Incentivising private expenditure on flood defences

HMRC Consultation on Income tax and corporation tax: tax relief for businesses contributing to a partnership funding flood defence scheme

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Introduction

1. The CLA is the membership organisation for landowners, farmers and rural businesses in England and Wales. We help safeguard the interests of landowners and those with an economic, social and environmental interest in rural land and the rural economy. Between them they own and manage about half of the rural land in England and Wales.

2. The CLA welcomes this opportunity to respond to the consultation on draft clauses for Finance Bill 2015 on income tax and corporation tax: tax relief for businesses contributing to a partnership funding flood defence scheme.

Comments

3. Climate change presents some key risks for agriculture and rural businesses in the form of drought, flooding, disease and pests. Flooding events, such as those seen in 2014, will become more frequent and will require a wide range of responses, from improved drainage to embracing more natural solutions, like flood alleviation. The Environment Agency calculates the cost of flood damage in England alone at £1.1 billion per year and predicts that annual costs for the UK could exceed £27 billion by 2080. Given the right incentives, farmers, landowners, individuals and businesses can play a large part in mitigating flood risk.

4. Economic viability is essential to ensure that land based businesses, especially farming businesses, can play a positive role in managing the countryside. Unnecessary and unplanned flooding of agricultural land – and roads and other property – benefits neither business nor environment. In 2014 the Government announced £120 million of extra investment in flood defences which they estimated would deliver £1 billion of economic benefits. Accordingly, any private investment over and above government funding will have benefits to the local economy which might not be recognised in national strategies.

5. It has long been the CLA’s view that flood alleviation and coastal defence policies should protect good agricultural land for food production, rather than surrendering it to water. Landowners should be empowered to work with their local communities to develop local solutions. Flood and coastal defences face reductions in government funding in rural areas as well as the predicted impacts of rising sea levels and the increase of flash flooding. Coasts and rivers need sufficient resourcing and management to ensure that the impacts of flooding and erosion are kept to an absolute minimum to safeguard rural businesses.
6. Land owners and land managers need to be able to defend their properties from flooding even when the Environment Agency has withdrawn funding from what it regards as uneconomic defences. The ability to continue using land for producing food, energy, textiles, pharmaceutical and industrial products is a national asset and not the liability it is treated as by government policies. Land will continue to be an asset of ever-increasing importance as the threat from climate change grows.

7. It is our view that the Government can provide more support through capital incentives and a more sympathetic planning system for the construction of flood defences as well as on-farm reservoirs. Flood alleviation projects can provide an ecosystem service to communities, as well as a water management tool in times of flooding. It is essential that land owners and land managers are fully rewarded for providing flood alleviation benefits for society.

8. The CLA remains doubtful that the new funding process for flood defence work in its current form will attract enough private money to schemes, and in any event the current approach will make little difference to many in rural areas with low population density as they will end up having to fund work in total themselves.

9. The Government thinking set out in the ‘Making Space for Water Policy’ continues to be a cause for concern. There are high levels of uncertainty around climate change impacts and the predicted population growth and food security needs are not addressed by the policy and through the funding mechanism.

10. The case for a change from the old system was quite clear. Only with an increase in funding and a complete overhaul of prioritisation techniques, cost/benefit valuations, discounting assumptions and new fiscal incentives could it remain in place but unfortunately these important issues still have not been addressed by the new funding process.

11. We remain concerned that the government approach to funding flood defence projects continues to discriminate against rural and coastal situations as it places limited value on agricultural land and buildings compared to residential properties. This limits the scope for rural projects to achieve favourable cost benefit outcomes and increases the risk of flooding.

12. The basis on which a flood defence scheme will receive government funding is determined according to the benefits it delivers against defined outcome measures. For example the number of homes protected. This determination will impact on the amount of funding if any available for any given flood defence project. Where a project is only partially funded the difference has to come from non government sources (partnership funding). Add in the qualification criteria that grant-in-aid can only be applied for when partnership funding has been secured then the ability to attract private investment as part of this becomes even more difficult.

13. It is extremely important that landowners and rural businesses are able to more easily carry out flood defence works themselves and protect their assets and livelihoods. If Lead Local Flood Authorities (LLFA), groups of landowners and individuals are to secure an efficient and reliable funding mechanism that will deliver the investment that their region or local catchment needs to manage flood risk then the partnership funding issues need to be addressed.
14. To help secure the necessary widespread private investment to come forward there needs to be new fiscal incentives including tax relief on capital investments (capital allowance) as well as income tax relief for all forms of flood defence work by individuals and businesses.

15. Government targets for partnership funding are conveniently couched as ‘external’ contributions of 15% over the next 6 year spending review\(^1\). This doesn’t give any real guide as to what proportions of private contributions are expected. Private investment of 15% is unlikely to be achieved without improving the proposed tax relief.

16. Whilst the UK tax regime has for many years provided for tax relief for expenditure by property owners or occupiers on flood defences, currently contained in section 315 ITOIA 2005, we regard this to be of limited benefit for those who invest in flood defence expenditure. The section 315 tax relief is limited to expenditure on making of any sea wall or other embankment necessary for the preservation or protection of the premises against the encroachment or overflowing of the sea or any tidal river. We believe that the relief in section 315 is unattractive for a number of reasons:

(a) A landowner/tenant who spends a substantial sum on such works can only deduct 1/21 of any expenditure in each tax year. As such it will take 21 years before they receive full tax relief. This is too long a period.

(b) Tax relief is only available if the sums expended benefit land/properties occupied by the owner or tenant. As such if, for example, a third party funds the work for the benefit of their local community they will not be entitled to any tax relief.

(c) Relief is only available for protection from the encroachment or overflowing of the sea or any tidal river. It does not cover flooding by non tidal rivers.

(d) Tax relief is not available if the works are regarded as the works result in a substantial improvement in the land (such as an embankment creating an area of reclaimed land and not merely protecting existing land).

17. We believe that Government should develop better incentives, in particular fiscal incentives, to enable private land owners and other individuals to invest in effective flood risk management activities. The proposed tax relief announced at the Autumn statement and the subject of this consultation is described as one to encourage businesses that make contributions to partnership funding schemes for Flood and Coastal Erosion Risk Management (FCERM) projects.

18. Whilst this measure is to be welcomed, it could be further improved to offer a real and effective incentive to encourage private sector participation in flood and coastal defence projects. However, if an individual wishes to contribute to a community FCERM project, and they do not have a trading or property business then they will not benefit from tax relief on their contribution. This is wrong in principle. If the intention is to secure as much private funding as possible, anyone who has taxable income or taxable capital gains should be able to receive tax relief against that income or gain if they contribute to a flood or coastal defence project.

19. We are disappointed with the definition of ‘qualifying project’ in proposed new

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section 86B (2) ITOIA and proposed new section 86B CTA. In both these sections a qualifying project is limited to one where the Environment Agency has allocated funding by way of grant-in-aid to the project. Given our concerns outlined above many proposed FCERM projects to protect rural settlements, communities and businesses are unlikely to secure support from the Environment Agency. If there is no grant-in-aid contribution and a FCERM scheme is solely funded by private expenditure this will not qualify for relief. We would recommend that the qualifying condition to claim the tax relief should simply be that the scheme is an approved scheme (i.e. one that has received the necessary flood defence consent or Coast Protection Act consent to proceed). As all FCERM work has to go through one or other of these approval processes, any other qualification for tax relief risks imposing an unnecessary layer of bureaucracy.

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