CONSULTATION

on a

Proposal to return non-domestic rate setting to local authority control

This document is a formal consultation on the Member’s Bill proposed by Tommy Sheridan MSP to return Non-Domestic Rate (NDR) setting to local authority control.

The proposal is designed to return to democratically elected local authorities the power to set NDR in pursuit of greater local authority accountability and financial autonomy. Prior to 1989, Local Authorities (LAs) had responsibility for setting NDR as well as administering and collecting them. After the Abolition of Domestic Rates (Scotland) Act 1987 and subsequent connected legislation, control over the setting of NDR was removed from LAs and transferred to the Secretary of State, now Scottish Ministers. From a central:local funding balance of approximately 50:50, the balance has been reduced to nearer 80:20 with the loss of NDR control from LAs. This proposal gives effect to the primary recommendation of the 2001-02 Local Government Committee inquiry into local government finance which stated, “… the Committee RECOMMENDS the Scottish Executive to introduce legislation to return the non-domestic rate to local control at the earliest opportunity”. (Local Government Committee 6th Report 2002, Summary of Conclusions and Recommendations)

Unfortunately almost four years have elapsed since the Committee’s primary recommendations and the Executive has failed to bring forward appropriate legislation.

The proposal improves LA financial autonomy and thus democratic accountability. It also benefits cities like Glasgow who currently lose out from the nationally pooled system. Over the last 6 years 1990-2000 to 2004-2005, Glasgow’s net loss has amounted to £383 million (see Appendix A, letter from Glasgow City Council Financial Services Department – 18 January 2006).

You are invited to consider the merit of the proposal and answer the attached questions by **10 May 2006** and return them to:

Tommy Sheridan MSP - re Localisation of Non-Domestic Rate Consultation, Scottish Parliament, Edinburgh EH99 1SP

and/or by email to:

Tommy.sheridan.msp@scottish.parliament.uk

If you wish your response to be kept private, please indicate this clearly at the end of your response. Otherwise it will be assumed that your response can be made public.

Feel free to pass this consultation on to any other interested parties that you may be aware of.
Background

The legislation governing the rating and valuation system is contained within Lands Valuation (Scotland) Act 1854; Valuation and Rating (Scotland) Act 1956; Abolition of Domestic Rates Act 1987; Local Government Finance Act 1992 (part II, Non-Domestic Rating Account and part III, Non-Domestic Rating Contributions; Local Government etc (Scotland) Act 1994; and Local Government and Rating Act 1977.

Until 1989 the rating system was applicable to all relevant properties – domestic and non-domestic, and individual local authorities were responsible for levying rates in their own areas. The rating system underwent a radical change with the introduction of the Abolition of Domestic Rates (Scotland) Act 1987. This legislation resulted in the key change of abolishing domestic rates and their replacement with the Community Charge (poll tax) and therefore the removal of domestic properties from the valuation roll. In subsequent legislation, control over the setting of the level of business rates was removed in stages from local authorities and transferred to the Secretary of State and now Scottish Ministers.

The Local Government Finance Act 1992 and subsequent regulations established further central controls over the rating system and the introduction of national business rate poundage. Provisions were set out in the Act so that the yield derived from the non-domestic rates was pooled centrally into a non-domestic rating contribution account.

Reorganisation of the administrative structure overseeing the valuation and collection of non-domestic rates was introduced as part of the comprehensive reform of local government in Scotland by the Local Government etc (Scotland) Act 1994. The 1994 Act also gave the Secretary of State, now Scottish Ministers, additional powers to harmonise the non-domestic rates with England and Wales in terms of the rate poundage, valuation practises and also the introduction of the charging of rates on empty properties after three months.

Local Authorities are now responsible for administering and collecting the business rate (NDR) but Scottish Ministers are responsible for setting the rate poundage. The yields collected from non-domestic rates are "pooled nationally" and then redistributed amongst local authorities on a per capita basis.

Previous Inquiries into Non-Domestic Rates

The proposal to return non-domestic rate setting to local authority control is not only supported by the Local Government Committee 2001-02 Inquiry into Local Government Finance, it is also supported by the Convention of Scottish Local Authorities (evidence to LG&TC of 8 November 2005, pp. 3043 Official Report - Councillor Child of COSLA’s Finance Executive Group); the Scottish Trades Union Congress (evidence to LG&TC 2001-02 Inquiry into Local Government Finance) and the largest local authority trade union UNISON – source?)

Even at a Westminster level, however, the proposal to relocalise non-domestic rates has met with the approval of the House of Commons Environment, Transport and
Regional Affairs Committee inquiry into local government finance of May 1999 which stated:

“We recognise that the only practicable way to redress the balance is to return the National Non-Domestic Rate to the control of local authorities. We recognise the opposition to this move from businesses but believe it is to be the “least worst option”. Without such a reform, the Government’s other modernising reforms could be undermined. We therefore urge the Government to return the National Non-Domestic Rate wholly to local authority control with a corresponding adjustment to equalisation through the RSG to ensure that areas with low non-domestic rateable values are not disadvantaged.” (HC 78-11998-99 Environment, Transport and Regional Affairs Eighth Report, Recommendation 96)

Issues

Opponents of the proposal previously include the Confederation of British Industry (CBI) Scotland, the Federation of Small Businesses and the Forum of Private Business in Scotland (FPB). Their opposition converges around a number of points including worries that businesses would become “easy targets” for local authorities wishing to generate extra income at local elections (CBI Scotland response to the Commission on Local Government and the Scottish Parliament - May 1998); that rate levels would become unpredictable and increase business uncertainty (same source as before) and that non-domestic rates fall disproportionately on small businesses (The Forum of Private Business in Scotland (1999) Business Rates in Scotland: Initial Proposals – October 1999). These organisations also reject the contention that returning NDR to LA control would improve local democracy.

Although undoubtedly strengthening local government and improving local democracy, the proposal would require some Scottish Executive adjustments to local government financial support to ensure those authorities who lose financially from the proposal are protected from sudden losses through extra central funding or at least a transitional protection scheme. Those authorities who gain financially should not be penalised through loss of other financial support, but every local authority will have improved financial autonomy through return of the right to set locally appropriate non-domestic rate levels.

Costs

Given that LAs currently administer and collect NDR, allowing them to set and retain NDR will have no administrative cost implications for LAs. To ensure those LAs who are net gainers from the current nationally pooled system do not lose out, the Scottish Executive will be required to both increase and adjust its Grant Aid Expenditure levels. The total amount of NDR collected and nationally distributed in each of the last three financial years amounted to £1,804 million in 2003-04, £1,896 million 2004-05 and £2,009 million in 2005-06. LAs like Glasgow will rightly benefit from this proposal, but should not experience Executive “clawback” from the Aggregate External Finance (AEF) settlement in other areas.
Conclusion

The proposal under consideration would relocalise non-domestic rates. Local authorities would set non-domestic rate levels most appropriate to their local circumstances and spending plans, as well as administering and collecting them. This would be a clear improvement in local authority accountability, financial autonomy and thus strengthen local government.

TOMMY SHERIDAN MSP

24/01/2006

[questions overleaf]
QUESTIONS

Thank you for taking the time to consider and respond to this proposal. Your answers will assist in finalising my proposal:

1) What would the democratic benefits of this proposal be?

2) In what way would local authorities benefit from this proposal?

3) What would the effect be on businesses from this proposal?

4) What effect would this proposal have on local authority residents?

5) What would be the financial implications of this proposal?

6) Are there any equal opportunity implications that you believe arise from this proposal?