HM Treasury

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## Consultation on policy design

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# Contents

# Foreword

Beyond the Covid-19 pandemic, the UK government wants to build back better – that means better homes, better infrastructure and better communities. The foundation of those ambitions is safety and fairness.

That is why the Secretary of State for Housing, Communities and Local Government, Robert Jenrick, announced a five-point plan on 10 February 2021 to provide reassurance to homeowners and restore confidence in the housing market.

That plan includes a new tax introduced for the UK residential property development sector in 2022, to raise revenue to help fund the government's vital remediation work.

Residential property developers must be part of the solution to these complex problems, and the government considers a tax raising at least £2 billion to represent a fair contribution to the overall costs of the remediation programme.

The government recognises this tax is an issue of significance to businesses and the wider community. It is therefore consulting on the design and administration of the tax and looks forward to working with stakeholders, so it is proportionate and works as intended.

# Chapter 1
# Introduction

## Background

Bringing an end to unsafe cladding is a priority of the government. It has always been the expectation that building owners and developers should step up to meet the cost of this work, without passing on costs to leaseholders.

Where they have not, or where they no longer exist, the government has stepped in, providing over £5 billion to date for remediation of unsafe cladding on high-rise residential buildings, alongside wider support.

### Building Safety Package

On 10 February 2021, the Secretary of State for Housing, Communities and Local Government set out a five-point plan to bring an end to unsafe cladding, provide reassurance to homeowners and support confidence in the housing market:

- The government will pay for the removal of unsafe cladding for leaseholders in all residential buildings 18 metres (6 storeys) and over in England
- A generous finance scheme for leaseholders in lower rise, lower risk buildings – those between 11 and 18 metres (4 to 6 storeys) – to help pay for cladding removal where it is needed and ensure leaseholders never pay more than £50 a month towards the costs
- An industry levy and a new tax on residential developers, to ensure developers play their part and make a fair contribution
- A new building safety regime to ensure a tragedy like Grenfell never happens again
- Providing confidence to this part of the housing market including lenders and surveyors

### Industry paying its fair share

To help pay for these interventions the government is introducing two revenue raising measures, as per point three above:

- A new Gateway 2 levy, which will be applied when developers seek permission to develop certain high-rise buildings in England
- A new tax on the residential property development sector

The introduction of these measures is not intended to imply responsibility on behalf of the payers for historic construction defects in relation to cladding.

The government recognises that many developers have had limited involvement in the development of high-rise buildings that require remediation and that many have taken independent steps to cover the costs of remediation where applicable.

However, the largest residential developers are operating in a market that will benefit from the substantial amount of funding the government is providing to address building safety defects. The government has also helped support confidence and liquidity in the residential property market with its recent interventions on stamp duty land tax and the mortgage guarantee scheme.

Therefore, given the significant costs associated with the removal of unsafe cladding, the government believes it is right to seek a fair contribution from the largest developers in the residential property development sector to help fund it.

## The new tax

This consultation is focused on only one of the two revenue raising measures: the new tax on the residential property development sector.

As announced on 10 February, the new tax would be time-limited and apply to the largest residential property developers in relation to the money they make from UK residential development.

The new tax would be introduced in 2022 and seek to raise at least £2 billion over a decade.

The new tax is described as the Residential Property Developer Tax ("RPDT") from this point onwards.

# The purpose of the consultation

The consultation seeks views on the design, implementation and administration of this new tax.

This includes:

- the definition of residential property and development activity, and two potential models for the tax
- approaches to setting the rate and allowance
- the interaction with the new Gateway 2 levy
- reporting
- payment and compliance
- potential impacts of the tax, including on housing supply and provision of affordable housing

The government welcomes comments on this consultation by 22 July 2021. In line with the tax policy making process, the government will publish draft legislation for technical consultation ahead of the inclusion of the measure in a future Finance Bill.

Responses should be sent to rpdtconsultation@hmtreasury.gov.uk.

In order to engage with businesses who would be affected by the proposals in this consultation, the government will be consulting relevant stakeholders and interested parties on the proposals through meetings. If you would like to be included in a consultative meeting, please contact us via the email above, preferably before 31 May.

# Chapter 2
# Core principles

The core principles that have been used to inform the design of this tax are:

- Duration: The government intends for this to be a time-limited tax, with the aim being to raise cumulative revenue of at least £2 billion over a decade.
- Scope: In line with the context set out above, the government intends for the tax to be focused on the largest corporate undertakings that make money from UK residential property development activities.
- Tax base: The government believes that those undertakings should be taxed on a measure of profit that corresponds with their UK residential development activities. Taxing profit helps to ensure contributions are proportionate to economic returns and helps to minimise distortions that might come from alternative tax bases.
- Allowance: The tax would only be applied to profits that exceed an allowance to ensure that the tax is administrable and that the costs of business compliance are proportionate to liabilities.
- Corporate groups: The tax would apply to the largest residential property developers only, and the tax would need to operate fairly and effectively in relation to corporate groups. There would be a need to ensure that the tax is focused on residential development activities within groups that might have multiple activities such as commercial development or real estate investment. There would equally be a need to ensure that the tax applies to a comprehensive measure of profit from residential development activities and is robust against fragmentation of activities within a group structure.
- Other principles: The objectives above would need to be achieved through a tax that is simple, consistent with the UK's international legal obligations (e.g. its territorial taxing rights and Tax Treaties) and minimises economic distortion. The tax would be designed to raise revenue in a way that minimises adverse impacts on wider government objectives.

# Chapter 3

# Scope

## Taxpayers within scope of the tax

The government intends for the tax to be targeted at companies or corporate groups, reflecting that these are the legal structures through which large-scale residential property development is expected to be undertaken.

A group of companies or a standalone company would be within the scope of the RPDT for an accounting period if they:

- undertake UK residential property development activities; and
- generate profits as computed under the models presented below, that exceed the annual allowance available to them in that accounting period.

This chapter provides more detail on the government's proposals for what counts as development, the definition of residential property, and alternative ways to calculate UK residential property development profits for the purposes of the RPDT. Proposals for how these might apply for corporate groups, partnerships or joint ventures are also explained in Chapter 4.

## Definitions of residential property and development

### Residential property

There are several definitions in tax statutes and HMRC guidance relating to the meaning of residential property.

Some current or recent "residential property" definitions in various iterations are found in the tax rules covering the following:

- The annual tax on enveloped dwellings (ATED)[1]
- Stamp duty land tax (SDLT)[2]
- Principal private residence relief for capital gains tax (PPR)[3]
- The former non-resident capital gains tax charge (NRCGT)[4]

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[1] Section 19 of HMRC technical guidance on ATED

[2] Section 116 Finance Act 2003

[3] HMRC Capital Gains Manual – see CG64200 et seq.

[4] HMRC Capital Gains Manual – see CG73746

The essential element in these definitions, which the government intends to replicate for the RPDT, is:

- "a house or flat that is considered as a single residence, generally together with the grounds and garden or any other land intended for the benefit of the dwelling"

Where land and property are under development or undergoing a change of use, the SDLT rules extend what is regarded as a residential dwelling so that it includes:

- any building that is suitable for use as a dwelling, where it is not so used at the relevant time
- any existing building that is being adapted, restored to, or marketed for, domestic use
- undeveloped land where a residential building is being or would be constructed on it

The government proposes to use these principles for the definition of a residential property for the purposes of the RPDT, but to extend it to include any undeveloped land or land undergoing a change in use, for which planning permission to construct residential property has been obtained.

**Question: Is this definition a reasonable basis for identifying residential property in scope for the tax? Will companies be able to identify profits in scope using this definition?**

## Affordable Housing

The government considers that any profits made in relation to the development of affordable housing should be in scope of the tax, as "residential property".

The term affordable housing in this context includes the development of property that is intended to be used as:

- Social rented housing or affordable rented housing
- Affordable home ownership products, such as shared ownership and First Homes schemes

The government recognises that developers are required to make contributions towards affordable housing through the planning system. These contributions are secured through Section 106 planning obligations.

It is understood that many developers would be largely unaffected by an approach which targets profits rather than operating surplus, as most affordable housing is developed at a cost only return.

That said, the government recognises that there may be some affordable housing activity developed at a profit and welcomes views on the implications of taxing profits from such activity. In particular the government would welcome views on the treatment of profits from homes developed by housing associations for market sale where there are cross-subsidy arrangements with affordable housing, and where profits from residential development are reinvested by or distributed to a registered provider of social housing.

The government understands that there are large housing associations that focus wholly or mainly on the development of affordable housing. It is recognised that a large proportion of these activities are deemed to be charitable and therefore exempt from Corporation Tax. The government does not intend to disturb the existing tax exemption for charitable activities and would not be seeking to tax such activities under the RPDT.

**Question: Do you agree with the approach to affordable housing? What are the implications for housing associations and to what extent would their taxable activities fall in scope?**

## Communal dwellings

As set out in the introduction, the tax is intended to apply to residential property developers that are operating in a market that will benefit from the substantial amount of funding the government is providing to address building safety defects and the impact that will have on market confidence and liquidity.

While that policy rationale might have relevance to the development of certain communal dwellings, many communal dwellings have different characteristics relative to the broader housing market and will not derive benefit from the government's interventions. On that basis, the government suggests that development of the following specialist communal dwellings should be excluded from the definition of residential property:

- Hotels
- Residential homes for children or the elderly
- Hospitals and hospices
- Purpose-designed supported housing with communal facilities providing accommodation with care and/or support for homeless, rough sleepers, people with a disability, drug or alcohol dependency, poor mental health, people with a learning disability and/or autism and older people
- Residential accommodation for members of any of the armed forces
- Boarding schools
- Monastery, nunnery or similar establishment
- Prisons

The government will be giving further consideration to the treatment of purpose-built communal accommodation intended for occupation by students.

This encompasses a range of accommodation, for example, traditional halls of residence with common areas and shared facilities, through to fully self-contained flats or other dwellings.

The government believes that a case can be made for the development of purpose-built student accommodation being in scope of the tax given that this accommodation can have similar characteristics, and be in competition with, the wider rental sector.

That said, the government invites views on this and whether there might be a case for the development of purpose-built student accommodation being outside of the scope of the tax in certain situations.

For example, the argument for the development of purpose-built student accommodation being in scope of the tax could be stronger where the individual units are self-contained i.e. all three basic amenities (kitchen, bathroom and toilet) are available for the exclusive use of its occupants. The government welcomes views on the merits and practicalities of using self-containment as a basis for determining whether purpose-built student accommodation falls in or out of scope.

Separately, there is a need to consider the treatment of different forms of retirement accommodation where varying levels of care provision may be included. Where care and allied service functions such as catering and cleaning are provided as an integral part of a communal dwelling, as in a residential home, then the government intends profits from such developments to be out of scope of the RPDT.

Where this is not the case, for example retirement communities that offer accommodation and communal facilities for older persons that are not reliant on care provision, the government considers that profits from development should fall within scope of the tax.

Question: Do you agree with this approach to communal housing?

Question: Do you agree with this approach to student housing?

Question: Is there an alternative to the approach described for retirement housing, which considers provision of care and allied services, that should be considered?

Question: Are there additional forms of communal housing that you believe should be excluded from the definition of residential property for the purposes of the RPDT?

## Development activities within scope of the tax

The RPDT will be applied to the profits of companies and corporate groups that undertake residential property development on their own behalf.

The intention of the tax is to apply to the developer group's profits from residential property development, irrespective of whether development is carried out solely 'in-house' or whether it utilises the services of third-party contractors to undertake that development.

A typical development project may encompass the following phases:

- Acquisition of an interest in land
- Pre-planning advice and investigation
- Design and scoping
- Planning application and stakeholder engagement
- Construction

- Marketing and sales

The primary focus of the tax is on the development of residential properties located in the UK for either sale or rental as individual dwellings. Development is taken to include conversion of existing buildings as well as new construction.

The tax would therefore apply regardless of whether residential property is being developed with a view to disposing of leasehold or freehold interests, including commonhold interests.

The tax would apply where a site, or part of a site, in development is sold as well as when the original developer sells the individual dwellings.

### Build-to-rent models

Companies may develop UK residential property intended to be retained as a long-term investment (the 'build-to-rent' model). This may be within a group or through a joint venture with other partners and/or investors.

The government considers that any profits derived from the development of build-to-rent properties would be within scope of the RPDT. Excluding such developments could lead to distortions and unfair treatment – for instance by excluding from the RPDT developments that are rented briefly on completion before being sold, or by taxing differently groups that have diversified models including sales and build-to-rent from competitors with sales-only models.

Where a building is constructed within the group to hold as investment property the profits of the property developer company would be included within the profit calculation for the RPDT. This requires that groups measure profits from the development stage of such build-to-rent activity and do so on a basis that compares fairly with build-to-sell models. If the property is sold or transferred within the group after completion of the development phase, then inclusion of an arms-length amount of profit for RPDT purposes seems to meet this requirement. In the absence of such a transfer, then the government proposes that an equivalent amount of profit should be imputed to the relevant developer company on the basis set out in the following paragraph.

The government seeks to tax build-to-rent models in a manner that reduces complexity and administrative burdens, and proposes to levy the tax against development profit, defined as the fair value of the development upon initial rental, minus the costs of development.

It is recognised, however, that groups will have different commercial and accounting approaches – including the treatment of investment property.

**Question: How should income from the development stage of build-to-rent activities be measured for the purposes of the tax? Do groups already recognise build-to-rent income in their development profits? On what basis?**

## Activities not in scope of the tax

Depending upon the final policy design, companies whose activities are wholly unconnected to UK residential property development would be outside the scope of the tax. Similarly, activities carried out as a third-party contractor in relation to residential developments of an unconnected developer are not intended to fall within the scope of the tax.

This would apply where, for example, the group is exclusively carrying on civil engineering construction, commercial development or residential development of land outside of the UK.

Where companies carry on a mixture of activities, some of which support or are part of a UK residential property development business activity, then the treatment would follow one or other of the policy models set out in the following section.

Where a group or company's activity includes mixed-use development projects that include elements of residential property development with commercial development the policy models again set out proposed treatments.

Where a group's development profits are fully recognised for RPDT purposes, it would not be necessary to also include in the tax base profits of companies that do not otherwise participate in the development stage. This would include any rental income or income from the provision of services to tenants of the properties that the group develops as part of a build to rent business.

# The fundamental design of the tax

## Model 1 – company-based approach

The RPDT would apply to standalone companies and groups of companies that undertake any amount of UK residential property development or support that work.

In relation to groups, the tax would be applied to companies within the group that either directly undertake or contribute to the group's UK residential property development activities.

This would be subject to a significance test. If the residential property development activity is insignificant then that company's profits would not be included when calculating the profits liable to the RPDT.

This could be determined by a de minimis percentage of, for example, profit or turnover. Views are sought on how the definition of insignificant is designed and calculated.

This model would mean that where a company's activity includes more than an insignificant amount of residential property development activity then all of its profits would be subject to the tax.

For example, where a group has a residential property development company and a commercial property development company, and the commercial property developer provides more than insignificant support to the residential property company then all of the profits of both the residential property development company and the commercial property development company would be included in the tax base.

The tax would then be applied to the profits of those companies as computed for Corporation Tax (CT) with potential various adjustments as set out below.

The tax liability would sit with individual companies within a group, but it is envisaged that there could be a streamlined administrative process under which a single group company could make payment and file returns on behalf of other group companies. The responsible company could either be designated in the rules or the group allowed to nominate the company. There is further discussion of reporting and payment in Chapters 6 and 7.

## Model 2 – activity-based approach

The RPDT would apply to standalone companies and groups of companies that undertake any amount of UK residential property development or support that work in other companies in the same group.

In relation to groups, the tax would be applied to the profits of companies within the group that undertake activity in relation to UK residential property development.

Unlike model 1, which would apply the tax to the total profits of companies, this model would require identification of residential property development activities only and would base the tax on the amount of profit in a company that relates to those residential property development activities only.

The tax could not be avoided by fragmenting the development activity between different group companies some of which are not primarily residential property developers.

The government has identified two different ways of calculating the profits subject to tax under this model:

a. Take the profits as computed for CT with potential various adjustments as set out below, or

b. Take the consolidated accounting measure of profit computed in line with UK GAAP in relation to residential property development activity as a separate division and with potential various adjustments as set out below. This is intended to be a measure of the total profit that singleton companies or groups of companies derive from UK residential property development and activities related to said development within the same group of companies, which could be seen as a division/segment measure. It aims to calculate that profit and apply the tax just to that profit. This would require a group of companies to provide a separate account of the group profits attributable to UK residential property development. For singleton companies there is no material difference between this model and model 2a.

For model 2a, liability would sit with individual companies within a group, but it is envisaged that there could be a streamlined administrative process under which a single group company could make payment and file returns on behalf of other group companies. The responsible company could either be designated in the rules or the group allowed to nominate the company.

For model 2b, a specific company would likely be required to both file the return and make payment. The default position under this model would be for the parent company to be responsible for these obligations, although it may be possible to allow for another company in the group to be nominated. There is further discussion of reporting and payment in Chapters 6 and 7.

Both options within model 2 should create a similar measure of tax.

**Question: What are the implications of models 1, 2a and 2b for businesses?**

**Question: Which approach is preferred?**

**Question: Which of these would be administratively easier for major residential property developers to operate?**

**Question: Where should the significance test be set for model 1?**

## The definition of profit

The RPDT is in many respects a unique element of the UK tax landscape, in that as well as being very clearly sectoral in target, the government has indicated that it will be time limited and has indicated how much the tax is intended to raise before that time limit expires. These points are relevant to the selection of the tax base for the RPDT because the intention is to ensure that the tax:

- Affects only the largest residential property developers
- Affects those developers in a way that as far as possible is proportionate by reference to the profits realised by the developer
- Raises sufficient revenue annually to achieve the target over a decade
- Does not distort the housing market by unduly favouring or deterring the adoption of particular business models, for example in respect of the source of funding of developers' activities

The models outlined above represent two alternative bases on which to measure the tax base.

Model 1 starts from the total profits as computed for CT purposes for companies that undertake or contribute to the entity's UK residential property development activities. The tax is applied to those profits in full, subject to a significance test and possible adjustments set out below.

Model 2 requires identification of those profits realised from UK residential property development activity only. Model 2a also starts from the total profits as computed for CT purposes for companies that undertake or contribute to the entity's UK residential property development activities. An adjustment is made to identify the profits that relate only to the residential property development activity. The tax is applied to those profits, subject to possible adjustments set out below.

Model 2b starts from the profits computed under normal accounting principles, but on a divisional basis to exclude all activity within the group that does not relate to UK residential property development. The tax is applied to those profits, subject to possible adjustments set out below.

No apportionment would be necessary under model 1 where substantially the whole of the activities of a company or group relate to a UK residential property development business, and the tax base would equate to total profits as computed for CT purposes.

Model 2 requires apportionment of income and general corporate expenditure where it only partly relates to activity that is within the scope of the tax. For example, where construction costs relate to a mixed-use development the apportionment could be on a basis of the values of the residential element and the non-residential element of the project. The government welcomes views on the best way to achieve an apportionment that is not unduly burdensome.

**Question: What would be the best approach to achieving an apportionment for income and expenditure that is fair without being unduly burdensome?**

## Adjustments to CT or accounting profits

The aim of any adjustments to the profits for CT or accounting purposes should be to ensure that the impact of the tax is broadly neutral for similar groups operating similar business models but achieves an equitable share of the overall tax raised as between different groups, irrespective of their particular business model.

One significant challenge in arriving at an appropriate measure of profit to use as the base for the RPDT is for businesses where the development company or group does not immediately recognise the full extent of profits in its accounts on completion of a development.

This would be the case where the completed property is retained and leased under relatively short-term leases either for the long-term by a build-to-rent developer, or as an interim measure until the developer's interest in a development is sold.

There may therefore need to be an adjustment to the measure of profit in order to ensure that development profits from build to rent activity are caught. As set out earlier in this chapter, this could involve an arm's length profit for intra-group transfers or sales, or in the absence of such transfers, an imputed amount of profit reflective of the development returns.

Two additional areas where the government proposes that adjustments to the accounting and tax profits are explored for the RPDT are in respect of certain losses and in respect of interest and other funding costs. This applies in relation to both models.

Model 2b relies on an accounting measure of profits and would therefore exclude tax adjustments made for capital allowances, and credits or other adjustments for research and development etc.

However, it is envisaged that tax concepts such as the need for expenditure to be wholly and exclusively for the purpose of the company's residential property development business, and the disallowance of capital expenditure would need to be retained. Consideration will need to be given as to how to apply capital allowances or depreciation for capital assets in the model.

## Losses

The government believes that losses incurred before the introduction of the RPDT should not be capable of reducing profits subject to the RPDT. This ensures that the tax is focused on profits and losses arising from residential property development activity subsequent to its introduction, and that the tax revenue goal of at least £2 billion over a decade remains realistic and achievable.

However, the government is considering whether losses that are incurred from the introduction of the tax in 2022 should be used to reduce RPDT profits by carry-forward to later years.

While the government recognises the economic and fairness arguments for allowing losses to be carried-forward it would mean for all models the creation of a new category of RPDT losses and specific loss streaming rules, which would add a significant layer of complexity into the new tax, and would move the RPDT further away from the standard CT rules.

Issues that have been identified include:

- The need to identify and track losses relating to residential property development activities from the 2022 commencement date, separate from other losses of a corporate group
- The need to consider how loss carry-forward rules deal with the potential for groups to fall in and out of the scope of the tax due to the £25 million allowance
- The need to consider whether the amount of profit that could be relieved by carried-forward losses would be limited to 50 percent in line with the CT rules, and how that would be achieved under the different models
- The need to consider how carried-forward losses for the purpose of the RPDT would be dealt with upon reorganisation or acquisition of a group

The government recognises there is a trade-off between fairness and complexity and seeks views on whether the ability to carry forward losses from commencement of the tax should be an essential feature, and if so, how the government can minimise the complexities this would bring.

In particular the government is aware that allowing relief for carry forward losses may add administrative complexity to the regime as it may require companies that are generally below the £25 million allowance to calculate RPDT profits and allowable losses in case they come into the regime (either through having increased profits or via the significance test).

The government would like views on the trade-off between allowing losses incurred on residential property development activity during the lifetime of the tax to be carried forward and set against profits subject to RPDT and the potential complexity this introduces.

**Question: To help inform the design, what are the sector's expectations for future losses?**

**Question: Do you consider there is any method of allowing carried forward losses, which can provide both fairness and minimal administrative burden?**

## Group relief

The government considers that any losses incurred by the group in connection with activities that that are not part of the residential property development activities should not be used to reduce RPDT profits. This is relevant primarily for models which use the corporation tax measure of profits as the starting point for determining the tax base of the RPDT.

Therefore any group relief from out-of-scope companies i.e. those not undertaking or supporting any residential property development activity, is to be added back to total profits to ensure that the losses from unrelated activities do not reduce the relevant residential property development profits subject to the new tax.

This provides a 'ring-fence' around these activities for the purpose purely of determining liability to the RPDT. The government does not propose any change to the treatment of group relief for normal corporation tax purposes.

For example, assume Company D in a group has Corporation Tax profits of 100 in an accounting period, and model 2 RPDT profits of 50, and other companies in the group not involved in residential property development have Corporation Tax losses in excess of 100 available to surrender as group relief to Company D.

Under model 1, the group relief can be used to reduce Company D's profits chargeable to the main rate of corporation tax to nil, but the RPDT profits of 100 remain within the charge to RPDT.

Under model 2a, losses from companies whose profits are not subject to the RPDT would not be able to reduce the profits of companies that are subject to the RPDT for that purpose, but again group relief can be utilised as currently for the purpose of calculating profits subject to the main rate of CT. The RPDT profits of 50 remain within the charge to RPDT. Where a company has losses which derive partially from an RPDT activity and partially from other activities the losses from the RPDT activity would have to be calculated separately.  It is then only those RPDT losses than can be group relieved against other RPDT profits.

Under model 2b any accounting losses from activities outside of residential property development would not be taken into account in a statement of divisional profits.

## Interest and other funding costs

To prevent distortions of the tax base for RPDT depending on differing models of how interest is allocated, the government proposes that interest and other funding costs would not be allowed as a deduction against RPDT profits.

This is similar to the approach taken for the calculation of the Supplementary Charge applied to companies in the oil and gas ring fence regime.

Interest and funding costs can often vary significantly between different groups undertaking significant amounts of residential property development activity.

Reasons for this can vary, but typically are related to the choice of business models operated by owners of the business and can reflect the different treatment of the costs of debt and equity funding for corporation tax purposes.

Groups with similar level of debt are able to allocate interest costs around the various group companies in different ways. The scope of the various models to isolate the profit is related to the varying definitions of residential property development profits but these will often be a subset of overall group profits.

The government therefore proposes that interest and funding costs are excluded from the calculation of profits for RPDT allowance and tax purposes under all of the models.

**Question: What are the implications of excluding interest and funding costs from the measure of profits for RPDT purposes?**

## Territorial scope

As set out above, the intention is for the tax to apply to profits that companies or corporate groups generate from UK residential property development.

It is expected that these profits will be profits over which the UK has taxing rights under its bilateral double tax treaties and exercises those taxing rights for CT purposes. That could be because profits are realised by a UK resident company or a non-UK resident company that has a UK permanent establishment or falls within scope of the offshore property developer rules.

Where profits of a group that relate to UK residential development fall outside of the UK's established taxing rights, those profits would not fall within scope of the RPDT.

The government considers that it is only possible to apply this tax UK-wide given that the models for the tax are closely formed to the measures of profit that form the basis of Corporation Tax, which applies on a UK-wide basis.

However, where the profits of an overseas property developer are brought within the charge to UK CT under the overseas property developer rules then such profits would also be included in the measure of profits for a UK company or group for the RPDT.

# Chapter 4
# Allowance and rate

## Overview

The government wants to ensure that the administrative burdens for businesses operating in the residential property development sector, and the costs of administering and collecting the tax, are proportionate.

To achieve this, the government proposes that only businesses with relevant profits exceeding an annual allowance should be in scope of the tax.

The government also wants to ensure that the tax liabilities on those in scope are not disproportionate and do not have wider detrimental impacts.

This chapter sets out more detail on the government's proposal for targeting the tax at large businesses only, and the approach in relation to the rate of tax that would apply to those with relevant profits exceeding the annual allowance.

There will be circumstances where groups have companies with accounting dates that are different to the main group accounting period and the rules for the annual allowance would be adapted to deal with this situation.

## Annual allowance

The government proposes that the charge would only apply to the profits of a company or group which exceed an annual allowance of £25 million.

This would be a group-wide allowance, which exempts the relevant RPDT profits from liability to the tax and ensure that companies and groups with profits below this amount remain out of scope entirely. Any unused allowance cannot be carried forward to future years.

For example, if a group has calculated that it has £100 million RPDT profits, it can use the annual allowance of £25 million against those profits, and the excess of £75 million would remain chargeable to the tax.

The government also proposes that the final design on the treatment of carried forward losses for the purposes of calculating the profits subject to RPDT must also apply to the calculation of the profits for the purposes of the allowance.

**Question: Do you agree that the same approach regarding treatment of carried forward losses for the calculation of the profits for the tax should apply for the calculation of profits for the allowance?**

## Application to companies across common ownership

It is proposed that a company or group's share of profits in development conducted through a joint venture should be taken into account for this allowance and also charged to tax.

The legislation would therefore need to take account of group situations in a suitable way, have a mechanism for determining the share of the profits of a joint venture and provide for the taxation of that share.

The government wants to achieve a balance between simplicity and ensuring that the allowance is applied across companies under common ownership.

Group definitions that rely on control, ownership of share capital, and/or rights to distributions of profit or assets in a winding up may not capture the UK residential property development profits of what might reasonably be considered a single economic entity.

An alternative approach might be to look to the accounting rules concerning consolidation.

Either approach may require supplementary rules to take into account profits attributable to the economic entity that arise in companies that fall outside the group under the core definition.

**Question: Do you think it is more appropriate for the definition of a group for the purposes of this tax to be based on a tax rule or an accounting standard?**

**Question: Which existing definition of a group for tax or accounting purposes do you think would be most appropriate for this purpose?**

**Question: What rules, in addition to your preferred group definition, do you consider would be required to ensure that the threshold is applied to a single economic entity?**

## Joint ventures

The government recognises that institutional investors participate in the residential property market alongside large corporate house builders and do so through a wide variety of investment models, including joint ventures.

Some joint ventures may be conducted through fiscally transparent entities – like partnerships - where the profits will be taken into account in taxing the participating group members. This would not require additional rules for the purposes of the RPDT.

Many joint ventures will take the form of a company within the charge to CT and the rules would need to ensure that such ventures are taxed appropriately be it at the level of the JV or at the ownership level. There are many varieties of structures involved in such JVs some of which have offshore ownership and some which are owned by tax exempt entities such as pension funds. In order to treat development profits fairly, regardless of how investors structure their investments and to cope with this variety of structures the government believes that a two-tier approach is needed.

a. Profits would be subject to the RPDT for the JV structure as if it were a standalone group.

b. The profits of the JV applicable to each JV member's ownership of the JV would also be taxed to RPDT as part of that group's RPDT profits.

To ensure double taxation is avoided a participating group would receive the appropriate credit where the joint venture is itself liable to pay the tax.

As for the group definition, participation in a joint venture could be judged by rules that rely on control, ownership of share capital, and/or rights to distributions of profit or assets in a winding up. It is possible that an existing accounting definition may be appropriate.

The government proposes that a company or group would only be liable to tax in respect of a joint venture in which it has a relatively significant economic interest.

**Question: What would you consider to be appropriate measures of economic participation in a joint venture?**

**Question: What would you consider to be an appropriate hurdle for a participator becoming liable to tax in respect of the joint venture?**

**Question: Do you have any other observations regarding the use of joint venture structures in the UK residential property development sector?**

# Rate

The rate of the tax will be considered once the final design of the tax is clearer. The rate is expected to be announced at a future fiscal event.

That is because the government does not want to pre-empt the final design of the tax without stakeholder consultation, and this consultation covers multiple options in terms of the tax's design, including the tax base.

The government recognises that stakeholders would appreciate further clarity on the rate, in the context of the headline CT rate increase to 25% in 2023. The government also recognises that certainty on the rate is helpful for business planning purposes. The principles listed below will be used to determine a final tax rate:

- the tax burden should be proportionate, and considered in the context of the CT increase to 25 percent
- the tax should raise at least £2 billion over a ten-year period, and the tax base would be an important factor in determining the final rate
- the tax should apply to the largest residential property developers, to ensure that those with the broadest shoulders contribute the most
- the tax should not have a disproportionate impact on housing supply, or other government objectives on housing
- while the rate may be amended once the tax is in force, it is not intended to fluctuate year-to-year

If the tax does not raise sufficient revenue over a decade, the government would consider whether to extend the duration past a decade.

Question: Do you agree that these principles should guide the decision on the rate of the tax?

## Ongoing review

As with all other taxes, the government would keep the rate of the tax and the allowance under review to ensure that the tax remains effective and proportionate.

# Chapter 5
# Interaction with Gateway 2 levy

## Overview

As mentioned in Chapter 1, in addition to RPDT the government also intends to introduce a levy to be applied when developers seek permission to develop higher risk residential buildings in England. The levy will be legislated through the Building Safety Bill in due course.

There will be a separate consultation process led by the Ministry of Housing, Communities and Local Government and more information with regards to the design of the levy will be provided in due course.

The government recognises that developers will have an interest in how both policies will impact their businesses.

There are significant differences in terms of how the two measures would apply.

The tax is a general measure to ensure the wider sector contributes to the costs of ending unsafe cladding, whereas the levy focuses on high-rise developments and would only apply when developers seek permission to develop high-rise buildings above 18 metres in England.

While the policies are targeted differently, the government recognises that it is possible that in some cases developers would be in scope of the levy for specific developments, and the tax on their profits.

While it will be difficult to comment before the publication of more detail on the design of the levy, the government would like to seek initial views on the prevalence and potential impact of this overlap.

**Question: Do you have any initial views on the cumulative impact of the RPDT and the Gateway 2 levy?**

# Chapter 6

# Reporting

## Overview

This section sets out the main administrative rules and how the government intends to operate the new tax.

It focuses on these rules as they apply to corporates and welcomes businesses' views on whether other arrangements are likely to be needed to deal with non-corporate entities.

Consideration is being given as to whether reporting liability to the RPDT could be done through the existing CT return or would require the creation of a new separate return.

If a new return is required, there may still be opportunities for the administrative, reporting and compliance framework for the RPDT to be aligned in many respects with the existing CT framework. This may be beneficial due to the familiarity that businesses will have with CT.

## Reporting Periods

For all models, the government's preferred approach is for the tax to be reported annually using CT rules as a framework for determining the period covered by the return.

This is beneficial as companies or groups will generally only need to collate figures for profits from residential property development annually.

This means the Accounting Period (AP) for the RPDT cannot be longer than 12 months and would normally be the same as the period covered by the company's annual accounts (for models 1 and 2a) or the group's consolidated accounts (for model 2b).

If under the model chosen the RPDT is reported and paid on a group-wide basis and there are entities with different accounting periods, these would likely be aligned for the purposes of computing RPDT liability with the group's consolidated accounts on a time-apportioned basis.

Similar rules to those used in CT would ensure that accounting periods continue to align with financial accounts when there are changes to accounting periods.

**Question: Do you agree that the RPDT should be reported using the same periods as for CT?**

**Question: Do you see any difficulties applying the CT rules for accounting periods to any of the models and if so, how could they be overcome?**

## Reporting Requirements

A company or group (through a nominated entity) liable to the RPDT would be required to self-assess and inform HMRC of its liability to the RPDT within similar timescales that apply to CT.

Companies or groups (depending on the model chosen) would need to provide information on:

- profits from the in-scope business activities (at a company or group level as appropriate)
- any claims to relief/use of losses etc. which are available
- the RPDT liability

Businesses would need to keep records in support of any apportionments made in computing profits from in-scope activities.

As with CT, penalties would be charged where the filing date for the return was missed.

The announcement of the RPDT stated an intention to raise at least £2 billion over a decade. Businesses would therefore need to notify HMRC of the amount of a given payment which relates to RPDT, so that this can be monitored.

## Registration Requirements

If reporting liability to the RPDT is done through the CT return, it is expected that companies or groups (through a nominated entity) would not need to register as liable before filing a return.

However, if a new return is required, for all models there would need to be an obligation for companies or groups (through a nominated entity) to notify HMRC that the threshold condition(s) for a charge to the RPDT have been satisfied. The government's intention is for this notification to be made within 90 days of the end of the relevant RPDT accounting period. Further notifications would then not be required unless the company stops being liable to the RPDT and in a later AP becomes liable again.

**Question: For models 1 and 2a would there be any difficulties for a given company in knowing that the group's thresholds for the RPDT have been satisfied?**

**Question: If there is a requirement for separate registration, is 90 days from the end of the accounting period a reasonable timeframe?**

# Chapter 7

# Payment and compliance

## Payment Deadlines

Consideration is being given as to whether businesses should make RPDT payments according to the same payment schedule as they use for CT.

This would mean that businesses that are considered to be very large for CT payment purposes, will make their payments in quarterly instalments.

Under those rules, where the accounting period is 12 months the instalment payment dates would be as follows:

- The first payment due 2 months and 13 days after the beginning of the accounting period
- The second payment due 3 months after the first
- The third payment due 3 months after the second
- The final payment due 3 months after the third

The instalment payments would therefore be due on the 14$^{th}$ day of months 3, 6, 9 and 12 of the accounting period.

The payment dates would be adjusted accordingly when the accounting period is less than 12 months. These rules would follow the arrangements for CT.

Companies paying CT under different rules would likewise make RPDT payments in line with those schedules.

Group payment arrangements may also be available to reduce the administration associated with making a large number of individual payments. There is further discussion of nominated entities below.

Credit and debit interest would operate in the same way as currently for CT for over and underpayments of instalments. Late and repayment interest may also be due.

**Question: If possible, would including RPDT amounts within quarterly instalment payments be preferable? Or would this create any issues?**

## Nominated Entity

The government can see benefits in allowing groups to jointly nominate a single company to act on their behalf in respect of their RPDT liabilities and obligations.

The government believes this would reduce the compliance burden for groups by reducing the number of returns groups need to submit.

If the government did pursue this option, the nominated company would report the group's RPDT liability and assume primary responsibility for all correspondence with HMRC. It would be entitled to make payment on behalf of the companies covered by the nomination, but this would not be a legal requirement.

The companies covered by the nomination would continue to be chargeable to the RPDT. However, their obligations to notify and submit returns would be discharged when the nominated company fulfils these requirements on their behalf.

As with group payment arrangements for CT, there may be circumstances where HMRC may not accept payments being made through a nominated entity, such as where not all the proposed participating companies have an accounting period ending on the same date as that of the nominated entity.

For model 2b, where liability is computed by reference to the group’s relevant accounting profits, a specific company would likely be required to both file the return and make payment.

The default position under this model would be for the parent company to be responsible for these obligations, although it may be possible to allow for another company in the group to be nominated.

For model 2b where a nominated entity is likely to be mandatory, the government recognises that specific rules may be required to accommodate group companies with different accounting periods to the nominated company.

It is acknowledged that this could introduce complexity. Views on any problems this causes or potential solutions are welcomed.

**Question: Do you agree that allowing a nominated company to act on behalf of the group would reduce the compliance burden?**

**Question: Do you foresee any difficulties with the nominated company calculating and reporting RPDT liability on behalf of the whole group?**

**Question: Are there any practical issues around the nominated company accessing information from the rest of the group?**

**Question: Would specific rules be needed for companies whose AP does not coincide with the nominated company's AP?**

# Commencement

The government proposes that the RPDT would apply from 1 April 2022, to profits recognised in accounting periods ending on or after that date.

Transitional rules would be introduced to deal with the first chargeable periods following implementation of the RPDT.

Where a company’s accounting period straddles 1 April the company would be required to create two deemed accounting periods covering the periods before and after that date. Profits would be time-apportioned between the two deemed accounting periods.

**Question: Do you have any comments on the proposed commencement date?**

## Anti-avoidance

The government recognises that imposing a tax on only certain activities in a company or group (and from a particular date) could create opportunities for avoidance or tax planning in the following areas.

Firstly, groups may seek to forestall the effect of the tax by accelerating the recognition of profits to periods before the commencement of the tax on 1 April 2022.

Secondly, there may be an incentive to fragment activities across members of a group so that profits fall outside the charge to RPDT.

Thirdly, the government is concerned that companies or groups may seek to disguise or reclassify residential property development profits.

The government therefore proposes to introduce rules to address each of these risks:

- Anti-forestalling
- Fragmentation
- Re-characterisation

These rules would apply where there are arrangements with a main purpose of obtaining a tax advantage in respect of the RPDT. In particular, in relation to anti-forestalling, it is proposed to include a rule in the relevant provisions in the 2021 Autumn Finance Bill to the effect that if certain arrangements have been entered into between the date of issue of this document and Royal Assent with the effect that profits that would have arisen after 1 April 2022 arise before, and the main purpose (or one of the main purposes) of such arrangements was to avoid the new tax, then the effect of the arrangements may be counteracted with the result that the tax would apply.

The anti-forestalling rule could also apply where an entity adopts a different accounting standard from that used in a pre-commencement period. The rule would apply where a different standard was adopted in 2021 in order to accelerate profits by recognising unrealised uplift in land/partial developments, before reverting to the old standard. If a company had a valid commercial reason for why it changed its accounting policy and continued to use the new policy thereafter, that would not engage the anti-forestalling rule.

The fragmentation rule would apply when in substance the profit remains attributable to the business activities within the scope of the tax.

**Question: Do you have any views on avoidance risks generally, and how these should be minimised?**

**Question: Do you have any observations on the proposed anti-avoidance provisions, or other avoidance risks?**

## Structural risks

The structure of CT means that under the normal rules it is possible for profits from UK residential property development activity not to be charged as trading profits. For example: a group may sell a company that is undertaking a residential property development.

On general principles, this would not be taxed as a trading profit but as a chargeable gain on the shares that are sold, and it is possible that the Substantial Shareholding Exemption (SSE) would apply so that no CT is payable. Following such a sale, the company may cease to be within the scope of RPDT with the result that, without special rules, a profit properly subject to RPDT would escape charge.

The RPDT regime would need to contain safeguards to ensure that profits which should be subject to the tax cannot escape it due to companies that are within scope ceasing to be so. The most appropriate mechanism to deliver these safeguards would depend on the structure of the tax but may involve degrouping charges or measures similar to the transactions in land rules, permitting RPDT to be charged on profits and gains derived from residential development profits.

## Compliance

The government expects businesses to comply voluntarily with the RPDT as they would for any other UK tax obligation.

The government's intention is that the administration of the tax, and compliance with its requirements, should largely mirror the administrative and compliance provisions which already apply to CT.

Therefore, provisions relating returns of information and the supply of accounts, statements and reports, those relating to the assessing, collecting and receiving of corporation tax, those conferring or regulating a right of appeal and those concerning administration, penalties, interest on unpaid tax would apply to RPDT.

The government welcomes observations on whether additional compliance obligations are needed or if the steps set out earlier in this chapter would be sufficient.

Question: Do you think it would be necessary to introduce additional rules to ensure compliance or to make administration of the tax easier?

# Chapter 8
# Assessment of impacts

## Overview

The primary objective of the RPDT is to raise revenue to help fund the package of measures designed to bring an end to unsafe cladding. That package of measures was a necessary step to restore confidence to the property market.

However, the government acknowledges that, for the period that the tax is in place it would, all else equal, represent an additional cost to developers, and may have an impact on their activity.

Increasing housing supply is a priority of the government. Therefore, the tax would be designed in a way that minimises impact on housing supply where possible.

## Impact on housing supply

The size of any impact that the tax would have on the build out rate of housing is uncertain, and it would depend on the final design of the tax and the behavioural response of developers and landowners.

In practice, the tax would reduce post-tax returns for developers in scope. Developers may factor the increased tax burden into the price they are willing to pay for new sites, which may result in a reduced number of plots viable for development, with a subsequent impact on completions.

At the margin, some developers may also bring forward development to avoid the tax. And after the tax has been introduced, there is a risk the increased tax may dissuade some housebuilders from building out some sites they already own, where the trade-off between risk and return is already finely balanced, until house prices have risen sufficiently to compensate for the additional tax. This would be similar to the observed response of the sector to a general downturn in house prices.

However, when considering the behavioural response, the reduction in profit margins as caused by a general market downturn may not be comparable to a reduction in profit margins as caused by a temporary tax such as the RPDT. With more uncertainty associated with the former than the latter.

Moreover, observed behaviour of home builders at a local level suggests that for non-marginal sites local housing market considerations are the most important factor when it comes to development decisions. That is, build out rates are driven by judgements on the extent to which housing supply can be increased, through new build homes, without causing a reduction in local house prices (the ‘absorption rate’).

This suggests that fluctuations associated with the cost of construction may be comparatively less important. Therefore, a temporary increase in costs to developers that the RPDT represents, may not have a significant impact on build out rates.

Given possible difference in behavioural responses, estimating the potential impact of the tax on housing supply at this stage is necessarily uncertain and the government would like to seek views on how developers are likely to respond.

**Question: Would you adjust your development plans, build out strategy, or land acquisition strategy in response to the implementation of this tax? If yes, how?**

**Question: Are there other ways you would adapt your development plans in response to the implementation of this tax? If yes, how?**

**Question: Are there other potential impacts on housing supply?**

## Designing the tax

While ensuring the fundamental objective to raise revenue is met, the government is keen to ensure that the tax is designed in a way which minimises the impact on housing supply.

A fundamental design feature to support that principle is the application of the tax to a measure of profit, rather than revenue. This is to ensure that only those with the means to pay are subject to the tax and that the RPDT does not disproportionately burden firms with greater operating costs.

In addition, the proposed allowance, as outlined in earlier in the document, ensures that only the largest and most profitable developers are subject to the tax. A large portion of residential property developers would be unaffected by the RPDT.

**Question: Is there anything further the government might want to consider in relation to the design of the tax which would help minimise the impact on housing supply? Or other housing policy objectives?**

## Affordable housing

Maintaining an adequate supply of affordable housing is a priority of the government. The government recognises that developers contribute to the stock of affordable housing through the planning permission process.

The question of including profits derived from development of affordable housing development is covered in Chapter 3.

However, given the importance of affordable housing, the government would like to seek views as to any potential impact the RPDT might have with regards to the supply of affordable housing.

**Question: Is there anything the government might want to consider with regards to the impact of the tax on the supply of affordable housing?**

## Summary of impacts

| | |
|---|---|
| Exchequer impacts | The design of the tax is yet to be determined; however, the tax is intended to raise at least £2 billion over a decade. |
| Economic impacts | The impacts of the measure would be formally assessed at a future fiscal event when the measure is formally introduced. |
| Impact on individuals, households and families | As discussed in this chapter, this measure could have an impact on the supply of housing, indirectly impacting households. Aside from that, this measure is not expected to directly impact on individuals, households and families. The measure is not expected to impact on family formation, stability or breakdown. |
| Equalities impacts | This measure is not expected to directly impact on any of the groups with protected characteristics. |
| Impact on businesses and Civil Society Organisations | The measure is expected to mainly affect large property development businesses which undertake residential development. The annual allowance would mean that smaller and medium sized businesses are not in scope of the tax. There is likely to be an initial burden in training and familiarisation with the new rules. The government is gathering more information on the administrative impacts through the consultation process. |
| Impact on HMRC or other public sector delivery organisations | The government expects there to be one-off and ongoing costs related to the administration of the tax for HMRC. |
| Other impacts | There may be some impact on property supply, as set out above. This consultation intends to gather more information on such impacts. The government will provide more detail in the response to the consultation. |

Question: Do you have any comments on the summary of impacts?

# Annex A

# List of consultation questions

## A.1 Chapter 3: Scope

1. Question: Is this definition a reasonable basis for identifying residential property in scope for the tax? Will companies be able to identify profits in scope using this definition?
2. Question: Do you agree with the approach to affordable housing? What are the implications for housing associations and to what extent would their taxable activities fall in scope?
3. Question: Do you agree with this approach to communal housing?
4. Question: Do you agree with this approach to student housing?
5. Question: Is there an alternative to the approach described for retirement housing, which considers provision of care and allied services, that should be considered?
6. Question: Are there additional forms of communal housing that you believe should be excluded from the definition of residential property activity for the purposes of the RPDT?
7. Question: How should income from the development stage of build-to-rent activities be measured for the purposes of the tax? Do groups already recognise build-to-rent income in their development profits? On what basis?
8. Question: What are the implications of models 1, 2a and 2b for businesses?
9. Question: Which approach is preferred?
10. Question: Which of these would be administratively easier for major residential property developers to operate?
11. Question: Where should the significance test be set for model 1?
12. Question: What would be the best approach to achieving an apportionment for income and expenditure that is fair without being unduly burdensome?
13. Question: To help inform the design, what are the sector's expectations for future losses?
14. Question: Do you consider there is any method of allowing carried forward losses, which can provide both fairness and minimal administrative burden?
15. Question: What are the implications of excluding interest and funding costs from the measure of profits for RPDT purposes?

## *A.2 Chapter 4: Allowance and rate*

16. Question: Do you agree that the same approach regarding treatment of carried forward losses for the calculation of the profits for the tax should apply for the calculation of profits for the allowance?

17. Question: Do you think it is more appropriate for the definition of a group for the purposes of this tax to be based on a tax rule or an accounting standard?

18. Question: Which existing definition of a group for tax or accounting purposes do you think would be most appropriate for this purpose?

19. Question: What rules, in addition to your preferred group definition, do you consider would be required to ensure that the threshold is applied to a single economic entity?

20. Question: What would you consider to be appropriate measures of economic participation in a joint venture?

21. Question: What would you consider to be an appropriate hurdle for a participator becoming liable to tax in respect of the joint venture?

22. Question: Do you have any other observations regarding the use of joint venture structures in the UK residential property development sector?

23. Question: Do you agree that these principles should guide the decision on the rate of the tax?

## *A.3 Chapter 5: Interaction with the Gateway 2 levy*

24. Question: Do you have any initial views on the cumulative impact of the RPDT and the Gateway 2 levy?

## *A.4 Chapter 6: Reporting*

25. Question: Do you agree that the RPDT should be reported using the same periods as for CT?

26. Question: Do you see any difficulties applying the CT rules for accounting periods to any of the models and if so, how could they be overcome?

27. Question: For models 1 and 2a would there be any difficulties for a given company in knowing that the group's thresholds for the RPDT have been satisfied?

28. Question: If there is a requirement for separate registration, is 90 days from the end of the accounting period a reasonable timeframe?

## *A.5 Chapter 7: Payment and Compliance*

29. Question: If possible, would including RPDT amounts within quarterly instalment payments be preferable? Or would this create any issues?

30. Question: Do you agree that allowing a nominated company to act on behalf of the group would reduce the compliance burden?

31. Question: Do you foresee any difficulties with the nominated company calculating and reporting RPDT liability on behalf of the whole group?

32. Question: Are there any practical issues around the nominated company accessing information from the rest of the group?

33. Question: Would specific rules be needed for companies whose AP does not coincide with the nominated company's AP?

34. Question: Do you have any comments on the proposed commencement date?

35. Question: Do you have any views on avoidance risks generally, and how these should be minimised?

36. Question: Do you have any observations on the proposed anti-avoidance provisions, or other avoidance risks?

37. Question: Do you think it would be necessary to introduce additional rules to ensure compliance or to make administration of the tax easier?

### A.6 *Chapter 8: Assessment of impacts*

38. Question: Would you adjust your development plans, build out strategy, or land acquisition strategy in response the implementation of this tax? If yes, how?

39. Question: Are there other ways you would adapt your development plans in response to the implementation of this tax? If yes, how?

40. Question: Are there other potential impacts on housing supply?

41. Question: Is there anything further the government might want to consider in relation to the design of the tax which would help minimise the impact on housing supply? Or other housing policy objectives?

42. Question: Is there anything the government might want to consider with regards to the impact of the tax on the supply of affordable housing?

43. Question: Do you have any comments on the summary of impacts

# Annex B

# Processing of Personal Data

This notice sets out how HM Treasury will use your personal data for the purposes of the Consultation on the policy design of a Residential Property Developer Tax (RPDT) and explains your rights under the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA).

### B.1 *Your data (Data Subject Categories)*

The personal information relates to you as either a member of the public, parliamentarians, and representatives of organisations or companies.

### B.2 *The data we collect (Data Categories)*

Information may include your name, email address, job title, the name of your employer, your employer's address, your opinions/answers to the consultation questions and any other elements of your response. It is possible that you will volunteer additional identifying information about themselves or third parties.

### B.3 *Legal basis of processing*

The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in HM Treasury. For the purpose of this consultation the task is consulting on departmental proposals and obtaining opinion data in order to develop effective government policy.

### B.4 *Purpose*

The personal information is processed for the purpose of obtaining the opinions of members of the public and representatives of organisations and companies, about departmental policy and proposals.

### B.5 *Who we share your responses with*

Information provided in response to a consultation may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004 (EIR).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Treasury.

Where someone submits special category personal data or personal data about third parties, we will endeavour to delete that data before publication takes place.

Where information about respondents is not published, it may be shared with officials within other public bodies involved in this consultation process to assist us in developing the policies to which it relates. Examples of these public bodies appear at: www.gov.uk/government/organisations

We plan to share responses to this consultation document, including any information specified in section B.2 above, with Her Majesty's Revenue and Customs for the purposes of developing effective government policy.

As the personal information is stored on our IT infrastructure, it will be accessible to our IT contractor, NTT. NTT will only process this data for our purposes and in fulfilment with the contractual obligations they have with us.

### B.6 *How long we will hold your data (Retention)*

Personal information in responses to consultations will generally be published and therefore retained indefinitely as a historic record under the Public Records Act 1958. Personal information in responses that is not published will be retained for three calendar years after the consultation has concluded.

### B.7 *Your Rights*

- You have the right to request information about how your personal data are processed and to request a copy of that personal data.
- You have the right to request that any inaccuracies in your personal data are rectified without delay.
- You have the right to request that your personal data are erased if there is no longer a justification for them to be processed.
- You have the right, in certain circumstances (for example, where accuracy is contested), to request that the processing of your personal data is restricted.
- You have the right to object to the processing of your personal data where it is processed for direct marketing purposes.
- You have the right to data portability, which allows your data to be copied or transferred from one IT environment to another.

#### How to submit a Data Subject Access Request (DSAR)

To request access to personal data that HM Treasury holds about you, contact:

HM Treasury Data Protection Unit
G11 Orange
1 Horse Guards Road
London
SW1A 2HQ

dsar@hmtreasury.gov.uk

### B.8 *Complaints*

If you have any concerns about the use of your personal data, please contact us via this mailbox: privacy@hmtreasury.gov.uk.

If we are unable to address your concerns to your satisfaction, you can make a complaint to the Information Commissioner, the UK's independent regulator for data protection. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

0303 123 1113
casework@ico.org.uk

Any complaint to the Information Commissioner is without prejudice to your right to seek redress through the courts.

## HM Treasury contacts

This document can be downloaded from www.gov.uk

If you require this information in an alternative format or have general enquiries about HM Treasury and its work, contact:

Correspondence Team
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Tel: 020 7270 5000
Email: public.enquiries@hmtreasury.gov.uk