



Catalyst Response to Residential Property Developer Tax: Consultation on Policy Design

Catalyst is one of the UK's leading housing associations, with over 37,000 homes housing over 65,000 customers in London and the South East. We are a member of the G15 group of large London housing associations and BuildEast group of large developing housing associations in the East of England.

We are a major developer of affordable housing across London, the South East and East of England

We are delighted to have the opportunity to provide a response to this consultation.

If you have any questions or require further information on this response, please **contact David Flindall** (david.flindall@chg.org.uk).

Introduction

Not-for-profit housing associations represent a key resource for the country to deliver enough affordable homes for those in need of them.

All profit in a not-for-profit association must ultimately be reinvested in affordable homes for it to retain its status as not-for-profit body.

We believe that exemption from the proposed Residential Property Developer Tax and Gateway two Levy should be extended to include not only charities, but also:

- Not-for-profit registered providers of social housing
- All companies that are wholly owned by non-profit registered providers of social housing.

Comments on specific elements of the consultation

Our response to the consultation document is limited to the following questions. In preparing our response, we have consulted extensively with our colleagues in other housing associations, in particular the G15 group of large housing associations, our representative body, the National Housing Federation, and with their tax advisers, RSM. Working with the NHF we have also been grateful to have the opportunity to consult with government departments (HM Treasury, HM Revenue & Customs and the Ministry of Housing, Communities & Local Government)

Question: Do you agree with the approach to affordable housing? What are the implications for housing associations and to what extent would their taxable activities fall in scope?

Question: Is there anything the government might want to consider with regards to the impact of the tax on the supply of affordable housing?

We believe that not-for-profit bodies, eg housing associations, should be made exempt for liability for this proposed tax. This exemption should cover all bodies, including groups, where the 'parent' is a not-for-profit body, eg profit is recycled within the group to support further development, maintenance, improvement or other activity that could be shown to have a social purpose. This would include housing associations with for-profit elements, providing the parent is a not-for-profit body and profit is recycled to support the group's not-for-profit activities.

We also think this should include situations where a not-for-profit body engages in joint ventures with other companies, either directly or through a subsidiary. Housing associations do this in order to undertake larger developments and to redistribute profits from homeownership products to cross subsidise the development of affordable homes. As such, it would be appropriate to extend the exemption to the not-for-profit housing association, or subsidiary, half of the arrangement. Ideally, the tax should be targeted to the investing partner directly rather than the joint venture, so that there is no cash tied up in any need to claim back funds, and to further ensure that no creative

mechanisms can be created whereby a for-profit partner is able to claim some of the benefit intended for the housing association partner. (For more detail about joint ventures, see below.)

In our view this is the correct approach for the following reasons:

- Taxation of not-for-profit bodies, primarily set up to provide affordable housing, directly reduces our ability to meet the government's expectations regarding the delivery of much needed new homes for hard working families.
- It could also affect our ability to finance safety work that this tax is intended to support.
- Most housing associations are likely to pay either nothing or very little tax. However, proving this is likely to lead to a significant amount of administrative activity which could be avoided via an exemption from the tax.
- It will ensure that housing associations engaging in joint ventures retain access to funds to cross subsidise affordable housing and retain the benefits of undertaking and influencing larger projects.

Question: Do you have any initial views on the cumulative impact of the RPDT and the Gateway 2 levy?

We feel that the above arguments also apply to the proposed levy at Gateway 2 of the construction process.

Question: Do you have any other observations regarding the use of joint venture structures in the UK residential property development sector?

While the majority of building by housing associations tends to be affordable housing delivered via land led or Section 106 arrangements, increasingly housing associations are undertaking joint ventures to develop affordable and low-cost and market sale ownership homes to create diverse neighbourhoods and generate profit margins to support their affordable pipeline.

In order to deliver these homes at the most efficient build cost possible and share the risk of any volatility in the sales market, many associations have entered into joint ventures on a per project basis with development partners. Generally these partners will be building contractors, but there are other configurations such as associations partnering associations, or associations partnering with the local authorities. Joint ventures are normally on a 50-50 basis, but other percentages do exist.

These arrangements usually involve the association getting first refusal of the affordable homes on the site.

Housing associations viability test each joint venture, considering any subsidy required for affordable homes and potential profit from any sales when determining whether to enter the arrangement. In most cases, the not-for-profit entity will contract to develop the affordable housing and a subsidiary, normally a for-profit development vehicle, taking the risk of the Market Sale.

In order to retain this method of procuring new homes, housing associations will need to be able to extend any tax exemption to their share of the venture. Failing to do so would make joint ventures considerably less viable reducing the opportunities available to the sector. This would mean that associations are likely to be unable to access lower build prices and be more reluctant to take on the risk associated with larger opportunities. Any reduction in housing association involvement in these larger projects would also reduce the voice of those with a "social purpose" in the design and delivery of them.

Recommendations:

- Any tax exemption would need to cover each type of joint venture arrangement (entity, contractual arrangement, etc) while being robust enough to extend the benefit to the Association party only.

- There should not be a distinction between the affordable homes and the market sale homes within a joint venture, because profit from market sale homes is used to finance the affordable homes. Any exemption should be applied to the association's entire interest in the venture.
- Each entity in the association's group should be considered exempt due to the multiple party arrangements where the developing entity and affordable procuring entity will not be the same.
- The association's share should be exempt on entirely market sale based ventures, as the association will use the return from that project to increase the viability of its pipeline as a whole, supporting the development of more affordable homes
- Ideally the tax should be exempted rather than taxed and then reclaimed, in order to avoid unnecessary bureaucracy and spikes of capacity resulting from reclaiming tax.