# From plot to profit: structuring land deals for tax efficiency

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Naomi Stewart joins in conversation with Tom Sater and Paul Sams to highlight the critical considerations in supporting landowners through the complex journey of making the most of their agricultural holdings.

## Key Points

### What is the issue?

As UK landowners increasingly explore the development potential of agricultural holdings, careful tax and legal planning becomes essential to ensure profitability and avoid costly missteps. Historic title issues, unresolved probate and informal tenancy agreements can delay or derail development. Legal due diligence is vital to establish clear ownership and secure vacant possession.

### What does it mean to me?

Development strategy significantly impacts tax relief eligibility. Leasing land for renewable energy, such as solar farms, can jeopardise agricultural property relief and business property relief, especially if passive income dominates.

**What can I take away?**

HMRC may apply income tax if land was acquired with a clear profit motive. Structuring deals with deferred sales or overage agreements can help to retain capital gains treatment. VAT is another critical factor. While bare land sales are VAT-exempt, opting to tax can allow recovery of related costs; however, this decision binds the land for 20 years.

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In recent years, a growing number of UK landowners have explored the development potential of their agricultural holdings. Whether exploring residential schemes or renewable energy projects, the financial upside is clear. However, without robust tax planning, legal foresight and a realistic understanding of how these projects unfold, that promise can easily become a much longer endeavour than hoped for.

Defra estimates that around 90% of farm enterprises in England are family-run. This fact alone underlines the complexity of many land deals, where succession concerns, emotional attachment and complex ownership can all add layers of complication. Converting farmland into profitable development land is rarely just a transaction; it is a multi-year process demanding collaboration, legal clarity and early attention to tax implications.

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## Clarify ownership early

‘Land that has been passed down through generations can have complicated title issues, especially where probate is incomplete or old agreements were never formalised,’ explains Paul Sams, Managing Partner at Dutton Gregory. ‘Landowners must conduct thorough due diligence before entering into discussions around selling their land; it can save a lot of time and frustration down the line.

‘Additionally, long-term tenancies or licences can become speedbumps in the process that need ending or resolving, especially where these are verbal agreements among friends or neighbours. Tenancies can also create additional financial responsibilities that need settling before any real planning begins as vacant

possession is a key element for most developers – addressing this too late can stall projects indefinitely.’

For advisers, supporting clients to establish clear legal ownership and resolve any historic or informal tenancy arrangements early in the process is essential. These issues, if left unchecked, can delay or even derail an otherwise viable opportunity.

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## Collaboration requires structure

Where a single parcel of land isn’t sufficient to attract developer interest, whether due to access, scale or infrastructure needs, landowners may be best served by collaborating with neighbours. This strategy often makes sense commercially but creates a web of legal, tax and practical considerations.

Equalisation agreements are a common route for landowners who are seeking to share proceeds fairly. These agreements allow contributors to benefit proportionately from development gains, even if their plots are used differently. However, while equalisation works commercially, it can be highly inefficient from a tax perspective. Payments between landowners can attract double taxation, with no relief for the paying party, undermining the fairness such agreements aim to deliver.

A more comprehensive, albeit more complex, solution lies in land pool trusts. These allow landowners to transfer their land into a shared trust and receive a proportional share of the whole in return. This simplifies profit distribution and provides developers with greater certainty that the entire development footprint is secure.

‘The trust structure removes the risk of a single landowner pulling out and derailing the entire scheme,’ explains Naomi Stewart, Head of Tax at Shaw Gibbs and Partner at Martin and Company. ‘However, it comes with challenges, including potential loss of tax reliefs, high administrative demands and the need for close cooperation among landowners.’

Other mechanisms include covenants and cross-option agreements. Covenants can provide comfort that compensation will be received if development proceeds, but the uncertainty they create can deter developers. Cross-options, meanwhile, offer flexibility and equitable returns but are often hard to value and administer. Ultimately, the structure chosen must balance legal clarity, tax efficiency and commercial certainty, ideally with early input from specialist advisers on all sides.

## Development strategy shapes tax position

Once ownership is clarified and collaboration agreed, landowners must decide how the development will proceed. While residential development is familiar territory, the rise in renewable energy, particularly solar, is prompting fresh interest. Each route brings distinct tax implications.

‘What landowners need to be aware of is that leasing farmland to a third party, such as a solar or renewables company, can have significant implications for both agricultural property relief and business property relief,’ says Stewart. ‘Whilst the headline rate of these reliefs is being reduced from 100% to 50%, they still offer significant opportunity for inheritance tax savings so need to be secured wherever possible.’

Agricultural property relief requires the land to be occupied for agricultural use. Long-term leases to solar operators, which generate passive rental income, typically remove this status, reclassifying the land as an investment asset and disqualifying it from relief.

The implications for business property relief can be even broader. Relief depends on the business being ‘wholly or mainly’ trading. HMRC applies a multi-factor test, looking at turnover, profit sources, asset use and employee activity over a two to three year period. If investment activity outweighs trading, especially where solar leases or other non-agricultural income dominate, business property relief could be lost across the whole business.

Agricultural profits are often volatile, so even short-term fluctuations can tip the balance. ‘Where land is expected to rise significantly in value or be exposed to inheritance tax in future, a common planning strategy is to carve out the investment element,’ Stewart explains. ‘Transferring the leased land into a trust, company or another individual’s ownership can protect the remaining trading business’s business property relief eligibility. While the carved-out land won’t qualify, the value it generates is removed from the estate, preserving relief elsewhere.’

The long timelines involved in renewables projects further complicate matters. ‘We’re now looking at connection dates in the 2030s or even 2040s,’ says Tom Sater, Head of RO Energy. ‘Much of this delay is tied to the available capacity

with the National Grid. Landowner engagement is required to secure initial offers from National Grid, which is subsequently followed by more detailed agreements. Even these initial steps can be enough to trigger movement with National Grid, and with such long timelines, starting early is essential.'

There are practical considerations too. 'Renewables projects, including solar and wind farms, require maintenance which in turn requires access,' Sater adds. 'That can become a problem if you've allocated a portion of land off the beaten track, or where access arrangements disrupt other parts of your business.' These factors may not affect tax directly, but they can shape the overall commercial viability of a development scheme.

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## Capital or income? Structuring for favourable treatment

One of the most crucial questions facing landowners is whether a development – related disposal will be subject to capital gains tax or income tax. Capital gains tax is usually more favourable, but it's not guaranteed.

'If HMRC considers that you acquired or prepared the land with a clear intent to make a profit from its development, then the transaction may be taxed as income,' Stewart explains. This is particularly relevant under the 'transactions in land' rules, which focus on the original intention behind acquiring or holding land. For example, buying land out of a company with future development in mind, even if leased back to a farming business, can trigger income tax treatment if HMRC sees a clear profit motive.

Here, structuring is key. 'This area is governed by intention-based legislation, meaning a paper trail and early legal advice are critical,' she adds. 'Landowners need to be clear on the purpose of a deal from the outset and consider how that purpose might be interpreted years later, especially if value has risen sharply.'

Where future development is possible but not definite, strategies such as overage agreements or deferred sales can help to preserve capital gains tax treatment, so long as they're carefully structured and reflect commercial reality.

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## To tax or not to tax: VAT considerations

VAT is often overlooked in land deals, but its impact can be significant, particularly when recovering costs incurred in promoting or preparing the land for sale.

‘By default, bare land transactions are exempt from VAT, meaning no VAT is charged and none can be recovered on associated costs,’ Stewart explains. ‘However, landowners can choose to “opt to tax” commercial land, which changes its VAT status from exempt to standard rated. This allows VAT to be charged on sales or leases of the land and, crucially, enables recovery of VAT on related expenses – for example, fees paid to promoters or professional advisers.’

However, opting to tax is not a short-term commitment. ‘An option to tax is binding for a minimum of 20 years and can’t easily be revoked even after that time,’ she adds. If the buyer is unable to reclaim VAT, such as an individual or non-registered entity, this could reduce the land’s market value or even prevent a sale.

If the purchaser is a VAT-registered housebuilder, opting to tax may be a sound strategy. But the decision must be made at the right time, with clarity over the land’s intended use. ‘Making the right choice at the right time can protect profit margins,’ says Stewart. ‘Missteps, however, can result in avoidable VAT liabilities.’

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## Integrated advice is essential

Land sales and development are rarely simple, especially for agricultural landowners who are facing complex family dynamics, regulatory changes and uncertain timelines. From ownership and collaboration through to structuring, VAT, capital gains tax, agricultural property relief and business property relief, every aspect of a development transaction carries significant tax implications.

For tax professionals advising landowners, the message is clear: integrated, early-stage advice is essential. ‘No one element, whether VAT, business property relief or capital gains tax, exists in isolation,’ Stewart notes. ‘And the success of a land sale or development hinges on how these parts interact.’

Collaboration between tax advisers, legal teams and commercial consultants is therefore vital. With the right structure, forward planning and informed decision-making, practitioners can help landowners to turn development opportunities into lasting, tax-efficient value, preserving not just profit, but also the legacy of the land for future generations.

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