



22 January 2024

Rt Hon Nigel Huddleston MP
Financial Secretary to the Treasury
HM Treasury
London
SW1A 2HQ

Via email: Action.FST@hmtreasury.gov.uk

Dear Minister

Consultation on the taxation of environmental land management and ecosystem service markets¹

We are writing to express our concerns over the time the Government is taking to respond to the above consultation and to highlight the urgent need for clarity on a number of tax issues.

Uncertainty regarding the tax treatment of land management schemes is hindering the ability of land managers to engage with a range of environmentally beneficial schemes. This affects not only the UK's ability to achieve its net zero goals by 2050, but also has direct impact on areas such as house building, where developers have to meet obligations in respect of Biodiversity Net Gain (BNG) and nutrient neutrality before development can commence.

In the Autumn Statement, the Government committed to responding to the consultation by Spring 2024, which is well in excess the usual 12 week response window. Yet BNG becomes mandatory this month (having been deferred from November 2023), nutrient neutrality is already in force, and the first tranches of pending issuance units generated from the Woodland Carbon Code have been verified and are available to purchase.

Background to this letter

Our bodies are all represented on the Natural Capital Working Group. We have been meeting as a group to discuss our concerns since June 2022, and meeting with HMRC, HMT and DEFRA since December 2022.

The term ecosystem service markets encompasses a range of land management schemes. We have mainly been discussing four². The [Woodland Carbon Code](#), [Peatland Carbon Code](#), [BNG](#) and [nutrient neutrality](#) are all land management schemes which are designed to create environmental benefits from long term or permanent land use change. The Woodland and Peatland Carbon Codes involve planting trees or restoring peatland with a view to removing or reducing the amount of harmful

¹ <https://www.gov.uk/government/consultations/taxation-of-environmental-land-management-and-ecosystem-service-markets> The consultation was published on 15 March 2023 and ran until 9 June 2023.

² Two further schemes expected to become relevant include the [Hedgerow Carbon Code](#) and the [UK Saltmarsh Code](#).

greenhouse gases such as carbon dioxide in the atmosphere. BNG and nutrient neutrality are measures designed to ensure that residential developments make a positive net contribution to biodiversity and do not increase pollution from wastewater. Landowners who put their land forward for these schemes are able to generate income from the sale of carbon and other credits based on the expected benefit of each individual scheme.

Key Areas of concern

There are a large number of areas where the tax treatment is uncertain. These include:

- *Income tax.* There is uncertainty on whether income from carbon and other credit sales (which include both verified credits where a reduction has been achieved and pending issuance units based on future reductions) should be treated as income or capital. This distinction significantly affects the rate of tax paid, and the expenses which can be offset against tax.
- *Inheritance tax.* Many landowners are concerned about the implications of moving land into the schemes and the impact on their entitlement to Agricultural or Business Property Relief. The potential loss of these reliefs is a significant disincentive for most farmers and landowners. There are further complications when land is tenanted.
- *VAT.* Although VAT was not included in the consultation, the current guidance on VAT for voluntary carbon markets is out of date and there is no guidance from HMRC on the VAT treatment of BNG or nutrient neutrality. As VAT is a transaction tax, this causes an immediate issue for businesses the moment any costs are incurred, or sales of credits are made because it is not clear whether VAT should be charged or whether VAT paid on costs can be recovered.
- *Stamp Duty Land Tax (SDLT)* and the related Scottish/Welsh equivalents. SDLT was also not addressed in the consultation but there are a number of areas of uncertainty as to whether SDLT (and the Scottish/Welsh equivalents) is/are chargeable which affect land transactions where the land is subject to a scheme.

Consequences

The current lack of clarity on both long and short-term tax issues causes a number of harms. We have seen it discourage landowners from putting land into land management schemes, and affect the type of schemes that those landowners who do engage are willing to enter. For example, in order to protect valuable Inheritance tax reliefs, landowners may focus only on land use changes which maintain the agricultural nature of the land, which means that important habitats such as wetlands and scrublands are not being created. It also means that advisers may reach different conclusions on the appropriate tax treatment, resulting in taxpayers in apparently similar situations adopting different tax positions- and more work for HMRC.

Looking more broadly, in the [Government's Nature markets: A framework for scaling up private investment in nature recovery and sustainable farming](https://assets.publishing.service.gov.uk/media/642542ae60a35e000c0cb148/nature-markets.pdf), the Government set a goal to grow annual private investment flows to nature to at least £500 million every year by 2027 in England, rising to more than £1 billion by 2030. The report notes that "the development of high-integrity nature markets is a key part of our strategy to enable firms to mobilise this investment"³. We do not believe investment can be delivered on this scale if tax is perceived to be a barrier.

³ See <https://assets.publishing.service.gov.uk/media/642542ae60a35e000c0cb148/nature-markets.pdf> , Executive Summary, pg 6.

According to the [Climate Change Committee 2023 Progress report to Parliament](#), tree-planting rates continue to be too low and are not increasing at the rate required. The report notes that “Rates will need to double by 2025 for the Government to reach its target of 30,000 hectares per year of woodland creation”. It also notes that “Peatland restoration rates increased slightly in 2022 but remain a factor of five less than our recommended rates”⁴. Again, a lack of clarity in the taxation implications of the Woodland and Peatland codes is unhelpful.

In the [2023 Green Investment Strategy](#), the Government said “The UK government is committed to supporting the development of markets for carbon and other ecosystem services in the UK, guiding, and stimulating demand while also ensuring that they build trust and confidence.”⁵ We consider that resolving tax uncertainties is a key element of developing these markets.

We understand that this is a complicated area and we would be keen to engage further with the Government on these issues as a matter of priority.

We will be publishing this letter, and your response, on our websites.

Yours sincerely

[by email]

Senga Prior

Chair of the Association of Taxation Technicians Technical Steering Group

Justine Riccomini

Head of Tax, Institute of Chartered Accountants of Scotland

Isobel D’Inverno

Convener, Tax Law Sub-committee, Law Society of Scotland

⁴ See <https://www.theccc.org.uk/publication/2023-progress-report-to-parliament/> full report, pg 20, indicators of progress, indicator - land use

⁵ <https://assets.publishing.service.gov.uk/media/643583fb877741001368d815/mobilising-green-investment-2023-green-finance-strategy.pdf> para 94.