Natural capital consultation

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20 April 2023

HMRC and HM Treasury have launched a wide-ranging consultation looking at the taxation of carbon and nutrient credits and biodiversity units, as well as potential changes to agricultural property relief.

On 15 March, the government published a consultation on the ‘Taxation of environmental land management and ecosystem service markets’. Despite the somewhat unpromising title, this is an important and wide-ranging consultation which will be relevant to those advising farmers and landowners, as well as those with an interest in climate change and ecology measures.

The ATT has been looking at tax issues around carbon credits as part of our Natural Capital Working Group (NCWG) for some time now and the group briefed HMRC prior to the release of the consultation.

The consultation is split into two parts. The first element is a call for evidence looking at the tax issues around:

- carbon credits (such as those created from the woodland and peatland codes designed to remove greenhouse gases from the atmosphere);
- nutrient mitigation (measures to reduce pollution from nitrates and phosphates); and
- biodiversity net gain units (which are related to new requirements on developers to replace habitat lost to building projects).

HMRC are keen to understand the sorts of projects that are being set up. They also wish to identify where uncertainties around tax have influenced which projects go ahead. Any examples of projects that members are seeing in practice would be very helpful. The group has looked mainly at woodland and peatland code matters so far, so examples of phosphate and nitrate schemes would be particularly welcome.

Cases where tax has affected the viability of projects or led to a different choice of project would also be very interesting. We understand, for example, that some biodiversity schemes are focusing on hay or wildflower meadows rather than wetland or scrubland projects, as it is still possible to graze or take a crop from such meadows and keep within the definition of agriculture.

The second part of the consultation focuses on potential changes to agricultural property relief (APR). One of the concerns of the NCWG is that changing the nature of land use as a result of entering these schemes could cause landowners to lose valuable inheritance tax reliefs. This would clearly be a disincentive for landowners to engage in climate-positive action, and HMRC would be keen to see examples of where this has happened or could happen.

On a wider note, the consultation also picks up some of the suggestions from the recent Rock Review – a review of tenant farming in England with recommendations for the Department for Environment, Food and Rural Affairs (see tinyurl.com/vvkxzwyf). This includes a suggestion to restrict the application of 100% APR to farm tenancies of eight years or more. Again, we would appreciate member comments on this proposal.

Members may also be interested to know that HMRC have recently updated its manual pages (IHTM25253) to confirm that woodland and peatland carbon schemes are capable of qualifying for business property relief.

The current consultation excludes VAT, but examples of issues in practice remain very welcome as we are discussing VAT issues directly with HMRC.

The consultation closes on 9 June 2023, and we are expecting dialogue with HMRC/HMT to continue after that date. Although work has commenced on the response, further feedback from members on any relevant aspects would be very welcome by the end of May.

The consultation can be found at tinyurl.com/22hbtfx2. Please send feedback or comments to atttechnical@att.org.uk or direct to me below.

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