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*improving living in scotland*



**RESPONSE TO SCOTTISH GOVERNMENT CONSULTATION ON  
“TAKING FORWARD A SCOTTISH LAND AND BUILDINGS TRANSACTION TAX”**

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# Taking forward a Scottish Land and Buildings Transaction Tax



## RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

### 1. Name/Organisation

#### Organisation Name

Homes for Scotland

Title Mr  Ms  Mrs  Miss  Dr  *Please tick as appropriate*

#### Surname

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### 3. Permissions - I am responding as...

Individual

/

Group/Organisation

*Please tick as appropriate*

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

*Please tick as appropriate*

Yes  No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

*Please tick ONE of the following boxes*

Yes, make my response, name and address all available

*or*

Yes, make my response available, but not my name and address

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

*Please tick as appropriate*

Yes  No

Yes, make my response  
and name available, but  
not my address

**or**

- (d)** We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

*Please tick as appropriate*

**Yes**

**No**

## CONSULTATION QUESTIONS

### QUESTION 1 – TAX STRUCTURE:

Do you agree with the Scottish Government's view that the Land and Buildings Transaction Tax should be structured progressively?

Yes, a move away from a "slab" structure (under which tax is charged at the highest rate on the whole purchase price, including the parts below lower thresholds) to a marginal rate system similar to income tax would provide a more equitable structure. Structured well this approach has the potential to reduce some of the disincentives to buying and selling and remove current market distortions around stamp duty thresholds.

It is currently very challenging for home builders to sell homes in the £125k to £135k and £250k to £270k price ranges because buyers feel they are paying too much for very little advantage which results in a skewed pricing and product structure on new housing developments. As prices start to edge near the £250k mark, home builders now design that specific product size out of their range altogether, as the market will not pay.

New homes are valued per square foot meaning after the location, quality of fittings, demand etc are taken account, the value of homes relate to the size of the unit i.e. £183 per square foot. Using this value as an example to illustrate the impact of the current slab tax we can show that choosing between a home at 1350 square feet (valued at £247,050) and a home at 1450 square feet (valued at £265,350) would cost the buyer an extra £23,790 for only an extra 100 square feet - £18,300 reflecting the value and £5490 to account for the increase in SDLT.

When buyers of a new build home already have the disadvantage of usually requiring at least 20% deposit (compared to 10% for second-hand), the target market for the homes around £260k would require savings or equity of at least £65k to fund their deposit (charged at 3% of full value), stamp duty, legal fees and moving costs which, for the majority is unrealistic. Any financial assistance from the home builder to incentivise the purchase is very limited by mortgage lenders' criteria. For those who can afford it, the unfairness of paying over £5k of additional tax for the benefit of buying a slightly larger house taking the purchase over £250k acts as a deterrent.

This results in an inequitable range of product availability. Depending on local house price conditions in a given area, this could result in a home builders range capping at 1350 square.feet then leap-frogging to 1650 square feet with nothing in between to suit growing families on a tighter budget. A move to a rate system should resolve this.

### QUESTION 2 – SUPPORTING SCOTTISH GOVERNMENT PRIORITIES:

Do you think that the Land and Buildings Transaction Tax should be amended in future to support key Scottish Government priorities? If yes, what objectives should changes focus on and what would be the best way of doing this?

Our first view on considering a review to SDLT was...what is the tax for? I would imagine that this view will carry forward through to the public. SDLT is a tax relating to the purchase of land or homes which is compulsory but very few fully understand why it is being paid or what the money is used for. It would be worth

the Scottish Government giving consideration to the potential uplift that could accrue from the economic activity that is generated when a tax on moving is removed completely.

Assuming a form of SDLT will however continue, perhaps the Scottish Government could consider within its review the potential to directly reinvest the income into infrastructure and new home delivery to allow those paying the tax to appreciate why their contribution is required.

Furthermore an overarching objective of any change should be to keep Scotland as competitive as possible. This will mean aligning many of the key principles with the rest of the UK to ensure there are no disadvantages to investing in Scotland.

Having said that where Scottish Government priorities and policies are already unique in Scotland where devolution has allowed distinct targets to be set, there is a clear opportunity to use SDLT to incentivise organisations and individuals in Scotland to support Scottish Government priorities.

For example:

#### Housing Supply

“The Scottish Government considers that an adequate supply of housing is vital both for economic growth and to enable people and communities to meet their aspirations.”

The Scottish Government can structure SDLT in such a way as to promote an active, confident housing market.

Ideally we would suggest the setting of the trigger point for SDLT charge at a level that encourages movement at the lower end of the market with properties valued at less than a certain amount (say £180k as indicated in the proposals) exempt from the tax to assist first time buyers who are already having to save for high deposits to access home ownership. However given the efforts to ensure ‘revenue neutrality’ we would have serious concerns what impact the loss of income from transactions at £125k to £180k would have on the mid to high price points in the market.

Analysis undertaken by GSPC indicates that people buying a typically priced mid-market home between £200k and £250k will pay more tax under the proposed system than they would under the current one. Homes priced in this range make up a significant proportion of the new-build homes and given the typical target market its likely that working families will feature heavily as a ‘loser’ from the proposed changes if tax within these price brackets were to increase.

To balance this effect, we would support the reduction of tax chargeable to the lower end of the market from 1% to 0.5%. This would mean a low tax bill for buyers at the low end of the market but relatively high tax take because it would cover a lot of transactions. It should not be forgotten that a change to a more equitable stamp duty system should hopefully have the effect of increasing transactions overall, thereby improving tax revenue.

Looking beyond the buying and selling of individual homes, it is important that the impact on land purchases for housing development is taken into account. If transactions at higher values are to become the ‘losers’ to give relief to individual purchasers at the bottom rungs of the housing ladder, the consequences of this must also be measured. A home builder purchasing land has a number of up-front

costs to account for in the development appraisal and the pressure from corporate funders to reduce risk and manage cash flows to reduce exposure has never been higher. We continue to point out to Scottish Government that any new regulation or planning policies which involve additional up-front costs to the delivery of new homes could have detrimental effects on the ability of companies to deliver.

Furthermore the relationship between high land costs and house prices must not be underestimated, rate setting should ensure the government is not implementing rates which help the lower end of the market in one hand but then by increasing tax on land transactions unintentionally put pressure on house price inflation with the other.

### Climate Change Targets

“We want all Scottish people to live in good quality, warm, comfortable homes. We want to improve the condition and energy efficiency of the homes that people live in.”

The Scottish Government's desire to reduce carbon emissions and combat fuel poverty is clear. Within the draft Sustainable Housing Strategy the Scottish Government has stated that they want to see a market premium on warm, high quality, low carbon homes with lower running costs because these attributes are valued by lenders, consumers and surveyors.

In achieving this, the Government acknowledges the need for the market to fully reflect the benefits of greener housing. This is particularly important in the context of the new market-led incentive based approaches

When a property is marketed for sale both sellers and buyers have access to an Energy Performance Certificate. This mandatory certificate allows comparisons of homes for sale across the market, encouraging buyers to take account of the energy efficiency of the home in their choices. Unfortunately an abundance of research exists to show that energy rating is low down the list of considerations for purchasers. Research has also shown a low cap on the amount that a purchaser is willing to pay for green credentials. Although it could be argued that increasing utility bills will gradually make this more important, savings achieved over the period of a number of years is not a strong enough incentive for sellers to market an energy efficient home or for buyers to pay a premium for one.

Linking SDLT to EPCs would introduce an effective market-led incentive, creating much needed demand for energy efficient homes. This would incentivise home builders to build above and beyond building standards to capture this market, and also encourage existing home owners to retrofit their properties before marketing for sale to try to compete with new build.

We must acknowledge the stats presented in the consultation document, which show there is little evidence that reliefs have led to purchases that would not otherwise have happened if there had been no relief i.e. with First Time Buyers who received relief for a period up to March 2012. However we expect that there would be a stronger correlation between the types of properties that people would purchase if they had already made the decision to move and had a choice between competing products at different levels of efficiency and therefore different levels of SDLT. Furthermore using incentivisation through stamp duty would raise awareness of the benefits of buying 'green' – getting people talking about it and providing a much needed push in demand in this market. In reverse, this would also get people talking about the inefficiency of some homes, with a higher tax chargeable reducing interest in those homes, encouraging owners to invest and improve

efficiency standards and as a result reducing emissions from homes in Scotland.

In suggesting the linking of SDLT rates to EPCs we have not considered how the collection of tax would be managed. It would be essential that this did not become burdensome and thereby add to the costs of collecting SDLT in Scotland.

### **QUESTION 3 – EXEMPTIONS:**

Do you agree that the proposed transaction categories should be exempt from Land and Buildings Transaction Tax, and that for these specific transactions no LBTT return should need to be submitted?

We note that the exemptions have been kept consistent with those currently in place across the UK and we would support this.

We note under 4.3 that social tenancies granted by Registered Social Landlords are exempt. Given the changes in the delivery of affordable homes, with more private sector involvement and the emergence of new tenures we would ask that the Scottish Government consider whether this exemption needs widened to reflect that. For example, mid market rent – does this need to be catered for or would this be addressed by the Residential Leases 20 year rule?

### **QUESTION 4 – COMPULSORY PURCHASE ORDER RELIEF:**

Do you agree with the proposal that the Compulsory Purchase Order relief should be expanded in Scotland to allow local authorities to benefit from the relief where they compulsorily purchase an empty home for onward sale?

No comment.

### **QUESTION 5 – RIGHT TO BUY / SHARED OWNERSHIP RELIEFS:**

Do you agree with the proposal not to provide a Right to Buy or Shared Ownership relief for the Land and Buildings Transaction Tax, on the basis that these reliefs are not needed in Scotland?

We have no comment on the removal of the Right to Buy relief and note that almost all RTB properties fall under existing thresholds anyway.

With Shared Ownership, similar to the comments raised in connection to 4.3 and Mid Market Rent above, we are under the impression that the change to the 20 year lease rule addresses this but we would urge the Scottish Government to consider the impact on all new emerging tenures.

### **QUESTION 6 – PROPOSED RELIEFS:**

Do you agree with the proposed list of reliefs? Please comment on any reliefs which you think should be abolished, amended or added and give reasons.

#### Reliefs proposed to be removed:

We note that the UK Government is discontinuing Disadvantaged Area Relief and First Time Buyers Relief.

Given the importance of First Time Buyers into the market, we would be supportive

of policies which remove barriers to home ownership for this group in Scotland. Relieving First Time Buyers from this duty is one way that the Scottish Government could positively use its powers to reduce the upfront costs of accessing home ownership and directly support this crucial group of buyers who already have to save large deposits before they can access mortgage finance to enable a home purchase. We acknowledge that the research into this relief when available across the UK suggested that it did not have a significant impact but we believe a specific relief, coupled with other initiatives the Scottish Government is supporting to encourage the recovery of this section of the market, would give a much needed boost to levels of confidence in buyers who *feel* they are locked out.

With the removal of Disadvantaged Area Relief we have some concerns about the impact on regeneration areas where private investment is essential. We note similar to the point regarding First Time Buyers that transactions are likely to be at a lower level and therefore consequentially benefit from a higher value starting point for SDLT. However we have noted with concern the removal of schemes to assist development of homes in these areas to the government already, such as the removal of GRO grant for private homes for sale. We have also passed on concern that the reduction in public subsidy for the delivery of affordable homes will disproportionately affect areas of regeneration where cross subsidy from private activity is limited. Without an alternative form of incentivisation for residential development (we note that business growth is encouraged by Enterprise Zones/Areas and Business Rates Incentivisation Scheme) we are therefore concerned that the removal of another form of financial incentive to buy land, build homes and market homes for sale would make many regeneration projects unviable. Although being attracted to the simplicity of following the UK policy on this matter, we suggest that the Scottish Government measure the impact on regeneration projects more carefully and would be happy to facilitate discussions with developers active in regeneration areas if that would be helpful.

Reliefs proposed to be retained:

Registered social landlord relief – in recognition of the variety of organisations that are now involved with delivering affordable housing, and gaining access to public funds to do so, this relief should be extended to include the purchase of any homes that are part-funded with public sector funding for the provision of affordable homes...i.e. 'Affordable Homes Relief'.

Zero Carbon Homes relief – in line with the comments made above about supporting government policy, this “temporary” relief should be amended to ensure the incentivisation of low carbon homes as a practical and achievable aim. This should be linked to the EPC rating. We would urge the Scottish Government to consider this in detail as part of their consultations on the Sustainable Housing Strategy and forthcoming review of 2013 Building Standards.

We would urge the Scottish Government to ensure the following reliefs are protected:

- Acquisition relief – to allow for land being transferred between companies in the same corporate group as part of reconstruction or acquisition
- Certain acquisitions by developers – to give relief to developers using part-exchange – this is absolutely essential as without this part-exchange schemes would be widely withdrawn throughout the industry to the significant detriment of the overall housing market (as well as Government tax revenues and the wider economy)
- Incorporation of limited liability partnerships (LLP) – to allow land to be transferred by a partner in an LLP to an LLP in connection with its



incorporation

- Multiple dwellings relief – to ensure that in bulk purchases the tax is charged on the average purchase price and not the combined total
- Complying with Planning Obligations – where a party is compelled by a Planning Authority to enter a transaction
- Subsale relief – where land/property is sold on before the contract completes and therefore avoids a double charge
- Sale and Lease back relief – where relief covers the leaseback element

**QUESTION 7 – RESIDENTIAL LEASES:**

Do you agree that residential leases of 20 years or less in length should be exempt from Land and Buildings Transaction Tax in Scotland and that no LBTT return should be required?

Yes.

**QUESTION 8 – CALCULATION OF TAX PAYMENTS FOR COMMERCIAL LEASES:**

What proposals would you make to ensure that the calculation of tax payments due on commercial leases is better aligned with Scots law and practices?

No comment

**QUESTION 9 – TARGETED ANTI-AVOIDANCE RULES:**

Do you agree that anti-avoidance measures as described in paragraphs 6.1 and 6.2 should be put in place for the Land and Buildings Transaction Tax, along the lines of those included in UK SDLT legislation?

Yes, it is important that anti-avoidance rules are in-line with the rest of the UK as proposed to ensure rules are consistent and understood. We do not want Scotland to be seen as somewhere more challenging to invest in with a high price to pay for legal/accountancy advice manoeuvring from investment across the border.

**QUESTION 10 – GENERAL ANTI-AVOIDANCE RULES:**

Do you think that a more general anti-avoidance rule should be put in place instead of or in addition to the proposed targeted anti-avoidance rules to help ensure that Land and Buildings Transaction Tax and other Scottish taxes due are paid?

We would like to see consistency with the UK and would not suggest any additional rules for Scotland alone.

**QUESTION 11 – ONLINE PAYMENTS:**

Do you agree that a new online system should be designed to allow for simultaneous submission of an LBTT return, payment of any tax due and registration of title to the land or property in the Land Register?

No comment.

**QUESTION 12 – COMPULSORY ONLINE PAYMENTS:**

Do you agree that all LBTT returns should be submitted online or should there be an opportunity to submit paper returns?

No comment.

**QUESTION 13 – LINKING TAX PAYMENT TO REGISTRATION OF TITLE:**

Do you agree that Land and Buildings Transaction Tax must be paid before title to the land or property can be registered in the Land Register or the Register of Sasines or before a document or deed is registered in the Books of Council and Session?

No comment.

**QUESTION 14 – PARTNERSHIPS AND TRUSTS:**

Do you agree that the Land and Buildings Transaction Tax (Scotland) Bill should be aligned to Scots Law and practices in respect of the treatment of Partnerships and Trusts? If so, what measures would you propose?

No comment.

**QUESTION 15 – BUSINESS AND REGULATORY IMPACT ASSESSMENT:**

Do you have any comments on the draft Business and Regulatory Impact Assessment?

No additional comments

**QUESTION 16 – EQUALITIES IMPACT ASSESSMENT:**

Do you have any comments on the draft Equalities Impact Assessment?

No additional comments

**QUESTION 17 – OTHER COMMENTS:**

Do you have any other comments in relation to legislation for the Land and Buildings Transaction Tax, which are not covered by your responses to any of the other questions listed above?

We note that the Scottish Government aim to make SDLT in Scotland revenue neutral from the income received through Barnett. The term 'Revenue neutral' raises a few questions?

- Will the costs of administering the scheme be taken into account before or after the revenue is calculated? i.e. assuming the collection of this tax will require new IT, admin and staff structures in Scotland...will more tax have to be raised to cover this? It is crucial that we avoid any additional tax burden on the public.
- What year will the revenue neutrality be based on? Obviously we would like this to be on a like for like basis given how much the market has changed recently.

Although agreeing with a progressive form of tax to avoid distorting the market beneath the existing slab values, and favouring a reduction in SDLT rates to assist the lower end of the market, we do also need to be aware of the impact that a higher tax could have on the attractiveness of the higher end of the market to investors. Also if the tax acts as a disincentive to high end investors will this push

investors into the lower end of the market thereby increasing pressure on affordability?

Continuing on the investment theme, we must point out our disappointment that a lower top rate for non-residential property than that for residential is being proposed to ensure that tax does not have a significant negative impact on Scottish businesses compared to those based in the UK. Although agreeing entirely with the objective, we are dismayed that the contribution that housing delivery makes to the Scottish economy has not been acknowledged within this proposal. Why should organisations investing in the delivery of much needed new homes while creating significant employment opportunities pay more?

It has been frustrating responding to a consultation on tax without being able to comment on the rates chargeable. We appreciate that these rates will not be set until a budgeting round nearer the time of implementation and trust that the Scottish Government will ensure another effective 'conversation' with those involved in land and home transactions in advance of rates being set. Homes for Scotland would certainly see these discussions as crucial and would be keen to be involved in examining the rates against our member's product range.

While encouraging further 'discussion' we must also raise concerns we have about the transition period and the impact that a change in property taxation can have on movement within the market. The home building industry and wider economy cannot afford for the housing market to stagnate while potential home buyers sit back and wait for stamp duty reforms to be rolled out. The timescale between any announcement and implementation must be kept to an absolute minimum.