



HM Treasury



HM Revenue
& Customs

Taxation of environmental land management and ecosystem service markets

Consultation and call for evidence on selected tax issues

March 2023

Taxation of environmental
land management and
ecosystem service markets
**Consultation and call for
evidence on selected tax
issues**



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Contents

| | | |
|------------------|--|-----------|
| Chapter 1 | Introduction | 7 |
| Chapter 2 | Tax and ecosystem service markets | 13 |
| Chapter 3 | Overview of existing relief from inheritance tax and application to environmental land management | 16 |
| Chapter 4 | Policy design issues for potential updates to agricultural property relief | 21 |
| Chapter 5 | Summary of questions | 27 |
| Chapter 6 | Next steps | 29 |

Chapter 1

Introduction

Farming and environmental land management

1.1 Farming is going through the biggest change in a generation. The UK government is changing the way it works with farmers and the wider agricultural sector in England by introducing policies in England that work for farm businesses, food production and the environment.

1.2 Food is still the primary purpose of farming, and always will be. However, farmers also play a crucial role in protecting and enhancing the natural environment. Farming and nature must go hand in hand for farming and food production to be resilient and sustainable over the long term. This means enabling farmers to have resilient businesses, produce the food our nation needs, and also to protect and enhance the natural environment – looking after our soils, reducing air and water pollution, managing flood risk, reducing emissions and sequestering carbon. The Net Zero Strategy outlines an ambition for 75 per cent of farmers in England to be engaged in low carbon practices by 2030, rising to 85 per cent by 2035.

1.3 The government is undertaking the most significant reform of agricultural policy and spending in England in decades as it moves from the EU's Common Agricultural Policy to Environmental Land Management Schemes, designed for the countryside and environment. The government is taking the opportunity of leaving the EU to phase out subsidies for land ownership and tenure, and to pay farmers and land managers to provide environmental goods and services alongside food production. These reforms are essential to grow and maintain a resilient, productive agriculture sector over the long term and at the same time achieve ambitious targets for the environment and climate.

1.4 There are three Environmental Land Management Schemes in England that will pay for environmental and climate goods and services:

- the **Sustainable Farming Incentive (SFI)** will pay farmers to adopt and maintain sustainable farming practices that can protect and enhance the natural environment alongside food production, and also support farm productivity (including by improving animal health and welfare, optimising the use of inputs and making better use of natural resources)
- **Countryside Stewardship (CS)** will pay for more targeted actions relating to specific locations, features and habitats.

This will include the woodland creation offer by 2025. There will be an extra incentive through CS Plus for land managers to join up across local areas to deliver bigger and better results

- **Landscape Recovery** will pay for bespoke, longer-term, larger scale projects to enhance the natural environment

1.5 These Environmental Land Management Schemes above will collectively pay farmers and land managers to deliver, alongside food production, significant and important outcomes for the climate and environment that can only be delivered by farmers and other land managers in the wider countryside. These include:

- creating and restoring a broad range of wildlife-rich habitat
- improving water quality, by reducing nitrogen, phosphorus and sediment pollution from agricultural activities
- increasing resilience to flooding and drought through nature-based solutions such as natural flood management
- creating more new woodlands and treescapes to increase tree and woodland cover, and encouraging management of existing woodlands, including to increase their resilience to pests and diseases
- reducing carbon emissions, storing carbon and increasing resilience to climate change, for example through management of soils, water, peatland and trees

1.6 Further details on each of these three schemes were [published in January 2023](#). This includes the progress in rolling them out so far and the plans for 2023 and 2024.

1.7 These issues are devolved in Scotland, Wales, and Northern Ireland.

Ecosystem service markets

1.8 The government is also putting in place frameworks to support higher private investment in nature's recovery. At the Spending Review 2021, the government set a new target to raise at least £500 million each year in private investment by 2027, and more than £1 billion a year by 2030. The government is taking action in support of this target and will publish shortly a Nature Markets Framework setting out the principles underpinning high-integrity standards and markets for ecosystem services. The government is implementing mandatory biodiversity net gain for development sites, supporting the maturation of the Woodland Carbon Code through the Woodland Carbon Guarantee scheme, and is rolling out a national scheme for nutrient pollution offsetting.

1.9 Nature markets enable farmers and land managers to attract private investment to increase the provision of ecosystem services such

as carbon sequestration and biodiversity. High integrity nature markets have a role to play in supporting the delivery of net zero and other environmental goals and targets. There are various ecosystem service markets involving the use of land to generate units related to carbon and other forms of pollution:

- **Woodland carbon units** are generated by the sequestration of carbon from the atmosphere and are governed by The UK Woodland Carbon Code, a voluntary standard managed by Scottish Forestry on behalf of all four UK governments for woodland projects. Projects only generate carbon units if the removal is permanent, and it would not have happened but for receipt of the carbon income. The projects must demonstrate additionality before they can be verified and the code provides assurance to purchasers that the credits being sold represent real, quantifiable, additional and permanent removal of carbon.
- **Peatland carbon units** are generated through the restoration of peatland to avoid greenhouse gases being released into the atmosphere and are governed by The UK Peatland Code, a voluntary standard for peatland projects. Similar to the generation of woodland carbon units, peatland carbon units can only be generated where there is additionality, and where the restoration of peatland has been verified.
- **Pending issuance units** are a future promise that woodland carbon units or peatland carbon units will be delivered to the purchaser. The generation of these units is realised later in a project's lifespan, often decades later, and therefore restricts landowners from generating income in the early years of the project. Both Codes therefore allow landowners to generate an income stream earlier in the commercial project through the sale of pending issuance units but, unlike the woodland carbon units and peatland carbon units, these units are not guaranteed to the same standard.
- **Biodiversity units** are generated from creating or enhancing habitats in a particular location. Farmers and other landowners are able to sell biodiversity units they have generated to developers. Under the Environment Act 2021, planning permission granted in England will be required to deliver at least 10 per cent biodiversity net gain. This can be in the form of improvement to habitats on a development site, or equally off-site. Mandatory net gain is expected to launch in November 2023 for the majority of development in England and in April 2024 for small sites.
- **Nutrient mitigation** can be generated in a similar way to biodiversity net gain by undertaking land use change, such as the creation of new wetlands or woodlands, to mitigate the

impacts of development. Some types of nutrient mitigation credits may also be created through temporary changes in the management of agricultural land without undertaking permanent land use change. Nature-based nutrient mitigation projects are operating or under development across a number of catchments in England where developers are required to ensure development does not increase net nutrient pollution to Protected Sites that are in unfavourable condition. This includes a number of private markets as well as a national Nutrient Mitigation Scheme led by Natural England.

Aim of this call for evidence and consultation

1.10 As announced at Budget 2023, the government is exploring elements of the tax treatment of environmental land management and ecosystem service markets.

1.11 Part 1 of this document is a call for evidence on the tax treatment of the production and sale of ecosystem service units. Some tax advisors, industry representatives, and the recent [Rock Review of tenant farming in England](#) have highlighted a desire to clarify the tax treatment in this area. The aim of this call for evidence is to understand the commercial operations and the areas of uncertainty in respect of taxation.

1.12 Part 2 of this document is a consultation about the scope of agricultural property relief from inheritance tax. Concerns have been raised by some tax advisors and industry representatives that the current scope of agricultural property relief is one potential barrier to some agricultural landowners and farmers making long-term land use change from agricultural to environmental use. The aim is to explore the extent to which the current scope of agricultural property relief may represent a barrier and, if necessary, potential updates to the scope of the existing land habitat provisions in the relief. The government is not considering changes to business property relief.

1.13 The government will respond to the Rock Review in full in due course. However, the government is also using this opportunity to explore in more detail a recommendation in the Rock Review to restrict the application of 100 per cent agricultural property relief to farm business tenancies of at least 8 or more years under the Agricultural Tenancies Act 1995 and secure agreements under the Agricultural Holdings Act 1986. The Rock Review suggests this would encourage landlords to grant long term tenancy agreements and encourage tenants to enter long term environmental agreements.

Consultation process

1.14 The consultation will run from 15 March to 9 June 2023.

1.15 The responses will inform policy development before the government makes decisions on these issues, including whether to make any changes to current policy.

1.16 Any changes that require legislation in a future Finance Bill will be announced at a future fiscal event in the normal way.

PART 1:
**Call for evidence on the taxation
of ecosystem
service markets**

Chapter 2

Tax and ecosystem service markets

2.1 The government has supported the development of robust market mechanisms for investing in nature. This includes established schemes like the UK Woodland Carbon Code and UK Peatland Code as well as the forthcoming Biodiversity Net Gain scheme for England. The government is also supporting the development and piloting of new standards and mechanisms to support investment in a broader range of ecosystem services. As nature markets grow in maturity and scale with a range of new projects, there will be uncertainties which arise in respect of their taxation, such as the interaction of existing rules on the taxation of farming and woodlands, or questions which arise from the taxation of land use. Whilst this call for evidence seeks specific views on some of these interactions, the government welcomes broader representations on areas of tax which stakeholders have faced in planning, advising and undertaking ecosystem service projects.

2.2 The scope of the call for evidence is predominantly on the production and sale of units which are generated by ecosystem service projects, rather than any potential secondary market tax issues. The government is seeking to better understand the commercial operations involved in the production and sale of units generated by ecosystem service markets and the interaction with other existing business models.

Q1: What has been, or would be, the effect of ecosystem service payments on existing business models, such as farming or commercial timber production?

Tax treatment of ecosystem service markets

2.3 The production and sale of units generated by ecosystem service markets interacts with several areas of the tax system. These include VAT, corporation tax, income tax, capital gains tax, inheritance tax and stamp duty land tax. A key aspect of the existing tax law for the production and sale of the units, is how the sale of the units are accounted for and recognised from a tax perspective.

2.4 Some stakeholders have raised specific concerns that aspects of the existing tax law, particularly the commercial occupation of woodland exemptions, creates uncertainty in relation to trading income for income tax and corporation tax. The following questions explores some of those interactions, however representations can be made

more widely in respect of any specific issues not covered within this call for evidence, excluding areas of taxation which are not in scope.

Q2: What are the main areas of uncertainty in the taxation of trading income for income tax and corporation tax in relation to the production and sale of units generated by ecosystem service markets? Please provide evidence and scenarios, including the relative scale of the concern by explaining where decisions have and have not been influenced by the uncertainty of the tax treatment.

Q3: Should the tax system account for the timing difference between the upfront and ongoing project costs, with the delay in receiving income generating units – for example, should the tax system provide tax certainty in respect of timing mismatches, which may require an override to the accounting treatment?

Q4: How could greater clarity be provided in these areas (e.g. guidance, law changes)?

Other taxes

2.5 The government is also seeking views on other areas of uncertainty in respect of broader taxation, with the exception of VAT, of the production and sale of units generated by ecosystem service markets.

2.6 Please note that Part 2 of this document includes further information on the inheritance tax treatment of ecosystem services so this is outside of the scope of Part 1.

Q5: Are there any other areas of uncertainty in respect of the broader taxation of the production and sale of units generated by ecosystem service markets? Please provide evidence and scenarios, including the relative scale of the concern by explaining where decisions have and have not been influenced by the uncertainty of the tax treatment.

Q6: How could greater clarity be provided in these areas (e.g. guidance, law changes)?

PART 2:
**Consultation on agricultural
property relief from inheritance
tax and environmental land
management**

Chapter 3

Overview of existing relief from inheritance tax and application to environmental land management

Inheritance tax

3.1 Inheritance tax is charged on transfers of wealth. It is calculated by taking into account the value of:

- a person's estate on death
- gifts made within 7 years of death
- certain lifetime transfers, mainly those into most types of trusts

3.2 The inheritance tax nil-rate band is £325,000 and the residence nil-rate band is £175,000. This means qualifying estates can pass on up to £500,000. Any unused nil-rate band or residence nil-rate band on the death of a spouse or civil partner can be transferred to the surviving spouse or civil partner. This means the qualifying estate of a surviving spouse or civil partner can pass on up to £1 million without an inheritance tax liability.

3.3 There are also a number of specific reliefs and exemptions which reduce inheritance tax liabilities. The most commonly used exemption is for transfers between spouses or civil partners, which means that most estates passing to a surviving spouse or civil partner are not liable to any inheritance tax. Other significant reliefs and exemptions include the exemption for transfers to charities, relief for agricultural property, and relief for business property.

3.4 The combination of nil-rate bands, exemptions and reliefs means that more than 93 per cent of estates are forecast to have no liability over the coming years. However, inheritance tax still makes an important contribution to the public finances and it is forecast to raise more than £7 billion in 2023-24 to help fund public services.

3.5 The inheritance tax rules apply across the UK and a fuller explanation of the rules is available on [GOV.UK](https://www.gov.uk).

3.6 Agricultural property relief, business property relief, and woodlands relief all interact with environmental land use to some extent. Agricultural property relief is the focus of this consultation, but the inclusion of the other reliefs and exemptions provides broader context because farming businesses can benefit from both agricultural property relief and business property relief under the existing rules.

Agricultural property relief

3.7 The rules for agricultural property relief are in [Part 5, Chapter 2 of the Inheritance Tax Act 1984](#).

3.8 There are two rates of agricultural property relief. 100 per cent relief is available in most circumstances, including where property is let on a tenancy beginning on or after 1 September 1995. A lower rate of 50 per cent is available in some other circumstances, including where property is let on a tenancy beginning before 1 September 1995.

3.9 The relief is applied to the agricultural value of the property. This is defined as the value the agricultural property would have if it were subject to a perpetual covenant prohibiting its use otherwise than as agricultural property. In some cases, the agricultural value of the property may be less than the open market value. This might be because of development value.

3.10 The property must have been owned and occupied for agricultural purposes immediately before its transfer for: 2 years if occupied by the owner, a company controlled by them, or their spouse or civil partner; or 7 years if occupied by someone else, such as a tenant farmer.

3.11 Property must be both agricultural property and occupied for agricultural purposes to qualify for relief. Agricultural property means agricultural land or pasture. This has its natural meaning and is taken to mean bare land used for agriculture. It also includes woodland and any building used in connection with the intensive rearing of livestock or fish, if the woodland or building is occupied with, and that occupation is ancillary to, agricultural land or pasture. For example, it will include woodland shelter belts, coppices grown for fencing materials on the farm and clumps of amenity trees or spinneys. Woodlands occupied for purposes that are not agricultural, such as amenity woodland or woodland used for the production of commercial timber will not be agricultural property, but may be eligible for woodlands relief or business property relief.

3.12 The [existing rules](#) also contain provisions for certain specified land habitat schemes for deaths on or after 26 November 1996:

- water fringes under Regulation 3(1) Habitat (Water Fringe) Regulations 1994
- former set-aside land under The Habitat (Former Set-Aside Land) Regulations 1994

- establishment of salt-marshes under The Habitat (Salt-Marsh) Regulations 1994
- improvement or establishment of habitats under Regulation 3(2)(a) Habitats (Scotland) Regulations 1994
- improvement or establishment of habitats under Regulation 3(1)(a) Habitat Improvement Regulations (Northern Ireland) 1995

3.13 These tend to prevent agricultural production for long periods of up to 20 years and so land managed under these schemes would not have qualified for agricultural property relief without being brought into scope by the specific provisions. Land is in a habitat scheme if an application for support has been accepted under one of the specified schemes and the undertakings provided remain live. Where land is in a specified habitat scheme, the land is deemed as agricultural land, the management of the land is deemed as agriculture, and buildings (including farmhouses) used in connection with such management are regarded as farm buildings.

3.14 Agricultural property relief has cost the Exchequer between £320 million and £460 million annually based on [outturns and forecasts](#) for 2017-18 to 2022-23. There were 1,170 claimants and a cost of £340 million to the Exchequer in 2019-20, the latest available year for outturn data.

Business property relief

3.15 The rules for business property relief are in [Part 5, Chapter 1 of the Inheritance Tax Act 1984](#).

3.16 There are two rates of business property relief for qualifying businesses. 100 per cent relief is available for business interests in privately owned trading businesses, for example, a solely owned farming business or a partnership interest, and shareholdings in a company not quoted on a recognised stock exchange (e.g., a company quoted on the Alternative Investment Market). A lower rate of 50 per cent is available in some other circumstances, including shareholdings in a company quoted on a recognised stock exchange (e.g., the Main Market of the London Stock Exchange) if they give the owner control of the company, or land and buildings privately owned but used by a business the deceased was a partner in, or a company they controlled.

3.17 The relief is applied to qualifying business interests that have been owned for at least 2 years. It does not apply to business interests where the business carried on by the company consists “wholly or mainly” of making or holding investments, that is, dealing in securities, stocks and shares, land or buildings, or making or holding investments.

3.18 Farming businesses can benefit from both agricultural property relief and business property relief under the existing rules if the overall business is not one of wholly or mainly making or holding investments. For example, where the open market value of land used in the business exceeds its agricultural value, agricultural property relief will apply to

the agricultural value of the land and business property relief will apply to the non-agricultural value. Business property relief will also apply to other land and assets that are not used for agricultural purposes provided they are used in the overall farming business.

3.19 Business property relief has cost the Exchequer between £685 million and £930 million annually based on [outturns and forecasts](#) for 2017-18 to 2022-23. There were 2,820 claimants and a cost of £685 million to the Exchequer in 2019-20, the latest available year for outturn data.

Woodlands relief

3.20 The rules for woodlands relief are in [Part 5, Chapter 3 of the Inheritance Tax Act 1984](#).

3.21 In the event that agricultural property relief and business property relief are not available, on death, the beneficiaries of woodlands can ask that the value of the timber (but not the land) be excluded from an individual's estate, provided that the individual has owned the woodlands for 5 years. "Woodland" is any land on which trees or underwood are growing so may include wooded parkland, strips of land with trees lining roads, or tree belts. When the timber is subsequently sold, inheritance tax will be due on the proceeds received on the sale of the timber.

3.22 Woodlands relief has cost the Exchequer less than £3 million annually based on [outturns and forecasts](#) for 2017-18 to 2022-23. Over the period 2013-14 to 2019-20, the latest available year for outturn data, there were 40 woodlands relief claims made by taxpaying estates.¹

Application of reliefs to environmental land management and ecosystem service markets

3.23 The availability of relief is a question of fact and degree to be decided upon the particular facts of each case.

3.24 Actions taken by farmers to manage their land in an environmentally sustainable way, such as improving soil health, should not normally have a bearing on the availability of relief under the existing rules. The land is still being used for agricultural purposes and agricultural property relief will continue to apply.

3.25 Land that has been taken out of agricultural production over an extended period for an environmental scheme or project is unlikely to qualify for agricultural property relief from inheritance tax.

3.26 However, owner-occupiers may continue to benefit from business property relief if the land is still used in the business and the overall business is not one of wholly or mainly making or holding investments. For example, an individual owns a 300 acre farm used for

¹ HMRC analysis.

raising cattle and growing root crops. They decide to remove 80 acres of the land from agricultural production and enter it into an agri-environment scheme for which they receive grant payments. As the 80 acres is no longer being used for the purposes of agriculture it will not qualify for agricultural property relief. However, as the individual's business is still mainly one of farming, providing the income from the agri-environmental scheme is received by and used in the business, the land will qualify for business property relief as it is used in a business that is not wholly or mainly one of making or holding investments.

3.27 Land registered and validated to the Woodland Carbon and Peatland Codes to generate units in principle will qualify for business property relief in its own right. HMRC take the view that the activities necessary to create, manage and maintain the land for the purposes of generating units for use or sale will mean any business undertaking these operations will, in general, not be mainly involved in the holding or making of investments. Where the business in question is generating units under these Codes alongside other activities, the generation of units and the land employed for this purpose will generally be considered a non-investment activity. The units generated by the land in question, including pending issuance units, may also qualify for business property relief providing they are used in, or are an asset of, a qualifying business. Ultimately, however, the availability of business property relief in any individual case will be decided on the specific facts of that case in the normal way.

Concerns raised by stakeholders

3.28 It is acknowledged that several factors will affect decisions about how farmers choose to use their land, including financial factors related to the alternative sources of income available from different land use and management practices, which will vary in accordance with the quality and location of any specific land parcel.

3.29 Concerns have been raised by some tax advisors and industry representatives that the existing scope of agricultural property relief is a potential barrier to some agricultural landowners and farmers making long-term land use change from agricultural to environmental use. For example, if a non-farming landowner leases the farm to a tenant, business property relief would not be due and agricultural property relief would be restricted to the land still being used for the purposes of agriculture. It has been suggested this might stop the landowner providing consent for some land use change.

Q1: What are the areas of concern in respect of agricultural property relief and environmental land management? Please provide evidence and scenarios, including the relative scale of the concern by explaining where decisions about land use change have and have not been influenced by the scope of agricultural property relief.

Chapter 4

Policy design issues for potential updates to agricultural property relief

4.1 The government is seeking views on policy design issues in the event that it decides to proceed with updating agricultural property relief. Before deciding whether to proceed, these views will assist the government to decide whether any future policy could be designed in a way that achieves the intended objective and does not expose the Exchequer to unintended consequences.

Objective

4.2 The primary driver for updating agricultural property relief would be to prevent the potential loss of the relief being a barrier to the involvement of agricultural landowners and farmers in land use change under the Environmental Land Management Schemes in England and any equivalent schemes across the UK being rolled out to pay for environmental and climate goods and services. The objective is to ensure that land taken out of agricultural production permanently or for an extended period for this reason does not lose relief.

4.3 Any updates to the relief will need to minimise the potential for unintended consequences, such as land that has never been agricultural or used for agricultural purposes receiving relief.

Scope

Requirement for existing undertakings

4.4 The existing qualifying provisions for certain specified land habitat schemes require live undertakings. The government continues to believe that the qualifying conditions for relief should be underpinned by live undertakings and ongoing adherence to those undertakings at the point of transfer. This means the relief would not apply where undertakings had been terminated, expired, or were not being adhered to.

Q2: Do you agree that the qualifying conditions for relief would need to be underpinned by live undertakings and ongoing adherence to those undertakings at the point of transfer?

List of qualifying Environmental Land Management Schemes

4.5 The list of specified schemes only needs to include those involving activities that take land out of agricultural use. In England's three Environmental Land Management Schemes, the Sustainable Farming Incentive is not expected to involve land being taken out of agricultural production and it would not be necessary to include this in the list of specified schemes. This means the Countryside Stewardship and Landscape Recovery Schemes would be the specified schemes for agricultural property relief in England where activity involved land use change.

4.6 This is comparable with the situation in the 1990s when four habitat schemes were introduced in Wales but none of them conflicted with the conditions for agricultural property relief and were not included within the list of land habitat schemes receiving relief.

4.7 As with the existing land habitat scheme provisions, the government could take the same approach to equivalent schemes in Scotland, Wales, and Northern Ireland to ensure the parity of tax treatment across the UK.

4.8 The government could also remove the existing list of enactments for any historic land habitat schemes. This would help to tidy up the legislation and remove any redundant schemes that no longer exist. The existing list of enactments is set out in an earlier section of this consultation and in [s124C of the Inheritance Tax Act 1984](#). HMRC has received very few related claims over recent years and it might be the case there are no outstanding live agreements.

Q3: Do you agree with the potential proposed approach to the list of Environmental Land Management Schemes that could qualify for relief where the activities covered relate to land being taken out of agricultural use?

Q4: Could the government remove the list of existing enactments for land habitat schemes in the existing legislation? Are you aware of any land continuing to qualify for relief now under any of the existing enactments?

Agreements beyond the schemes

4.9 The government is also interested in views of whether there are other environmental land management agreements that could be included within the updated scope of agricultural property relief. This could ensure that land use change by agricultural landowners and farmers funded without the aid of government schemes can also attract relief. Any expansion in this direction would only be considered where there are high verifiable standards, with integrity provided

through robust quality assurance and ongoing monitoring of agreements. The government will only consider other environmental land management agreements if any potential unintended consequences or tax planning opportunities can be mitigated.

4.10 Stakeholders have made some suggestions. For example, agreements could include relevant conservation covenants in England in certain situations. These were established [in Part 7 of the Environment Act 2021](#). A conservation covenant agreement is a private, voluntary and legally binding agreement to conserve the natural or heritage features of the land, which must be for the public good and can continue to be effective even after the land changes hands. They are agreed between a landowner and a responsible body designated by the Department for Environment, Food and Rural Affairs (Defra). Relevant conservation covenants would be those agreed to conserve the natural environment or the natural resources of the land, rather than those that aim to conserve the land as a place of archaeological, architectural, artistic, cultural or historic interest. More details, including how the agreements are monitored, are available [on GOV.UK](#).

4.11 It could also include land used for the provision of accredited, high-integrity ecosystem service markets and registered accordingly on a public register. For example, land used to deliver biodiversity net gain will need to be legally secured for a minimum of 30 years. Land delivering biodiversity net gain off-site will also need to be formally registered on the Biodiversity Gain Site Register. The land needs to be managed, monitored and reported on for the duration of the net gain agreement. Likewise, land to deliver nutrient mitigation needs to be legally secured for up to 125 years (depending on type and purpose) and registered. Similarly, both the Woodland and Peatland Codes use the UK Land Carbon Registry.

4.12 Again, the government could take the same approach to any equivalent agreements in Scotland, Wales, and Northern Ireland to ensure the parity of treatment across the UK.

Q5: What agreements that meet high verifiable standards and have robust monitoring could be added to any list of qualifying Environmental Land Management Schemes? Please explain, including any potential unintended consequences or tax planning opportunities that might need to be considered and how they could be addressed.

Previous use of land

4.13 The government's intention would be for any extension to remove the barrier resulting from agricultural property relief for farmers and agricultural landowners changing land use. As a result, it would not be the intention to expand the scope of relief beyond agricultural land that was previously being used for agricultural purposes.

4.14 Unlike the land habitat schemes covered by the existing provisions, the Environmental Land Management Schemes, as well as the potential other agreements highlighted above, could involve land

not previously used for agricultural purposes. The intention is not to bring this within the scope of the relief. The government wants to ensure agricultural property relief does not become available for land that could not have previously received relief.

Q6: How could the government achieve its intention not to expand the scope of relief beyond agricultural land that was being used for agricultural purposes? What would the practical challenges be for those claiming relief and how could they best be overcome?

Valuation

4.15 The basis for establishing the value relieved is essential in ensuring that the relief is applied consistently and fairly, without being overly generous. The current agricultural property relief provisions for land habitat schemes relieve the agricultural value. This is defined in legislation as “the value which would be the value of the property if the property were subject to a perpetual covenant prohibiting its use otherwise than as agricultural property”.

4.16 However, this could cause problems because it requires a judgement about the counterfactual use of the particular land. The government believes there is a case to explore the valuation of land to reflect that it is no longer used for agricultural purposes. This would also prevent the valuation requiring a counterfactual use assumption, potentially very many years after it was ever used for agriculture.

4.17 There is currently no definition of environmental land or environmental value that can be used for valuation purposes. Applying the relief to the open market value is inappropriate as that could include higher value uses, for example development value, which is excluded from the current valuation of agricultural land.

4.18 An alternative approach could be to use market value of environmental land subject to the special assumption of a restriction to its existing use. This would exclude hope and development value and would be similar to the approach used for the definition of agricultural value in the Inheritance Tax Act 1984 highlighted above.

Q7: How could the environmental land be valued most appropriately? What would the practical challenges be and how could they best be overcome?

Other design issues

4.19 The government does not think it is likely that other deviations from the existing general inheritance tax provisions would be necessary. For example, the same minimum holding occupation periods would continue to apply and the rules could ensure these periods do not reset after land is taken out agricultural production.

Q8: Are there any other design issues that would need to be considered if the government decides to update the land habitat provisions in agricultural property relief?

Potential restrictions to agricultural property relief to encourage longer tenancies

4.20 The then Secretary of State for the Environment, Food and Rural Affairs asked Baroness Rock to undertake an independent review of tenant farming in England in 2022. This was [published in October 2022](#) and the government will respond to the Rock Review in due course.

4.21 The Rock Review indicates farm business tenancy agreements are often less than 4 years. It indicates these agreements also may come with restrictive clauses that prevent tenants taking actions such as creating wetlands and more recently preventing tenants putting land into Environmental Management Schemes or private schemes. The Rock Review suggests the structure of the current taxation environment does not encourage landlords to grant long term tenancy agreements or encourage tenants to enter long term environmental agreements.

4.22 Amongst its recommendations to encourage longer tenancies, the Rock Review suggested that 100 per cent agricultural property relief could be restricted to farm business tenancies under the Agricultural Tenancies Act 1995 of at least 8 or more years and secure agreements under the Agricultural Holdings Act 1986. However, the Rock Review also recognises that there are legitimate reasons for shorter tenancies and that exclusions from such restrictions would be required. The Rock Review mentions a number of reasons for shorter tenancies, including land used on a rotational basis to accommodate high-value specialist crops and horticulture. It also highlights other reasons, “such as where the tenancies are agreed by negotiation, provide flexibility on both sides, plan for future development, and/or scheme and market uncertainty.” The Rock Review indicates any such exclusions would need to be identified and clearly defined in legislation.

4.23 The Rock Review does not suggest there could be unintended consequences, but the government is concerned, for example, that this could lead to significant disputes about what justifies an exclusion. This could require significant legislative complexity to define and a high administrative burden to deliver. It could also drive some agricultural landowners to change their behaviour. Introducing restrictions on landowners could have a damaging impact on the rented sector and tenant farmers. For example, rather than extending the length of tenancies, landowners might take the land in hand themselves or it might drive landowners to restrict tenancies to circumstances covered by the exclusions. Following the publication of the Rock Review, the government has received representations raising this concern too.

4.24 The government is designing the new Environmental Land Management Schemes in England to be accessible to as many farmers and land managers as possible, including tenant farmers. There will be more certainty and encouragement for both landlords and tenants to enter into longer term tenancy agreements where necessary as the transition to new farming schemes takes place. However, the government is taking the opportunity in this consultation to explore the

potential impact of this specific recommendation in the Rock Review, including its effect on encouraging tenants to enter long term environmental agreements.

4.25 Although not within the geographical scope of the Rock Review, if appropriate and there was a desire from stakeholders, 100 per cent agricultural property relief could be similarly restricted for property in Scotland, Wales and Northern Ireland.

Q9: What would the impact be of restricting 100 per cent agricultural property relief to tenancies of at least 8 or more years?

Q10: What exclusions would be necessary and how could these be defined in legislation if the government pursued this approach?

Chapter 5

Summary of questions

Part 1: Call for evidence on the taxation of ecosystem service schemes

Q1: What has been, or would be, the effect of ecosystem service payments on existing business models, such as farming or commercial timber production?

Q2: What are the main areas of uncertainty in the taxation of trading income for income tax and corporation tax in relation to the production and sale of units generated by ecosystem service markets? Please provide evidence and scenarios, including the relative scale of the concern by explaining where decisions have and have not been influenced by the uncertainty of the tax treatment.

Q3: Should the tax system account for the timing difference between the upfront and ongoing project costs, with the delay in receiving income generating units – for example, should the tax system provide tax certainty in respect of timing mismatches, which may require an override to the accounting treatment?

Q4: How could greater clarity be provided in these areas (e.g. guidance, law changes)?

Q5: Are there any other areas of uncertainty in respect of the broader taxation of the production and sale of units generated by ecosystem service markets? Please provide evidence and scenarios, including the relative scale of the concern by explaining where decisions have and have not been influenced by the uncertainty of the tax treatment.

Q6: How could greater clarity be provided in these areas (e.g. guidance, law changes)?

Part 2: Consultation on agricultural property relief from inheritance tax and environmental land management

Q1: What are the areas of concern in respect of agricultural property relief and environmental land management? Please provide evidence and scenarios, including the relative scale of the concern

by explaining where decisions about land use change have and have not been influenced by the scope of agricultural property relief.

Q2: Do you agree that the qualifying conditions for relief would need to be underpinned by live undertakings and ongoing adherence to those undertakings at the point of transfer?

Q3: Do you agree with the potential proposed approach to the list of Environmental Land Management Schemes that could qualify for relief where the activities covered relate to land being taken out of agricultural use?

Q4: Could the government remove the list of existing enactments for land habitat schemes in the existing legislation? Are you aware of any land continuing to qualify for relief now under any of the existing enactments?

Q5: What agreements that meet high verifiable standards and have robust monitoring could be added to any list of qualifying Environmental Land Management Schemes? Please explain, including any potential unintended consequences or tax planning opportunities that might need to be considered and how they could be addressed.

Q6: How could the government achieve its intention not to expand the scope of relief beyond agricultural land that was being used for agricultural purposes? What would the practical challenges be for those claiming relief and how could they best be overcome?

Q7: How could the environmental land be valued most appropriately? What would the practical challenges be and how could they best be overcome?

Q8: Are there any other design issues that would need to be considered if the government decides to update the land habitat provisions in agricultural property relief?

Q9: What would the impact be of restricting 100 per cent agricultural property relief to tenancies of at least 8 or more years?

Q10: What exclusions would be necessary and how could these be defined in legislation if the government pursued this approach?

Chapter 6

Next steps

6.1 The call for evidence and consultation will run from 15 March to 9 June 2023. The responses will inform policy development before the government makes decisions on these issues, including whether to make any changes to current policy.

6.2 Please send comments or submissions to personaltaxconsultations@hmtreasury.gov.uk.

6.3 Alternatively, responses can be submitted to:

Personal Tax Team
HM Treasury
1 Horse Guards Road
London SW1A 2HQ

6.4 When responding, please say if you are making a representation on behalf of a business, individual or representative body. In the case of representative bodies, please provide information on the number and nature of people you represent.

6.5 This consultation is being run in accordance with [the government's Consultation Principles](#).

Processing of personal data

6.6 This section sets out how we will use your personal data and explains your relevant rights under the UK General Data Protection Regulation (UK GDPR). For the purposes of the UK GDPR, HM Treasury is the data controller for any personal data you provide in response to this consultation.

Data subjects

6.7 The personal data we will collect relates to individuals responding to this consultation. These responses will come from a wide group of stakeholders with knowledge of a particular issue.

The personal data we collect

6.8 The personal data will be collected through email submissions and are likely to include respondents' names, email addresses, their job titles, and employers as well as their opinions.

How we will use the personal data

6.9 This personal data will only be processed for the purpose of obtaining opinions about government policies, proposals, or an issue of public interest.

6.10 Processing of this personal data is necessary to help us understand who has responded to this consultation and, in some cases, contact certain respondents to discuss their response.

6.11 HM Treasury will not include any personal data when publishing its response to this consultation.

Lawful basis for processing the personal data

6.12 The lawful basis we are relying on to process the personal data is Article 6(1)(e) of the UK GDPR; the processing is necessary for the performance of a task we are carrying out in the public interest. This task is consulting on the development of departmental policies or proposals to help us to develop good effective policies.

Who will have access to the personal data

6.13 The personal data will only be made available to those with a legitimate need to see it as part of the consultation process.

6.14 We sometimes publish consultations in conjunction with other agencies and partner organisations and, when we do this, this will be apparent from the consultation itself. When we these issue joint consultations, your responses will be shared with these partner organisations.

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

How long we hold the personal data for

6.16 We will retain the personal data until work on the consultation is complete.

Your data protection rights

6.17 You have the right to:

- request information about how we process your personal data and request a copy of it
- object to the processing of your personal data
- request that any inaccuracies in your personal data are rectified without delay
- request that your personal data are erased if there is no longer a justification for them to be processed

- complain to the Information Commissioner's Office if you are unhappy with the way in which we have processed your personal data

How to submit a data subject access request (DSAR)

6.18 To request access to your personal data that HM Treasury holds, contact:

The Information Rights Unit
HM Treasury
1 Horse Guards Road
London SW1A 2HQ
dsar@hmtreasury.gov.uk

Complaints

6.19 If you have concerns about our use of your personal data, please contact the Treasury's Data Protection Officer (DPO) in the first instance at privacy@hmtreasury.gov.uk.

6.20 If we are unable to address your concerns to your satisfaction, you can make a complaint to the Information Commissioner at casework@ico.org.uk or via this website: <https://ico.org.uk/make-a-complaint>.

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