

Advance Tax Certainty for Major Projects



Consultation Overview

Carlos Enrech
Group Head of Tax
Network Rail

Introduction

- Alongside the Spring Statement, on 26 March the Government released a consultation to support investment decisions in the UK.
- Consultation is on developing of a new process aimed at providing "advanced" tax certainty and clarity on how tax rules will apply to major investment projects.
- Part of wider proposals to simplify and modernize the United Kingdom (UK) tax system

Introduction

- The new consultation also confirms that the Government intends to offer clearance on the treatment of cost contribution arrangements (CCAs) through unilateral Advance Pricing Agreements (APAs) as announced when the Corporate Tax Roadmap was published by HM Treasury alongside the Autumn Budget on 30 October 2024.
- Simultaneously HMRC published a consultation seeking views on potentially fundamental changes to the UK's R&D tax relief regime.

Introduction

- The UK Government also announced on 28 April 2025 that it intends to replace the current stamp duty and stamp duty reserve tax (SDRT) regimes with a single, mandatory self-assessed tax on securities from 2027.
- Securities traded within Certificateless Registry for Electronic Share Transfer (CREST) will continue to be reported via CREST.

Background

- Current Situation: HMRC currently provides advance tax rulings on a case-by-case basis: Advance Pricing Agreements (APAs), Statutory Clearances for anti-avoidance rules, Non-Statutory Clearances for specific circumstances, Advance Tariff Rulings, Advance Valuation Rulings, R&D clearances to first-time SME claimants, and Customer Compliance Managers.
- Challenges: The existing process can be time-consuming, impractical and lacks consistency.

Objectives of the Consultation

- The consultation proposes a new dedicated (tailored) service to give businesses statutory certainty
- To streamline the process for obtaining advance tax certainty.
- To enhance the UK's reputation as a stable and transparent tax environment.
- To support major infrastructure projects by providing clear tax guidance.

Main Features of the New Service

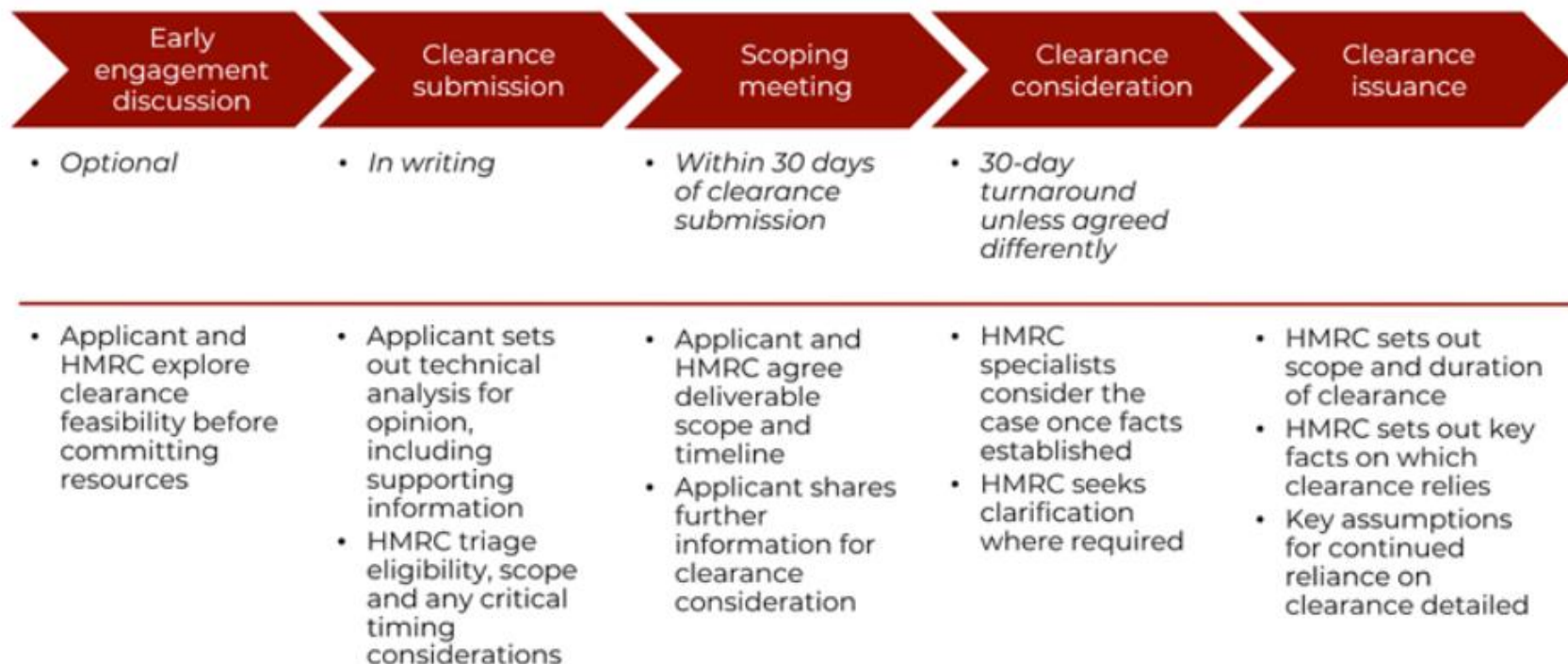
The Consultation refers to the following features for the new service:

- **Eligibility:** The service is aimed at the largest and most innovative investment projects with the highest spend, although smaller projects of national or strategic importance might also be considered.
- **Application:** Entities directly undertaking the investment project with a UK presence subject to corporation tax.
- **Service:** A dedicated service offering statutory certainty over tax rules in the form of a binding decision. Unlike the current non-statutory clearance process, this new process would not require the demonstration of genuine uncertainty.
- **Scope:** Corporation tax will be the core tax, but the consultation notes the Government is open to exploring expansion into areas such as VAT, stamps taxes and employer duties. Exclusion criteria to prevent abuse of the process, including speculative and tax avoidance applications.

Main Features of the Clearance

- It is a binding decision on a specific tax matter where this is fully disclosed and not misrepresented.
- Clearance applications set out a specific question, rather than general tax matters or hypothetical questions.
- Clearances mean agreeing the issues of most value.
- HMRC would not seek to change its reading of the law.
- Clearance is not binding where key assumptions are no longer met, or where changes in law render obsolete.
- Should the clearance opinion be mutually binding? Should taxpayer notify when not relying on the clearance?.

Proposed Process



Benefits

For Businesses:

- Reduced tax uncertainty.
- Improved planning and budgeting.
- Enhanced investor confidence.

For HMRC:

- Streamlined processes.
- Better compliance and enforcement.

Annex A List of consultation questions

Chapter 2: Eligibility

- 1) What is the impact of giving eligibility to corporate entities that are or will be subject to CT and are directly undertaking major investment projects? Does this exclude any other structures investing in major projects which would significantly benefit from being in scope?
- 2) How can advance tax certainty provide material wider benefit beyond the entity receiving the clearance?
- 3) What is the best way of quantifying the fixed and intangible investment for the purposes of assessing whether a project meets the threshold? Do you agree that authorised project spend is a suitable metric?
- 4) Is there a set amount of expenditure that would prompt you to seek a clearance or certainty, or would this be more attributable to the amount of tax and uncertainty in treatment?
- 5) Are there supplementary criteria, which are objective and measurable, which could capture projects below the quantitative threshold which are nevertheless of a national or strategic importance, are highly impactful on a relative basis within their sector, or that have large growth potential despite starting small?

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Chapter 3: Scope

- 6) **In which areas of UK tax legislation would advance tax certainty have the most impact on investment decisions?** Where possible please give examples of where lack of certainty has had a negative effect on an investment decision.
- 7) Are there areas for which certainty would be of value that are not currently addressed by the non-statutory clearance process? What do you see as potential benefits and barriers to their inclusion?
- 8) Who do you consider should be bound by an advance certainty clearance and to what extent. What form should that take?
- 9) What are the circumstances under which you consider it important to be able to continue to rely on a clearance?

Annex A List of consultation questions

Chapter 4: Process

- 10) Do you consider that an early engagement facility would be helpful and why?
- 11) **How would this process work with typical commercial decision-making timescales?**
- 12) **What facility would be helpful for unsuccessful clearance applications? Do you consider for example that the process should include reconsideration by HMRC on request?**
- 13) **Do you consider a scoping meeting to obtain clarity on scope of clearance, timing and inputs to be useful? What would a scoping conversation need to include?**
- 14) Are there process elements you would consider helpful during the clearance consideration phase?
- 15) **What do you consider the advantages and disadvantages of publishing summarised and anonymised clearances to be? Has publication by other clearance jurisdictions aided tax certainty as a result?**
- 16) **What would you wish to see in terms of engagement for clearances where impacted post issuance by legislation, ownership, case law or key facts and assumption changes?**
- 17) **What should a renewals process look like, and is 5 years an acceptable trigger point?**

How to Respond

- The consultation document is open for comment until 17 June 2025.
- Submission Details: Instructions on how to submit responses to the consultation.
- Contact Information: Relevant contact details for further inquiries.

Q&A

- Questions
- For any questions or comments or business support please contact:
Carlos Enrech
Head of Tax
Group Tax, Network Rail
carlos.enrech@networkrail.co.uk