

6th February 2012

Practice Group:

*Real Estate Land Use,
Planning and Zoning*

UK Land Remediation Relief - Spared the Axe

By Sebastian A. Charles and Rebecca Daniels

Following consultation, the UK Government has decided not to abolish land remediation relief (LRR) after all. This comes after a strong reaction from developers, who argued that it would render many brownfield redevelopment schemes unfeasible.

The purpose of LRR is to provide a financial incentive to developers to bring land back into use that: 1) has been contaminated by previous industrial use; or 2) contains derelict structures; or 3) is blighted by invasive species (Japanese Knotweed).

A company can deduct an amount equal to 150% of the qualifying clean-up cost when calculating its taxable profits. A company with losses arising from qualifying land remediation can also benefit by the surrender of such loss in return for a cash payment of 16% of the loss. However a company cannot seek LRR if the land is in a contaminated state or derelict, wholly or partly, as a result of anything done or not done by the company, and it is only for dealing with legacy issues created by previous owners of the land.

The Government says that each year 1,300 companies claim the relief, which costs the Exchequer around £40m.

The Government initially stated that LRR had failed to deliver its policy objective and also wanted to save money in these financially constrained times. However respondents argued that removing this relief would affect the regeneration of uneconomic brownfield sites and the ultimate benefits of such regeneration would be lost. Several companies claimed that they take land remediation relief into account when appraising sites, and that removal of this relief would make a significant number of their planned projects financially unviable.

"Based on the evidence received in the consultation, the Government has decided that removal of this relief, in conjunction with the already agreed removal of the exemption from landfill tax, would risk undermining the Government's plans to support the housing and construction sectors through planning reforms and the release of large areas of publicly owned land for development" is the Government's response to the consultation. Much to developers' relief - this relief been spared the Government axe.

At K&L Gates LLP we have experience of using LRR and structuring clean up obligations and transactions to improve the financial viability of brownfield developments, without creating unacceptable risks for vendors of contaminated or otherwise impaired sites. If you would like to know more, please contact Sebastian Charles.

UK Land Remediation Relief - Spared the Axe

Authors:

Sebastian A. Charles

sebastian.charles@klgates.com

+44.(0).20.7360.8205

Rebecca Daniels

rebecca.daniels@klgates.com

+44.(0).20.7360.8219

K&L GATES

Anchorage Austin Beijing Berlin Boston Brussels Charleston Charlotte Chicago Dallas Doha Dubai Fort Worth Frankfurt Harrisburg
Hong Kong London Los Angeles Miami Milan Moscow Newark New York Orange County Palo Alto Paris Pittsburgh Portland Raleigh
Research Triangle Park San Diego San Francisco São Paulo Seattle Shanghai Singapore Spokane Taipei Tokyo Warsaw Washington, D.C.

K&L Gates includes lawyers practicing out of more than 40 fully integrated offices located in North America, Europe, Asia, South America, and the Middle East, and represents numerous GLOBAL 500, FORTUNE 100, and FTSE 100 corporations, in addition to growth and middle market companies, entrepreneurs, capital market participants and public sector entities. For more information about K&L Gates or its locations and registrations, visit www.klgates.com.

This publication is for informational purposes and does not contain or convey legal advice. The information herein should not be used or relied upon in regard to any particular facts or circumstances without first consulting a lawyer.

©2012 K&L Gates LLP. All Rights Reserved.