

Finance Committee

The Land and Buildings Transaction Tax (LBTT)

Submission from Scottish Property Federation

Introduction

1. We are pleased to respond to this call for evidence on the impact of LBTT rates and thresholds on the Scottish property markets. Our key points are bullet pointed below but in general we would make the point that the fact that there has been an impact should not be a surprise – this is always likely with a radical change in tax structure, policy and rates. And as the new tax system for property transactions beds in there will be a growing familiarity with the system.

Our key points therefore are:

- **In the residential sector the main impact has been in the market above £400,000 where a significant reduction in transactions has occurred.**
- **In particular, transactions of residential properties above £750,000 have reduced markedly**
- **The commercial sector has not seen this level of impact, due to a closer alignment to the previous tax regime as well as a rising market**
- **LBTT revenues are reduced compared to the previous year's SDLT revenue. The commercial LBTT revenue is only slightly below its expected performance for this time of the tax year but the residential revenue is significantly reduced**
- **We believe that the rates in the intensely competitive commercial sector should either remain the same or be re-aligned to be the same as the UK SDLT top rate for the sector**
- **The key proposal we have to support the residential market and to revive Scottish Government LBTT revenue is to increase the 5% rate threshold to £500,000 and to abolish the 12% rate which we believe is making little positive contribution to LBTT revenues.**

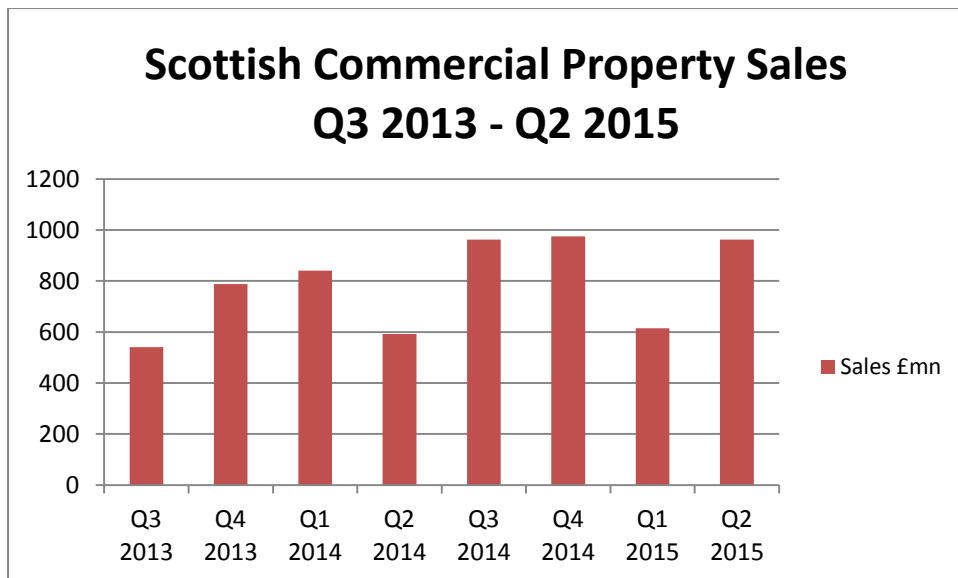
The impact on both the residential and commercial property market of the various rates and bands

2. The introduction of the progressive approach to LBTT as opposed to the previous SDLT 'slab tax', since of course reformed for residential property transactions, has been welcome for the residential property market in particular. There is no longer a distortion in the market at £250,000. However, we will discuss later that

we feel this distortion has been replaced by a new distortion at the point where a 10% rate begins to be applied to a property transaction.

Commercial

3. In the commercial property market the move to a progressive rate of taxation with a less radical change in rates and thresholds has acted to make the change in tax structure less marked and this appears to have contributed to a smoother conversion from SDLT to LBTT, supported by enhanced revenue for the Scottish Government in line with the strengthening wider economy. The rising level of economic activity has also of course helped to influence this outturn. The quarters below are based on calendar quarters and not the public finance year – therefore Q1 is January to March 2015 and not April to June as it would be for the public sector financial year.



Residential

4. The major market impact has therefore clearly been in the residential property sector at the higher value end. We will see later how this has impacted upon the LBTT revenue anticipated by the Scottish Government. One telling statistic is that despite an overall increase in house prices recorded by Registers of Scotland during April to June 2015ⁱⁱ, in 11 out of 32 local authority areas house prices actually fell during this period. These areas included Aberdeen, Aberdeenshire, City of Edinburgh Council and East Renfrewshire -all areas that would previously supply a significant level of SDLT revenue via mid to higher market value transactions, perhaps particularly in the £500,000 to £1mn range and especially above £750,000 where property experts Savillsⁱⁱⁱ reported a 31% drop in activity in their recent Scotland's residential Property market report (see table 1).

5. However, overall residential transaction numbers are up and this is reported by both reties and Savills.

Prime market retreats under LBTT (April – July 2015)		
£400K-750K	639	925
Of which £750K-£1mn	46	117
Of which £1mn+	15	42

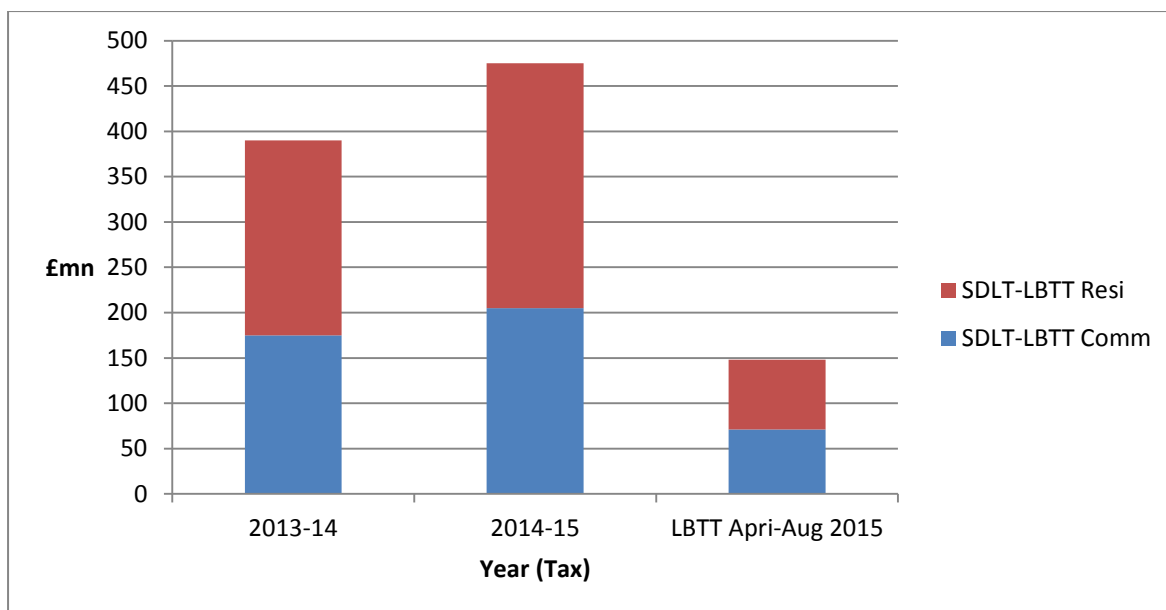
Employment mobility

6. The impact of the higher rates on residential values at a relatively low threshold is also having a circuitous effect upon the property market with fewer high value properties coming onto the market meaning there is less potential revenue. Our members have also raised a wider impact upon the Scottish economy. High rates and lack of available accommodation at the £325,000 plus level causes issues for labour mobility within Scotland, never mind attracting appropriate labour skills and experience to Scotland from other parts of the UK. In time this will have a deleterious effect on the attractiveness of Scottish employment and will undermine the competitiveness of the wider Scottish economy.

The level of receipts for residential and non-residential transactions in relation to the forecasts

7. A clear differential has emerged between the commercial and residential property markets in relation to the receipts thus far raised from the new LBTT rates and thresholds. The commercial sector is performing close to the level of anticipated receipts for this time of the year at £71mn. By contrast the residential sector has seen increased activity overall but a relative lack of receipts thus far (£77mn) compared to forecasted expectations.
8. The Scottish Government planned on receiving some £381mn from LBTT in its first year - £235mn from residential and £146mn from commercial property. To date it has received £148mn (up to end August 2015, five months into the year). With only one or two months left before the traditionally quiet residential transaction period over Winter, the concern is that the residential sector will significantly undershoot the Scottish Government's tax receipt forecast for the sector. This may be offset to some extent by a traditionally strong final (calendar) quarter for commercial property transactions.

Commercial and Residential SDLT/LBTT Receipts – 2013 to August 2015^{iv}



The extent to which higher priced transactions were brought forward to avoid the higher rates

Residential

9. There is substantive evidence that a number of higher value residential property transactions were brought forward in order to avoid the significantly higher rates introduced for higher value residential properties under LBTT. This will have distorted the figures for final year SDLT (at the cost of LBTT receipts). For example Rettie & Co reported in July that there had been a significant 'front-loading' of the residential property market in the £500,000 and above sector in Edinburgh. In fact retie reported a 266% increase in the number of properties listed in the £500-750,000 sector in January 2015.^y

Commercial

10. There was less of an issue in the commercial market because of the smoother transition between the tax rates and thresholds. However, as noted earlier, pricing in the commercial property market is reported to have adjusted to take account of the change in tax rates and structure. We believe that the key higher rate for commercial property should not be increased any further and ideally should remove any negative differential with the rest of the UK by re-aligning to the UK rate. There is already a reported negative comparison between commercial yields for comparable properties between Scotland the rest of the UK. Tax is only a part of that equation but nonetheless we would not wish to see any further negative comparison between investment property in Scotland and the rest of the UK.

The extent to which lower-priced transactions were delayed until after 1 April

11. Evidence is less clear cut that lower priced transactions were delayed until after the introduction of LBTT. If anything there appears to be a continued level of economic activity across the changeover. We expect that the impact of support schemes such as Help to Buy were more of an influence on lower level transactions than the change in tax regime.

Whether there should be any changes to the rates and bands for residential transactions in the draft budget for 2016-17

12. If the current distortions in the residential property market are to be resolved then we would argue that major changes to thresholds are essential for 2016-17. The 5% threshold needs to be radically increased to £500,000 at least. We believe the higher rates at £750,000 would also benefit from being scrapped. The tax is achieving little revenue whereas under SDLT it was raising several millions. We see little benefit to the Scottish exchequer from a tax rate that brings in no revenue.

The performance of Revenue Scotland in administering and collecting the tax

13. The tax appears to be performing well in terms of collection at this point with the low revenue on the residential side due in our view to rate and threshold policy rather than lack of collection. However, there are some concerns that have been referred to us by members. First, there is a feeling that the guidance and administrative support side Revenue Scotland remains weak at this stage. Members report that if they make detailed enquiries seeking to identify the correct course of action for their client then they find it difficult to obtain the necessary direction from RS. Furthermore, members feel restricted in being able to voice criticism because they need to have an on-going relationship with RS in order to serve their clients' interests.

14. There remains a further concern that Revenue Scotland are underestimating the scope of commercial lease events which may become an issue for them in three years' time at the point of the reassessment. With so many lease events per year this will not be a small task and yet there is little evidence of preparation for the task of ensuring taxpayers are aware of their liabilities. We feel it would be wrong for Revenue Scotland – who are the only body that will have the requisite data – to simply allow taxpayers to fall into the trap of tax penalty charges.

ⁱ SPF Quarterly Commercial property Sales report, figures extrapolated from the Registers of Scotland, August 2015

ⁱⁱ Quarterly Housing Statistics, Registers of Scotland, July 2015

ⁱⁱⁱ Scotland's Residential Property market, Savills, Autumn 2015

^{iv} Sources – HMRC UK Stamp Taxes publication, 30 September 2015 and Revenue Scotland, monthly LBTT revenue statistics

^v Market briefing, Rettie & co. summer2015