1 The Chartered Institute of Taxation (CIOT) is pleased to submit some comments on the Land and Buildings Transaction Tax Bands and Rates in response to the Finance Committee’s Call for Evidence. We have endeavoured to keep our submission short, in line with the Committee’s requirements; we would be pleased to amplify our points orally or in writing.

Introduction

2 The CIOT does not generally comment on the setting of rates of tax. Our response focuses on pointing out the likely effect of the proposed scenarios. We have of course seen the rate proposals in the recent draft Budget but will not be commenting directly on them.

3 In our view, the setting of tax rates and bands for Land and Buildings Transaction Tax (LBTT) should flow from policy decisions as to the aims of the Scottish Government and Parliament for LBTT. For example, if LBTT in respect of residential property is viewed as a wealth tax, the rates and bands would be rather different than if it is designed to raise money from all or almost all home buyers. Likewise, for non-residential property, the policy aims should affect the choice of rates and bands.

4 As the Finance Committee will be well aware, the announcement of the rates and bands may affect transaction chains in progress – causing some people to delay purchases and others to accelerate them. If there are significant differences between LBTT and Stamp Duty Land Tax (SDLT) liabilities on particular levels of purchases, there could be distortions in the property market in the coming months.

5 Inevitably property prices continue to rise. It will therefore be important for the Scottish Government to uprate the bands periodically, to ensure that they remain appropriate and are in line with policy objectives.

Comments

The threshold for the purchase price of the nil rate band for both residential and non-residential property

6 The Scottish Government should bear in mind various factors when setting the threshold of the nil rate band for residential property, including the policy aims. Scenario 1 has an effective low rate of 0%, with LBTT only applying to properties with a fairly high value. Under this scenario the burden of LBTT will fall on relatively few home buyers. The rates are fairly high once they start to apply. Scenario 2 would result in a much larger tax base, which may be preferable for
Government in terms of stability of revenues. A key factor is the average house price in Scotland (we understand that currently this is approximately £162,000.1)

**The rate for the other tax bands**

7 There should not be a significant leap in the rate of tax from band to band, and in particular from the nil rate band to the lowest rate of LBTT. In this respect, Scenario 2 is preferable to Scenario 1. Under Scenario 1, someone buying a property in the range of £210,000 to £250,000 would face a significantly higher tax bill than if SDLT applied. The LBTT charge under Scenario 1 would be higher than SDLT on properties over £300,000, but the differential is not so stark. There will inevitably be winners and losers, whatever is chosen, but we would question whether it is desirable to hit purchasers of properties that are not significantly above average in value, unless there is a specific policy aim to increase taxes on property for those in lower middle and middle income groups.

8 In respect of non-residential property, we think it would be sensible to start with a low, almost nominal rate, such as 1% – this would ensure that a small business would not be significantly affected by having to pay it.

**Whether there should be more or fewer bands and, if so, the rate for any additional tax bands**

9 In both Scenario 1 and 2 for residential property, there is a significant leap between rates of tax. In Scenario 1 this occurs between the nil rate threshold and the ‘low rate’; in Scenario 2 this occurs between the low rate and the high rate of LBTT. It may however be preferable to have one additional rate, for example rates of 2%, 6% and 10%.

10 It is noticeable that both Scenario 1 and 2 are only progressive up to a point: Scenario 1 lumps a property of say £200,000 with a property of £1.4 million, while under Scenario 2, a property of £255,000 is effectively grouped with properties of £5 million. This is another argument in favour of an additional band, which would allow a further degree of progression and differentiation.

11 We acknowledge that the nature of LBTT softens the impact of these steep changes in rate, since it is only the amount of consideration that falls within a particular band that stands to be charged at the applicable rate. In addition, a nil rate band plus two tax bands has the advantage of relative simplicity.

**Whether the rates and bands should be set so that the impact of replacing Stamp Duty Land Tax with LBTT is broadly financially neutral**

12 We think that this is a matter for those taking policy decisions about LBTT.

**The Scottish Government’s proposal to include a lower top rate for non-residential property than for residential property**

13 As with residential property, decisions about the rates and bands for non-residential property need to be made while bearing policy aims in mind: these will

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often be different for residential and non-residential properties. In order to encourage small businesses, it may be necessary to set low rates.

14 With that in mind, we think it is reasonable to set a lower top rate for non-residential property than for residential property. An issue to be aware of here is that setting a lower rate may create an incentive for avoidance activity – to buy non-residential property and convert it to residential, but we think that there are sufficient deterrents in the LBTT legislation to counter such attempts.2

**The likely impact on the property market and wider economy**

15 We are not economists nor experts on the property market and offer no comment. We suggest that a full impact assessment is carried out to assess the effect of LBTT on housing, if this has not been done.

**The Chartered Institute of Taxation**

The Chartered Institute of Taxation (CIOT) is the leading professional body in the United Kingdom concerned solely with taxation. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. The CIOT’s work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries. The CIOT’s comments and recommendations on tax issues are made in line with our charitable objectives: we are politically neutral in our work.

The CIOT’s 17,000 members have the practising title of ‘Chartered Tax Adviser’ and the designatory letters ‘CTA’, to represent the leading tax qualification.

**The Chartered Institute of Taxation**

24 October 2014

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2 We also note that in certain circumstances, buying commercial to convert to residential may be welcome, for example if there are redundant town centre offices without air-conditioning and ducting for cables, and / or a housing shortage.