your organisation's priorities when considering VAT implications in land acquisition and development?*** As above.
e. ***please explain your operating model: (for example, what is your role in the process of constructing or developing social housing, please explain your partnerships with other organisations)*** Professional body representing tax professionals.
f. ***how do you currently structure your organisation's operations to comply with VAT rules on land, property and construction?*** Not applicable

3.4. ***Question 4: Does HMRC/the governments understanding accurately reflect your knowledge of what happens in practice?***

3.5. We agree that the section of the consultation headed '*Summary of the problem/interaction of VAT rules for social housing delivery*' reflects the key VAT issues for a straightforward contractual arrangement for a social housing provider, a landowner and a developer caused by the VAT 'golden brick' rule.

3.6. We note that there can be more complex contractual arrangements for new developments than above, though even within such supply chains, the golden brick rule causes the same issues of increased costs for the developer and difficulties with the timing of funding drawdown for the social housing provider.

3.7. ***Question 5: What is your assessment of how the current 'golden brick' rules create barriers of the construction of social housing?***

3.8. In the CIOT's proactive submission 'Tax barriers to housing supply' dated 9 October 2025, section 8 set out our opinion on how the VAT rules impede the construction of social housing and other residential properties, in VAT legislation known as 'relevant residential properties'. The paragraphs from that submission relevant to the barriers created by the golden brick rule, paragraphs 8.4 to 8.7, are restated below.

3.9. There is a tension between the need for developers to delay selling sites to HAs for VAT purposes, and the desire for HAs to acquire the sites before they lose funding. This creates an unnecessary bottleneck in the affordable housing supply chain.

3.10. Once it identifies an affordable housing development site, an HA will be under pressure to secure the legal title in it as soon as possible, due to a combination of factors relating to grant funding rules, rather than VAT.

• Firstly, an HA cannot draw down a grant allocation unless it acquires the legal title in the site.

• Secondly, if the HA is unable to use its grant allocation within a particular period, then the allocation may be lost to it in that funding period and might also result in a lower allocation in the next funding period.

3.11. By contrast, developers will, for VAT reasons, be forced to delay sales to HAs until the developer can meet the current conditions for zero-rating, or to engage in complex and potentially costly structuring with the HA.

• Under both zero-rating and exemption, the HA will not pay its seller VAT in addition to the purchase price. But zero-rating is markedly superior: the supplier can recover the VAT it incurs in the course of making its supply, but that is not the case if the supplier makes an exempt supply.

• The input tax involved for the seller can be very significant: typically, the seller to the HA will be a residential developer who has worked with a landowner and a promoter at a substantial cost. VAT will have been incurred on costs – sometimes limited to professional fees, but in other circumstances, on the purchase of the land itself. In a typical form of supply chain, the promoter will charge the landowner VAT on its fee for promoting the site, and the landowner will opt to tax and charge the developer VAT on the supply of the site (so as to recover VAT on the promotion fee).

• The developer, as the supplier to the HA, will therefore lose a significant amount of input tax if it makes an exempt supply to the HA. In order not to do this, it is common for developers to acquire sites and develop them sufficiently to allow them to make zero-rated supplies in the manner contemplated in paragraph 8.2.15 Practically, this means that the developer needs to reach the threshold for being a 'person constructing' a given building (known as the 'golden brick'), in order that it can then supply it to the HA.

• Another route by which an HA can acquire an interest in the land earlier without forcing the seller to make an exempt supply is for:

o the HA to incorporate a subsidiary company and register it for VAT independently of the HA; and

o the subsidiary company to acquire the land by way of a standard-rated supply, contract with the developer for them to construct the dwellings, and then – once it can – make a make a zero-rated supply of the dwellings to the HA.

This means that the developer can recover its VAT but may incur SDLT, subject to relief. An HA acquiring a development site directly may qualify for SDLT relief on the acquisition (under either FA 2003 section 68 or section 71). Its subsidiary would qualify for neither relief. So the HA would incur either SDLT or VAT, and always suffer cashflow impediments, restricting the capital it has available for development.

3.12. In summary, the current VAT law creates significant inefficiencies and delays in delivery of affordable housing, and the exchequer receives no greater amount of VAT as a result.

3.13. ***Question 6: Are there specific areas where VAT rules on land have a greater impact on your activities?***

3.14. As highlighted in paragraph 3.9 above, the CIOT's submission ['Tax barriers to housing supply'] highlighted other areas where the VAT rules impacted transactions other than golden brick. Relevant excerpts from paragraphs 8.1 to 8.3 of that submission, are restated below.

3.15. Current VAT law impedes affordable housing pipelines. Housing associations ('HAs') require completed dwellings and other designated residential properties ('RRP Buildings'), in order to make them available for occupation. HAs are generally unable to fully recover VAT. However, there are several statutory provisions that HAs may seek to rely on to protect them from paying VAT on top of the purchase price for development sites and building works. One protection is zero-rating. This allows both the HA to receive housing development supplies VAT-free and allows the HA's supplier to recover its VAT, lowering the overall cost of development for the HA. Zero-rating applies to the following supplies to an HA:

• A supply of a major interest (freehold or long leasehold) in a dwelling/RRP Building by a 'person constructing' that dwelling/RRP Building.

• A supply of a major interest (freehold or long leasehold) in a dwelling/RRP Building by a 'person converting' a non-residential building into that dwelling/RRP Building.

• A supply in the course of construction of a dwelling/RRP Building (essentially, a supply of building works services, rather than of a building).

• A supply in the course of converting a non-residential building into a dwelling/RRP building (this head of zero-rating is specific to HAs).

An HA must certify its intention to use any RRP building as such in order to enjoy zero-rating. An incorrect certificate carries a penalty equal to the full amount of VAT saved (with no right to recover the penalty as input tax), under VATA 1994 section 62. An accurate certificate of initial intention, followed by a change of occupational use or disposal of entire interest (in the ten years that follow practical completion of the building) will trigger a clawback of some or all of the benefit of zero rating, using a self-supply charge.

3.16. Another protection is exemption. The supply of land is ordinarily exempt for VAT purposes but is usually standard-rated if the supplier makes an option to tax in relation to the land. Three provisions relating to buildings allow an HA to switch off a supplier's option to tax:

• One provision (applicable to all recipients of a property supply) allows buildings already designed or adapted for dwelling/RRP use, and intended for use as such, to be supplied exempt, notwithstanding the supplier's option to tax.

• Another provision (applicable to all recipients of a property supply) allows non-residential buildings intended for dwelling/RRP use to be supplied exempt, even if the supplier has opted to tax, provided the recipient certifies that intended use. An incorrect certificate is subject to a penalty under VATA 1994 section 62.

• A specific provision allows HAs to 'switch off' the supplier's option to tax in relation to the supply to the HA. The HA can certify (using form VAT1614G) its intention to use the site to construct dwellings or RRP Buildings. Again, an incorrect certificate is subject to a penalty under VATA 1994 section 62.

3.17. As a transaction between a landowner, a developer and a housing association can consist of a single type of development (e.g. the construction of new dwellings) or a combination of any/all of the different types of buildings on a site as described above, the VAT rules can be highly complex to ensure that the correct liability is applied to supplies.

4. Policy design: objective and scope of the new relief

4.1. ***Question 7: What is your definition or understanding of the term 'social housing'? (Please reference any statutory definitions that may be relevant including planning regulations and legislation.)***

4.2. We understand 'social housing' to mean affordable, secure housing that are usually supplied to eligible tenants by a local authority, a charity or a 'relevant housing association' as described in paragraph 10(3), Schedule 10 and note 21 to item 3, group 5 to the VAT Act 1994.

4.3. ***Question 8: How would a new relief reduce the complexities in the current system and incentivise your business's ability to develop social housing quicker? (meaning accelerate the delivery of social housing to help achieve the government's objective of building 1.5 million new homes)***

4.4. As described in paragraph 3.10 above, a new relief would reduce the tension caused by the current VAT legislation. The certainty of zero-rating from outset of the planning based on the buyer's certified status (as an eligible provider of social housing) for the transaction would decrease the requirement for complex contractual arrangements as well as being able to accelerate the change in title to the land to the housing association, which in turn allows them to drawdown funding to pay the developer at a far earlier stage in the transaction than allowed when using the current golden brick arrangements.

4.5. ***Question 10: What types of organisations do you consider provide social housing? (Please reference any regulation of bodies mentioned if relevant.)***

4.6. Please refer to paragraph 4.2 for the bodies described as relevant housing associations in the VAT Act 1994. In addition, other providers can include local authorities or charities.

4.7. ***Question 11: Are there any issues associated with limiting relief to registered providers? (Please provide any additional detail that you feel will be relevant.)***

4.8. Though it is not explicitly defined in the consultation documents, we understand the term ‘registered provider’ to refer to a registered provider of social housing, within the definitions described in paragraph 4.2 above. We recommend that any referral to a registered provider in legislation or guidance is clearly defined to avoid misunderstanding.

4.9. Respondents to the consultation may highlight other providers of social housing and we would want such providers to be fully considered in the potential reform before committing to limiting the relief to only registered providers.

4.10. ***Question 12: Are there any unintended consequences or risks you foresee with the introduction of this new relief?***

4.11. The simplest VAT position for parties involved in purchasing sites based on the certified status of the buyer. We note that the consultation document mainly refers to the relief applying to the ‘sale of land’ though has several references to the sale to ‘bare land’; the latter description may cause unintended consequences and complexity for brownfield sites, which may have buildings that can be converted to new dwellings at the zero-rate. Restrictions placed on the purchase of land for development by a social housing provider would be problematic. See our additional points at paragraph 5.7.

5. Administration of the relief

5.1. ***Question 14: What evidence can be produced at the point the land is sold to demonstrate that it has been purchased by a registered social housing provider, and therefore qualify for the zero rate?***

5.2. The current certification rules for housing associations could be adapted to evidence the new relief. If the relief was expanded to other providers that come from consultation responses to questions 10 and 11, certification could be developed for these providers too.

5.3. Complexity or unintended consequences could arise if conditions are imposed that interact with the timing of planning permission for the social housing, as this could risk the delay or abandonment of the sale of land to the provider of social housing.

5.4. ***Question 15: Can you see any risks or complications with a declaration mechanism in the form of certification?***

5.5. The current certification rules work well in the most part and we anticipate could be adapted for the new relief. It is essential that sufficient guidance is provided for any new relief so that parties have clarity so that they can remain compliant. Guidance will also need to be provided in respect of any penalty risk for issuing an incorrect certificate for the new relief, as well as guidance and potential consequences for the recipient of a new certificate.

5.6. ***Question 16: Are there any unintended consequences or complications of mixed tenure developments? We are interested to understand more around practical or delivery concerns that you think may be relevant in this context.***

5.7. To reduce complications or unintended consequences, we recommend that the relief is based on the buyer's certified status. Planning permissions for the development of a site by a housing associations may require market housing, landscaping, garaging, a doctors' surgery, a playground, a retail unit etc., all of which would support social housing either financially or operationally.

5.8. ***Question 17: What additional support or guidance would help your organisation navigate the new VAT relief?***

5.9. Where the relief is granted solely based on the buyer's certified status, the position should, in principle, be straightforward which should mean that minimal additional guidance is required.

5.10. Should there be more complexity, timely and detailed guidance relating to a new relief would be essential. We recommend that HMRC consult in the guidance drafting stage with stakeholders in the sector as well as existing forums with tax professionals such as the Land and Property Liaison Group and Joint VAT Consultative Committee.

5.11. ***Question 18: Are there any other changes that you think should be included to make the new relief easier for you to implement?***

5.12. Although VAT is a reserved tax, we recommend that legislation in respect of the planning and development of social housing in the devolved countries is also reviewed so that any new relief works well throughout the UK.

6. Acknowledgement of submission

6.1. We would be grateful if you could acknowledge safe receipt of this submission and ensure that the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the consultation is published.

6.2. We would be happy to meet and discuss our response should that be of interest.

The Chartered Institute of Taxation

20 August 2026