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Land Remediation Relief consultation

CIOT position paper – accelerated relief for developers

About us

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.

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.

Introduction

Following the announcement at Autumn 2024 Budget, HM Treasury consulted in July 2025 on the impact and effectiveness of land remediation relief (LRR). HM Treasury are still considering their response to the consultation¹.

The stated objective of the relief is '*incentivising the regeneration of brownfield land and reducing the pressure to develop greenfield sites.*'

We understand that one of the proposals under consideration is accelerated tax relief for qualifying revenue expenditure incurred by developer traders. This paper is intended to (i) assist in evaluating

¹ <https://www.gov.uk/government/consultations/consultation-on-land-remediation-relief>

the pros and cons of this proposal in the context of the policy intent for the relief, (ii) set out a further issue on the relief that our evidence suggests undermines its policy objective for property investors.

The position paper builds on the CIOT's response to the LRR consultation in 2025 (Appendix 2).

The issue: timing of the relief for housebuilders and other developer traders

There can be significant time lags between incurring remediation costs and final sale of the constructed building or tranche of house sales. For housebuilders and developer traders, under UK GAAP profits are not recognised until sale. Therefore, revenue expenditure and hence the benefit of LRR is reflected in the corporation tax line of the profit and loss account as and when the homes or commercial buildings built on that land are sold, not at the earlier date when incurred. We understand that typically the time lag is circa 5 years although for some larger regeneration projects this may extend to 20 years.

A property investor company may claim a deduction in the year the revenue expenditure is incurred (subject to commencement – see Appendix 1 on commencement below) so the same time lag does not usually occur.

How would an accelerated tax relief operate in practice

Tax treatment

A company would elect to treat any qualifying revenue (work in progress) expenditure as a deduction in the year the expenditure is incurred rather than the date that it would otherwise become a deduction in the calculation of the profits of the trade on sale. This would be consistent with what is currently provided for by section 1147 for capital expenditure.

The elected amount would then be deducted from the carrying WIP balance in the period the election is made to avoid double tax relief being given on sale in the same way that elected capital expenditure is not also allowed as a deduction in computing chargeable gains or allowable capital losses.

A company would be able to elect on any amount up to the maximum amount of qualifying expenditure incurred in the accounting period. The elected cost would then be multiplied by the 150% as provided for by the LRR legislation.

Accounting treatment

As the proposal is to accelerate the relief of qualifying expenditure our understanding² is that there will be a timing difference between when the qualifying costs are recognised in the accounts (ie in accordance with UK GAAP) and when the deduction is allowed for tax purposes. A deferred tax liability will likely need to be recognised on the balance sheet to reflect the timing difference arising from accelerating this deduction for tax purposes. When the development is sold, for tax purposes, the tax liability will be calculated with reference to the cost of sales net of any amounts expensed in an earlier period through the election process, effectively resulting in a repayment of the tax saving taken in an earlier period, assuming corporation tax rates have remained constant. For accounting purposes, we understand that the original qualifying expenditure will be taken to sales via the income statement and at this point, the timing difference reverses, and the deferred tax liability unwinds.

² Note: the accounting treatment should be confirmed by specialists in the area. We are not experts in accounting principles.

Pros and cons of accelerated tax relief

Pros

Achieving the policy objective: Accelerating the relief would align more closely with the policy intent because of the incentive provided by enhanced cash flow. Accelerated tax relief would provide additional cash flow in the critical early stages of a project by granting 100% tax relief in the year of expenditure of qualifying expenditure rather than the year of sale and by accelerating the timing of the enhanced 50% land remediation relief aligning with the relief for capital expenditure incurred on remediation. This would then unwind through an additional tax charge on WIP released as profit in later periods.

We understand from members in industry that the greater the time period between incurring remediation costs and sales that allow for recognition, the greater the additional benefit to be gained from the early recognition of this relief, and the more impactful this policy would be in the pursuit of its objectives. Members indicate that large-scale project viability is often assessed in planning terms using project internal rate of returns (IRRs) in the range of 15-20%, which means that accelerating a relief by 5 years, would more than double the incentive impact it had on new development viability³.

Statutory and administrative precedent: The principle of accelerated tax relief for remediation costs has a legislative and administrative precedent in CTA 2009 section 1147 which allows a trader or an investor company that incurs capital expenditure on qualifying land remediation expenditure to elect to treat such expenditure as a revenue deduction in the year the cost is incurred. (CTA 2009 Section 1147(6)). The process is therefore established and understood by affected taxpayers.

Alignment of tax treatment of similar economic activities: The timing of relief for remediation costs on revenue account would be in principle the same for investors (however see the note below) and traders thereby removing the economic distortions that currently exist.

Timing difference for the exchequer: The cost to the exchequer is limited to one of timing provided that corporation tax rates remain the same.

Tax credit provisions: The tax credit provisions allowing losses generated from the relief to be surrendered for a tax credit mean that loss making entities or SPVs with no access to group relief can also benefit from the accelerated cash receipts.

Full audit trail: Transparency of the movement of expenditure from WIP to costs expensed in the period and the subsequent adjustments in the accounts verified through the normal auditing processes.

Cons

³ IRR calculated at $2.01x = 1.15^5$. The planning system assesses project viability using two methods, (i) Gross Margin, and (ii) IRR. We understand projects use IRR when they are larger or otherwise require more upfront investment, such those that require remediation of contamination, because this takes account of the timing of the project cash flows and the time taken to complete the development.

Some added complexity as a departure from standard accounting and tax treatment: recognising however that there is a precedent both in LRR for capital costs of remediation and in the wider capital allowances regime.

Some administrative change and complexity: the need for an additional election by the taxpayer company and an added HMRC process.

Legislative change: CTA 2009 Part 14 would require amending to allow section 1147 to also apply to non-capital expenditure.

Risk to tax recovery: It is possible that HMRC fail to recover the accelerated tax relief paid out if a company subsequently fails to make a profit on ultimate sale or goes into liquidation. However, this same risk applies to payments paid out under the existing section 1147 provisions.

APPENDIX 1

Commencement

For a developer trader, a trade must have commenced to claim the relief⁴. A developer trader will generally have commenced trading once expenditure in pursuit of land development activities is incurred. Therefore, whether a trade has commenced is not in itself a limitation on relief for developer traders.

For an investor a property business must have commenced⁵. HMRC's interpretation is understood to be that the activity of developing a property with the intent of renting it out in the future does not satisfy the statutory test. This interpretation (with which we disagree) undermines LRR as an incentive to develop brownfield land because the benefit of the relief is delayed until income is generated. (See further below)

Commencement of a property business

For a property investor, provided the property business has commenced, a deduction for LRR qualifying remediation costs is available when incurred if the section 1147 election provision is triggered.

There are two differing interpretations of when a property business commences based on the statutory provisions in CTA 2009 sections 205, 207. The CIOT's view is that the natural interpretation of the statutory definition is that it is prospective in its operation (a company's UK property business consists of a business 'for generating income from land' section 205(a) and every transaction 'for that purpose' section 205(b)). Therefore, a business of developing a property for letting can be said (subject to the facts) to be a business carried on for generating income through the prospective use of the property from the point development commences.

However, HMRC's approach appears to be that the commencement of a property business requires a current source of income in the form of rent or other receipts. If that is the case, it is not possible to claim LRR until income is generated, that is, when the development has completed or partially completed such that rent is generated. This may be a significant period of time after the development has commenced. Such an approach undermines the policy intent of LRR to incentivise brownfield development and means different tax outcomes (and costs) for substantially the same economic activity depending on whether the activity is undertaken by a property investor or property developer and whether the activity is undertaken by an existing company.

⁴ Generally, pre-commencement expenditure is deductible from profits once the trade/property business commences subject to time limits.

⁵ Ibid

APPENDIX 2

CIOT's submission sent to HMT on 12 September 2025 in response to the LRR consultation covering other key aspects including scope of LRR.

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. The government is consulting on the efficacy of Land Remediation Relief (LRR), the objective of which is to incentivise the regeneration of brownfield land and reducing the pressure to develop greenfield sites.
- 1.3. More detailed data for LRR claims would make the consultation process more effective and help to identify whether the right projects are accessing LRR.
- 1.4. If the relief is not incentivising brownfield development, the following factors are likely to be relevant:
 - the **timing** of the relief for housebuilders and developer traders as there can be significant time lags between incurring remediation costs and final sale of the constructed building or tranche of house sales
 - **lack of visibility** of the relief at the point sites are selected and viability assessed, and
 - **qualifying costs** are not sufficiently aligned to the common barriers to remediating brownfield land and there are some grey areas around what can be claimed.
- 1.5. A tax relief that provides a payable tax credit (or the like) is particularly susceptible to abuse and fraud. It is important that there are adequate checks and processes in place from the outset to ensure only genuine claims are paid out.

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. Introduction

- 3.1. Following the announcement at Autumn 2024 Budget⁶, HM Treasury is [consulting on the impact and effectiveness of land remediation relief \(LRR\)](#). LRR allows companies to claim an enhanced corporation tax deduction for revenue and capital expenditure incurred in the remediation of contaminated or long-term derelict sites. A maximum deduction of 150% of the qualifying expenditure is available. Where the enhanced deduction results in a loss, the loss can be surrendered in return for a cash payment.

- 3.2. The objective of the relief is ‘incentivising the regeneration of brownfield land and reducing the pressure to develop greenfield sites’.

- 3.3. The consultation considers:

- the design of the relief;
- the impact of the relief on brownfield development, its efficacy and to what extent it is factored into commercial decisions;
- the robustness of the relief against abuse and error.

More broadly HM Treasury are interested in how businesses approach development particularly of brownfield land and how LRR compares with other incentives such as grants.

- 3.4. Our stated objective for the tax systems 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.
- Responsive and competent tax administration, with a minimum of bureaucracy.

- 3.5. The consultation is primarily concerned with gathering evidence of the way in which businesses factor the relief into their business plans and the extent to which LRR is achieving its objectives. These questions (1-2 and 8-14) are directed at the industry. Our response focuses on questions 3-7 that concern the design and operation of the relief and the robustness of the relief against fraud and error (questions 15-18).

⁶ See the [Corporate Tax Roadmap](#)

4. Chapter 2: Design of the relief

4.1. **Question 3: To what extent are the right projects able to access LRR, given the structure and design of the relief?**

The consultation indicates that, for the latest financial year for which data is available, 1750 claims to LRR were made for a total value of £50m. The median claim was £1700 and 90% of claims were below £35,000.

It is difficult to draw meaningful conclusions from this data without further detail, for example there is no split between claims for land in a contaminated state and claims in relation to derelict land or between claims for revenue and the claims for eligible capital expenditure. The data does not distinguish between different types of claimants for example between property developers (carrying on a trade) and property investors (carrying on a property business), or between large and SME developers of either type.

It would be helpful to confirm that the amounts stated are the cash value of the claims not the qualifying land remediation costs. Anecdotally we have heard that the value of claims seem to be higher than the consultation indicates. In relation to 90% of claims being below £35,000, this may be in part because the amounts reflect claims for the period for which the data was compiled not the total claim on a particular site. It is also not clear whether the data is based on claims by site or by company, for example a large developer might make LRR claim for 100 sites totalling £20m. Would the data record these claims by site or by total value?

An enhanced level of detail in the data would make the consultation process more effective and help to identify whether the right projects are accessing LRR.

Although smaller claims may have some impact on incentivising development of smaller 'infill' urban brownfield that level of relief is unlikely to be incentivising larger regeneration development projects. To the extent the relief is not incentivising brownfield development, the following factors are likely to be relevant:

Timing of the relief for housebuilders and developer traders

There can be significant time lags between incurring remediation costs and final sale of the constructed building or tranche of house sales. For housebuilders and developer traders, under UK GAAP profits are not recognised until sale. Therefore remediation costs and hence the benefit of LRR are reflected in the corporation tax line of the profit and loss account as and when the homes or commercial buildings built on that land are sold, not at the earlier date when incurred and not necessarily all within the same accounting period. The timing of the tax relief for housebuilders and traders does not allow for the release of working capital when the expenditure is first incurred. It is only when the land is remediated, developed and sold that the tax relief becomes available as an additional source of working capital. We understand that typically this time lag is circa 5 years although for some larger regeneration projects this may extend to 20 years. This consequence does not appear to reflect the policy intent of the relief.

Consideration might be given to providing relief for qualifying expenditure by election at the point the expenditure is incurred for housebuilders / developer traders. This would align more closely with the position for a property investor that is able to claim a deduction in the year of expenditure, once a property business has commenced (however, see further on commencement/cessation of a property business below at question 5 and 4.3 below).

Visibility

A further factor may be the lack of visibility of the relief at the point sites are selected and viability assessed. Property businesses and housebuilders or developer traders assess projects and sites on a pre-tax basis and without detailed modelling of the benefit of LRR. Therefore the efficacy of the relief in incentivising the choice of brownfield over an alternative greenfield land is reduced. We suggest evaluating whether an ‘above the line’ credit could help meet the policy objective for the relief to develop brownfield over greenfield by bringing it closer to businesses’ decision-makers and senior management at the point when the viability of different sites is being assessed internally for development.

Any evaluation should include the extent to which an above the line credit could lead to an increase in land prices negating the benefit of the relief and potentially contravening the ‘polluter pays’ principle if the vendor/polluter benefits from an increased price for its land.

For a Real Estate Investment Trust (REIT), as a tax exempt entity, this lack of visibility is even greater because LRR has no effect on corporation tax liability, the relief affects only the level of the Property Income Dividend (PID) paid to shareholders. Consideration could be given to introducing the option to claim an above the line tax credit with a consequential removal of the ability to deduct a claim a deduction for the same costs. The aim would be for the option for the above the line credit to incentivise targeted investment in brownfield with a minimal tax impact for the exchequer. If the REIT elects to take a tax credit the REIT will pay a higher compulsory PID giving rise to increased withholding tax. This option should not disturb the policy objectives of REITs having a stable and reliable dividend policy.

Scope of the relief

The scope of eligible costs for LRR is not sufficiently aligned to the common barriers to remediating brownfield land as explored further at 4.2 below.

Certainty

We suggest that HMRC’s guidance could be expanded to address grey areas, to explain the policy intent so users understand the intended application of the legislation and its context and to reflect new developments in contamination found on sites and their eligibility for LRR. For example, it would be helpful if the rationale for the ‘air’ and ‘water’ exclusion (section 1145(2)(a)) is explained in guidance with an example for each. We note further examples of specific uncertainties in the response below.

We suggest it may be helpful for HMRC to maintain regular contact with the Environment Agency to ensure the LRR guidance reflects the latest position on contaminants and other barriers to remediating brownfield sites are identified to ensure the guidance and the relief remains relevant.

4.2. ***Question 4: We have heard representations that the following aspects of the design of LRR act as an impediment to incentivising development of contaminated or derelict land, which we are seeking views on in particular:***

i. activities/elements that aren't covered by LRR

The objective of the relief is 'incentivising the regeneration of brownfield land and reducing the pressure to develop greenfield sites'. However some significant barriers to developing brownfield sites are not eligible for LRR. For example in areas of former heavy industrial use, coal and iron mineshafts are a significant component of relevant sites that require stabilisation to prevent subsidence and create a platform for construction (see for example, [the Brownfield Land Regeneration Case Study: City of Wolverhampton Council: Bilston Urban Village](#), page 11 refers to over 100 mineshafts on the site). However remediation work involving mineshaft grouting is non-qualifying because of the 'air' exclusion in CTA 2009 section 1145(2)(a) although this is not very clear in the guidance.

Brownfield sites are not just affected by contamination. Unless the conditions for a claim for land in a derelict state are met, there is no LRR relief for remediating or removing structures inhibiting development such as gas holders on former gas holder sites or below-ground redundant services. Developers frequently have to undertake significant demolition of both above and below ground structures as well as diversion of services and management of complex ground conditions due to the legacy of a sites former use. Some of these are acknowledged as qualifying costs on derelict sites but the exclusion of these costs on non-derelict sites seems inconsistent with the policy of a relief aimed at the development of more brownfield over greenfield sites.

The definition of land in a contaminated state was specifically extended to certain contaminants in 2009 (Japanese knotweed, arsenic and arsenic compounds and Radon). However we understand that there are further similar barriers to development that currently may fail the conditions for relief (or, to the extent they qualify, are not covered in the guidance sufficiently to provide certainty of treatment). These include Thaumasia, Giant Hogweed, poor ground conditions and other invasive species. Confirmation of the position in guidance is required.

A good example of a relatively newly identified contaminants are Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) from industrial uses such as firefighting foams on former military sites and ex-fire stations. The question of whether remediation costs for PFAS are eligible should also be addressed. As we note above it may be helpful for HMRC to maintain regular contact with relevant government departments and other bodies such as the [National Brownfield Institute](#) to ensure the LRR guidance reflects the latest position as new contaminants are identified and assessed in terms of 'relevant harm'.

ii. *the types of works that are included in the definition of ‘derelict land’*

For the purposes of the relief for land in a derelict state, relevant derelict land remediation means works relating to the land for a purpose specified by Treasury order (CTA 2009 section 1146A(3)). The Corporation Tax (Land Remediation Relief) Order SI 2009/2037 article 6 sets out the specified purposes as the removal of:

- Post-tensioned concrete heavyweight construction
- Building foundations and machinery bases
- Reinforced concrete pilecaps
- Reinforced concrete basements
- Redundant below ground services

The rationale and evidence base for what is included or omitted from the prescribed list is unclear and should be reviewed to ensure they are relevant.

More widely we suggest consideration could be given to simplifying the existing relief by merging the list into the land ‘in a contaminated state’ relief. This would remove the need for two different claims for contaminated and derelict land. If the features of the list are present and relevant to brownfield sites, is there a policy need to establish that the land has been derelict for a prescribed period?

iii. *the impact of the date from which land must be derelict to be considered eligible*

LRR is available for the remediation of derelict land provided certain conditions are satisfied including that the land has been derelict throughout the period beginning with the earlier of 1 April 1998 or the date of the acquisition of a major interest by the claimant or connected company (CTA 2009 section 1147(3)(b)).

As we set out in our submission of 5 July 2022 (reproduced at Appendix 1) the qualifying date of 1 April 1998 was introduced by FA 2009. At the time the look back period was therefore 11 years. It is now 27 years.

In practice it is very challenging, if not impossible, to provide evidence of non-productive use over 27 years. The type of evidence suggested at [CIRD62030](#) is unlikely to be available for that period of time. The English National Land Use Database of Previously Developed Land (NLUD-PDL) referred to at [CIRD62020](#) has been withdrawn as no longer current⁷.

We note that changing the date does not require primary legislation as CTA 2009 section 1147(3A) provides for amendment by regulation, an indication perhaps that the date was not intended to be fixed. Changing the date to another fixed date would appear to restore the original policy intent however the same issue of becoming outdated will inevitably reoccur and require monitoring. As we noted in our 2022 submission, an alternative is to set a relative date from the date of acquisition. However it would need to be set at a sufficiently long period to guard against a deliberate decision to allow sites to become derelict to access the relief while

⁷ See <https://www.gov.uk/government/collections/national-land-use-database-of-previously-developed-land-nlud-pdl>

still preserving the policy to incentivise development. This balance may be difficult to determine evidentially. A simpler alternative would be to remove the date altogether and merge the specified works into the contaminated land relief, as noted above.

- iv. the number of additional sites that would become viable if the date were changed from 1998 to a fixed date (for instance, 10 years) prior to today, aligning with the original legislation**

We do not have this data. We are not sure it will be easy or possible to establish.

The consultation indicates that 1750 claims for a total value of £50m were made for the latest financial year for which data is available. Anecdotally we understand that LRR claims for derelict land are currently made rarely. Is the existing data split between claims for land in a contaminated state (section 1145) and for land in a derelict state (section 1145A)?

More generally we observe that aggregated statistics are not particularly helpful in terms of awareness of the benefits of the relief. We suggest greater transparency of the claims made (without identifying the tax payer or sites) would facilitate better understanding of this tax incentive and increase awareness of the relief among advisers and in the industry/developers. It would also be helpful to understand whether the claims have been made by property developers or investors.

- v. the 'continuous use' requirement, which disqualifies land from LRR that has been in productive use for more than 7 days a year.**

The 7-days temporary use exclusion is non-statutory. It is set out in guidance at [CIRD62001](#) with examples at [CIRD62005](#)

Temporary use:

Land that is in a productive state does not qualify for Land Remediation Relief.

This does not mean that the land must not have been used at all. Where the use is very limited, less than seven days a year, and the income generated is not substantial, then it can be ignored as too insignificant to affect the status of the land as derelict.

The first example at CIRD62005 (the warehouse) refers to a de minimis of two or three days rather than the seven days specified at CIRD62001. This seems confusing. The third example (the one-off use as a film set) indicates relief would be available 'providing that the payment received was not a significant sum'. There is no indication of the basis HMRC apply for quantifying a 'significant sum' or income that is not 'substantial' at CIRD62001.

- vi. the exception from LRR where a company or connected party was responsible in any way for causing the contamination or dereliction or such a company holds an interest in the land (the 'polluter pays principle') – in particular where the owner retains a reversionary interest.**

It is not uncommon for a local authority or government body to sell a long lease in the land to a housebuilder or developer who is otherwise eligible to claim LRR. If the owner of the freehold reversion is the polluter, relief is denied under section 1150(3)(a). The concept of a

999-year peppercorn lease is regarded as being an effective disposal of the property notwithstanding the reversionary interest in other areas of taxation for example it is accepted⁸ that that the grant of a lease can be a disposal for a transfer of a going concern for VAT purposes provided the reversionary interest retained is worth less than 1% of the property transferred. It would not appear to undermine the ‘polluter pays principle’ to adopt a consistent treatment for LRR⁹

A similar scenario of a potential unintended consequence is if a tenant pollutes a small area of the site prior to the acquisition of the site by a new owner who allows the tenant to stay for the remaining part of their lease prior to redevelopment of the site. Even if the site is contaminated with, say, asbestos in buildings and other ground contamination that preceded its purchase, the company could be denied the relief altogether by section 1150(2) due to a small part of the site being contaminated by the tenant who would be deemed to have a relevant interest in the land. It is not clear whether different sources of pollution can be considered separately rather than as a whole. We suggest this scenario should be addressed in the manual.

The conditions in section 1150 may require a complex exercise to arrive at a full understanding of the history of both the buildings and the companies involved. The ‘omitted to be done’ element of the test is understood to be aimed at denying relief for companies who delay remediation beyond a reasonable time frame. However, the absence of any guidance on what inaction would trigger this condition to be in scope causes uncertainty, for example some ground contamination, in say an aquifer of other mobile substance, could get worse during the planning and mobilisation phase of development. Is this within ‘omitted to be done’?

4.3. ***Question 5: Are there other aspects of the design that act as an impediment to incentivising the development of contaminated or derelict land?***

Interest in land

Where a developer is engaged to develop a site under a development agreement, the freeholder (such as Homes England) may grant a building licence with the freehold transferred on completion. A LRR claim is not available to the developer company because it will be undertaking the remediation works on a licence and a licence is not a major interest (as defined in section 1178A). The deferral of the acquisition of the major interest in land, based on protection of commercial risk for the freeholder, denies the developer the relief. We suggest that CAA 2001 section 270DB (interest acquired on completion of construction) that applies for determining a relevant interest for Structures and Building Allowances provides a model for addressing this issue that appears contrary to the policy intent and is economically distortive.

Commencement and cessation of a property business

⁸ <https://www.gov.uk/hmrc-internal-manuals/vat-transfer-of-a-going-concern/vtogc6250>

⁹ LRR accepts the concept of ignoring de minimis use in the context of the 7-day use as noted above – there appears to be no reason why retention of a de minimis interest should not similarly be ignored in the context of whether the polluter retains an interest in the land in question.

LRR provides for relief as a deduction in calculating the profits of a UK property business. In addition, payments of tax credits are available where a company obtains relief and makes a loss in a UK property business (section 1143). Pre-commencement expenditure is treated as incurred on the first day of the property business.

There are differing interpretations of when a property business commences based on the statutory provisions in CTA 2009 sections 205, 207. The CIOT's view is that the natural interpretation of the statutory definition is that it is prospective in its operation (a company's UK property business consists of a business 'for generating income from land' section 205(a) and every transaction 'for that purpose' section 205(b)). Therefore, a business of developing a property for letting can be said (subject to the facts) to be a business carried on for generating income through the prospective use of the property when developed.

We understand that HMRC's approach is that the commencement of a property business requires a current source of income in the form of rent or other receipts. If that is the case, it is not possible to claim LRR until income is generated, that is, when the development has completed or partially completed such that rent is generated. This may be a significant period of time after the development has commenced. During the development phase, significant sums will have been expended on purchasing and remediating the land and paying contractors for the construction of the buildings. Often, this will require the investor developer to finance the project from external sources to fund the significant cash outflows during this 'build' cycle. This approach – such that LRR can only be claim when a qualifying property business commences - appears to undermine the policy intent of the relief to incentivise development expenditure including through the payment of tax credits for qualifying land remediation losses and results in a disconnect between the credit and expenditure it is seeking to incentivise.

A further area of uncertainty for LRR claims is where a property investor demolishes and rebuilds a property for rental. HMRC's approach to determining the permanent cessation of a UK property business at PIM2510 indicates consideration should be given to the type of activities and whether they amount to a continuation or a permanent cessation as a question of fact. HMRC's approach to demolition and rebuild is unclear.

A related area of uncertainty is where an LLP claims LRR – is the partnership required to have commenced a property business or is it sufficient that a member has commenced a property business (or trade) on its own account?

4.4. ***Question 6: How complex is the relief to claim? To what extent does administrative complexity of claiming the relief hinder the relief from achieving its objectives?***

Preparing claims requires a review of technical and commercial information which requires accessing supporting evidence and project data. This process, although complex, is not unlike other similar incentives like capital allowances. Claiming the relief is relatively straightforward in that there is a dedicated box in the CT600 to insert the qualifying expenditure.

4.5. ***Question 7: To what extent does the legislative complexity of the relief hinder it from achieving its objectives?***

Preparing the claim requires an interpretation of a set of legislative conditions that depart from definitions used in the environmental assessment of contaminated sites and therefore introduces some complexity and potential for error.

Removing the need for a separate date-based claim for land in a derelict state and making the current specified works for derelict land eligible for relief in the contaminated land relief claim would be a significant simplification and support the policy objective.

5. Chapter 4 Robustness against error

5.1. **Question 15: What is your understanding of why customers and/or their agents may make errors when submitting claims for LLR or the LLR tax credit?**

Feedback from members is that it is not particularly complex to administer although there are some common errors identified such as including landfill tax incorrectly. However, that point is covered in guidance.

5.2. **Question 16: Are there any changes that could be made to the LRR guidance or rules to help prevent errors when making LRR claims, and/or make the process more straightforward?**

Good guidance including regular updates assists taxpayers to submit accurate claims. We have identified areas of uncertainties that need to be addressed in guidance in our response above.

5.3. **Question 17: Are there fraud risks associated with LRR, particularly with the payable tax credit part of the relief? Question 18: What additional processes could help to reduce error or fraud without introducing disproportionate administrative burdens?**

A tax relief that provides a payable tax credit (or the like) is particularly susceptible to abuse and fraud as it can provide a mechanism for fraudsters to extract cash from the government. It is important that there are adequate checks and processes in place from the outset to ensure only genuine claims are paid out. This would include HMRC conducting sufficient compliance checks into claims as well as ensuring that claims for LRR must be made with adequate supporting documents and information to enable HMRC to efficiently check and risk assess claims that are being made. R&D tax relief is probably the area where the most lessons can be learnt. For example, consideration should be given to using something akin to the additional information form that is now required for R&D claims

We note and support the NAO's recommendations¹⁰ in its 2024 report: [Tax measures to encourage economic growth](#) of a clear process for monitoring the level of relief claims to ensure the relief's costs remain in line with expectations and estimates including a response capability where widespread non-compliance occurs.

¹⁰ Recommendation h for example: Where the costs of tax reliefs rise rapidly, and beyond an economically credible scenario, HMRC should, where proportionate, investigate a sample of claims to check whether there is widespread non-compliance. It should put in place a rapid response capability where widespread non-compliance occurs.

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.

The Chartered Institute of Taxation

12 September 2025