Tax Representation

ICAEW TAX FACULTY

TAXREP 15/07

VALUING PLANNING GAIN: A PLANNING-GAIN SUPPLEMENT CONSULTATION

Memorandum submitted in March 2007 by the Tax Faculty of the Institute of Chartered Accountants in England and Wales in response to a technical consultation paper published on 6 December 2006 by HM Revenue & Customs.

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VALUING PLANNING GAIN

INTRODUCTION

1. We are pleased to respond to the invitation to comment on the consultation document entitled 'Valuing planning gain: a Planning-gain Supplement consultation' issued by HM Revenue & Customs (HMRC) on 6 December 2006. Our comments below follow the chapter headings in the consultation document. The consultation document can be found at: http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageLibrary_ConsultationDocuments&propertyType=document&columns=1&id=HMCE_PROD1_024845

2. Details about the Tax Faculty and the Institute of Chartered Accountants in England and Wales are set out in Annex A.

3. Attached in Annex B are our Ten Tenets for a Better Tax System which we use as a benchmark for taxes.

KEY POINT SUMMARY

4. Our key concerns are:

- We remain unconvinced about the principles that underlie this tax. We are not convinced that this tax will work efficiently and are concerned that it will not succeed in its objective of bringing land forward for development. For these reasons we are opposed to its introduction.
- We note that the interest in the land to be valued is the freehold interest with vacant possession (FHVP) which is not necessarily the interest held by the developer at the time planning permission is granted. We think that a tax charge based on a valuation of the freehold with vacant possession could lead to unfairness where the developer has a lesser interest and is unable to obtain the freehold interest. Similarly it could lead to unfairness where the development has a comparatively short life and the developer does not wish to obtain the freehold. Unfairness may arise because tenancies and other interests in the land will be ignored as will the cost of removal of restrictive covenants which may prevent the development going ahead.
- It would be much fairer to tax each interest in land to the extent that its value has been increased by planning permission and not to tax a notional interest of the freehold with vacant possession. However, we accept that the valuation difficulties would be greater.
- Transitional provisions will be required to assist developers who have already started assembling parcels of land for development when the tax is introduced. They will have paid a price that includes the hope of planning permission and they will not be able to pass the tax on to a landowner if they have already acquired the land. To overcome the problem, we recommend that the current use value should not be less than the actual purchase price for the land before the tax is introduced.
- There is a also a reasonable argument that the transitional provisions should go further and that gains that accrued before the introduction of PGS should not be taxed. That could be achieved by providing that CUV should not be less than open market value at the introduction of the tax. We recognise that such a

provision would considerably reduce the yield of the tax, but it may help to ensure that land is brought forward for development.

- We think that the justification for using an assumed FHVP interest in land rather than an actual interest in paragraph 3.1 is invalid. The comparison with business rates and council tax is inappropriate because those taxes are annual taxes and during the period of actual occupation there is no difference between, for example, whether the occupier has a freehold interest or a shorthold assured tenancy. The enjoyment of the land occupied is the same. Using FHVP may require the developer to try to negotiate with holders of various interests in land in order to share the burden of the tax. That will not be possible in all cases and may even prevent developments going ahead, or stall them for years.
- We continue to have doubts that the tax will work as a self assessed tax because it is based on valuations and will therefore be based on inherent uncertainties. We think HMRC will wish to 'intervene' in most valuations, leading to a bureaucratic nightmare for PGS payers and HMRC.
- The consultation paper recognises that 'Valuation is not a precise science' (paragraph 1.7) and that 'the appropriate method of valuation has to be left to the judgement of the valuer'; (paragraph 8.2). We think valuation issues are likely to lead to a large number of disputes.
- We think the tax will discourage development of land and the release of land for development. In the case of leaseholders wishing to carry out developments the tax is likely to prevent work being carried out where the leaseholders are unable to acquire the freehold. Conceptually we do not think the tax works in these circumstances.
- We note the valuations required are not normal open market valuations but are valuations on certain assumptions. The assumptions that have to be taken into account are likely to significantly affect valuations in most cases. In the case of current use value, the hope value of future development potential has to be excluded. Hope value is difficult to value. Similarly the valuation on the grant of planning consent is based on the assumption that no future development will be permitted. Valuers are not used to providing current use values and may find it difficult to adapt comparisons of actual transactions to the assumptions required for the new tax.

GENERAL COMMENTS

5. Our comments on the 2005 consultation on the planning gain supplement are set out in TAXREP 8/06, which is available at: http://www.icaew.co.uk/index.cfm?route=113724. We noted in TAXREP 8/06 that the new tax breaches some of our ten fundamental principles although we noted that these points could be addressed before implementation. We remain concerned about the principles that underlie this tax and are not convinced that it will be any more successful than previous attempts to tax planning gains. Once introduced, we cannot see that it will increase the supply of land for development: indeed it seems to us that it will encourage the opposite behaviour and discourage land from being developed.

6. Set out below are our detailed comments on the points raised in this particular consultation paper. We intend to submit shortly a separate paper setting out our general concerns about the principles that underlie this tax. However, we remain of the view that the proposed tax is likely to prove unworkable in practice and is unlikely to succeed in one of its main stated aims of bringing forward more land for development. The result is that we remain opposed to its introduction and our detailed comments below need to be read in this light.

7. In TAXREP 8/06 responding to the 2005 consultation on PGS we said that problems caused by valuations may undermine the objective of simplicity in the new tax and make it more difficult to design a fair system. In addition, the possibility of penalties based on differences in valuations in a self assessment system could give rise to unfairness.

8. Paragraph 1.7 of the consultation document notes that valuation is not a precise science. 'The government does not wish to be prescriptive as to valuation methods' and 'the appropriate method of valuation has to be left to the judgement of the valuer having regard to the circumstances of the case' (paragraph 8.2). In the case of major developments, small percentage differences in valuation could lead to disputes about large amounts of tax. We think that the major problems relating to valuations will undermine the new tax.

9. We think that there should be a 'base value' equal to open market value at the time of the introduction of the tax and we think that current use value (CUV) should not be less than that base value for developments beginning after the introduction of the tax except where the open market value is also less than CUV at that time. Without this provision, PGS will be charged on gains arising before the introduction of the tax. It would be unfair for a purchaser who has paid for hope value to be charged PGS on that value.

10. An alternative way of dealing with this would be to say that where a person has bought land before the introduction of the tax, the CUV should not be less than the actual cost. This of course would only provide partial relief and would not cover all of the gain before introduction of the tax. However, it will provide a pragmatic solution to the problem in that it will not tax a gain that is incapable of being realised.

11. CUV will take account of planning consents granted before the appointed day provided that they have not expired, but nevertheless this only deals in part with the problem of taxing pre-introduction gains. CUV ought to take account of planning consents that have expired where there is no change in planning policy or zoning so that a new consent is likely to be granted for the same type of development.

DETAILED COMMENTS

Aims and objectives – Chapter 1

12. We welcome the commitment to avoid the complexities seen in earlier attempts to tax planning gains. Clear and simple definitions of PV (planning value) and CUV (current use value) will be provided and further guidance will be issued on valuation by the Valuation Office Agency (VOA) in due course.

13. We note however, that both CUV and PV are special valuations on certain assumptions to be stated in the legislation and are not valuations that valuers are currently used to providing. Equally, comparison with sales in the open market will be difficult to use because of the assumptions required for CUV and PV. 'Hope value' has to be excluded in each case and it is difficult to measure.

14. Also we note that the FHVP (again on certain assumptions) will be used for valuation purposes and not the interest in the land held by the developer if different. We comment further on this below.

15. Whilst we welcome the Government's desire to keep the PGS as simple as possible, we are concerned that on the basis of these proposals this desire will be not be realised. A balance needs to be struck between simplicity and fairness and striving for too simple a tax is likely to create injustices. One immediate simplification we can see is to dispense with Start and Stop notices, which we do not think are essential for the operation of the tax. We comment on this aspect in our separate response to the consultation document on Paying PGS.

The land to be valued – Chapter 2

16. We note that the land to be valued will be the entirety of the site to which the planning permission relates even if it is not wholly within the developer's ownership at the date it is granted. We agree that in most cases the developer will acquire ownership of the entire site before applying for a PGS Start Notice. However, we are not sure how the tax will work if the development goes ahead only on the land actually owned by the developer. For example in the case of housing land the planning application may be made for the entire site. If the owner does not have the resources to develop the whole site he may sell it with the benefit of planning consent to one or more housebuilders. In this situation it would be logical for the tax to provide for an application by each developer for his own start notice and a charge to tax only in respect of his part of the site.

17. Example 1 in Chapter 2 of the consultation document describes what we think is a common situation. The developer applies for planning consent before he acquires the entire site covered by the planning consent. If at the time he applies for a PGS Start Notice he does not own the entire site covered by the planning consent and only intends to develop the part of the site he owns we think that the PGS Start Notice should only relate to that part of the site. Similarly, the valuations should be limited to the same land area in that situation.

18. Where works are required on other land such as to provide access roads or mains services, the consultation document states that it is assumed that these works will be completed in a reasonable time. Please confirm that the estimated costs of such (future) works will be taken into account in valuing the site to be developed? The consultation document indicates that the access roads and mains services are treated as a separate development but of course since no one will buy the roads there will be no PGS liability. In reality the costs of the roads and mains services, including cost of the land on which they are laid, will reduce the planning gain that can be realised by the developer for the other land on which buildings etc are constructed. Logically these costs ought to be allowed as a deduction in calculating the gain on the rest of the development. If this is to be done by increasing CUV the actual costs should be taken into account even if this involves a repayment of the tax paid.

19. The assumption on phased developments described in Chapter 2 is that where a developer applies for outline planning permission for the entire site and then applies for detailed planning permission in phases, the valuations for PGS purposes and the liability to the tax will be dealt with separately for each phase.

20. If the developer for some reason wishes to apply for detailed planning permission for the whole site but intends to carry out the development in phases, payment of the entire PGS liability will be required 60 days after the PGS Start Notice. In a

development spread over several years this will be a considerable disincentive. The tax decision will effectively drive how the planning applications should be done.

21. In practice, many of the problems around land development centre on obtaining bank finance. The lack of finance often holds up many potential developments and will have a significant impact upon how a developer acts. These proposals are likely to exacerbate the problems and potentially discourage development. It would be preferable to keep tax considerations separate from the commercial considerations and not an integral part of them, which is the result of the proposals in this consultation paper.

22. In general, we accept that it is simpler to treat the extent of the land to be valued for PGS purposes as the land covered by the planning consent. However, we are concerned that PGS needs to reflect more closely the commercial reality of many developments, where the decision as to whether to apply for detailed planning consent for the whole site or just the first phase will include consideration of often complicated political, economic and business needs.

23. For example, a developer may decide to apply for detailed planning permission of the whole site at the beginning, in order to provide protection against future uncertainties, such as changes in the political climate or subsequent planning consents being subject to additional conditions or new rules that were not required for the earlier phase We think it is wrong that PGS considerations should discourage this by charging tax on the entire site up front instead of allowing payment of the tax when each phase is started.

24. Where the land for which detailed planning consent has been granted comprises separate parcels which the developer wishes to develop separately, we think that it should be possible to levy PGS on the separate phases, provided that they can be readily identified.

25. We note the proposal to ignore ransom strips of land, rights of way and removal of restrictive covenants in valuing the freehold with vacant possession. The theory of the proposal is that when the developer buys such interests or pays for the removal of restrictive covenants he will negotiate a price that takes account of PGS. However, we think this could lead to unfairness. These interests in land are likely to have a low value in the absence of planning permission, but their value might be considerable in relation to any development. Therefore, the value of such interests after planning permission is represented entirely by planning gain, and in an ideal world the price should be reduced by the rate of PGS. In other words the developer would pass on the burden of the tax to the owners of such interests. However, in reality he is unlikely to do so, with the result that the developer is likely to have to bear tax on a gain he will have to pay to other people. It is the owner of the ransom strip not the developer who can dictate the price and so the developer is unlikely to be able to pass on a proportion of the tax to the owner.

The interest to be valued – Chapter 3

26. We agree that it is easier to value a freehold interest with vacant possession rather than the actual interest in the land actually held by the developer, if that is different. However, it is not clear from the consultation document what will happen to a developer who is unable to acquire the freehold interest but wishes to carry out a development that will be subject to the tax.

27. One possibility might be to make the freeholder the chargeable person in every case where the freeholder's permission is required to carry out the development. Our only concern here is that the freeholder is likely to pass on the tax liability to the developer in all cases without taking account of any benefit the freeholder may obtain.

28. Neither the proposed method nor our suggested alternative is ideal. We think that unless the actual interest held by the developer is the interest to be valued for the purposes of the tax, new developments will be prevented. The proposal is based on the assumption that the negotiating position of the parties is always equal, but this is seldom the case. In example 2 of Chapter 3, the assumption is that the present value of the rent payable will be reduced to take account of the PGS payable by the developer. In theory it should work in this way. However, we think that in practice and in particular soon after the tax is introduced, the rent calculation will also be influenced by the market rent for other properties. Where the developer feels that he is being forced to bear too much of the PGS burden, this may make the decision for development marginal and may mean that the development will not go ahead.

29. We note the arguments for valuing the freehold interest but we are convinced that the comparison with business rates and council tax is invalid. These are annual taxes based on use of property not ownership. It is valid to base these taxes on the unencumbered freehold value because the person having the use of the property has the benefit of using the entire property irrespective of his interest in the land. However, in relation to planning gain the taxpayer can benefit only from the part of the gain attributable to his own interest in the land.

30. We understand the thinking behind the proposal to ignore the cost of the removal of restrictive covenants (which prevent the development from proceeding) in calculating the CUV and PV. As in the case of ransom strips and certain other interests in land, they may have little value in the absence of planning permission. Their value after planning permission is entirely or almost entirely planning gain. In theory, the developer should simply deduct the going rate of PGS from the amount payable for these interests. The reality will be quite different. We think that the developer will have to bear the burden of the tax here even though in theory he would be able to pass on the tax to someone else.

31. Where the developer has a short lease, small developments that require full planning consent and are within the scope of the PGS will be made almost impossible by the new tax. The only way we can see this problem being resolved is to value the actual interest in the land held by the developer.

The valuation date – Chapter 4

32. We agree that the relevant date should be the date detailed planning permission is granted. However, we think that an exception should be made for a developer who wishes to carry out a phased development even though he has obtained detailed planning consent for the entire site.

Planning value (PV) – Chapter 5

33. We see no difficulty in valuing most land on the basis used for capital taxes as set out in paragraph 5.2. But the question of hope value is likely to cause problems for valuers. PV (the market value immediately after planning permission) will not be directly comparable with the open market value of other transactions because it will have to be valued on the basis that planning permission for all future development,

other than that covered by the existing planning permission, will not be granted. PV will also have to be amended in the case of phased developments. Further, PV is not a valuation that valuers will be familiar with.

34. It seems likely that hope value will be ignored or almost ignored by valuers in assessing PV. It is likely that PV will effectively be treated as the open market value with no adjustment or very little adjustment for hope value. The result will be frequent disputes on valuation or over-valuation and an excessive tax liability. Paragraph 5.5 of the consultation document illustrates the problem.

35. From past experience of the previous attempts to tax planning gain, hope value is very difficult to identify and to value.

36. The cost of planning obligations is another issue that will tend to complicate and delay valuations. We agree that the estimated cost of planning obligations should of course be deducted in arriving at PV. However, the cost of planning obligations may be difficult to estimate and developers should have the option to deduct the actual amounts when they are known and then to adjust the PGS paid.

37. The treatment of contaminated land illustrates how difficult it can be to value land for the purposes of the new tax. We are not convinced by the arguments in paragraph 5.9 that there will be no difference whether the remedial works are carried out before planning permission is granted or after. In that paragraph it states that the remediation works *may* increase the CUV by the same amount as the PV resulting in no increase in the PGS liability. If the work is not necessitated by the present use of the land it is difficult to see how the full cost of the work would be reflected in CUV. It might to safer to cover this with specific legislation to give relief for the cost or work done for the purpose of facilitating the development where the work is carried out before planning permission is granted. It is most likely that this type of work would not be started before outline planning permission is granted.

38. We agree with the proposed modification to PV in relation to phased developments. We have suggested above that some additional flexibility should be introduced to allow phased developments for PGS purposes where detailed planning consent has been given for the entire site. This will not affect the overall tax yield but it will prevent PGS forcing the developer to apply for planning permission on a phased basis.

Current use value – Chapter 6

39. In our representations on the 2005 consultation document, we said that opinions on current use values of land do not provide the certainty that a good tax requires. In contrast to open market values, current use values are more difficult to assess. They are not often required and valuers are not used to providing them. Valuers can determine market value because their valuation methodology can be tested against actual sales. Valuing something that is never sold in the real world means that there can be no yardstick against which to test the validity of the methodology.

40. We are pleased that in calculating CUV, planning permissions granted before the appointed day which have not expired will be taken into account. This is likely to prompt landowners to seek to renew any planning permissions that have expired and to bring forward applications for planning consent. Where a planning consent has expired, it is likely to be reflected in hope value because unless there has been a

major change in planning policy an expired planning permission is likely to be renewed.

41. With regard to remediation costs for contaminated land we think that an adjustment should be made for those costs incurred before detailed planning permission is granted where the costs incurred do not increase CUV by the same amount. In example 9 on page 21 of the consultation document, there are additional remediation works required for a residential development but these would not be required for redevelopment of the site for its existing industrial use. A developer may wish to carry out these works after obtaining outline planning permission for a residential development. However, if we have understood the proposals correctly, the additional remediation works required for residential use would not increase the CUV. As a result the developer would have to pay PGS on a gain represented by his expenditure on remediation works. If an adjustment is not given, developers will be reluctant to spend anything on the site until detailed planning consent is granted and that will simply delay development.

42. We think that the same argument applies to any expenditure on the site that facilitates the development which is incurred before detailed planning consent is given but which is not reflected in an equivalent increase in CUV.

Re-planning – Chapter 7

43. We agree that changes to the plans for a development raise complex issues affecting the structure of the tax. Where the changes can be accepted as minor amendments the valuations are likely to be unaffected and there would be no change in the PGS liability. However, some local planning authorities require full planning applications for very small amendments to the plans, especially where the development is in a conservation area. New planning applications may be required for changes as minor as additional windows or larger windows.

44. We do not agree that minor changes which nevertheless require full planning applications should necessitate complying with all the requirements for PGS that would be needed for a separate development. We accept that it is not possible to differentiate between those planning applications that relate to small changes and those where the changes are more extensive. We suggest that all amendments to the plans that require planning approval but which are made before the development is completed should be treated as adjustments to the original liability. We are not suggesting that there should be no additional PGS liability but if the development is a single development in reality it makes sense to treat it as such for PGS. We think that there should be a requirement to notify after the new planning approval has been obtained with a new date for payment of additional tax. However, it would be easier to re-visit the original valuations on the basis that it is a single development.

45. It is unlikely that the developer would apply for a further planning approval that is less valuable than the one he already has unless for one reason or another he is forced to do so. However, in a very small number of cases where re-planning is less valuable than the earlier approval, we think that there should be provision for repayment of PGS. A developer might well give up part of the development value on one site as a quid pro quo for obtaining permission on another site. For example he could agree to build a warehouse instead of a superstore on site A if the local authority allows him the housing density that he wants on site B.

Valuation methodology – Chapter 8

46. We note from the consultation document (paragraph 8.2) that the government does not want to be prescriptive and so valuation will be left to the judgement of the valuer. Presumably this means the judgement of the valuer acting for the taxpayer since PGS is to be a self assessed tax. Paragraph 8.23 states that valuation is not a precise science and it is recognised that valuations can be subject to tolerances. This probably means that if ten different valuers are asked to express an opinion, ten different results can be expected. Since it is accepted that this is a matter of judgement and the taxpayer has instructed one valuer to assess the values, it is the judgement of that person and the valuations he produces that should count unless it can be shown that no valuer exercising reasonable judgement could arrive at similar valuations. We suggest the inclusion of a "reasonableness test" before the VOA can intervene in a valuation. We do not think it is acceptable simply to substitute the judgement of the valuer acting for HMRC if he produces valuations that give a higher tax liability.

47. Valuation tolerances are accepted in the design of the tax although not quantified. Many people will have personal experience of valuations more than 10% apart when selling a house. That, of course, can arise even in a situation where numerous comparisons are usually available. We think it will be very difficult to assess tolerances for unusual or specialist developments.

48. We are not qualified to comment on the various valuation methods in Chapter 8 of the consultation documents. However, we can see considerable room for argument in relation to valuation and we think that HMRC will wish to intervene in most valuations. This will undermine the operation of what is meant to be a self assessed tax. It will make it very difficult for it to work and make it a very expensive tax to collect.

ANSWERS TO THE SPECIFIC QUESTIONS IN THE CONSULTATION DOCUMENT

Q1 Is any further clarification of the extent of the land to be valued required? If so, to what extent? What would you suggest as the answer?

49. We think that the area of land to be valued and subject to the start notice should be the land actually in the ownership of the developer at the time he applies for a start notice. We think it is wrong to assume that the developer will acquire the remaining area of land. If the actual area of land owned is less than the area of land covered by the planning approval, it will be unfair to tax the developer on the uplift in the value of land he does not own. This proposal will merely prevent any development on the land until the other area is acquired, or until another planning application is approved. Whilst we recognise that it would be unusual for the developer to apply for planning consent for land that he does not own and then fail to acquire the land after planning approval, it is a situation that may occur in practice.

50. If our suggestion is adopted it will involve an adjustment if, at some later time before the completion of the development, the developer acquires the remaining area of land included in the planning approval. On the face of it that would involve a new application relating to the new parcel of land and a new payment date. However, we think this should proceed by way of adjustment to the original application, unless work on the first parcel of land has been completed: in which case it will have to be treated as a completely separate development.

Q2 What difficulties, if any, do you think the FHVP assumption might cause, particularly for tenants with short leases who undertake development? How might these difficulties be mitigated?

51. We think that the tax does not work in these cases. Where the developer holds a short lease and it unable to increase his interest in the land, it will prevent development altogether. The assumption is that the parties will be able to negotiate their way out of the problems caused by the new tax. There is also an assumption that the negotiating position of both parties is equal. We think that is unlikely, especially in the case of those freeholders who traditionally will not part with the freehold. For example, a leaseholder 10 years into a 25 year lease may find it especially difficult to negotiate an extension of his lease to enable him to carry out a new development. Even if there is a clear benefit to the freeholder, it is unlikely that the freeholder will accept any of the tax burden.

Q3 Is any further clarification of the valuation date for PGS valuations required?

52. We think that this date is reasonably clear and we agree that the date of detailed planning approval is the logical date for the purposes of the valuations.

Q4 Is any further clarification of the definition of PV required?

53. We can broadly see what is intended. However, planning value (PV) is not simply the open market value of the site with the benefit of detailed planning consent. It is a valuation on certain assumptions including the assumption that there will be no further planning consent for further developments which require consent. There are a whole series of complications relating to contaminated land, ransom strips, costs to remove restrictive covenants and phased developments. We expect the eventual reality of the tax to be more complicated than appears from chapter 5 of the consultation document. Detailed guidance will be required for the valuation of PV once the tax comes into force.

Q5 Will the proposals for dealing with phased developments create any difficulties for developers?

54. We think that the proposals will create difficulties for developers and will also dictate how a developer will have to apply for planning permission. We think the developer should be free to decide after obtaining planning permission whether he wishes to develop the site on a phased basis. This should be conditional on the land and the development relating to each phase being readily identifiable

Q6 Is any further clarification of the definition of CUV required, including how to treat 'planning permissions' granted before an appointed day?

55. We think more information is required on how to treat costs incurred by the developer prior to the grant of detailed planning permission which do not increase the CUV.

Q7 If you are not in agreement with the proposals for re-planning, how do you think re-planning should be treated for valuation purposes?

56. We think re-planning should be treated as part of the original planning approval and the PGS should be adjusted accordingly. This should apply where the planning

application is treated as an amendment to an earlier planning application and the development covered by the earlier planning application has not been completed.

Q8 Is any further guidance on valuation methods for PGS required?

57. We think that further consideration should be given to valuation tolerances if self assessment is to be a feature of the tax. We doubt that it is acceptable to say that valuation tolerances depend on individual circumstances and whether there is evidence available to guide a valuer. This will not provide the certainty the taxpayer will expect under a self-assessment regime. In paragraph 8.24 of the consultation document, there is a reference to large development schemes where there will be no actual sale price to guide the valuer. It is suggested that the tolerances will be greater in such a case, but we doubt that HMRC will adopt such an approach in practice. Interventions are likely to take place where there is more tax at stake. If a tolerance of between 5% and 10% is acceptable on a small development where there is some evidence from other transactions we doubt that for example 10% to 20% tolerances will be acceptable for very large developments.

58. The two special valuations required for the tax are both complex and not directly comparable with normal transactions that currently take place. In due course detailed guidance will be required for both CUV and PV.

KM/FJH
2 March 2007

ANNEX A

ICAEW AND THE TAX FACULTY: WHO WE ARE

The Institute of Chartered Accountants in England and Wales ('ICAEW') is the largest accountancy body in Europe, with more than 128,000 members. Three thousand new members qualify each year. The prestigious qualifications offered by the Institute are recognised around the world and allow members to call themselves Chartered Accountants and to use the designatory letters ACA or FCA.

The Institute operates under a Royal Charter, working in the public interest. It is regulated by the Department of Trade and Industry through the Accountancy Foundation. Its primary objectives are to educate and train Chartered Accountants, to maintain high standards for professional conduct among members, to provide services to its members and students, and to advance the theory and practice of accountancy, including taxation.

The Tax Faculty is the focus for tax within the Institute. It is responsible for tax representations on behalf of the Institute as a whole and it also provides various tax services including the monthly newsletter 'TAXline' to more than 11,000 members of the ICAEW who pay an additional subscription.

To find our more about the Tax Faculty and ICAEW including how to become a member, please call us on 020 7920 8646 or email us at tdtf@icaew.co.uk or write to us at Chartered Accountants' Hall, PO Box 433, Moorgate Place, London EC2P 2BJ.

THE TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. **Statutory**: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.

2. **Certain**: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.

3. **Simple**: the tax rules should aim to be simple, understandable and clear in their objectives.

4. **Easy to collect and to calculate**: a person's tax liability should be easy to calculate and straightforward and cheap to collect.

5. **Properly targeted**: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.

6. **Constant**: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.

7. **Subject to proper consultation**: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.

8. **Regularly reviewed**: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.

9. **Fair and reasonable**: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.

10. **Competitive**: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99; see http://www.icaew.co.uk/index.cfm?route=128518.