Pinsent Masons LLP are a multi-national law firm with three offices in Scotland advising national and international clients with property interests in Scotland. We have extensive experience of acting for landowners, developers, investors and funders. We advise both the public and private sectors.

GENERAL COMMENTS

1. We support the principle of the progressive nature of the tax.

LIKELY IMPACT OF PROPOSED LBTT ON RESIDENTIAL PROPERTY TRANSACTIONS

2. LBTT for residential property at the rates proposed by the Scottish Government on 9 October 2014 will be more than SDLT for homes over approximately £325,000. This means that family homes, particularly those in larger cities such as Edinburgh and Aberdeen, will pay more tax, in some cases substantially more.

This may have the effect of creating a slow down in the residential property market for homes over £325,000 which will have a knock on effect further down the housing ladder.

Residential property developers are concerned about the impact the introduction of LBTT could have on the market. Any slow down in the fragile recovery of the residential property market would have knock on effects on the construction sector and the wider economy.

One solution could be to create a further level of grading within the bands so that transactions over £250,000 and up to say £500,000/600,000 are taxed at a level which is more than 2% but lower than the currently anticipated 10%. This would mitigate the impact of the introduction of LBTT on those buying family homes in areas where property prices are high due to high demand.

LIKELY IMPACT OF PROPOSED LBTT ON COMMERCIAL PROPERTY TRANSACTIONS

3. LBTT for commercial property at the rates proposed by the Scottish Government on 9 October will be more than SDLT for purchases over approximately £2.125 million. This means that most institutional investors (such as pension funds) buying commercial property in Scotland will face higher transaction costs than on the purchase of comparable property elsewhere in the UK. The potential consequence of this is that institutional investors will opt to invest their funds in the lower tax environment elsewhere in the UK.

This could have a significant negative impact on commercial development of new offices, retail and industrial properties in Scotland which rely on this
institutional investment for funding to make the developments viable in the first place. This will in turn have a negative effect on the construction industry and the wider economy and make Scotland a less attractive place for inward investment.

Institutional investors typically measure their transactional costs as an overall percentage of purchase costs, and a large element of that is SDLT. An additional 0.5% on acquisition costs due to the higher level of LBTT compared to SDLT will broadly equate to an extra 10% on acquisition costs, which could alter their view on whether they are prepared to invest in Scotland. Fund managers and pension fund investors obviously look to control their transactional costs, and we could find that Scotland, due to the higher costs of effecting investment acquisitions resulting from the LBTT rates, becomes a less attractive place for institutional property purchasers such as pension funds compared to England.

Pinsent Masons LLP

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