17 August 2026

VAT treatment of land for social housing

Comments from Saffery LLP

1. Executive summary

1.1 We welcome the opportunity to comment on the proposals to extend the VAT zero rate to land intended for the construction of 'social housing' across the UK.

1.2 In summary, our key points are as follows:

- The proposed relief should remove VAT-driven timing constraints that currently require land transfers to be structured around the golden brick rules rather than commercial considerations.
- Earlier land transfers should facilitate earlier access to funding and help support the delivery of affordable housing and the government's ambition to deliver 1.5 million new homes.
- The relief should be linked to the status of the purchaser rather than the specific tenure ultimately delivered.
- The existing definition of a "relevant housing association" provides an appropriate starting point for determining eligibility, although consideration should be given to equivalent bodies delivering affordable housing in appropriate circumstances.
- Any certification process should build on existing VAT frameworks and be supported by clear guidance developed in consultation with stakeholders.
- Consideration should be given to extending the relief to certain acquisitions of existing non-residential buildings intended for conversion into affordable housing.
- Mixed-use developments containing limited commercial or ancillary elements should not automatically be excluded from relief.

1.3 Section 2 below makes some general comments on the proposals, and section 3 covers our responses to the specific questions raised in the consultation document.

1.4 We would be happy to discuss the points raised here in further detail. If you have any questions, or would like any further information, please contact: Sean McGinness, National Tax Partner, on +44 (0)131 221 3217 or email sean.mcginness@saffery.com or Ami Jack, Partner, National Tax, on +44 (0)330 094 3079 or email ami.jack@saffery.com.

2. General points

2.1 While the consultation focuses on bare land, consideration should also be given to sites comprising existing non-residential buildings that are intended to be converted into affordable housing. Repurposing existing buildings can support housing delivery and wider policy objectives, including the efficient use of existing buildings. Existing buildings contain substantial embodied carbon, incentivising their repurposing should be a key element of any extension to the relief.

2.2 We support the policy objective of removing VAT-driven barriers to the delivery of affordable housing. In our view, the proposals provide an opportunity to simplify existing structures without materially changing the underlying policy outcome. A key part of our feedback relates to the use of the phrase 'social housing' and it is our view that a wider 'affordable housing' definition should be used.

3. Specific consultation questions

3.1 Question 1: Are you responding as a landowner, a developer, a social housing provider, another type of organisation, a tax advisor, an individual

3.1.1 We are responding to the consultation as a tax advisor.

3.2 Question 2: If you answered 'landlord', 'developer', 'social housing provider' or 'another type of organisation' please provide the further details

3.2.1 Not applicable.

3.3 Question 3: If you answered 'social housing provider' please provide further details

3.3.1 Not applicable.

3.4 Question 4: Does HMRC/the government's understanding accurately reflect your knowledge of what happens in practice?

3.4.1 Yes, broadly.

3.4.2 The consultation accurately describes the interaction between the existing VAT treatment of land and the zero-rating provisions that apply once a building is under construction.

3.4.3 In particular, we agree that the timing of when a site reaches 'golden brick' stage is central to HMRC's approach to the availability of the zero-rate. The point at which a building is regarded as being under construction determines when a zero-rated transfer can take place and is the key issue created by the current rules.

3.4.4 While the position in practice can be more nuanced, we consider that the consultation broadly identifies the issue and the role that the golden brick rules play within current development structures.

3.4.5 We also note that the contractual arrangements used in practice may be wider than the simplified model described in the consultation. In particular, transactions may involve a developer or developer-landowner selling land and undertaking the construction works under related contractual arrangements, or a developer and registered provider entering into a partnership or joint venture. The legislation should be drafted to accommodate those common structures.

3.5 Question 5: What is your assessment of how the current 'golden brick' rules create barriers of the construction of social housing?

3.5.1 The current golden brick rules create barriers because they require a particular stage of construction to be reached before a zero-rated transfer can take place.

3.5.2 In practice, this can require developers and registered providers to structure transactions around VAT requirements rather than commercial or operational considerations. For example, on a housing development, individual plots may need to be transferred in tranches as each group of properties reaches golden brick stage. This can result in multiple conveyancing transactions and additional administration resulting in increased cost of delivery of affordable homes.

3.5.3 The requirement to transfer land at golden brick stage can also affect the normal build programme. In our experience, this again, can increase costs and make developments more time consuming to deliver.

3.5.4 The rules can also delay access to funding. Homes England generally requires a registered provider to hold an interest in the land before funding can be released. However, if acquiring the land before golden brick stage would create an irrecoverable VAT cost, the developer and registered provider may defer acquisition of the interest until the development has reached golden brick stage. This can delay access to funding and slow the overall delivery of affordable housing.

3.5.5 More broadly, the current rules create a timing issue. The land is intended for affordable housing regardless of whether it is transferred before or after golden brick stage. Requiring parties to wait until the development reaches a particular stage of construction adds complexity without changing the ultimate use of the land.

3.6 Question 6: Are there specific areas where VAT rules on land have a greater impact on your activities?

3.6.1 Given our experience of advising on these arrangements, we consider the interaction between the VAT treatment of land and the golden brick rules to be a fundamental VAT issue affecting the delivery of affordable housing.

3.7 Question 7: What is your definition or understanding of the term 'social housing'? (Please reference any statutory definitions that may be relevant including planning regulations and legislation.)

3.7.1 We note that "social housing" is defined in s68 Housing and Regeneration Act 2008 as comprising both low cost rental accommodation and low cost home ownership accommodation. Those terms are further defined in s69 and 70 respectively.

3.7.2 However, we do not consider that a tenure-based definition of social housing is the most appropriate test for the purposes of the proposed VAT relief.

3.7.3 In practice, relevant housing associations commonly deliver a broad range of affordable housing products, including social rent, affordable rent, shared ownership and other forms of low-cost home ownership. Tenure mixes frequently evolve during the planning and development process to reflect local housing needs, funding requirements and scheme viability. A relief that depends on a particular tenure classification may therefore create unnecessary complexity and uncertainty.

3.7.4 We note that the government's wider housing programmes are generally framed around the broader concept of affordable housing rather than social rent alone. For example, Homes England's Social and Affordable Homes Programme supports a range of affordable housing tenures and defines affordable housing by reference to housing for sale or rent for those whose needs are not met by the market.

3.7.5 More importantly, existing VAT legislation does not generally determine relief by reference to the tenure of the housing ultimately delivered. Both the option-to-tax disapplication in Schedule 10 VATA 1994 and the zero-rating provisions in Schedule 8 VATA 1994 rely on the established concept of a "relevant housing association". The focus is therefore primarily on the status of the purchaser rather than the precise tenure mix ultimately delivered.

3.7.6 We also note that the consultation's summary of the existing option to tax provisions refers to land intended for use "for social housing". However, Schedule 10 VATA 1994 is not framed by reference to a particular social housing tenure. Instead, the relief applies where a relevant housing association certifies that the land will be used for the construction of dwellings or buildings intended for a relevant residential purpose. In our view, this supports the use of an existing purchaser-based test rather than the introduction of a new tenure-based definition.

3.7.7 We therefore consider that the new relief should follow the existing VATA approach and be linked to the status of the purchaser rather than the specific tenure of the housing eventually delivered. In our view, this would provide greater certainty, reduce administrative burdens and better reflect how affordable housing schemes are delivered in practice.

3.8 Question 8: How would a new relief reduce the complexities in the current system and incentivise your business's ability to develop social housing quicker? (meaning accelerate the delivery of social housing to help achieve the government's objective of building 1.5 million new homes)

3.8.1 Subject to our comments in response to Question 7 regarding the scope of the relief, a new relief would allow the land interest to be transferred at the point that is commercially appropriate rather than when a particular VAT milestone has been reached.

3.8.2 This would remove the need for developments to be structured around golden brick requirements, reducing the need for multiple plot transfers and associated conveyancing and administration.

3.8.3 A new relief would also enable registered providers to acquire land earlier in the development process. This is particularly important for providers accessing funding through the Continuous Market Engagement route with Homes England, where access to funding can depend on the provider holding a legal interest in the land.

3.8.4 Earlier access to funding would help remove an existing timing constraint within the current rules. While it is difficult to quantify the number of additional homes that may be delivered, the proposed change would reduce friction in the delivery process and support the government's wider objective of increasing housing supply.

3.8.5 Collectively, these changes should support faster and more efficient delivery of affordable housing.

3.9 Question 9: How would a new relief reduce administrative burdens for your business? (landowner, developer, social housing provider)

3.9.1 A new relief would remove the need for transactions to be structured around the requirement to reach golden brick stage before a zero-rated transfer can take place.

3.9.2 This would reduce the administrative burden associated with monitoring developments to ensure that individual units have reached the required stage of construction before they can be transferred.

3.9.3 It would also reduce the need for multiple staged transfers of plots and the associated conveyancing, contractual arrangements and compliance processes that can arise where developments are transferred on a golden brick basis.

3.9.4 The current rules can also add complexity to funding arrangements. Homes England guidance includes specific requirements for golden brick arrangements in the context of funding drawdown. Removing the need to structure transactions around golden brick requirements should therefore simplify compliance for the supply chain as a whole, including both registered providers and developers.

3.9.5 Overall, the proposed relief should reduce administrative complexity for developers and relevant housing associations by allowing land transfers to take place at a commercially appropriate point without requiring ongoing monitoring of construction progress for VAT purposes.

3.10 Question 10: What types of organisations do you consider provide social housing? (Please reference any regulation of bodies mentioned if relevant.)

3.10.1 We consider that the existing definition of a "relevant housing association" used elsewhere in VATA 1994 provides an appropriate starting point for identifying qualifying organisations.

3.10.2 The definition should be framed so that it captures the relevant regulated providers, including private registered providers and local authority registered providers where appropriate. We do not consider that the relief should distinguish between for-profit and not-for-profit registered providers.

3.10.3 However, we recognise that affordable housing may not always be delivered through traditional housing association structures. In particular, some smaller rural affordable housing schemes may be delivered through community land trusts and similar community-led arrangements.

3.10.4 We therefore suggest that the government considers whether equivalent bodies delivering affordable housing should also be capable of qualifying for the relief.

3.11 Question 11: Are there any issues associated with limiting relief to registered providers? (Please provide any additional detail that you feel will be relevant.)

3.11.1 Limiting the relief to registered providers has the benefit of providing a clear and objective test based on an existing regulated category of purchaser.

3.11.2 However, the definition should ensure that all relevant registered providers are within scope, including local authority registered providers where appropriate.

3.11.3 Consideration should also be given to whether equivalent bodies delivering affordable housing, such as community land trusts, should qualify in appropriate circumstances, provided the relief remains targeted and safeguards are maintained.

3.12 Question 12: Are there any unintended consequences or risks you foresee with the introduction of this new relief?

3.12.1 We do not currently foresee any significant unintended consequences arising from the introduction of the relief.

3.12.2 The principal risk would be uncertainty regarding eligibility, particularly if entitlement depends on the precise tenure ultimately delivered. This risk can largely be mitigated by linking the relief to the status of the purchaser and the intended use of the land for housing, supported by clear certification and guidance.

3.13 Question 13: How frequently do plans for the development of social housing change? When plans do change, in what way do they change?

3.13.1 Changes can occur during the planning and development process and may affect the tenure mix ultimately delivered on a site. For example, the proportion of homes provided through different affordable housing tenures may change to reflect local housing needs, funding requirements or scheme viability.

3.13.2 Changes may also include boundary adjustments once detailed planning is available. For example, land may be transferred to a registered provider based on outline planning, with subsequent adjustments if the final approved scheme requires land to be transferred back to the developer or landowner or additional land to be transferred.

3.13.3 However, where land is acquired by a registered provider for residential development, we consider it would be very unusual for the land no longer to be used for housing.

3.13.4 This reinforces our view that eligibility for the relief should be linked to the status of the purchaser rather than the precise tenure mix ultimately delivered. While tenure arrangements may evolve over the life of a development, the intended use of the land for housing is unlikely to change.

3.13.5 The rules should ensure that such boundary adjustments do not invalidate the original VAT treatment where the land continues to be used for residential development.

3.14 Question 14: What evidence can be produced at the point the land is sold to demonstrate that it has been purchased by a registered social housing provider, and therefore qualify for the zero rate?

3.14.1 Evidence of the transaction could be provided through the sale and purchase agreement and the transfer documentation relating to the land (for example, the TR1 or equivalent transfer document).

3.14.2 Evidence of the purchaser's status could be provided through reference to the relevant register of social housing providers at the date of the transaction.

3.14.3 Taken together, these documents should demonstrate both the identity and status of the purchaser and the transfer of the land.

3.15 Question 15: Can you see any risks or complications with a declaration mechanism in the form of certification?

3.15.1 We do not foresee significant practical difficulties with a certification process, provided it is clear and proportionate.

3.15.2 The certificate should be drafted so that it gives the seller sufficient certainty to apply the zero rate and should make clear how it interacts with any existing option to tax.

3.15.3 It will be important to ensure that any certificate is drafted broadly enough to accommodate the range of qualifying transactions encountered in practice.

3.15.4 HMRC should consult on the form and content of any certification requirements before implementation. Consideration should also be given to whether a certificate issued shortly after completion of the land transaction can be accepted in appropriate circumstances, namely where there is an oversight in issuing the certificate but otherwise the transaction meets the criteria for the relief.

3.16 Question 16: Are there any unintended consequences or complications of mixed tenure developments? We are interested to understand more around practical or delivery concerns that you think may be relevant in this context

3.16.1 We have assumed that "mixed tenure developments" in this context refers to developments containing both residential and commercial elements.

3.16.2 Where a development includes affordable housing together with limited commercial, community or ancillary space that supports the wider development, we do not consider that this should automatically prevent relief from applying.

3.16.3 Where a development is wholly, or almost wholly, intended for qualifying housing purposes, consideration should be given to permitting full relief to apply. HMRC already accepts a 95% threshold for VAT when considering whether a building is used 'solely' for a qualifying purpose. Alternatively, as a minimum, a fair and reasonable apportionment should be available so that relief can apply to the qualifying housing element.

3.16.4 Without such an approach, there is a risk that the presence of a relatively small commercial element could deny relief for an otherwise qualifying housing development, which would not appear consistent with the policy objective of supporting affordable housing delivery.

3.17 Question 17: What additional support or guidance would help your organisation navigate the new VAT relief?

3.17.1 We would welcome clear HMRC guidance on the operation of the relief.

3.17.2 We also consider it important that HMRC consults on the draft legislation, guidance and certification requirements before they are finalised to ensure they work effectively in practice.

3.18 Question 18: Are there any other changes that you think should be included to make the new relief easier for you to implement?

3.18.1 The consultation focuses on bare land. Consideration should also be given to ensuring the relief can apply to existing non-residential buildings being acquired for conversion into affordable housing. In principle, many of the same funding, timing and delivery considerations arise in those circumstances.

4. About Saffery LLP

4.1 At Saffery, we’re more than just chartered accountants and tax and business advisers. We’re a partner-led and people-focused firm, committed to our clients and honouring our heritage.

4.2 Since 1855, we’ve evolved in size and scope, but our unwavering dedication to exceptional client service remains the same.

4.3 As a proud member of Nexia, a worldwide network of trusted member firms, we’ve got access to local insight on a global scale.

4.4 In the UK, Saffery LLP is the 15th largest accountancy firm by fee income, with 90+ partners and 1,300+ staff across nine offices. Saffery also has an office in Dublin, Ireland.