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Thank you for your letter of 15 December 2014 regarding the application of the Annual Tax on Enveloped Dwellings (ATED) in Scotland. I have considered with interest the evidence which the Law Society of Scotland, the Chartered Institute of Taxation and ICAS gave to the Committee when it met on 10 December.

The Scottish Government has not considered it necessary to date to seek devolution of ATED or to seek disapplication of the tax in Scotland following the switching off of Stamp Duty Land Tax (SDLT) on 1 April 2015. We support the intended purpose of ATED as a disincentive to the corporate enveloping of residential properties in order to avoid payment of SDLT and other taxes. Furthermore, ATED has thus far had very limited application in Scotland. ATED figures for Scotland are not separately available, but HMRC recently published statistics for the first year of operation of the tax (2013-14) which show that £1 million of revenue (or 1% of the total) was raised in the regions of the UK other than London, the South East and the South West. In addition, there is a very small number of residential property transactions in Scotland above the current ATED threshold and as far as we are aware very few of these transactions are purchases by non-natural persons.

The Land and Buildings Transaction Tax (Scotland) Act 2013 enables Scottish Ministers to make regulations to charge Land and Buildings Transaction Tax (LBTT) on transfers of interest in a residential property holding company, such as the sale of shares. I have decided not to bring forward regulations under this section as the so-called corporate wrapping of residential property transactions is not common place in Scotland, and in any case we are taking a very robust approach to counteracting tax avoidance including legislating for a general anti avoidance rule.



I will of course continue to keep this situation under review as LBTT comes into effect and the ATED thresholds reduce as planned in 2015 and 2016. I trust this response is helpful to the Committee.

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JOHN SWINNEY

