



Scottish Government consultation

‘Land reform in a net zero nation’

ICAS response

By 19 September 2022

About ICAS

1. The following submission has been prepared by the ICAS Tax Board.
2. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants and we represent over 23,000 members working across the UK and internationally. Our members work in all fields, predominantly across the private and not for profit sectors.
3. ICAS has a public interest remit, a duty to act not solely for its members but for the wider good. From a public interest perspective, our role is to share insights from ICAS members in the many complex issues and decisions involved in tax and financial system design, and to point out operational practicalities.

Background comments

4. ICAS is grateful for the opportunity to contribute its views on this Scottish Government consultation, entitled "[Land Reform in a Net Zero Nation](#)".

General Comments

5. ICAS is generally supportive of the Scottish Government's overall aims which seek to diversify land ownership, encourage community engagement and increase transparency in land ownership. However, it is important to maintain sight of the Scottish context which has numerous unique facets including special rights over land and statuses, and the need to encourage investment and attract more taxpayers to become resident in Scotland.
6. Any aspect of land and property law and tax law must be capable of being understood and complied with – that is to say, transparent and in line with the Adam Smith 4 Canons of Taxation.

Specific Responses to Questions

ICAS is responding to questions 41 and 42 only in its response to the consultation, and will not be submitting responses to any of the other questions.

Part 11: Transparency: Who owns, controls and benefits from Scotland's Land

Q41. Do you agree or disagree with our proposal to explore:

- **Who should be able to acquire large-scale landholdings in Scotland**
- **The possibility of introducing a requirement that those seeking to acquire large-scale landholdings in Scotland need to be registered in an EU member state or in the UK for tax purposes**

Please give some reasons for your answers.

7. Whilst there is nothing wrong in exploring the topic of who can acquire large-scale landholdings in Scotland as well as the introduction of a possible EU/UK tax registration requirement for potential investors, we would wish to state the following:
8. Any exploration will be likely to reveal that there are three existing measures which require investors to register, as follows:
 - Trust Registration Service (TRS)
 - Register of Overseas Entities (ROE)
 - Register of Controlled Interests in Land (RCIL)
9. Further administrative and regulatory burdens would be unwelcome unless they specifically act to cover areas not already covered by the above three measures, as they may act as a deterrent to attracting inward investment into Scotland with potentially limited additional

benefit. ICAS considers that the three existing registration processes amount to an acceptable degree of transparency which would allow the public to understand who owns and controls land in Scotland.

10. The consultation describes tackling remote landowner absenteeism as well as addressing social justice in relation to land ownership, specifically stating that...“Community Wealth Building, which seeks to ensure that economic benefits from all investment activity are shared at a local level” but the paper does not offer any potential examples of how this might happen, nor does it explain how this might be achieved by using the proposed measure of excluding all but UK and EU investors – the inference being that EU investors might somehow be deemed to be more scrupulous than investors from elsewhere in the world.

11. In the absence of any critical detail, we would opine that the current tax treaty mechanism appears to cover the situation adequately without further need for potentially restrictive, exclusive and cumbersome additional legislative provisions.

Part 12: Other land related reforms

Q42. Do you have any views on what the future role of taxation could be to support land reform?

12. ICAS would not welcome any measures which seek to apply new tax charges in isolation on land transfers over and above Capital Gains Tax and Inheritance Tax. Duplicative measures could discourage investment; due to potentially both additional tax cost as well as additional administrative burden. Please note that apart from land transfers, there seems to be little else which can be effective by way of taxation to support land reform in Scotland, other than the possible formulation of a non-UK resident surcharge mechanism within Land & Buildings Transaction Tax which may resemble that currently provided for in Stamp Duty Land Tax. In the context of LBTT, we note the Scottish Land Commission's January 2020 paper concluded at page 10 that an additional surcharge would be “unlikely to effect a major change in the pattern of ownership”.

13. ICAS is unable to comment on whether the policy objective of land reform is correctly positioned, but we maintain it is nevertheless necessary to consider as a first step what the purpose of any taxation measures might achieve – and whether these measures would result in encouraging or deterring investment. The consultation paper appears not to have considered both sides of this issue in sufficient detail. In addition, there is the uncertainty of behavioural outcomes, which need to be considered in more detail when developing policy on land reform.

14. ICAS considers that one unintended consequence classifying land holdings as “large scale” where they are 3,000 hectares or greater could mean that some larger farmlands are also included. This could potentially have a knock-on effect in terms of food production and therefore, food security. It is important to consider this issue so as not to deter this vital industry from performing at an optimum level.

15. Better tax policymaking would be best supported by gathering full information on land use and ownership as recommended in the January 2022 paper. This would enable policymakers to be well informed and thus better equipped to forecast any tax policy outcomes.