

**Proposed LBTT supplement on additional residential homes**

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**To:** [finance.committee@scottish.parliament.uk](mailto:finance.committee@scottish.parliament.uk)

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Scottish Land & Estates is a membership organisation representing landowners, land managers and rural businesses across Scotland. The majority of these are small to medium sized family businesses. Our members are interested in a great variety of land uses, including housing and development and we welcome the opportunity to respond to this consultation.

Scottish Land & Estates has a Taxation Group within our organisation and has long been interested in the operability of taxation policy and guidance as it affects our membership. At a Scottish level we have been pleased to attend the Devolved Tax Collaborative meetings arranged by the Scottish Government and other relevant stakeholder groups and we engage with the UK Government on reserved taxation matters.

**1. The Scottish Government' overall policy objectives in introducing the supplement and, in particular, whether it –**

- **Is likely to “complement the Government’s commitment to supporting home ownership in a balanced and sustainable way.”**

- **“helps to ensure that the tax charge is proportionate to the taxpayer’s ability to pay.”**

In general terms there is a need for clarity as to who the supplement is meant to be targeting and what activities it is meant to support or incentivise. For instance clarity is required in relation to mixed use properties, where there is a residential and commercial element. Part 2 of the Schedule to the Bill refers to *“the main subject-matter of the transaction consists of or includes the acquisition of ownership of a dwelling”* and we would welcome clarity as to what this means in the context of a mixed estate.

Also, it should be borne in mind that Furnished Holiday Lets make a valuable contribution to the Scottish economy through tourism and we are not clear as to whether the Scottish Government has taken into consideration the potential adverse impact on this sector through the additional supplement. It also needs to be clarified whether it applies in relation to cohabitants unmarried and not in a civil partnership.

Scottish Land & Estates understands that the private rented sector market has been expanding (and continues to do so) at a quick rate in Scotland, more than doubling in size in recent years and plays a critical part in Scottish Government housing strategy providing for those who cannot afford or choose not to purchase and those not meeting the criteria for social housing. It is therefore vital to be aware of the likely impact on that sector of the proposed supplement. We do have concerns that the cost of purchase will be increased for small-scale landlords, potentially wiping out first year returns which could deter investment by this part of the market. There may therefore be challenges in terms of balance and sustainability. This of course also follows the proposal by the UK Government to restrict the ability of landlords to offset finance interest against their rental income.

We assume that it is recognised that property ownership does not transfer in Scotland until registered with the Land Register of Scotland. There may be a legitimate delay between purchasing a new primary dwelling and disposing of the previous one. It would seem appropriate that there is some form of “grace period” to allow sales to be completed without the supplement being payable. In respect of your second bullet point above, many purchasers will not have the additional 3% of the purchase price required to pay the supplement, even if it was later repaid; and a grace period would avoid the need to find this money and also would avoid the additional administration of reclaiming the surcharge when the sale of the previous home is completed. We understand “efficiency” is a key tenet for the Scottish Government in terms of tax operation.

## **2. The proposed 3% rate for the supplement and the £40,000 purchase price at which it is proposed to take effect.**

This of course introduces a tax charge well below the current LBTT tax threshold which appears to go against wider policy intent. We also believe the relationship between this supplement and Multiple Dwellings Relief needs to be closely examined.

## **3. The Scottish Government’s estimate that the measure will raise between £17 million and £29 million in 2016-17.**

Scottish Land & Estates is not best placed to comment on the Scottish Government’s estimate, but would sincerely hope that this has been properly and fully evaluated. We understand that following the introduction of LBTT top end property sales slowed

dramatically and we hope that any issues experienced at that time are factored in to estimates now made.

#### **4. Any reliefs of exemptions that you consider should form part of the legislation.**

Application of the supplement to purchases by trusts, and for instance farm partnerships etc is a cause for concern. It would seem that a farm partnership which owned farm buildings that included a main residence for the tenant farmer would be caught by the supplement if it bought another building to be used as a residence of a farm employee. We firmly believe that a relief is required in this area and are happy to engage in dialogue regarding the framing of this. Work-related accommodation which is provided and owned by an employer should not count when considering whether an individual is purchasing an additional property.

As mentioned in response to question 1 above, we believe that a “grace period” should be incorporated in the provisions, not least given the condition of the residential market. It should be straightforward to confirm and demonstrate the sale of the original property was intended through for example provision of concluded missives. This would also reduce the administrative burden of imposing the supplement only to have to refund it shortly thereafter. There may in fact be a case to exempt properties which have been on the market for more than say one calendar year to ensure there is no added obstacle to selling. Churn in the housing market is important and where properties are taking a long period to sell the supplement may proportionately have an even more negative impact. Giving Revenue Scotland the power to extend any grace period in special circumstances may also be appropriate.

There may also be a case for exemption where a parent is assisting a child to acquire a property for the first time by purchasing jointly, not least given the lender may insist on this and the share may be minimal. One option may be for the 3% supplement to apply only to the interest held by the parent and if not specified in the title, this could be based on the finance provided.

Where individuals are acquiring an older or derelict property (which may for example not be suitable for mortgage lending purposes) with a view to bringing it back into use, exemption could be considered as the supplement will possibly act as a deterrent to purchase. There could be the anomalous situation where someone acquires a barn or church for example which is not classified as a dwelling at the outset with a view to renovating for future use as a dwelling. While they would presumably not be subject to the supplement, the purchaser of an “abandoned” house would be caught.

#### **5. The potential for tax avoidance under the supplement and how this should be addressed.**

Scottish Land & Estates suspects that it will not always be an easy task to identify ownership of residential property in certain overseas countries and so where property is simply leased/rented or occupied in Scotland, but the main property is owned abroad, there will be increased reliance on self-declaration regarding the overseas property. There is scope for abuse of the system and practical issues in terms of compliance.

At present we do not know what administrative arrangement will be implemented by Revenue Scotland in relation to this supplement and assume this can only happen once the policy and legislation have actually been clarified. However, the effectiveness may partly

depend upon the operational guidance and clearly the appropriate Revenue Scotland forms and calculators will require to be updated for the new system.

## **6. The likely impact of forestalling**

Scottish Land & Estates considers that there may be advantage in forestalling. This would permit the effects of other legislative changes to be monitored and the impacts evaluated. Indeed it may prove not to be necessary to introduce the 3% supplement due to the resultant adverse consequences.

## **7. Any other comments you may have on the proposed supplement.**

We are concerned about the challenging timetable for consideration of this measure which is effectively compressed into a three month period. There would have been merit in wider consultation on this measure prior to introduction and at the time of responding we are not clear regarding the Parliamentary timetable for the bill.

We are also aware of the simultaneous UK Government consultation on higher rates of Stamp Duty Land Tax on purchases of additional residential properties published on 28<sup>th</sup> December 2015. The consultation document by HM Treasury contains much more detail regarding implementation of the additional supplement in relation to Stamp Duty Land Tax, than the Scottish Government call for evidence. We have concerns that while the apparent intent of both Scottish and UK Governments in terms is not dissimilar at present, if this changes in England through responses to the UK Government consultation document, it is possible for two very different processes to be enacted. This could increase complexity and add to complications.

As the Bill was only published yesterday we have not had the opportunity to fully review this in detail.