



HM Treasury

Tax Treatment of Predevelopment Costs

Summary of Responses

October 2026

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Chapter 1

Introduction

- 1.1 At Autumn Budget 2024, the government published the Corporate Tax Roadmap, which committed to consulting on the tax treatment of predevelopment costs.
- 1.2 Predevelopment costs are incurred before the construction or installation of an asset and can include expenditure on project feasibility, regulatory approvals, site investigations, and design and engineering work. The type, scale and timing of these costs vary by project, location and sector. Where expenditure is capital in nature, relief may be available through capital allowances where it is incurred “on the provision of” plant or machinery as per the relevant legislation. Where capital expenditure is not eligible for capital allowances or other reliefs it does not receive deductions for the purposes of calculating taxable profits.
- 1.3 The requirement for expenditure to be “on the provision of” plant or machinery was considered by the Supreme Court in *Orsted West of Duddon Sands (UK) Ltd and others v HMRC* [2026]. The Court held that expenditure must have a close connection with the plant or machinery provided and that the studies and surveys considered in the case did not meet this test. HMRC subsequently updated its guidance to reflect the decision, including the treatment of design costs.
- 1.4 The government published the consultation on tax treatment of predevelopment costs on 13 July 2026. It sought views on the understanding of the tax treatment following the Supreme Court judgement, the types and scale of costs incurred, areas where uncertainty remained, and the effects of the current treatment on investment decisions and UK competitiveness. The consultation focused on expenditure more directly required before plant and machinery can be installed or operated.
- 1.5 The consultation is complemented by independent research commissioned by HMRC into the prevalence and characteristics of predevelopment costs across the wider population of Corporation Tax-paying businesses.
- 1.6 This research used a broad, business-led definition of predevelopment costs and was conducted before the Supreme Court judgement, which itself clarified differing statutory interpretations by preceding courts. Its estimates should not therefore be interpreted as supporting estimates

of expenditure affected by the judgement, expenditure that remains unrelieved, or the Exchequer cost of any possible tax change.

- 1.7 In the consultation, the government invited written representations from a wide range of respondents. Officials also held a series of roundtables with advisers and professional services firms, energy and infrastructure developers, and representative bodies and trade associations. The government is grateful to all those who provided evidence and shared their experience during the consultation.

Chapter 2

Summary of Responses

Overview

- 2.1 The consultation published on 13 July 2026 invited evidence on three broad areas:
 - 2.1.1 the existing tax treatment of predevelopment costs and the effect of the Supreme Court judgement;
 - 2.1.2 the types, purposes, scale and timing of predevelopment expenditure; and
 - 2.1.3 the effects of the tax treatment on investment, commercial decisions and UK competitiveness.
- 2.2 Respondents generally considered that the judgement had clarified the treatment of the particular studies and surveys considered by the Court. However, many said that uncertainty remained when applying the Court's reasoning to other expenditure, particularly design and engineering costs, professional fees and expenditure serving more than one purpose. Respondents also highlighted practical difficulties in identifying and apportioning costs, especially where work is iterative, undertaken across several project stages, or included within a design-and-build or other lump-sum contract.

Existing Tax Treatment

Question 1: How has the Supreme Court's judgement in *Orsted West of Duddon Sands (UK) Ltd and others v HMRC [2026]* affected your understanding of the tax treatment of predevelopment costs?

- 2.3 Respondents generally considered that the judgement had clarified the narrow statutory test and the treatment of the studies before the Court. Environmental, ecological, feasibility and site-characterisation studies undertaken principally to support planning, consenting or investment decisions were now more clearly outside plant and machinery allowances.
- 2.4 However, respondents said that the judgement did not establish a comprehensive boundary for other predevelopment expenditure, particularly design and engineering costs. Some also considered that "predevelopment costs" was not itself a clearly defined category,

because projects do not always have an identifiable point at which predevelopment ends and development begins.

Question 2: To what extent has the judgement clarified the treatment of these costs in practice?

- 2.5 Most respondents considered that the judgement provided high-level legal clarity but more limited practical certainty. While the position of the studies considered in the litigation was clearer, businesses must still assess other expenditure project by project.
- 2.6 Respondents particularly highlighted uncertainty over the dividing line between conceptual or planning design and detailed engineering work used in manufacture or installation. Some advisers considered that uncertainty had increased because businesses were reconsidering the treatment of professional fees, overheads and other costs not directly addressed by the Court.

Question 3: In light of the judgement and HMRC's updated guidance, are there specific aspects where uncertainty remains? Please provide examples and explain why.

- 2.7 The most frequently identified uncertainty was the treatment of design and engineering costs. Respondents said it remained difficult to determine when preparatory or conceptual design becomes detailed design sufficiently connected with the manufacture or installation of specific plant. Design processes are often iterative, with the same professionals working across conceptual design, spatial coordination, technical design and fabrication.
- 2.8 Respondents also highlighted mixed-purpose expenditure. Environmental, geotechnical, ecological and other studies may be required for regulatory approval while also informing final design and installation. Other uncertainties included the treatment of professional fees, surveys undertaken after the final investment decision, costs embedded in lump-sum contracts, and whether the test should be applied when expenditure is incurred or retrospectively once the asset is complete.
- 2.9 Respondents suggested more worked examples, clearer principles and improved apportionment rules. Some proposed a safe harbour, threshold or documentary standard, while others considered that guidance alone could not fully resolve a boundary derived from legislation.

Question 4: What practical challenges do businesses face in applying the current rules to predevelopment costs?

- 2.10 Many respondents said that project records and invoices do not provide the level of detail needed to apply the current test. Professionals may work across several stages and charge a single fee, while design-and-

build and engineering, procurement and construction contracts may embed design and other costs within a wider lump-sum price.

- 2.11 The tax analysis may also take place years after the work was undertaken, requiring businesses to revisit historic invoices or seek information from suppliers. Respondents said this increased compliance costs, required reconstructed allocations and could produce inconsistent treatment. The burden was considered proportionately greater for smaller businesses, where the cost of specialist advice may exceed the tax benefit.

Question 5: Has the judgement affected how businesses structure or incur predevelopment costs? If so, please provide examples, where possible.

- 2.12 Evidence of behavioural change was mixed. Some respondents had not observed projects being formally restructured, while others said businesses were reviewing historic claims, changing modelling assumptions and taking more cautious positions on the availability of allowances.
- 2.13 Respondents also identified possible incentives to record costs earlier, defer work until it is more closely connected with construction, or include design work within a supplier contract. Divergent interpretations could also affect competitive tenders where bidders make different assumptions about the amount of tax relief available.

Types of costs

Question 6: What types of predevelopment costs are incurred in investment projects?

- 2.14 Respondents identified feasibility and viability studies; environmental and ecological assessments; geotechnical, geophysical and site-condition surveys; planning applications and regulatory approvals; grid and connection studies; architectural, engineering and design fees; project management and cost-consultancy fees; community engagement; and preparatory or enabling work.
- 2.15 The mix of costs was said to vary substantially by project and sector. More novel, technically complex or heavily regulated projects generally require a wider range of early-stage studies and professional input.

Question 7: Typically, what proportion of the total capital expenditure for an investment project is incurred on each type of predevelopment cost, and over how long are these costs incurred?

- 2.16 Respondents generally found it difficult to provide a representative proportion, as costs depend on project size, technology, location, regulation, site conditions and procurement. Estimates provided

ranged from less than 1% for straightforward projects to more than 5% for complex projects, with one property-sector estimate of around 10%. Energy-sector data cited in one response indicated that predevelopment costs could represent approximately 5% to 6% of predevelopment and construction costs under central assumptions, although these figures were calculated on different bases.

- 2.17 Respondents said costs could be incurred over several years, particularly for major infrastructure and energy projects. Regulatory surveys may need to cover several seasons, while design work develops iteratively throughout the pre-construction period.

Question 8: Why are these predevelopment costs incurred? For example, are they incurred for regulatory reasons, to inform business decisions, or other purposes? If costs are incurred for multiple purposes, please indicate where this is the case.

- 2.18 Respondents said costs are incurred for regulatory, commercial, financing, engineering, environmental and risk-management purposes. Some expenditure is compulsory to obtain planning permission, licences or regulatory approvals, while other costs help businesses assess viability, secure financing, specify the asset and manage construction risks.

- 2.19 Many respondents emphasised that costs commonly serve several purposes. A survey may support a consent application, inform the investment decision and determine the final engineering design, making classification by reference to a single purpose difficult.

Question 9: If an investment project does not go ahead, can any of the predevelopment costs be recovered? For example, through sale of surveys to another business interested in pursuing a similar project.

- 2.20 Respondents generally considered that most predevelopment costs have limited recoverable value where a project does not proceed. Surveys and studies are usually specific to a particular site, technology and proposed development, and their transfer may be restricted by contractual terms or professional-reliance arrangements. Some value may be recovered through the sale of a consented site or project company, but respondents did not consider the separate sale of surveys to be common.

- 2.21 Several respondents nevertheless raised the issue of abortive expenditure, arguing that feasibility costs are partly incurred to determine whether a project should proceed. They questioned the exclusion of such expenditure and highlighted the possibility that costs incurred by a special-purpose company could remain unrelieved if the company never begins its trade.

Question 10: To what extent do you consider that predevelopment costs should qualify for capital allowances or other forms of tax relief? Please explain your reasoning and indicate which types of predevelopment costs you believe are most important to have tax relief.

- 2.22 Most respondents considered that relief should be available for predevelopment expenditure. Many respondents argued that genuine business costs, particularly expenditure required by regulation or essential to responsible development, should not become permanently unrelieved because they are capital in nature but insufficiently connected with the physical provision of plant.
- 2.23 Suggested approaches in regards to predevelopment costs included widening the statutory test, creating a defined category of qualifying predevelopment expenditure, treating costs as part of the asset they support, establishing a residual project pool, adapting research and development allowances, or providing an upfront credit. Respondents differed on the priority costs: some favoured compulsory planning and regulatory expenditure, while others prioritised detailed design, engineering and site investigation. Several also highlighted inconsistent treatment across plant and machinery allowances, structures and buildings allowances and research and development allowances.

Question 11: For predevelopment costs where the tax treatment may be difficult to apply, what proportion of overall predevelopment costs do these typically represent?

- 2.24 Respondents generally said this was difficult to quantify because uncertain costs are often embedded in professional fees or wider contracts. One response suggested that expenditure relating to earlier project stages could represent around 20% to 30% of professional costs, while others did not provide an estimate.
- 2.25 Some respondents considered that the uncertain category could represent a substantial part of predevelopment expenditure, given that much of it consists of feasibility, technical, regulatory and design work. However, they noted that this would still be a smaller proportion of the project's total capital cost.

Impacts

Question 12: Does the tax treatment of predevelopment costs impact business and investment decisions? If so, why is this and what are the impacts?

- 2.26 Views were mixed on whether the tax treatment alone would determine whether a project proceeded. Some respondents considered that commercially viable projects would continue, while others said the

treatment could be material for marginal projects, projects with tight regulated revenues and smaller or community-led investments.

- 2.27 There was broader agreement that the treatment worsens after-tax project economics by affecting returns, payback periods, financing requirements and investment appraisal. Respondents also said that different interpretations of the qualifying boundary could lead bidders to make different tax assumptions, affecting bid prices and potentially disadvantaging businesses taking a more cautious approach.

Question 13: What is your impression of the tax treatment of predevelopment costs in other jurisdictions? Does this treatment impact whether to invest in those other jurisdictions rather than the UK?

- 2.28 A limited number of respondents provided detailed international comparisons. Examples were given of jurisdictions where feasibility, environmental, regulatory or engineering expenditure can be deducted, pooled or added to the cost of a depreciating asset, although respondents noted that the scope and timing of relief vary.
- 2.29 More generally, respondents considered that permanent disallowance of predevelopment costs or uncertainty over the future of these costs could make the UK less attractive than jurisdictions with clearer tax depreciation rules or advance-ruling processes. While individual infrastructure sites may not be mobile, internationally active businesses may choose where to allocate capital and future development activity.

Question 14: Are there other impacts that the government should be aware of, in relation to the tax treatment of predevelopment costs?

- 2.30 Some respondents considered that the current treatment may discourage expenditure on environmental, technical and site investigations undertaken to reduce construction, safety and environmental risks. They also said the effect is concentrated on heavily regulated and capital-intensive projects with long consenting periods, including energy, networks, ports, transport and other infrastructure.
- 2.31 Other impacts identified included more complex due diligence, transaction pricing and audit provisioning; greater use of warranty and indemnity insurance; inconsistent treatment between taxpayers; higher supply-chain and grid-connection costs; possible effects on consumer-funded revenues; and a disproportionate compliance burden for smaller businesses.

Question 15: How does the tax deductibility of predevelopment costs compare in value to other potential tax changes, such as features of the Corporation Tax system reducing the ability to claim Full Expensing? If there are particular incentives you would prefer to see, please set out what those are and any supporting evidence where possible.

- 2.32 Only a limited number of respondents directly compared reform with other Corporation Tax changes. Some considered that relief for predevelopment expenditure would have a lower aggregate value than changes to Full Expensing or writing-down allowances but would be better targeted at the period before the final investment decision.
- 2.33 Suggested priorities included retaining Full Expensing and the Annual Investment Allowance alongside targeted predevelopment relief, using enhanced writing-down allowances for infrastructure, or providing research and development-style or regulatory-cost relief. Respondents frequently placed particular value on certainty, arguing that a clearly defined but less generous relief could be more useful than a more generous allowance with an uncertain boundary.

Chapter 3

Next Steps

- 3.1 Following a thorough review of the detailed feedback received as part of this consultation and comprehensive engagement with businesses, advisers and representatives, the government recognises the challenges businesses face in determining the tax treatment of predevelopment costs, particularly where expenditure is incurred across different stages of a project or serves several purposes. The government also acknowledges the view expressed by many respondents that tax relief should be available for a wider range of costs.
- 3.2 Providing businesses with sufficient clarity is crucial to support investment decisions and apply the existing tax rules consistently. The government is therefore committed to providing greater clarity on the current tax treatment of predevelopment costs. The government will explore whether further changes to guidance can be made via the work on *Corporate Tax Simplification for Business Investment*, including more worked examples, clearer principles and improved apportionment rules to simplify the process of determining whether capital expenditure is eligible for capital allowances and provide more certainty for businesses. If necessary to provide further certainty beyond what changes to guidance allows, the government will explore legislative changes to provide more certainty and clarity for businesses.
- 3.3 The government will consider the potential options for providing the clarity and simplification businesses need and will engage further with interested parties in due course. The government has also set out work to consider wider challenges for some infrastructure investment under the capital allowances regime.

Annex A: List of stakeholders consulted

The government is grateful for the contributions of those who responded to the consultation, who have been listed below. This list does not include those respondents that asked for their response to be kept confidential or responses from individuals.

- 100 Group
- AECOM
- Associated British Ports (ABP)
- Azets
- BDO LLP
- Confederation of British Industry (CBI)
- Chartered Institute of Taxation (CIOT)
- Construction Plant-hire Association (CPA)
- Cumming Group
- Deloitte
- E3 Consulting
- EDF Power Solutions / EDF Energy
- Energy UK
- Equinor
- Ernst & Young LLP (EY)
- Furasta
- Grant Thornton UK Advisory and Tax LLP
- Heathrow
- Institute of Chartered Accountants in England and Wales (ICAEW)
- Institute of Chartered Accountants of Scotland (ICAS)
- IMH Advisory
- JERA Nex bp
- Johnston Carmichael LLP
- KPMG
- MHA

- Moore Kingston Smith LLP
- National Gas
- National Grid
- NBCUniversal / UDX Development Company Ltd
- Northern Endurance Partnership (NEP)
- Nuclear Industry Association (NIA)
- Ocean Winds
- Ofgem
- Offshore Energies UK (OEUK)
- PwC
- RenewablesUK
- RSM UK Tax and Consulting LLP
- ScottishPower
- Scottish Water
- Slaughter and May
- SSE
- SUEZ UK
- TCM Capital Limited
- Tax Incentivised Finance (TIF)
- TotalEnergies Renewables UK Limited
- UK Major Ports Group (UKMPG)
- YTL UK

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