LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

AGENDA

12th Meeting, 2017 (Session 5)

Wednesday 26 April 2017

The Committee will meet at 10.00 am in the James Clerk Maxwell Room (CR4).

1. **Non-domestic rates:** The Committee will take evidence from—

   Jonathan Sharma, Policy Manager, COSLA;

   Stuart Mackinnon, External Affairs Manager - Scotland, Federation of Small Businesses;

   David Lonsdale, Director, Scottish Retail Consortium;

   Alasdair MacTaggart, President, and Ian Milton, Vice-President, Scottish Assessors' Association;

   Graeme Jones, Chief Executive, Scottish Financial Enterprise;

   and then from—

   Ken Barclay, Chair, and Marianne Barker, Secretary, Barclay Review of Business Rates.

2. **Consideration of evidence (in private):** The Committee will consider the evidence heard at agenda item 1.

3. **Work programme (in private):** The Committee will consider its work programme.

LGC/S5/17/12/A

Clare Hawthorne
Clerk to the Local Government and Communities Committee
Room T3.60
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Edinburgh
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The papers for this meeting are as follows—

Agenda item 1

Note by the Clerk	LGC/S5/17/12/1
PRIVATE PAPER	LGC/S5/17/12/2 (P)

Agenda item 3

PRIVATE PAPER	LGC/S5/17/12/3 (P)
PRIVATE PAPER	LGC/S5/17/12/4 (P)
PRIVATE PAPER	LGC/S5/17/12/5 (P)

Local Government and Communities Committee

12th Meeting 2017 (Session 5), Wednesday 26 April 2017

Non-Domestic Rates – Note by the Clerk

Purpose

1. This paper provides background information on the Committee's evidence sessions on non-domestic rates (NDR) with stakeholder organisations and Ken Barclay, Chair of the Barclay Review of Business Rates.

Background

2. In December 2015, the Scottish Government announced the review of NDR with the First Minister confirming in March 2016 that the review will be led by the former chair of RBS, Ken Barclay, and is expected to be completed by summer 2017[1]. The Barclay Review consultation was launched on 13 July 2016 and closed on 7 October 2016. Any changes to NDR will generally be made through secondary legislation. The Committee considered two NDR instruments at its meeting on 8 February 2017.

3. At its meeting on 8 February 2017, the Committee also agreed its approach to work it wished to undertake on NDR. The Committee had previously agreed that it wished to defer consideration of any inquiry into NDR until after the Barclay Review group has reported but hold a one-off evidence session on how the current NDR system is operating and identify the range of issues which may arise as part of the Barclay Review.

Local Government and Communities Committee Consideration

4. At its meeting on 26 April 2017, the Committee will take evidence from COSLA, the Federation of Small Businesses, the Scottish Retail Consortium, the Scottish Assessors' Association and Scottish Financial Enterprise. Following this session, the Committee will then take evidence from Ken Barclay.

5. Written submissions from COSLA, the Federation of Small Businesses, the Scottish Retail Consortium and the Scottish Assessors' Association are attached at **Annexe A.**

[1] Scottish Government news release, 18 March 2016

Next Steps

6. Following the evidence session, the Committee will have an opportunity to reflect upon the evidence received and consider what, if any actions, it wishes to take.

Annexe A

Written Submission from COSLA

Dear Committee Clerks,

Further to your invite, please find attached COSLA's response to the Barclay Review of Business Rates which we trust the Committee will find informative. As COSLA's key messages on business rates are set out in the response, we are not proposing to submit separate written evidence to the Committee. I am however more than happy to expand on the points we have raised with the Barclay Review Group and to answer as best I can any questions which the Committee may have.

Kind regards

Jonathan Sharma
Policy Manager

Barclay Review of Business Rates
COSLA Response

Introduction

1. COSLA is pleased to be able to contribute to the Barclay Review Group's review of Business Rates. COSLA believes that Business Rates are at the heart of the fabric of funding for local services in Scotland. These services provide the critical lifeblood that ensures our communities can thrive and prosper and, in turn, they contribute to the success of businesses. COSLA equally believes that Business Rates should establish a direct relationship between local democracy and businesses, by which businesses can not only realise the benefits of local services, they can also influence them.

2. Over the years this link has been eroded. This has led to a loss of accountability in the provision of local services to businesses. Business Rates are a centrally determined tax with little or no accountability either to communities or to businesses. COSLA therefore believes that increasing local flexibility over business rates would be good for business and would re-establish the link between local democratic decisions, citizens and the business community.

3. COSLA's response homes in on why we think that increased local control of business rates can greatly benefit businesses as well as the communities they depend on for their success.

COSLA's Local Government Funding Review

4. First and foremost in our response we wish to make the review group aware that COSLA has already recently reviewed business rates. COSLA published its review of business rates as part of its Local Government Funding Review in December 2013. In the review, which placed the focus strongly on local democratic control of taxes, COSLA undertook a robust critical appraisal of the current business rates system and evaluated this against returning business rates fully to local control.

5. It was always recognised that an immediate return of business rates to local control would require substantial evaluation to ensure that both Councils and businesses were not unduly disrupted. COSLA position therefore is that, in principle, business rates should return to local control, however this would need to be about working with the Scottish Government to explore how we could move toward this aspiration.

6. The process of moving in that direction could start to see greater local flexibility transfer to local government. For example greater flexibility around the potential for setting a rate above or below the national rate within certain limits could be one direction of travel.

7. Much of what is contained in the Local Government Funding Review on business rates is pertinent to COSLA's response to the Barclay review group. Therefore the draft response is built on the recommendations from COSLA's review, with the emphasis placed on why increased local control is good for business.

Why does local control of Business Rates matter to businesses?

8. Business Rates contribute around one fifth of local government funding, with the budget for 2016/17 set at £2.7bn. Local government used to have full control of business rates, including setting the rates locally. Since 1990 the setting of rates and the policies on reliefs have all been determined nationally. It is worth saying upfront that COSLA does not believe that an alternative tax, such as a property tax as recommended by the Burt Review in 2006 is merited. The Business Rates system is stable and works well. It is readily understood and straightforward to collect and, importantly, is regularly revalued.

9. COSLA believes strongly that a return to full localisation of Business Rates would ultimately re-establish and maintain democratic local accountability of local government funding, closer to local business communities. As stated above this is a direction of travel and even some increased local flexibility we believe would help cement the relationship between businesses, local democracy and communities. The review group may be aware that in the recent Community Empowerment Act, Councils were given powers to introduce local reliefs to sit alongside the reliefs which are determined nationally. This is a welcome, if limited, step and we are aware that a number of Councils are actively looking into how they could introduce reliefs to support their local economic areas.

10. Businesses are accustomed to working with Councils' local economic development teams and there are well established networks at the local level whereby businesses can interact with public agencies. This local dimension we believe is crucial to the success of local economies and in turn this ensures the wellbeing of the economy nationally. Were Councils to have greater power over the setting of business rates locally and could determine local relief schemes to supplement or supersede some of the national relief schemes, then these could be tailored more effectively to support local businesses.

11. It is important to say that local Council areas differ greatly from each other and their local economies vary widely. Currently business rates are set nationally, with the only variation from the standard rate being the large business supplement. The national rates system has a range of reliefs, notably the small business bonus scheme. Whilst the SBBS undoubtedly is welcomed by the many smaller businesses who form the bedrock of the Scottish economy, it is a blunt instrument as it does not recognise the variation in local economic circumstances across the country.

12. In recent years we have seen efforts at the national level to use business rates more imaginatively to promote economic development through schemes such as Tax Increment Financing, whereby business rates are used to part fund investment in infrastructure. The designation of business areas as Enterprise Zones, with the scope to utilise business rates income more imaginatively, have further developed this concept and focussed it on specific regional areas. Cities Deals have seen collaboration with Councils around a city area, with the UK and Scottish Governments, to invest in infrastructure and city improvements and there is the potential within these to again look imaginatively at the potential of business rates to support investment.

13. Nonetheless all of these schemes are still very much driven by national priorities and require the approval of the Scottish Government, with long lead in times and the results being still very much an unknown quantity. Local control of business rates would not do away with these initiatives but could instead give greater local flexibility to encourage such innovations to flourish and be adapted to local circumstances.

14. It is COSLA's view therefore that what works well in one Council area such as Edinburgh will not apply equally in another Council area like Highland. This should not be interpreted as creating a postcode lottery of rates across the country. What we have in mind is to re-establish an important and constructive democratic link, directly between businesses and local government, which is to the ultimately benefit of communities and businesses alike.

15. We would also draw the review group's attention to the Scottish Government's Enterprise and Skills Review, where COSLA has submitted evidence with similar messages about the importance of tailoring support to local economic needs. We think the work of the review group and that review should be cognisant of each other.

16. We would welcome the opportunity to talk our ideas over with the review group and we look forward to hearing back from the group on our response.

In Conclusion

17. COSLA welcomes the work of the Barclay Review of Business Rates and the opportunity to contribute in to this work. COSLA believes that local government already does support businesses and local economies and that business rates are a key element of this. With increased local control of business rates, COSLA believes that relationships with businesses and local democratic accountability to businesses can only be enhanced. In turn local economies can benefit from this stronger local relationship with businesses. COSLA is more than happy to meet with the review group to discuss our ideas further.

Written Submission from the Federation of Small Businesses

I'd like to confirm that, on behalf of FSB, I'll take part in the session taking place on 26 April on non-domestic rates. In terms of written evidence, I would like to highlight to the committee our submission to the Barclay review:

Committee members may also have an interest in a paper which we compiled after the 2010 business rates revaluation:

http://www.fsb.org.uk/LegacySitePath/policy/rpu/scotland/assets/fsb%20nom%20dom%20paper%20-%20final.pdf

Stuart Mackinnon
External Affairs Manager – Scotland
Federation of Small Businesses

BARCLAY REVIEW OF BUSINESS RATES OCTOBER 2016
SUBMISSION FROM FSB

Introduction

We welcome this opportunity to respond to the Barclay review of business rates in Scotland. In FSB's 2016 Scottish Parliament manifesto[2] we called for meaningful reform of this significant tax: arguing that small businesses need a system that is simpler to understand and navigate; encourages investment and improvement; and doesn't unfairly advantage one part of the economy over another.

Indeed given the increasing pressure that the current system is under, we believe that it would be helpful to consider a range of reforms to the current property-based non-domestic rates system. We recognise the risk of any change to a tax which provides significant income at a time when public funds are under severe pressure. Similarly, stipulating that any reform to the system must be fiscally neutral further restricts reform options.

Accordingly we suggest that the independent review should consider reforms which can be implemented in the short term, thereby not jeopardising income levels. In addition we suggest some longer term reforms, which while more difficult to implement, we believe would deliver a better, more modern tax. We would argue that a modernisation programme could result in a more accurate tax, with better tax collection rates and lower administrative costs.

Why reform?

Fast-paced economic change combined with the impact of the recession have reinforced the case for reform and modernisation of the business rates system.

[2] Resilient Economies, Resilient Communities, FSB Scotland, 2015

The 2010 revaluation process brought many of the weaknesses in the system to the fore. The economic downturn which took place in the two years between the tone date and the revaluation date meant that for many firms there was a stark difference between their rental values and rateable values.

During this period, many business taxpayers also found the system old-fashioned, unhelpful and inefficient.

Since then FSB has conducted work with our members (both across Scotland the UK) to better understand some of the problems and explore solutions. We have set out our views in a number of submissions[3] since 2010. Unfortunately, despite a number of consultations, very few changes of significance have been made in Scotland.

There are a number of key points which FSB would like to highlight to the review group:

- **Businesses don't understand how their tax bill is calculated or how their money is spent**

While many businesses recognise that rates are linked to property value, few understand the complexities of how their rateable value is calculated. Many also believe their local authority to be responsible for both setting the rateable value and rate of taxation.

Achieving accurate valuations relies on businesses returning data to their local assessor. In addition, assessors require technical input and engagement with firms to help keep sector-specific rating formula fair and accurate.

However a recent survey[4] of our members suggested less than a third (29%) had ever returned rental data to the Assessor. We have pressed the case with the Scottish Assessors' Association (SAA) about the need for a better approach to consultation with business in order to receive more accurate information and data of a higher quality.

We have also had discussions with the SAA about a more open and transparent consultation process when re-examining rating formulae. Indeed, at revaluation 2017 we anticipate that many businesses – especially those in sectors with small numbers of renters as opposed to owner occupiers – will raise concerns about the level of consultation on how their sort of business should be rated.

It is our view that the majority of ratepayers have a poor understanding of who the assessors are and the role they perform. This is reinforced by inconsistent, old-

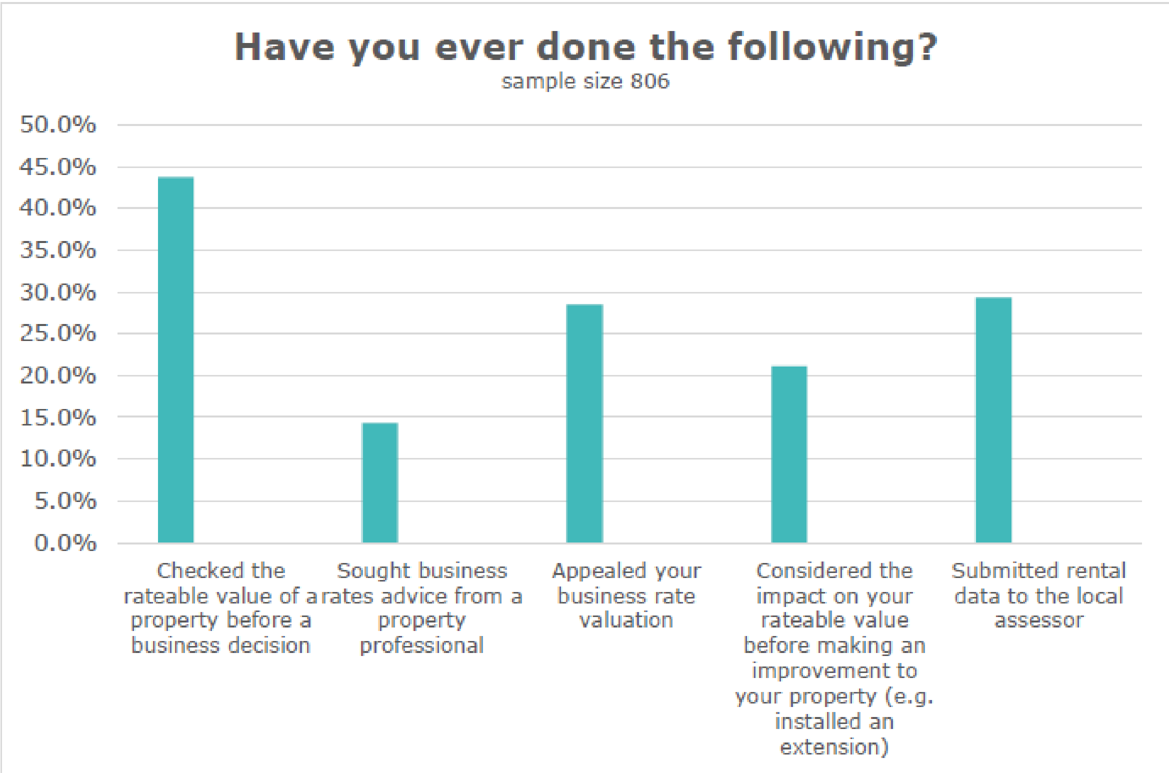
[3] Revaluation 2010, an FSB Scotland discussion paper, 2011 and our response to the Scottish Government's consultation on the rates system in 2013
[4] Online survey of FSB Scotland members conducted in August-September 2016 with 960 responses.

fashioned and inefficient practices, for example in relation to methods of communication or processing of appeals[5].

"I had to employ a chartered surveyor who explained to me how they (rates) were calculated due to the unhelpful assessor that I dealt with."

FSB member, services business, Edinburgh

FSB Chart 1) FSB data shows that few smaller firms understand and are engaged with the current system



- **The business rates system can be difficult to access and navigate for those that cannot afford professional representation**

Our most recent survey[6] suggested that only 14 per cent of businesses had sought the advice of a property professional in relation to business rates. Furthermore, work conducted after the last revaluation suggested that of those who lodged an appeal, over half (57%) represented themselves throughout the process[7].

With such a large number of businesses trying to manoeuvre through the system without advice or support, it is crucially important that standards of communication are high, and that a culture of openness pervades.

[5] More detail on practices and processes following the last revaluation in our 2013 response to the Scottish Government's Supporting Business, Promoting Growth consultation
[6] Online survey of FSB Scotland members conducted in August-September 2016 with 960 responses.
[7] FSB response to Supporting Business, Promoting Growth consultation

As we have argued, we do not believe such a standard has been achieved yet in Scotland and feel that small businesses who are ignorant of the exceptionally complex custom and practice are likely to find themselves disadvantaged.

- **Small businesses need relief to equalise some of the iniquity in a property-based system, though some lose out**

Many businesses feel a property value-based tax, rather than one based on sales or profit, is unfair and arbitrary. Moreover, the business rates bill is likely to be a proportionately larger overhead for some sectors or businesses. In part, correcting some of these disadvantages has led to a proliferation of relief systems.
Historically for smaller businesses, rates have been a higher proportion of their turnover than for their larger counterparts. To correct this disadvantage and to encourage small businesses to become established and grow, we believe that in a property-based system, a small business relief will always be required.

However, even our current small business rates relief (Small Business Bonus Scheme) leaves some small businesses without support. We believe these fall into two broad groups. Firstly, those whose business model requires larger (so higher value) premises, such as hotels and nurseries. Secondly, businesses operating in more affluent areas, where property values are higher but not necessarily the profitability of local businesses.

"The [Small Business Bonus] scheme helps small business cover their business rates. I could not afford to have my business on the high street if I was expected to pay full rates. Small businesses give diversity to our shops and high streets. Small businesses tend to be owned, operated and employ local people, the profits of small business also tends to be spent locally (unlike large multinational companies that take profits out of the local area)."

FSB member, retail, Hawick

- **The business rates system does not reflect trading nor economic conditions**

Current rateable values were set just prior to the recession and came into effect during the downturn. Leaving normally five (and currently seven) years between valuations means that even initially accurate valuations become very inaccurate.

In addition, the need to maintain stable tax income – whether or not the economy has shrunk – further breaks the link between economic performance and tax raised.

"Trading conditions in Aberdeen have taken a hit: the downturn in the oil and gas sector, coupled with the ongoing challenge of increasing costs means that many small businesses are struggling. Property prices in Aberdeen are significantly higher than many other places; if the SBBS is abolished after 2021, I think I'd certainly have to scale down, re-consider staffing levels and might even consider giving up the business."

FSB member, retail, Aberdeen

- **The business rates system makes the costs of investment uncertain**

Businesses are not able to receive any assurance about (and may be unaware of) the rating implications of upgrading their premises, or building new property.

We are aware of a number of small firms who have tried to get firm, official advice about implications for rateable value prior to expansion, only to face new values much higher than anticipated. While any sort of business spending involves considering some degree of risk, this uncertainty seems unnecessary and may dissuade investment.
Rapidly changing business conditions mean that the current model of domestic and non-domestic property taxes is increasingly outdated. At the very least, the taxation burden falls more heavily on businesses in sectors with higher value premises, irrespective of sales or profit. More generally, when you consider reforms to the business rates system, it is important to recognise a number of recent trends:

- the rise of the sharing (peer-to-peer) economy where the difference between domestic and business activity is less clear;
- the move by retailers, away from costly individual premises to use concessions or share premises in larger stores or out-of-town units;
- the rise of e-commerce for both goods (e.g. Amazon) and services (e.g. online accounting);
- the reduction in estate by large private and public sector bodies - such as banks and colleges - to reduce costs;
- the benefits of technology reducing the need for business premises alongside the rise of remote working. A recent study by FSB Scotland suggested that over half of all businesses in Scotland are now based in the home.

If the system does not adapt but income needs to stay the same, the tax take will increasingly become concentrated on an ever-smaller number of business premises.

Recommendations

Short term improvements

1. Maintain the existing Small Business Bonus (SBBS) rates relief scheme to encourage investment

A tax based on property, without a link to sales or profit, is always likely to be a larger overhead for smaller firms and start-ups, relative to large firms. Accordingly, the case for some form of discount or relief for smaller businesses is well established and a rates relief scheme has now existed in Scotland for over 13 years.[8] Indeed, other parts of the UK have, over time, moved to replicate the relief offered in Scotland.

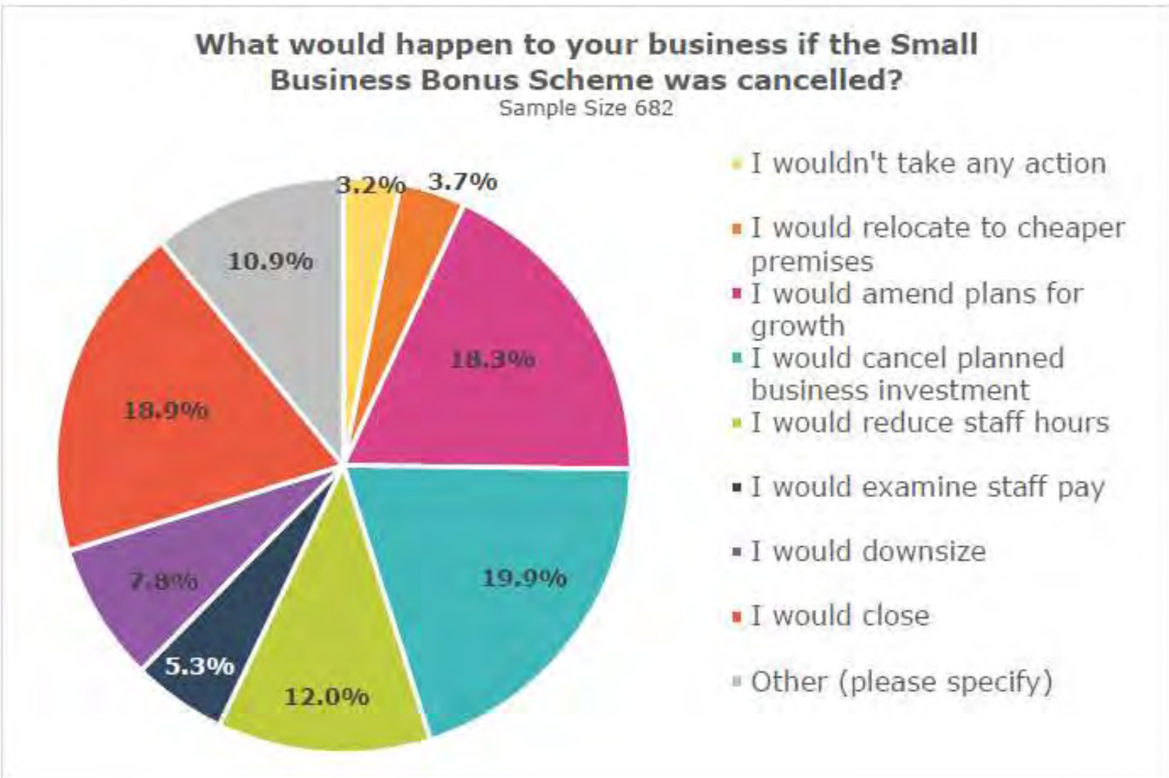
[8] Evaluation and Effectiveness of the SBRRS, DTZ Pieda, 2004

A recent survey[9] of almost 1000 FSB members in Scotland revealed that 74 per cent are receiving some form of discount as a result of the SBBS, with 57 per cent now paying no rates at all. With savings of up to £4000 per annum, businesses reported that they were most likely to have used the saving to invest in their business (reported by 37% of recipients), while 35 per cent use the lower bill to offset other cost increases and 19 per cent have invested in their staff.

FSB is in no doubt that the SBBS has been a key support mechanism to tens of thousands of smaller businesses during turbulent economic times. Furthermore, it has supported investment by small firms and incentivises business growth, with 57 per cent of businesses currently operating at home or without premises reporting that the SBBS makes them more likely to consider expanding into commercial premises.

Scotland's economy remains fragile, with next to no growth this year and business confidence at a four-year low.[10] Unsurprisingly then, were the SBBS to be removed, about a fifth of small firms report they would close the business, whilst a similar proportion would cancel investment. While recognising the increasing complexity of reliefs, we believe that small business rates relief must be a permanent element of any business rates system.

FSB Chart 2) Plans to grow and invest would be hit if the Small Business Bonus scheme was cancelled. Many firms also highlighted that if the scheme went, firms would relocate or downsize.



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[9] Online survey of FSB Scotland members conducted in August-September 2016 with 960 responses.
[10] FSB Small Business Index, Q3 2016

In financial year 2015-16, the Small Business Bonus scheme resulted in £174 million of notional lost government revenue. However, the wider rates system generated £2.84 billion in tax income[11]. With close to 100,000 recipients benefitting from the relief which costs only about £1 for every £20 raised, we believe that the scheme offers excellent value for the Scottish Government.

FSB has considered the argument that the scheme should be changed to exclude non-enterprise recipients or high-profit firms, with the savings used to reduce the rates burden on other businesses. However, we do not see a way that means-testing could be introduced which would not result in additional bureaucracy for firms and within the system at large, in addition to some smaller businesses inevitably losing out as a consequence of administrative fault.

"SBSS gave me the opportunity to take my business to the next level. It freed up money that enabled me to invest in equipment and stock and stay competitive. Without it, I don't think I'd be in business and it would be a blow to the local community."
FSB member, hospitality business, Aberdeen

"[SBBS] definitely brings benefit to the local community and economy. We have used the savings from this scheme to invest in and grow our business. We have increased employee headcount this year from 3 to 11 full time employees"

FSB member, manufacturer, Laurencekirk

"We use the bonus scheme savings as a way to invest in the business - at the moment that is premise and office space so we can take on more staff and grow the business."

FSB member, tourism business, Inverness

"Without this scheme I would have struggled to have a property when doing it alone. Thanks to this scheme it has kept those start-up costs low allowing me to invest in my business and my employees."

FSB member, services, Falkirk

"The rates discount has helped me grow a business which now employs almost 40 people. I plan to employ another 20 in the next 2-3 years, this would be reduced significantly if the Small Business Bonus Scheme was stopped."

FSB member, care business, Fife

[11] Scottish Parliament Information Centre Briefing Note, Non-Domestic Rates, June 2015 http://www.parliament.scot/parliamentarybusiness/90602.aspx

2. Delay post-improvement billing

FSB believes that the Scottish Government should consider introducing a time delay (i.e. 2 years) between a business making an improvement (e.g. an extension) and receiving an enhanced bill as a consequence of this investment.

This would allow businesses to see a return on their investment before being hit with a larger bill. Businesses could also be provided with better information when planning changes to their premises, to help them prepare for the likely impact. This measure could have limited impact on revenues if it encouraged investment which would otherwise not take place.

3. Move to more frequent revaluations

The current revaluation period has highlighted the impact of valuations losing their link to prevalent economic conditions. Introducing more frequent revaluations (some have suggested every three years) could help to address this problem.

A variety of new techniques could also be deployed to reduce the costs of the revaluation process – such as using algorithms to gather data from commercial property websites or the sharing of information between tax authorities.

4. Modernise administration, enable more online activity and increase transparency in the business rates system

FSB has repeatedly argued that the business rates system could benefit enormously from a modernisation and oversight programme.

We have argued that reasonable improvements could include a single interactive national register of non-domestic subjects; a single agency tasked with engagement and consultation with businesses and data collection; as well as the introduction of standardised processes across the country. Similarly, since one agency (the VOA) oversees valuations in England and Wales, FSB can see no justification for maintaining fourteen separate assessors in Scotland.

We have previously argued that while the role of assessing rateable values must be free from political interference, nevertheless Assessors should be accountable for how they carry out their duties. The SAA could be asked to provide an annual report to the Scottish Parliament, as well as meeting minimum standards of information about members and functions of Valuation Appeals Committees. Both measures would both help provide greater scrutiny about the operation of the business rates system in Scotland.

We also believe there are substantial digital improvements (both information and transactions) to be made in relation to business rates.[12] While Scotland's standard of e-government is generally poor, it is not unreasonable in 2016 to expect a business to be able to gather all their information and pay rates in a single transaction. FSB in

[12] The UK government has made commitments to improve digital transactions in England and Wales.

Scotland has been struck that while firms in Scotland benefit from better reliefs than their counterparts in England, they face a wider system that's much more difficult to navigate.

A new business would currently have to visit as many as three different sites to simply understand and pay their bill.[13] FSB has argued that many of the administrative elements of the business rates system could be performed by Revenue Scotland.

It is reasonable to expect high levels of data sharing between tax and regulatory authorities, and that, for instance, non-domestic rates authorities should be able to draw from information submitted to HMRC or Revenue Scotland to arrive at rateable values. On balance, firms should not have to resubmit the same data to multiple authorities simply because parts of the public sector have not developed the capacity to co-operate.

It is our view that a more modern, transparent, efficient system would have many advantages. Principally it would be cheaper to administer and could result in improved levels of tax collected. These reduced overheads alongside increased income would give some additional flexibility to Ministers and local government.

A more user-friendly system would also support improved levels of data collection – resulting in more accurate valuations – and less bureaucracy, confusion and frustration for firms.

Long term improvements

1. Encourage investment and growth

In addition to supporting investment relief schemes to encourage strategically important infrastructure - such as the current targeted mobile mast relief – FSB would also argue that growing smaller firms should be able to retain their rates discount as they grow.

Small firms which receive the SBBS, and are dissuaded from expanding due to fears about increased rates costs, could receive a tapered reduction in reliefs, no matter to where they move. This would cushion the 'cliff-edge' effect which currently affects businesses who after modest investment or expansion move from full relief to a full bill.

"We received relief on a previous property but as we needed to expand we no longer qualify for this relief scheme which we unfortunately did not look into before moving. We have went from paying £250 per month to £1200 per month which has put a real strain on our business. It has taken us 19 months to get on our feet since moving and are only now able to employ a much needed member of staff"

FSB member, motoring business, Edinburgh

[13] The Scottish Government sets out information about rates and relief schemes, the SAA portal contains the valuation roll and practice note, while local authorities have details about payment.

"Our business is looking to expand as we have brought a lot of money and community to a dead part of Aberdeen. The risk of expanding is not the rent but the business rates attached to the business. Without the discount we would not survive or have made such an impact in our community."

FSB member, food business, Aberdeen

"The relief scheme was a great help to me when it came in and encouraged me to move to a bigger premises with the view to taking on more staff. I don't think it fair that my rateable value more than doubled because my landlord made my premises look nicer. I think that if given the choice then I would penalise companies who "run down" estates rather than those who encourage inward investment by increasing the "feel good" factor in local business estates."

FSB member, design company, Irvine

2. Permanently exempt smaller subjects

As set out above, a property-based system will always present a barrier to new and smaller businesses. While the current rates relief scheme should be maintained, over the longer term the Scottish Government could consider ways to reduce the impact on small firms, perhaps by making small business rate relief statutory.

A more radical proposal would be to reduce the complexity which arises from trying to mitigate the disadvantages posed to small businesses and other small organisations by business rates, by simply removing the lowest value premises from the system altogether.
Given that the notional lost revenue from the Small Business Bonus Scheme is less than ten per cent of the total revenue raised, this approach would have many advantages by producing billing and collection efficiencies. Alternatively, consideration could be given to providing smaller businesses with a business rates tax free allowance – in a similar manner to the income tax system.

"It's not an easy time to run a business. The cumulative impact of new initiatives such as the workplace pensions, the national living wage, in addition to the ongoing challenge of increased running costs, means that every business owner needs to account for every penny spent. The Small Business Bonus Scheme is a safeguard and without it, I would need cut my staff levels. It would have a very detrimental effect on the business and its future prospects"

FSB member, retail, Forres

"Many shops of our size would have to rethink all aspects of our business, staffing, stock etc, (if we were to lose the Small Business Bonus). Our main street is mostly independent retailers who would find it difficult to fund the extra costs of rates."

FSB member, retail, Prestwick

3. Adapt to a rapidly changing economy

As outlined above, a range of factors means that the Scottish Government may need to consider how to ensure the relevancy and fairness of the system.

In particular, online sales are seen by many to be a missing element of business rates bills. The Scottish Government may want to explore how this could be factored in to calculations of rates bills. For example, food and drink turnover is already used to calculate the rateable value of hospitality premises. Examining how rates calculations could become more sophisticated to better reflect structural changes in the economy could be considered.

4. Review links to local government finance and economic development

Business rates are increasingly important to local government finance. FSB recognises the critical role local government has in developing Scotland's local economies and firms and understands why some councils may want to set and collect their own rates. However most smaller Scottish firms remain anxious about such a possibility.

Further, it remains to be seen whether current schemes that link business rate income with local government (such as the Business Rate Incentivisation Scheme, Enterprise Zones or Tax Incremental Funding models) have delivered positive outcomes for smaller firms.

We would argue that a detailed study of the successes or otherwise of these projects may be necessary before further business rate localisation is considered.

Written Submission from the Scottish Retail Consortium

Thank you for the kind invitation to give oral evidence to the Committee on business rates which I am delighted to accept.

I attach our submission to the Barclay Review which hopefully will suffice in terms of our written evidence to the Committee

Best wishes,

David Lonsdale
Director
Scottish Retail Consortium

SRC SUBMISSION TO THE BARCLAY REVIEW OF BUSINESS RATES IN SCOTLAND

ABOUT SRC

1. Retail is an exciting, diverse and dynamic industry undergoing transformational change. The SRC is at the forefront – enhancing, assisting, informing and shaping. Our mission is to make a positive difference to the retail industry and to the customers it serves. Our broad range of stakeholders demonstrates how retailing touches almost every aspect of our culture. The SRC leads the industry and works with our members to shape debates and influence issues and opportunities that will help make that positive difference. We care about the careers of people who work in our industry, the communities retail touches and competitiveness as a fundamental principle of the industry's success – our 3Cs.

2. In addition to publishing leading indicators on Scottish retail sales, footfall and shop vacancies in town centres, our policy positions are informed by our 255-strong membership and determined by the SRC's Board.

INTRODUCTION

3. UK commercial property taxes are the highest in Europe[14]. Furthermore, for every £1 retail pays in corporation tax it pays £2.30 in business rates[15], with retailers accounting for a quarter of all business rates paid. Over recent years the SRC has been in the vanguard calling for reform of the out-dated rates system and a more conducive climate for commercial investment. Last November a broad swathe of business opinion came together to seek an independently-led review of rates in the form of a joint open letter[16] to the Scottish Government. The SRC therefore warmly welcomes the establishment

[14] Taxation trends in the European Union, Eurostat, 2014 edition
[15] Retail 202: Fewer but better jobs, p15
[16] Joint open letter published in The Herald, 11/11/15

of this independent review under the chairmanship of Ken Barclay, its objectives and the opportunity to contribute.

4. The SRC has previously produced several policy papers on the subject including in 2015 'Business Rates: Fundamental Reform' and 'Holyrood 2016: Business Rates'. Both papers noted that the balance of business taxation has become increasingly weighted against people and property intensive businesses and argued for a rates system which is more conducive to sustainable economic growth. Our more recent 'Open for Business: growing a more productive and competitive Scottish economy' paper also alighted on the short and longer term changes that ought to be made. The SRC has welcomed the opportunity thus far to engage directly with Barclay Panel members and looks forward to on-going engagement over the months ahead as it continues its deliberations.

A RETAIL INDUSTRY IN TRANSITION

5. A thriving and successful retail industry is a great route to better paid jobs, more private sector investment[17], and additional tax revenues for the public sector. It also keeps down prices for households, supports communities[18] and helps everyone saving for a pension[19]. The industry is crucial to supporting Scottish businesses, with billions of pounds of Scottish products exported by retailers every year to the rest of the UK and beyond. Just as importantly the industry provides a key market for many other indigenous suppliers, from logistics companies moving products to electricians and plasterers resolving issues in physical stores. The multiplier effect of retail on the Scottish economy is measured in billions.

6. The industry has changed more in the past five years than it did in the previous fifty. The industry is one of the most dynamic and innovative, accounting for 13% of all new firms formed last year. This innovation can be seen through significant new investment in online retailing, in-store technology and order points, home delivery and logistics capabilities, click and collect services, digital customer loyalty and payment arrangements, and new and refreshed own-brand products. The industry is in the midst of a customer led revolution, and all of its investment - from new ways of working to sharpening prices – is because customers are changing and demanding it.

7. However, these are testing times for the industry. Retail sales growth has consistently been at a low ebb over the past two years. Retailers are working ever harder to maintain let alone grow sales, at a time of profound structural[20], economic and regulatory change for the industry. Retail is currently Scotland's largest private sector employer, employing 253,000 people directly, 13 per cent of the private sector work-force. However recent official data highlighted

[17] 14 per cent of private sector investment in the UK comes from the retail sector including investment in buildings, vehicles, software and hardware
[18] Independent research shows that the public rate retailers as the top sector for getting involved in their local communities
[19] 4 per cent of dividends into pension funds come from the retail industry
[20] E.g. 20.6% of all non-food retail sales are online

a drop of 10,000 posts in the industry in Scotland over the past seven years. During the same period there were 1,700 fewer shops[21], a 7 per cent reduction, whilst forecasts anticipate perhaps 23 per cent fewer shops in Scotland over the next decade[22]. Meanwhile net profitability in the industry has halved to around 3 per cent of the value of sales[23]. Embracing these changes and becoming more productive requires retailers to invest in new technology (both software and hardware), a higher skilled workforce, revamped warehouses and transformed logistics capabilities.

8. Responding to this profound change has to be done against a backdrop of weak sales, shop price deflation, rising government-imposed costs and smaller margins. It is in this context of enormous challenge and transition that the cumulative burden of government-imposed costs has become an acute issue[24]. This is especially so in the context of the two largest outgoings for retailers, labour and property costs. Over and above the year-on-year non-domestic rates escalator and this year's doubling of the Large Business Rates Surcharge, this cumulative burden is seeing retailers grapple with the implications of regulatory costs including the National Living Wage, the new Apprenticeship Levy, rising statutory increases in employer pension contributions, as well as for staff training in response to legislative developments e.g. in alcohol and tobacco legislation. The consequence of this is accelerating and exacerbating the process of change within retailers. It is also altering the attractiveness of certain investment options, as labour and property costs rise more quickly than consumer spending and in stark contrast to falling technology costs and greater digital capability.

9. The changes affecting retail have profound implications too for devolved public policy, particularly for employment prospects in communities more reliant on retail jobs, for the overall volume of available entry level and unskilled positions within the sector, for the health and vibrancy of our town centres and for future revenues from taxes such as business rates.

THE CASE FOR REFORM

10. Business rates are a material consideration for retail companies when deciding whether to remain in a location or expand into new areas or indeed to invest instead online. In 'Business Rates: Fundamental Reform' and 'Holyrood 2016: Business Rates', published in February and August 2015 respectively, the SRC set out a comprehensive and compelling case for reform of business rates. We noted that:

- the current system is out of date and does not reflect economic conditions nor keep pace with wider structural changes in the economy,
- that the overall burden of rates has become too onerous and punitive,
- that rates are out of step with other taxes,

[21] Scottish Government's Annual Business Statistics published August 2016
[22] 'Retail 2020: fewer but better jobs, BRC, February 2016
[23] 'Retail 2020: Report 3 Solutions – the journey to better jobs', BRC, September 2016
[24] 'Osborne's changes will cost us £14 billion, high street warns', The Times, 2 Nov 2015

- that rates disincentivise private sector investment, and at a time of angst in public policy circles over the future for Scotland's town centres and high streets, and
- that the current and expanding panoply of reliefs is merely a sticking plaster on a system in need of a fundamental overhaul

11. We also set out concepts and principles of what that reform should look like.

OUR PRIORITIES FOR RATES REFORM

12. The Barclay Review heralds a great opportunity to recast business rates for the decades ahead and deliver a reformed system which is modern, sustainable, strategically coherent and competitive. We want to see a rates system that better flexes with economic and trading conditions and which leads to a substantially lower tax burden as this would increase retailers' confidence about investing in new and refurbished shop premises. This would be good for maintaining and creating local jobs, especially entry level ones for the young and unskilled, and help to revive our town centres and high streets. Specifically, we propose:

A fairer system that better flexes with economic conditions

13. To deliver this we recommend the introduction of more frequent revaluations (at least every three years) and the reducing of the antecedent (date between valuation date and the rating list starts) from two years to one year.

14. We believe the system should flex in response to changes in underlying economic conditions, and more frequent valuations would ensure that each property pays a fairer share of the rates burden relative to other properties and a more accurate one. This would have a positive effect of decreasing the likelihood over time of major fluctuations in values and should contribute to a reduction in the volume of appeals.

15. One in every eleven retail premises in Scotland's town centres is empty[25], a visible manifestation of the changing nature of the industry and how the economics of investing in retail premises is being undermined and exacerbated by rising property costs. Not only has this meant fewer shops, it has also meant spending in town centres has declined[26]. The current commercial property valuations reflect the top of the market in early 2008, some eight years ago, and the retail and trading world has moved on dramatically since then. High valuations coupled with a high tax rate has acted as a barrier to improve, extend or move into new retail premises, particularly for a (until now) property-intensive industry like retail, and more so now there is a very viable and lower cost alternative to trading from physical property i.e. online and multi-channel.

[25] SRC/Springboard vacancies monitor
[26] Spending in town centres has declined from 47% to 39% of total retail spending over the past 10 years, Verdict

A medium-term plan to substantially lower the rates burden

16. Much as the Scottish Government has pledged on other taxes (such as Air Passenger Duty), we recommend the introduction of a medium-term plan to substantially lower the rates tax burden.

17. Retail accounts for 5.5 per cent of Scottish GVA, yet accounts for around 11.5 per cent of all business taxes and a quarter of all business rates paid. The poundage rate has continually spiralled since inception. In 2005 business rates made up around a third of all taxes borne by retailers, but by 2014 this had grown to nearly 50 per cent[27]. Between 2012-15 the poundage leapt for those retailers paying the Large Retailer Levy, and all medium sized and larger firms witnessed a doubling of the large business supplement from this Spring.

18. Business rates have been out of step with the other property based tax used to fund local services, namely council tax. Research by SPICe[28] earlier this year revealed that the tax revenue from business rates has risen by 42.5 per cent over the past 7 years, in contrast to council tax revenues which have grown by only 7 per cent. At the same time the number of stores in Scotland fell by 7 per cent, down 1,700. Indeed, the SPICe findings revealed that council tax revenues generated £30 million more than business rates in 2007-08, but by 2014-15 there had been a dramatic turnaround with rates contributing £628 million more than council tax.

19. An independent survey of Members of the Scottish Parliament conducted at the end of 2014 found that a majority (58 per cent) agreed that a reduction in the overall burden of business rates would stimulate business growth with only 15 per cent disagreeing with the proposition.

20. We recognise that returning to a lower poundage rate cannot happen overnight, which is why we believe there needs to be a timetabled plan for achieving a substantially lower tax rate over the medium-term.

A competitive property tax

21. We recommend a goal of making Scotland at the very least as tax competitive on business rates as other parts of the UK, ideally more so, and this Review heralds a great opportunity to demonstrate this.

22. Tax competitiveness plays a significant role in decisions over where to invest and indeed for our industry whether to invest in physical stores or a stronger online presence. The SRC wants Scotland to be and be seen to be the best place within the UK in which to do business, however the one major tax that has undermined this aspiration over recent years has been business rates. The two most egregious examples are the introduction of the Large Retailer

[27] ‘Holyrood 2016: Business Rates’
[28] The SPICe research was published on 10 March 2016 and is titled ‘Local Government Finance: facts and figures, 1999-2017’

Levy (2012-15) and this year's somewhat perplexing doubling of the Large Business Rates Supplement. Scotland-only surcharges of this nature makes it more expensive for retailers and others to operate here, many of whom have to compete internally with other parts of their business in the UK or overseas for increasingly mobile capital. Handicapping Scottish based stores in this way means that some retailers have to contend with three elements to their rates bill – the main poundage rate, a BID levy if applicable and the large business supplement.

A move away from ad hoc extra levies or surcharges

23. We recommend a decisive move away from the approach taken over recent years which has too often seen ad hoc rates levies and surcharges applied with little or no consultation or analysis of the economic impact.

24. The retail industry is undergoing profound structural changes, driven by changes in shopping habits, technology, disruptive market entrants and the rise in car ownership. This is transforming the way consumers shop and how retailers get their products to consumers. Over a fifth of non-food sales are now carried out online, and online sales are growing ten times greater than through traditional premises. Against that background the experience of recent years which has seen the introduction of unexpected extra business rates levies and surcharges – often without a Business & Regulatory Impact Assessment which would at least provide a veneer of transparency in decision making - such as the Large Retailer Levy in 2012-15 and the more recent doubling of the Large Business Supplement send out an unwelcome and poor signal, and can and do often sit completely at odds with the government's stated economic strategy[29] of making Scotland "the most competitive business rates scheme in the UK". A decisive move away from such ad hoc extra levies would also provide welcome certainty for firms' budgeting processes (for instance the detail of the Large Retailer Levy was known only a few short weeks before its implementation in April 2012 and such circumstances ought to be avoided in future). It would also seek to lessen the perception amongst some businesses that rates policy and therefore investing in Scotland can be risky and uncertain.

A reduced administrative and compliance burden for firms

25. We recommend reducing firms' administrative and compliance burden, by consolidating the number of billing authorities and the number of Assessors.

26. For many the business rates system is opaque. Retailers of any scale often have shop premises across several or indeed many local authority areas which means they have to deal with several different billing authorities. The number of billing authorities could be reduced, as could the number of Assessors. There are fourteen Assessors in Scotland yet in Wales and

[29] '… introducing the most competitive business rates scheme in the UK', Scottish Government's economic strategy, March 2015. The governing party's 2016 election manifesto also alights on business rates with a pledge to "ensure that Scotland remains the most competitive place in the UK to do business", p13 of its manifesto.

England a single assessor undertakes the assessment process, in turn providing greater efficiencies and consistency. Scottish Ministers have thus far been relatively quiet on rationalising the number of Assessors, which is somewhat surprising given their radical approach to reform elsewhere, notably of the police and fire services and which was designed to maintain and improve service quality and consistency whilst also generating efficiency savings for taxpayers.

ADDITIONAL COMMENTS

Fiscal neutrality

27. We note that the Barclay Review has been tasked with ‘maintaining the overall level of funding’ from the tax, or fiscal neutrality, at £2.8 billion annually. This is regrettable and risks limiting the scope of the review and delivering a future-proofed system which is fit for the long term. We fear this fiscal neutrality includes – and suggests a permanence to - the £62.4 million rates surcharge on medium sized and larger commercial premises, and is despite the fact that business rates generated just £2.1 billion six years ago.

28. While we accept that revaluations are designed to achieve fiscal neutrality (collecting the same revenue after the revaluation as prior to it), applying this to the outcome of the Barclay Review only entrenches one of the key problems with the current punitive business rates system in that it fails to properly reflect underlying economic conditions. We wonder how credible this requirement of fiscal neutrality is given that the Scottish Government’s own data shows that the total number of shops in Scotland has fallen by 1,700 over the past seven years, down 7 per cent, and when coupled with our own forecast that the number of physical stores will continue to contract in part because of the changes in shopping habits but also because investing in online retailing is often more cost effective due to rising property and labour costs associated with stores. Physical stores are expected to remain an important feature of the industry however it is anticipated that there will be far fewer of them, in Scotland’s case perhaps 23 per cent fewer over the next decade[30]. Many current high street leases are expected to come up for renewal over the next few years and a question mark remains over how many will be renewed.

29. Seeking to maintain overall rates revenues off the back of an expected shrinking tax base will (unless other property-intensive sectors expand and pick up the slack) simply increase the business rates bill for the remaining shops even faster, putting a question mark over their viability as well as government ambitions for healthly town centres and entry level employment. Given the £392 million underspend[31] in the devolved public finances in the past year, and in light of the plans to reduce APD, then we believe that with sufficient political will the commitment to fiscal neutrality can be more elastic. Ultimately the best way to protect future government revenues is by building a

[30] ‘Retail 2020: fewer but better jobs’, BRC, February 2016
[31] Auditor General’s report on the Scottish Government’s 2015-16 finances, published 30 Sep 2016

durable and sustainable business rates system which promotes economic growth.

Taxation strategy

30. The Barclay Review is, in the context of fiscal neutrality, tasked with looking at only one side of the equation, namely revenue raising. Its remit does not extend to examining the role and responsibilities of local authorities, which ought to be the starting point before any consideration of the income which is required to be generated. Neither does its remit examine councils' priorities or the quality of services provided, nor the scope for local authorities to deploy their current resources more efficiently, e.g. through outsourcing or shared services.

31. There have been numerous consultations, commissions and reviews looking at local and devolved taxes over the past few years in a somewhat piecemeal fashion e.g. LBTT, landfill tax, council tax and other local taxes, APD, and now business rates. This is in part a reflection of the fact that certain tax powers have been devolved in successive Scotland Acts. However, it does suggest a more holistic and less piecemeal approach is required, and the Barclay Panel could usefully recommend that the Scottish Government develop a clearer overall strategy on business and indeed personal taxation. At the very least there ought to be a clear road-map[32] setting out the intended tax reforms and likely changes which are likely to impact on firms and individuals over the decade ahead.

Oppose repatriation of the poundage rate to councils

32. While the SRC appreciates the need for a degree of local flexibility and as a result have supported initiatives such as Business Improvement Districts (BIDs), the Business Rates Incentivisation Scheme, and the more recent local discretionary rates relief scheme, under no circumstances would we support anything that could lead to the return to local authorities of the setting of the non-domestic rate poundage. Local authorities are already able to work with businesses to reflect local priorities, for example through Business Improvement Districts which are funded by an extra levy related to business rates. The SRC has long supported the principle behind BIDs as a valuable means of harnessing private sector talent, expertise and resources to improve the local environment for business. However, it is crucial they continue to be genuinely business-led, demonstrate value, have majority support from local firms, and must not end up being yet another tax to finance existing public services.

Rates reliefs

33. The current system of business rates is unwieldy and only seems to function through myriad exemptions and reliefs that continue to grow as an overall

[32] As articulated in the SRC's Scottish Budget submission 'Open for Business', Sep 2016

proportion of the total income from business rates[33]. We question how sustainable this is. The Small Business Bonus scheme (SBBS) is positive and a welcome recognition of the need to keep down costs for firms, however we are mindful that around three quarters of retail employment in Scotland is concentrated in businesses which currently receive no relief or support through the SBBS.

34. Furthermore, we are aware of only one local authority which has actually capitalised on the local discretionary rates relief which became available to them in October 2015 as a result of the Community Empowerment Act[34]. We understand that a comparable power to reduce rates bills in local areas in England is utilised more widely by one in every ten local councils there.

35. The SRC supports the Barclay Panel's plans to review the over-extended system of reliefs as well as those properties currently excluded from the valuation role in order to ensure that the tax base is sufficiently wide and applied fairly and that such reliefs and exemptions are value for money and that their rationale remains relevant. For example, we are aware that some local authority services, e.g. sports and leisure, have been transferred in recent years to 'arms length' bodies which are able to access more generous rates relief. However the extent of this and the cost benefit analysis to the public purse is unclear to us.

Rates supplement to fund infrastructure

36. We are conscious that in England local authorities are able to introduce a Supplementary Business Rate on commercial and industrial properties in their area in order to specifically fund a local infrastructure project[35]. We would strongly caution against any attempt to introduce a new levy of this nature in Scotland, given the wide range of existing means (including NPD/PFI, TIFs, BRIS, and new devolved borrowing powers) that are available to fund infrastructure, and the thick layer of additional complexity and cost it would entail.

Short term changes which could be made to rates

37. In our recent 'Open for business' paper we set out some short-term actions that the Scottish Government could take on business rates in the interim before the Barclay Review concludes its work in Summer 2017. Top of the list is restoring a level playing field (at the very least) with England for medium sized and larger firms by scrapping the £62.4 million annual rates surcharge introduced for 2016-17. This affects one in every eight commercial premises in Scotland, including 7,500 retail premises, and is why SRC and twelve other business representative bodies united in a powerful display of broad concern last month to highlight this as a common issue requiring action in the

[33] The overall package of reliefs has grown and now accounts for 25% of total rates paid, p10, SRC's Business Rates: Fundamental Reform
[34] 'Councils fail to take up rates burden powers', Scotland on Sunday, 26 June 2016
[35] London's Crossrail was funded by this means

upcoming devolved Budget[36]. Coupled with this year's rise in the main poundage rate it meant business rates rose 3.4 per cent in April, in stark contrast to retail sales which have at best been flat over the past two years. Indeed, the doubling of the supplement is emblematic of the many problems with rates as whole, with little regard given to trading conditions, little advance warning, no consultation or economic impact analysis underpinning it. Given existing concerns about Scotland's relative economic underperformance compared to the UK as a whole and the pressing need to lift private sector investment, this departure away from rates parity with a hike in the supplementary tax is both perplexing and disturbing. Our fear is that this Scotland-only surcharge could open the door to even higher business rates in future. It could also undermine support amongst firms in future Business Improvement Districts ballots, as BIDs are themselves funded by extra levies on rates.

Scottish Retail Consortium
October 2016

[36] 'Business leaders in call to reverse rate rise to boost firms', The Scotsman, 6 Sep 2016, p30

Written Submission from the Scottish Assessors' Association

The Scottish Assessors Association

The Scottish Assessors Association (SAA) was instituted in 1975 at the time of local government reorganisation and is the successor body to the Association of Lands Valuation Assessors of Scotland (1957) and earlier bodies extending back to The Association of Lands Valuation Assessors (1886). The SAA continued in being after the 1996 reorganisation of Scottish local government and operates in terms of a formal Constitution.

Although a voluntary organisation, all Assessors and their senior staff are members of the Association. One of the principal functions of the Association is to facilitate a consistency of approach in the administration of the non-domestic rating valuation, council tax and electoral registration services. The policies and decisions of the Association have a bearing on how individual Assessors carry out their statutory duties. Each Assessor is, however, an independent official who is answerable to the Courts in terms of valuation decisions. The Association is a long-standing example of a Shared Service, combining the value of a local presence and representation with the efficiencies to be gained from working together in terms of valuation practice and the increasingly burdensome overlay of duties such as Freedom of Information, Data Protection, Equalities and Records Management. The SAA Web-site (discussed in detail below) is the most visible product of this shared service agenda.

The Association works through a series of Committees and associated Working Parties, which meet in advance of quarterly plenary sessions which are attended by representatives from all Assessors' offices. The SAA also liaises with the Valuation Office Agency (VOA) in England and Wales, the Land and Property Service in Northern Ireland (LPSNI) and the Republic of Ireland Valuation Office (Oifig Luachála) in matters of common interest. While each Jurisdiction will have subtly different practices, many of the underlying principles of valuation for rating apply across all.

Non-Domestic Rating

The term "Business Rates" is misleading as valuation for rating extends to all lands and heritages unless they are exempted by statute. Exemption from Valuation for Rating currently extends to include agricultural lands and heritages, forestry lands and heritages, public parks and domestic property (the latter being subject instead to Council Tax). Many lands and heritages that fall to be valued for rating are not "businesses".

In essence, non-domestic rating is a property tax and not a direct business tax or tax on value of service or profitability; other taxes exist for that purpose. The SAA considers that the existing rating system, in its basic form, is a very robust and efficient tax system. It is particularly difficult to avoid rates assessment because it relates to heritable property that cannot normally be hidden or moved. It is however of a particular concern that reliefs and exemptions that currently exist may serve to; distort the rental market upon which the Rateable Values are based, introduce the spectre of tax avoidance, and have the potential to distort the equity of the tax distribution.

Valuation for rating is designed to provide a stable tax base for a fixed period of time and allows only limited scope for change. Valuation levels are fixed at a point in time two years before a revaluation and cannot be increased until the subsequent revaluation. The Lands Valuation Appeal Court has been very conscious to emphasise the fundamental importance in valuation for rating law of the, usually, 5-yearly revaluation. The Court has repeatedly emphasised, both in instances of “error” and “material change of circumstance”, that the primary way for values on the Roll to be addressed is by means of the Assessor’s revaluation investigation followed by the ratepayer’s ability to lodge a revaluation appeal at the correct moment under the valuation timetable (1st April to 30th September in a year of revaluation). The scope of post-revaluation or “change” appeals is limited.

The SAA considers that the existing non-domestic rates system is particularly transparent by comparison with most tax systems. In particular, it should be noted that all Rateable Values are publicly displayed in council premises and are available on-line via the Assessors’ Portal (web-site). Over 100 Practice Notes are published on-line detailing the approach to the valuation of a wide range of subject types and Summary Valuations for the majority of subjects are also publicly available on-line. Appeal time limits and procedures are clearly understood and well communicated to ratepayers by the Scottish Government, the SAA and councils. However, the SAA supports all measures to improve the transparency of the system, to engage business within the process and to streamline the processes to improve efficiency.
The SAA also considers that through regular revaluations the existing rating system, is reactive to changes in the economy. Whilst it has often been suggested that the rating system penalises traditional industries (such as retail) which rely upon a physical presence in the high street or shopping centres, this ignores the fact that the Rateable Values of such properties will be reduced at Revaluation where rental values have fallen – as, indeed, happened in many shopping areas for the 2017 Revaluation. It further ignores the fact that Rateable Value of heritable property occupied by new, high-technology industries will generally be seen to increase as rentals increase.

The Valuation Process

Valuation for Rating is a complex process and not easy to distil into a short document but at the heart is the statutory definition of Annual Value contained in [Sect 6(8) of the Rating and Valuation (Scotland) Act 1956]() –

"6(8) Subject to the provisions of Part III of this Act, the net annual value of any lands and heritages shall be the rent at which the lands and heritages might reasonably be expected to let from year to year if no grassum or consideration other than the rent were payable in respect of the lease and if the tenant undertook to pay all rates and to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the lands and heritages in a state to command that rent."

In other words, the Net Annual Value/Rateable Value is to be the Assessor's estimate of the rent - between a willing landlord and a willing tenant - which a property would achieve on the open market where there were no inducements (grassums, premiums, rent-free periods, etc.) and where the tenant pays for the repairs, insurance, management and rates. In modern terms, this is very close to the Full Repairing and Insuring (FRI) Lease that is predominant in the commercial letting market.

It should be stressed that it is not the actual rent passing but the Assessor's estimate of what the hypothetical tenant would pay by way of rent. The values will be based on an analysis of rental and other evidence for a class of subject in a geographical (usually a very localised) area.

Valuation Methods:

While it is clear that not all properties will be let, the majority of classes will provide sufficient rental evidence to analyse to form a scheme of value. This is the approach to valuation known as the Comparative Principle.

Where the class of property is not normally let, Assessors will resort to one of two alternative methods of value - valuation by reference to Receipts and Expenditure (the Revenue Principle) or, in the last resort, by application of the Contractors Principle.

Valuation by reference to Receipts and Expenditure is a highly complex approach to valuation and is used primarily in the valuation of Utilities. This looks to the gross receipts generated by the heritable (rateable) parts of the undertaking, makes allowance for operating expenses such as rates, repairs and cost of sales to leave a balance which is then divided into the:

The "Tenant's Share" - the amount agreed to cover the return on capital employed and a reward, reflecting the degree of risk, to the Tenant for his venture and:

The "Landlord's Share" - which is the balance and, therefore, the Rent or Rateable Value.

Receipts and Expenditure should not be confused with the method of valuation adopted for properties where there is rental evidence and where those rents form a relationship with the gross turnover achieved by occupation of these properties. Such properties are valued on the Comparative Principle with licensed premises, hotels and filling stations being the most prevalent of these.

The Contractors Principle will be in use primarily for the valuation of property outwith the commercial sector such as health, education, cultural, government buildings and defence. It will also apply to a small number of large and complex industrial properties such as shipyards, oil refineries or chemical works. This approach uses the estimated replacement cost of the land, buildings, rateable structures and plant & machinery. All elements are adjusted for such as age and obsolescence and then converted to Annual Value by means of the statutory decapitalisation rate which, from 1st April 2017, is 2.9% for health and education subjects and 4.6% for all other subjects.

Analysis of Rental and other evidence

It is important to stress that Assessors do not make the market. Rateable Value is the Assessor's estimate based on analysis of rents, costs and receipts & expenditure and has been termed as "Valuation using a rear-view mirror" which is accurate in the sense that we look to the past and do not indulge in forecasting.

The analysis of all of the types of evidence is a complex and resource-hungry undertaking but it relies heavily on owners and occupiers providing rents, building costs, and other property-related information. Assessors have been clear in evidence to various reviews that there is a need for the overhaul of the powers to collect information and the penalties for non-provision. This is discussed in more detail later in this submission

In analysis, Assessors will consider value on as localised a basis as possible. The adage that value is driven by “location, location and location” is entirely appropriate and easily demonstrated in the retail sector where analysed rental value will usually vary along the length of a street. There are, however, a very small number of classes of property where regional or even national levels of value are appropriate for example, larger retail warehouses or depot warehouses (e.g., IKEA).

Each class or genus or properties needs to be looked at separately, not only in broad groups like “retail” or “office” but also in minor divisions such as “hot food” where separate Planning Use Classes might apply.

There is a well-established approach to the adjustment of rents and Assessors publish a Practice Note dealing with this so that the approach taken is clear and consistent.

For properties valued by reference to the Contractors Principle, the cost of land, the construction and installation costs of buildings and plant are sought and analysed and, where necessary, adjusted to the tone date by means of established indices such as the BCIS published by the RICS37. There is a general SAA Practice Note relating to application of this Principle with separate Practice Notes for individual classes of property such as schools or hospitals, again ensuring a consistency of approach.

In recent years we have seen significant changes in the standard of construction in, for example, schools and hospitals. These new standards tend to drive up costs, at least for the new properties, while increasing the allowance for such as obsolescence in older buildings where similar improvements cannot be made.

Harmonisation and consultation

Assessors, through the SAA, work very closely together to ensure that the approach to valuation is consistent across Scotland. Each Assessor is represented on the SAA’s category committees and evidence from all parts of the country can be considered albeit the final valuations will reflect local conditions.
Assessors have powers to share information with each other and with the Valuation Office Agency (VOA); this is now supported by a Data Sharing Agreement with the VOA.

The SAA Web Portal is the most obvious manifestation of Assessors’ partnership working, providing a unified view of Valuation Rolls (and Council Tax Lists), access to background information and transactional services such as appeal logging. The Portal is discussed in more detail later in this submission.

In the wider arena, the SAA has regular meeting with the bodies or agencies responsible for non-domestic rating in England & Wales, Northern Ireland and the Irish Republic. There is considerable commonality and consistency of approach, particularly for England & Wales, where the Revaluation cycle has, to date, been aligned with Scotland’s. There are various working groups that allow very close

[37] Building Cost Information Service index provided by the Royal Institution of Chartered Surveyors

cooperation on the valuation of particular subject types – a good example being petrol filling stations where the SAA, the VOA and the fuel retailers had agreed an approach to value for the 2017 Revaluation.

Looking to ratepayers, Assessors also consult with industry bodies and ratepayer groups. There is a twice-yearly meeting involving the SAA, Scottish Government and groups representing ratepayers. This is an opportunity exchange information and ideas. The SAA has been at pains in these meetings to emphasise the importance of the provision rents, costs and other property related information in the interests of accuracy and equity.

The 2017 Revaluation

A revaluation is a fresh look at all valuations from first principles. A Revaluation is intended to account for and reflect the gradual shifts in the value of lands and heritages and is an exercise intended to redistribute value to follow trends in the property or construction markets.

Unusually, the gap between the 2017 Revaluation and the preceding Revaluation is 7 years when a 5 year gap has been the norm. This has clearly led to more significant changes to value in some areas and sectors than might have been the case after a five year gap. The frequency of revaluation is discussed later in this submission.

The timetable for a Revaluation is set out in the Valuation Timetable (Scotland) Order and the key dates are:

- The “Tone Date” or the date on which the level of value is to be based. This is currently 1st April in the year two (rating or financial) years before the Revaluation – 1st April 2015. The Assessor’s ability after this date to consider events that might affect value is limited – a point reinforced by the Courts following the 2010 Revaluation
- The “Physical Circumstances” date is the date when the size, extent and other circumstances are to be determined (all in April 2015 terms). This is currently 1st January in the year before the Revaluation – 1st January 2017.
- The Revaluation Roll is taken to be “made up” on 15th March in the year before the Revaluation. This is when Notices are issued to property owners and occupiers and when copies of the Valuation Rolls are passed to the Rating Authorities (Councils).
- Finally, the Values will be “live” from 1st April 2017 when all Valuation Roll entries can be found at the Scottish Assessors Web Portal which, in effect, is a unified version of the 32 separate Valuation Rolls – one for each council area.

The SAA web-site provides summary values for almost 67% of all subjects the majority of which are Retail, Office and Industrial properties. Practice Notes are available on-line to provide ratepayers and their representatives details of how the valuations have been carried out.

To add to the transparency of the tax, Assessors have ambitions to extend the range of summary valuations but to do so will require significant development, the cost of which puts that aim out of reach in the current funding environment. It should also be noted that commercial confidentiality will limit provision of summary valuations for the types of subject where, for example, information from accounts forms a part of the valuation. This is discussed in more detail later in this submission.

While collection of evidence and analysis is a continuous process, the lead-in to a revaluation will see greater activity within SAA Committee structure as the evidence and the approach to valuation are considered in detail using the process detailed earlier.

In terms of governance, the committees prepare Practice Notes that are scrutinised and approved for use by all Assessors by the SAA. This ensures consistency of approach and, where appropriate, consistency in value. While valuation approach may be national, the best evidence of value is local information and local knowledge. This is not a straightforward process and great pains are taken to ensure that Practice Notes and values are robust and able to stand scrutiny. The accuracy of value is ultimately measured by reduction of Rateable Value on appeal and this has been in the order of 2 to 3% of the total value in the published Revaluation Roll for preceding Revaluations.

It must be stressed that significant changes to value will be attendant on significant changes in the background data and will indicate similarly significant changes in rental values or costs of construction.

Appeals Processes

An important part of a Revaluation is the ability for any ratepayers or anyone with an interest in the property (the landlord, tenant or sub-tenant) to make an appeal.

Revaluation appeals may be lodged between 1st April and 30th September in the year of Revaluation or within 6 months of the issue of a valuation notice, whichever is the later. Appeals, save for those referred to the Lands Tribunal, must be disposed of by 31st December in the 3rd year following a revaluation.

Following recent revaluations, between a third and a half of all entries in the Valuation Rolls have been appealed.

It should be said that a significant proportion of these appeals are speculative or "holding" appeals and will be withdrawn without any adjustment of value. Of the remainder, the large majority will be resolved after discussion between the Assessor and the Ratepayer or Ratepayer's representative. Only a very few will be heard by the local valuation appeal committee.

In limited circumstances, appeals may be referred to the Lands Tribunal for Scotland. Referral can be sought by either party or by both. Such appeals will normally be highly technical, will create a precedent or are for subjects that exist in more than one Assessor's area. The appeal disposal timetable does not apply to such appeals.

At present, local valuation appeal committees are made up of volunteers that are appointed by the Sheriff Principal. The running costs of the committee are met by the valuation authority. It is expected that the appeal committees will fall within the remit of the Scottish Tribunals Service by 2022 and it may be that further structural change to the appeal process will coincide with that transition.
The Scottish Government has laid an Amendment Order to make changes to the Valuation Appeal Committee Regulations and these will be in force for appeals made against the 2017 Revaluation Rolls. Appeals against the 2010 Revaluation will continue to be managed using the existing regulations. The Amendment Order aims to improve the procedure for appeals being heard by a local valuation appeal committee. The changes are welcomed and it is hoped that they will allow for a more streamlined process for the management and disposal of appeals.

The lodging or speculative or holding appeals is a significant administration burden and strain on resources. Assessors are of the view that one way of reducing the appeal burden is to reduce the volume of speculative appeals by introducing a charging regime. Assessors have suggested that a principal method of achieving this would be the charging of a fee on lodgment of an appeal.

The SAA is strongly of the view that it is a wholly inequitable feature of the existing system that Rateable Values which are shown to be too high are reduced on appeal by a Valuation Appeal Committee, Lands Tribunal or Lands Valuation Appeal Court, whilst subjects for which the Rateable Values are deemed to be understated cannot be increased. The difficulty is exacerbated because the power of an Assessor to increase Rateable Values as a result of an error is limited in scope. This situation is unfair to the general body of taxpayers, militates against the effective collection of revenues and is supportive of a speculative appeal culture.

England & Wales has provision to make increases to value as the result of an appeal.

The SAA consider that a Valuation Appeal Committee, Lands Tribunal and Lands Valuation Appeal Court should have the power to increase Rateable Values where it has been demonstrated that these are understated.

Assessors' powers to obtain information

The cornerstone of the rating system, and any rating appeals system, is the Assessor's power to access appropriate information in order to arrive at an accurate assessment of Rateable Value. It is only by having this information available to the Assessor in arriving at the Rateable Value, and to the appeal body in considering the accuracy of that assessment, that the correct Rateable Value will be ascertained. To be denied information erodes the Assessor's ability to ensure that the values arrived at are as accurate as possible. Without full details of rents, costs and other property related information, it is possible that values may be under or overstated and that is not a situation that favours fairness and equity.

The SAA considers that the terms of s.7 of the Lands Valuation (Scotland) Act 1854 are inadequate to meet the requirements of the system.

> Lands Valuation (Scotland) Act 1854 - s7
>
> 'It shall be lawful for any assessor acting under this Act to call upon any person, being a proprietor or reputed proprietor or tenant or occupier within his area for a return containing such particulars as may be reasonably required for the purpose of enabling him to value the lands and heritages of which such person is proprietor or reputed proprietor, or tenant or occupier; and if any such person shall, without reasonable excuse, fail to furnish such written statement to such assessor within fourteen days after he shall be called upon in writing so to do, he shall be liable on summary conviction to pay a penalty not exceeding level 3 on the standard scale (one thousand pounds); and if any such person shall present or cause to be presented to such assessor any false statement in such return he knowing the same to be false, he shall be liable on summary conviction to pay a penalty not exceeding level 3 on the standard scale (one thousand pounds).'

This provision is severely limited by virtue of being served on the proprietor, tenant or occupier for the purposes only of valuing the property of which that person is the proprietor or tenant or occupier and is further hampered by both the method of enforcing the provision by summary conviction and by the outstanding pressures on Procurators Fiscal which result in little prospect of convictions being successfully pursued. The SAA considers that this provision should be radically widened and, in the context of appeals, the SAA would wish to see an express provision within the Appeal Procedure Regulations to state that a Valuation Appeal Committee or Lands Tribunal may dismiss an appeal (whether before or after it has heard submissions in the appeal) where it can be demonstrated that the ratepayer or his/her agent had failed to provide information reasonably requested by the Assessor.

Further, the powers of the Valuation Appeal Committee to require provision of documents and information by the parties to an appeal should be made explicit in clear, modern terms.

In particular, the SAA believes that the powers of the Assessor should be extended to include the power to seek documents and information:-

- For the purposes of valuing lands and heritages other than the lands and heritages of which the person is proprietor or reputed proprietor or tenant or occupier.
- From persons who hold, or have access to, the relevant information other than the proprietor or tenant or occupier. This should include contractors, agents, developers and other advisors in line with current funding, procurement and development practices.
- Which the assessor considers are/is necessary for the purposes of making entries in the valuations roll, maintaining the valuation roll, defending entries in the valuation roll and for the present or future consideration of valuation approach/method.
- After any entry in the valuation roll is made.

All existing powers to obtain information rely, however, on the summary conviction of a person found guilty of failing to comply with a request for information being liable to a fine on the standard scale. As such these provisions suffer from the same difficulty of pursuing prosecutions by the Procurator Fiscal. It may therefore be appropriate to consider the introduction of a procedure of civil penalties as provided for in England by Para 5(1) of Schedule 9 to the Local Government Finance Act 1988. There would, however, be practical and administrative issues in implementing such a system and there is only limited evidence of the civil penalties approach being successful.

In terms of evidence, this is a long-standing issue and has been highlighted in several recent appeals heard by the Lands Tribunal where Orders have been made to obtain information from mobile telephone operators, the MoD and ports operators. Recent correspondence regarding licensed premises highlighted that, for the 2017 Revaluation, little over 50% of the rental and turnover information had been returned.

Frequency of Revaluation

Since 1975, the frequency of revaluation has been 5 years with the exception of a variation in the 1980s. The current period between Revaluations is 7 years and that has coincided with some significant changes in rental values.

It may be that the past seven years have been exceptional and that the next five years will not replicate the same significant shifts in the valuation landscape. That said the advantages and disadvantages of a shorter revaluation period should be examined.

Advantages:-

There would be a closer tie between the Rateable Value and the rental market or, when using other valuation methods, the cost of construction or receipts & expenditure.

Historically, property values tended to rise between revaluations albeit with differences in the rate of growth between locations and sectors. While the gap between rent and rateable value would grow over the revaluation period, there was generally little controversy as no sector or location was "losing" in the sense that rentals were declining below rateable values. The last decade has highlighted that property values can decline on a large scale and affect sectors rather than small numbers of properties declining due to particular local circumstances.

An increased revaluation frequency would bring a benefit where such sizeable swings are discerned in sectors or locations. At present, within a 5 year cycle, it is possible that noticeable swings in value might take 7 years to translate to a change in rateable value. For example, a decline in retail rental values became evident after the Tone Date but before the publication of the 2010 Revaluation. These changes could not be reflected until the next revaluation and, as a result of the postponement of the 2017 Revaluation, 7 years passed before the valuation rolls were able to reflect the change.

A closer link between rent, etc. and value should serve to reduce the incidence of appeals.

Disadvantages:-

The gap between the “Tone” and the Valuation, currently two years, may need to be shortened to at least one year. This adds significantly to the pressure to create draft values some months prior to the publication of the Revaluation Roll; a pressure amplified by the delay in being able to access rental agreements for the “Tone” year as it can take several months for the rental negotiations to conclude. Similarly, the building cost information can take several months to reveal the accurate cost level at the “Tone” date and accounts may take several months to audit and publish.

The Assessor’s powers to obtain information, as discussed above, would require to be strengthened.

The time taken to dispose of appeals may need to be shortened. At present, the time limit for disposal of Revaluation Appeals is 31st December in the third year after a Revaluation.

The normal five year revaluation cycle allows “time slicing” of activities between gathering data, analysis, valuation and appeal resolution. A shorter cycle would make that much more difficult. It is likely that this would require the services of more staff and/or an investment in technology that would allow, for example, a more interactive means of supply of relevant data.

Transparency

The SAA web-site is a shared service funded by all Assessors. It allows a single point of interface for ratepayers and the public to get ready access to property and valuation information, lodge appeals, contact their local Assessor or respond to a request for information.

The SAA web-site has provided the means for making information available to citizens. The web-site provides:

- Valuation Rolls and Council Tax Valuation Lists are available on-line and are searchable so that the assessment information (rateable value or council tax band) of any property in Scotland is available.
- Downloadable versions of the Valuation Roll are available.
- Summary Valuations of the three main bulk classes of property (Retail, Office and Industrial) are available on-line. This accounts for over 67% of properties in the Valuation Rolls. This means that ratepayers can check the details of their assessment.
- Practice Notes are published to explain how various classes of property are valued.
- Statistical information is available.
- Appeals can be lodged on-line either individually or in bulk (the latter being a facility used by rating agents).
- Property owners and occupiers can provide rental information online.
- The web-site also provides restricted access areas for Assessors to store and share information and for government users to access secure data under data sharing agreements.

To extend the availability of Summary Valuations beyond the current scope would require additional funding. There will always be some properties where Summary Valuations cannot be provided as to do so would breach commercial confidentiality – for example, licensed premises where accounts information forms an integral part of the valuation.

Resourcing issues dictate that at present development of web services is small-scale although an example of the recent development is an on-line information return facility for shooting rights.

Further development of the SAA web-site would enable more information to be provided online and widen the opportunities for ratepayers to exchange information with Assessors. Modernising the service would improve transparency, contribute towards more accurate assessments and potentially reduce the volume of appeals.

Appendix 1: Overall Change to Rateable Value at Revaluation

Subject Classification	2010 Revaluation		2017 Revaluation		% Change
	No.	Value (£)	No.	Value (£)	
Advertising	1,925	8,035,262	1,924	10,538,430	31%
Care Facilities	2,960	108,136,474	2,975	118,542,034	10%
Communications (non Formula)	348	22,709,235	349	24,645,995	9%
Cultural	1,397	46,916,795	1,419	53,810,920	15%
Education And Training	3,688	522,687,445	3,705	559,765,675	7%
Garages And Petrol Stations	4,243	64,584,605	4,245	74,937,080	16%
Health Medical	3,190	207,500,365	3,233	228,000,365	10%
Hotels Etc	5,446	196,697,162	5,469	275,073,193	40%
Industrial Subjects Including Factories Warehouses & Stores	48,635	1,149,722,793	49,050	1,256,129,990	9%
Leisure, Entertainment, Caravans & Holiday Sites	22,232	246,685,208	22,296	281,406,378	14%
Offices Including Banks	41,396	1,144,117,661	44,060	1,082,525,279	-5%
Other	13,511	100,092,067	16,156	141,617,533	41%
Petrochemical	142	117,519,680	142	122,224,305	4%
Public Houses	3,707	110,109,160	3,732	132,642,075	20%
Public Service Subjects	9,960	321,085,008	10,082	356,549,995	11%
Quarries Mines Etc	667	17,391,184	660	17,990,509	3%
Religious	6,185	55,532,107	6,101	56,293,665	1%
Shops	53,570	1,630,129,226	53,707	1,611,664,302	-1%
Sporting Subjects	3,371	17,982,430	3,010	18,120,492	1%
Undertaking	1,029	719,056,565	1,065	888,200,808	24%
All Classifications	**227,602**	**6,806,690,432**	**233,380**	**7,310,679,023**	**7 %**