**Consultation Response**

# Taxation of environmental land management and ecosystem service markets

**Introduction**

1. Use this section to explain who you are.

[If you have no comments on any question, please state - No comments]

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

This section is seeking information about how the markets for private agreements are operating. So, this could include for example biodiversity net gain arrangements – what are the terms of the agreements; how are the payments structured, etc

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

1. Add in comments about how entering these markets will impact on your business. Will it impact ongoing viability of you existing farming enterprise? So you know whether environmental or ecosystem services income will be treated for tax purposes as part of your farming income? Will it add to your administrative burdens if the income and related expenditure had to be recorded separately for tax purposes?
2. and whether the land used for environmental delivery will qualify for capital gains tax and for inheritance tax relief to encourage private landowners to participate in private eco-system services agreements.

***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.***

1. Set out comments about what is aspect of income tax rules are uncertain. For example, do you need certainty about the tax treatment of payments (e.g. one off payments)? Explain how the uncertainties about tax have impacted on your decisions to change the use of land to deliver environmental land management. What would you be prepared to do if the uncertainties were resolved? Would it save on professional fees and the administrative time you would need to spend to deal with uncertainties. Can you give an indication of the costs that you may incur/time spent dealing with tax issues of uncertainties were not resolved.

***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?***

1. Add in your comments about what uncertainties about the accounting treatment and tax rules you feel need to be addressed. This could be how the payments need to be shown in your accounts and how they are taxed.
2. You can refer to comments made in response to Qu 2 if they are also relevant in answering this question.

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

1. If you think it would be helpful for HM Revenue & Customs to provide guidance please outline what this should cover? This could include guidance to help you understand the tax treatment of payments and how land covered by the eco-system services is treated for capital gains tax and inheritance tax.
2. If you have woodland that you will also use to deliver eco-system services agreement what do you need HM Revenue & Customs guidance to cover? For example, is the income treated the same as income for commercial woodland and outside the scope of income/corporation tax? Outline your views and questions that need to be resolved.

***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.***

1. If you have concerns about whether land will continue to qualify for capital gains tax reliefs (for example, if you want to transfer the land in your lifetime to the next generation rather than waiting to transfer it on death), then explain your concerns.
2. Are you concerned about whether you need to charge VAT on the sale of units, such as carbon credits or biodiversity net gain units so that you can recover the VAT incurred to manage any land under these agreements? Set out your views.

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

1. Add comments as appropriate.

**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.***

1. This is where you can outline your thoughts on how the lack of confirmation that land taken out of agriculture will qualify for relief from inheritance tax acts a deterrent. What would you do if the land qualified for relief? Be as specific as possible, including how much of your land you would have used for delivering ecosystems services if this would not impact your inheritance tax position.
2. The consultation does not cover business property relief. If this is also a concern to you, explain why here.

***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?***

1. Add comments as appropriate.

***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?***

1. The consultation proposes that schemes within the Sustainable Farming Incentive should be excluded from the list of qualifying environmental land management schemes. Whilst that reflects the fact that the current SFI options do not involve land being taken out of agriculture, this may change in the future. If you think that the design of the tax relief needs to be broad enough to cover this eventuality, this is the opportunity to explain why here.

***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?***

1. If you are aware of land still in a habitat scheme, please say so here as otherwise the government will remove the current clause in the legislation that deems this land to be agriculture for the purposes of agricultural property relief.

***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.***

1. The consultation suggests some of the private market agreements that could be included. Add your comments here as to what types of arrangements should be included.
2. The government are concerned that any changes to the relief will be open to abuse. Set out your thoughts here.

***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?***

1. Set out your thoughts about the proposal to limit this to land that was in agricultural use.
2. For example, what do you think about limiting the relief to land that is in agricultural use before its use is changed for environmental management or ecosystem services? Do you think this will penalise anyone putting non-agricultural land into environmental use when that land may have qualified for relief from inheritance tax under the business property relief rules?
3. What if it is some years since the land was in agricultural use because it has been in other environmental schemes? Should this apply to all land in agricultural use at a certain past date? How far back should this go and what are the practicalities of a date too long ago? What evidence should someone have to satisfy HMRC they qualify for the relief?

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

1. Add comments as appropriate.

***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?***

1. Add comments as appropriate.

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

1. Add any thoughts about this proposal. Do you think it will have a detrimental impact on the amount of land available to let?
2. If you are a landlord with tenants on shorter terms (such as 2 years, 5 years) what impact would this have on you? Does your tenant want longer terms and if not, explain why not? What are the practical reasons for shorter tenancies? What would happen if this rule came in and the tenant requested a 5 year term and you had to impose a minimum term of 8 years?

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

1. List the types of tenancies that a long term is impractical for or circumstances where flexibility is needed.

[Insert Name

Address

Email]

Date: [Insert date]