

**SUBMITTING EVIDENCE TO A SCOTTISH PARLIAMENT COMMITTEE
DATA PROTECTION FORM**

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Organisation: (if required)	Scottish Property Federation
Topic of submission:	LBTT Changes to Tax Rates and Tax Bands Etc. (Scotland) Amendment Order 2018

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FINANCE AND CONSTITUTION COMMITTEE**THE LAND AND BUILDINGS TRANSACTION TAX (TAX RATES AND TAX BANDS ETC.) (SCOTLAND) AMENDMENT ORDER 2018****SUBMISSION FROM: Scottish Property Federation.****Introduction**

1. The Scottish Property Federation (SPF) is a voice for the real estate industry in Scotland. We include among our members: property investors, including major institutional pension and life funds; developers; landlords of commercial and residential property; and professional property consultants and advisers.

Key Points

- The Amendment Order removes a marginal advantage that had been held under LBTT for higher value non-residential transactions compared to the equivalent UK tax
- This 0.5% increase in taxation for non-residential transactions will have an impact on current decision-making and pricing for the development of, and investment in, Scottish non-residential land and buildings
- The impact of the 0.5% increase on higher value non-residential rate transactions is not necessarily confined to the commercial property sector: house-builders and those who assemble large-scale developments for housing will pay non-residential rates of LBTT for undeveloped land without any pre-existing residential dwellings
- The increase in the Additional Dwelling Supplement makes a significant difference to the tax that is liable for second home or buy-to-let investors
- There appears to be relatively little Scottish Fiscal Commission assessment of behavioural changes that might be attributed to the ADS increase. This could be a risk for both the second home and buy-to-let markets as well as government revenue expectations, considering falling volumes of lending by number and value across the UK for the buy-to-let sector.

The non-residential rates and bands of LBTT

2. We regret the fact that the decision to increase the higher rate of LBTT for non-residential transactions erodes a marginal positive differentiation that had been held under Scottish LBTT, when compared to like for like non-residential transactions elsewhere in the UK.
3. The Amendment Order implements this decision announced by the Finance Secretary on 12 December 2018 that the higher rate of non-domestic LBTT would increase to 5% from 4.5% and the relevant threshold would be reduced to £250,000. The lower value

threshold would be retained as it is now, at £150,000 but will now be reduced from 3% rate to 1%. This does of course mean that for transactions between £250,000 and £350,000 there has in effect been a 2% rise in tax rate. LBTT as it applies to commercial leases was also unmoved and remains at 1% of Net Present Value above £150,000, as calculated for the purposes of LBTT.

Implications of non-domestic increase in higher value rates

4. The increase in the rates is expected to influence both decision-making and pricing of deals involving non-residential land and buildings in Scotland. This could influence both investment and development of commercial property as the increases in pricing will impact on appraisals, valuation and investment criteria. Indeed our membership has in the short time available since the 12 December announcements reported such influences coming to bear on projects that were in motion at the time of the Budget statement. The change in rates also has an impact on deals which were (and perhaps continue) to be in negotiation at the time of the statement. As many negotiations are conducted over a significant period of time and contracts are not concluded until the end of the transaction deal, this does give rise to dispute as to who is responsible for sudden increases in taxation.

Implications for House-building / Site Assembly of Increase in Non-residential rates

5. Although the policy change relates to non-residential transactions the house-building sector will buy land for housing development based on non-residential LBTT rates. This is because undeveloped land will in many cases not have a residential dwelling in place and therefore non-domestic LBTT will apply. The change in higher value rates will therefore have a marginal negative impact on house-builders' land purchases for new projects as it will for commercial property developers and investors.

Increases to Additional Dwelling Supplement Rates

6. We monitor net ADS in order to allow for taxpayer repayments that are available for eligible taxpayers for up to 18 months post-purchase. From a slow start, the level of repayment is now about 20% of provisional ADS collected which is close to the original Scottish Government forecasts at the inception of the policy. Again it is noticeable how the September to November 2018 period has been particularly strong for ADS revenue, although this level of net contribution is likely to be reduced as repayments are made for the next 18 or so months.
7. Indeed ADS is set to become the cornerstone of revenue growth for the Scottish Government under LBTT, increasing from an expected £94m net revenue in 2018-19 to £122m net revenue in 2019-20 – an increase of some £28m (30%).
8. However, there are some questions hanging over the strength of buy-to-let investments which could well have an influence on the success or not of the rate rise and its revenue implications. UK Finance reported in September 2018 that the number of buy-to-let mortgages across the UK had fallen by over 18% year on year and the value of lending

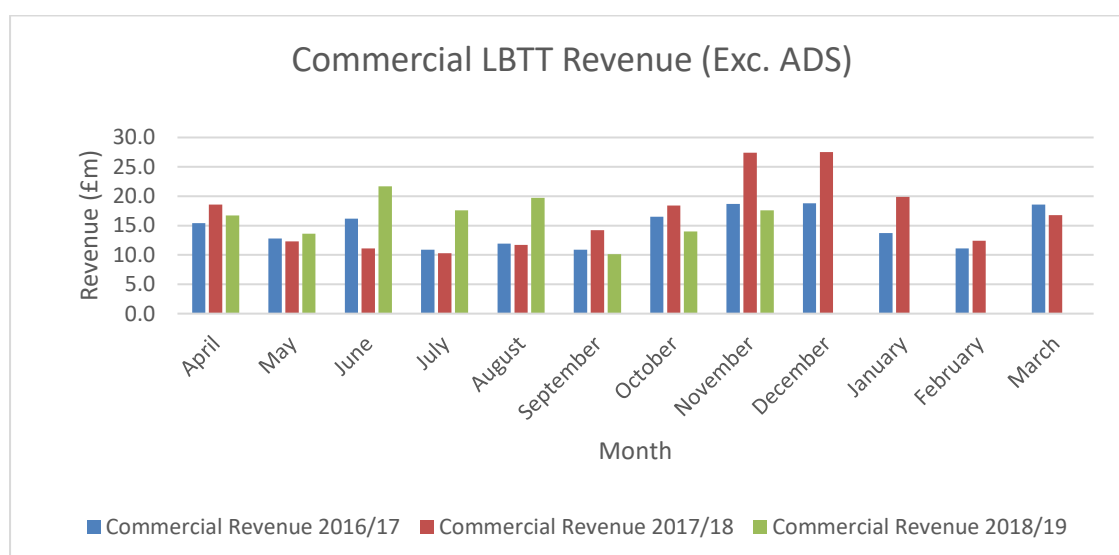
had fallen by some 22%. Unfortunately these figures were not broken down for Scotland. However, the data does not suggest a growing market against which significant increases in revenue can be guaranteed.

9. The extra 1% of slab tax is not insignificant. For a £250,000 purchase the implication is that the effective tax take increases by some 26%, raising a tax take of £9,600 to £12,100. For a £350,000 house that is subject to ADS then the additional 1% slab tax this will add £3,500 to the tax charge. In the context of signs of a slowdown in buy-to-let activity the additional ADS charge is expected to be a negative influence on the markets generally and may well reduce future overall residential tax revenue.
10. The Policy Note attached to the Amendment Order suggests that the government also sees the increase in ADS as a contribution towards protecting opportunities for first-time buyers in Scotland to access the housing market. We are not convinced that the ADS increase is the most important measure to deliver that aim. Other policies such as help-to-buy, relief from LBTT for FTBs to £175,000 and mortgage availability are much more important in our view. And above these measures we continue to believe that increasing supply is the best way to ease pressure in high demand areas.

Revenue Implications

LBTT Revenues

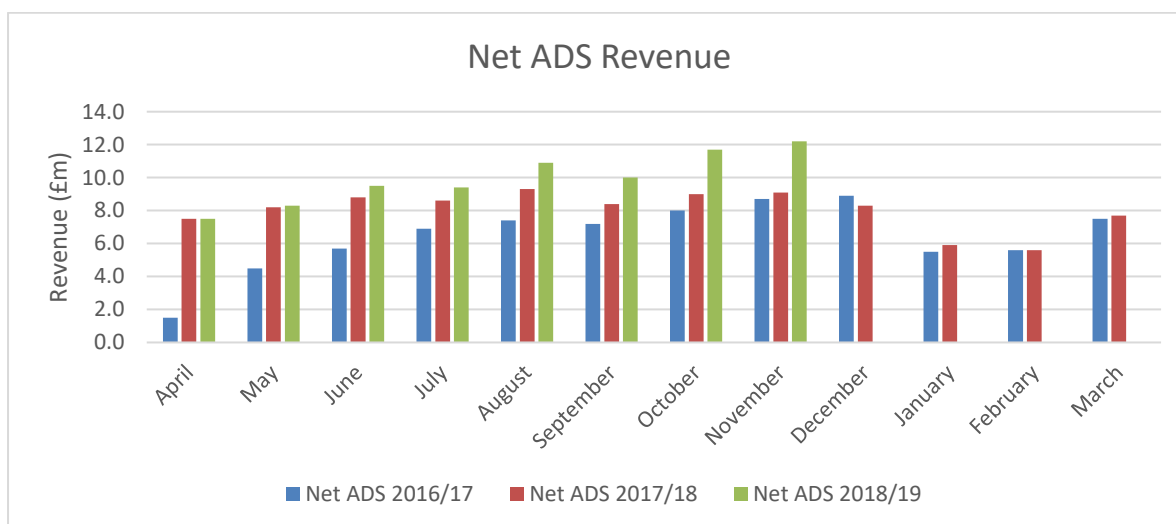
11. The Scottish Fiscal Commission has updated its forecasts for the current year and for subsequent years in the Budgetary calendar. There is now a small negative adjustment to this year's expectations of LBTT revenue while in subsequent years a small rise is forecast for 2019-20 followed by significantly increased revenues in subsequent years.



12. The figures above are taken from the provisional statistics produced by Revenue Scotland. They illustrate that non-residential revenue for LBTT is, overall, ahead of revenue expectations for 2018-19. However, there has clearly been a fall in revenues compared to the previous year during September, October and November 2018. The

December figure will therefore be closely monitored, and it is, usually, a high performing month in terms of non-residential LBTT revenues.

13. The Additional Dwelling Supplement has added significant tax revenue to LBTT. Indeed without ADS revenue outturns in recent years would have been significantly lower. The tax which applies to second homeowners and buy-to-let investors is also a slab tax which is contrary to the broader LBTT policy philosophy. The chart below displays the net ADS contributions to LBTT since its introduction in April 2016.



14. In future years the SFC now expect a significant upturn in revenue for ADS and the main residential markets. For the reasons explained above on pressures surrounding the buy-to-let market in paragraph 9 we believe there is a risk that this aspiration for ADS may not be achieved if new finance for the sector continues to fall.

Relative Impact of Amendment Order Compared to UK Rates

15. The increase in commercial LBTT now brings us into line with the UK top rate for higher value non-residential SDLT transactions. The lower threshold that applies the new 5% rate in Scotland will by itself increase the tax cost of relatively lower value non-residential transactions. Overall, the decision to raise the LBTT higher rate thus erodes a previous marginal positive tax differentiation between Scotland and the rest of the UK.
16. The bigger change relative to the UK is without doubt the increase to Additional Dwelling Supplement. The new position whereby the Scottish market will be taxed more highly may encourage a small number of Scottish buy-to-let investors to look elsewhere in the UK, but we do not think this will be a significant number. We continue to believe that wider issues of greater PRS (Private Rented Sector) regulation and more stringent finance requirements will make buy-to-let a more difficult market for investors to operate in the Scottish markets.

Contact: Supplied by Email.