Dear Mr Gibson

DRAFT BUDGET 2016-17 – REVENUE SCOTLAND RESPONSE TO 2ND REPORT 2016 (SESSION 4) OF THE FINANCE COMMITTEE.

Thank you for your letter of 3 February inviting Revenue Scotland’s (RS) response to the Committee’s Report on the Draft Budget 2016-17. I am grateful for this opportunity to respond to the points raised with the Committee.

1. LBTT Forms and Online Service

1.1 I note the positive feedback provided by respondents in respect of our online service and Land and Buildings Transaction Tax (LBTT) forms which we are pleased to see very much reflects the feedback we have received directly from our stakeholders. The Committee is aware that we have tried to work openly and collaboratively, engaging with taxpayers and agents since the early planning for Revenue Scotland. Continuing this approach in live operation is essential to ensure that our systems, guidance and wider services are as effective and convenient to use as possible. I am pleased to see users report that they find our online system easy to use and this is borne out by the fact that 98 per cent of LBTT returns were submitted successfully online between April and December 2015. The Committee may be interested to know that we recently passed a notable milestone when we received our 100,000th LBTT return.

2. Tax payments

2.1 We received over 90,000 returns between April and December 2015 and collected over £315m of LBTT. Formal debt recovery using Sherriff Officers has only been necessary in one case to date. To allow agents and taxpayers to familiarise themselves with the new tax system we did not charge penalties for late returns or late payments during our first 6 months of operation. We have however been charging penalties for late filed returns and late paid tax where the failure continued or first occurred on or after 1 October 2015. To date we have issued over 500 penalty notices amounting to total penalties of just over £51k.
2.2 I note the suggestion by one respondent that a breach of payment deadlines should be referred to the agent’s firm’s LBTT administrator. We would do so in cases where an agent repeatedly failed to pay the tax within the time allowed or where returns were repeatedly filed late with no reasonable excuse given. In general, we believe that the penalty and interest provisions provide a suitable and effective deterrent.

3. Contacting Revenue Scotland by telephone

3.1 Taxpayers and agents continue to contact us by all the available channels; telephone, email and letter. Our telephone support desk, which provides basic technical support, help with IT problems and help on submission of returns, took almost 6,000 calls between April and December 2015 and the median waiting time during this period was 7 seconds with the mean waiting time approximately 10 seconds. Fewer than 2 per cent of calls were abandoned during this period and the median waiting time for abandoned calls was 3 seconds with the mean waiting time approximately 17 seconds: indicating that waiting times are not driving abandoned calls.

3.2 While we believe our telephone support service is operating well, we will continue to monitor call handling performance carefully. We will also seek further opportunities to communicate with stakeholders on the most appropriate communication route depending on the nature and complexity of the enquiry.

4. Contacting Revenue Scotland by email

4.1 Our Support Desk is unable to deal with more complex technical enquiries and we ask for these to be put in writing and sent to our LBTT Mailbox. We aim to reply to general email enquiries as quickly as possible. Between April and December 2015 we responded to 97 per cent of email enquiries within 10 working days and took more than 25 working days to respond in only 5 cases. Where we cannot give the substantive response within 25 working days we inform the enquirer of the reason for this and provide them with an estimate of when we will be able to respond.

4.2 We offer a secure email facility to agents who have registered to use our online portal. Emails sent via this facility do not leave our server and are therefore much safer than emails sent via an external Internet service provider. This service has not been used by agents as much as we had expected and we have therefore been demonstrating and promoting it at our recent roadshows to raise awareness and encourage take-up. We believe it is the quickest, most convenient and most secure way of sending taxpayer specific information to us.

4.3 The point made to the Committee about referring taxpayers and agents to legislation as well as to Revenue Scotland guidance is one we had already picked up in other feedback. We have started to respond to technical queries by referring to the legislation as well as the guidance. We find this to be more effective and it results in fewer follow-up questions.

5. Contacting Revenue Scotland by post (including opinions)

5.1 Most communications that we receive are submitted digitally. The letters we receive by post generally raise more complex questions and may include formal opinion requests. Between April and December 2015, we received 84 communications by post and responded to 61 within 10 days with only 6 taking more than 25 days. We believe this strikes the right balance between allowing time to review the material provided properly, and respond appropriately, while ensuring adequate response times.
5.2 Along with general written communications, we offer a formal opinions service where there is genuine uncertainty about the application of the devolved tax legislation to the facts of a specific transaction. Provided the information supplied by the agent or taxpayer is accurate and complete, and the proposed transaction is carried out exactly as described, taxpayers can rely on the opinion that we give. No such reliance can be put on any informal discussions of complex or unclear transactions. and for this reason we are unable to enter into such discussions. We will, however, always try and direct the enquirer to guidance and legislation that may assist them to come to their own conclusion and it is also open to them to request an opinion if, having considered the relevant guidance they have not been able to find the information they need, or they remain uncertain about our interpretation of any part of the devolved tax legislation.

5.3 Our target is to respond to opinion requests within 25 working days and I note that some respondents to the Committee’s call for evidence would like to see the turnaround time for our opinions service taking less than this. We understand the nature of LBTT and the short timescale which is often in place for opinion requests. If a quick response is genuinely needed, we do the best we possibly can to meet this.

5.4 Although we will respond more quickly than 25 working days whenever we can, I do not believe we can shorten the target time. Opinion requests are submitted in the most complex areas, where experienced professional advisors have identified uncertainties in application of relatively new legislation to complex facts. They often concern substantial property transactions which may have taken weeks or months of work to set up. The flow of opinion requests is unpredictable, so at times we may receive several requests at once. Given our current resources and experience of demand, I think the 25 working day target is realistic but we will keep this under review.

5.5 Before an opinion request can be considered, the taxpayer or agent acting on his or her behalf must provide the information listed in the opinions checklist we provide on our website. We cannot do any meaningful work on an opinion request until we have the full information required, so the 25 working day clock starts when we get the complete request. Early experience of opinions work has shown that the most common reason for delays in receiving an opinion from us is that essential information is missing. We have taken steps to ensure that we review the information provided as quickly as possible when we receive requests for opinions, so that we can highlight any gaps quickly and ask the submitter to provide the missing information.

5.6 In order to help make it as easy as possible to provide all the necessary information, we have developed a draft opinion template which we showed to attendees at our recent roadshows. We have received very positive feedback and are therefore currently finalising the template, which will be downloadable from our website. We are also continuing to take feedback from solicitors on the way our opinions service works so that we can identify any further ways to improve it.

6. Guidance

6.1 A range of experienced agents and taxpayers provided comments which helped ensure our draft guidance was as useful as possible before it was finalised and published in February. Inevitably, now that the guidance is in use, there are areas that are being highlighted where the guidance could be improved and we are committed to working with professional bodies, agents and taxpayers to develop the guidance further. We seek feedback on the guidance through our LBTT and SLfT forums and through our website, and we will be seeking feedback on the guidance as part of our annual reporting, in line with the performance framework in our Corporate Plan.
6.2 We are aware from the feedback received to date that there are a number of more complex technical areas for which agents would like further guidance – leasing being a key one for many of those who have given feedback. We recently added six worked examples to illustrate how the transitional provisions apply to commercial leases and we are currently finalising further worked examples to add to our website guidance. Stakeholders have told us that they find worked examples most useful and we will continue to encourage them to tell us where these are needed and to update and improve our guidance.

6.3 Every page of our web-based legislative guidance has the latest date of publication noted at the bottom and it is also possible to access previous versions of the same guidance. In response to feedback received at our roadshows we have recently added a ‘LBTT Updates’ area to our LBTT web pages so we can highlight when changes or additions are made to our legislative guidance or to the legislation itself. We have also introduced an email notification of updates service for those who have provided us with a valid work contact address.

6.4 We do have regard to what HMRC has said in its guidance where our legislative provisions are similar. We cannot however give any assurances that Revenue Scotland will always take the same line as HMRC because, for example, even where provisions are similar, they may not be exactly the same and the context, in particular, Scots property law, may be different. We understand the desire for the same application on either side of the border but LBTT is not SDLT, so the two taxes, and the application of them, will never be exactly the same.

6.5 The three-year lease review provided for in the LBTT legislation is one of the ways in which LBTT differs from SDLT. The first reviews will be due in April 2018 and although the responsibility for submitting updates rests with taxpayers, we will look at how we might be able to make this as easy as possible for them. We have designed our systems so that we will be able to identify lease transactions coming up for review quickly and easily. Some agents have assumed that we will have a special version of the return form for the three year review. We have not yet decided whether the existing return form is sufficient for three year reviews or a special version of the return form will be created for such reviews. We do not underestimate the importance and potential complexity of the process involved and we will consult stakeholders in order to design and put in place arrangements for these reviews in good time.

7. Roadshows and Forums

7.1 A number of respondents have commented favourably to you on the LBTT Forum and the roadshows around Scotland and we note that CIOT would like to see these extended to further locations. We are pleased to be able to report to the Committee that this is something we are already doing. During January we held roadshows in Glasgow, Dundee, Dumfries and Inverness which attracted over 220 attendees in total. In February we held a roadshow in Greenock and we are currently taking bookings for further roadshows in March in both Edinburgh and Aberdeen and for a Webinar, all of which are free to join. Further details and a booking facility for all our events are available from the ‘Events’ area of our website. We are actively looking at other possible locations for future roadshows and have been liaising with faculties of the Law Society of Scotland in order to identify and arrange these. We recognise however that not all our stakeholders will be able to attend these so we intend to make more use of Webinars and make recordings of these available via our website.

8. Feedback to Revenue Scotland

8.1 I note that one respondent commented that they do not feel able to criticise Revenue Scotland because they need an on-going relationship with us. I am disappointed that anyone would have that impression, and it is contrary to the principles of our Charter of
Standards and Values. We are keen to work with all taxpayers, agents and professional bodies to improve our services. I would be very grateful if the Committee would continue to reinforce the importance of taxpayers and agents providing feedback to ensure we are aware of areas where we can improve.

9. Conclusion

9.1 I hope that this response is helpful to the Committee, and would be happy to provide any more information the Committee may need.

Yours sincerely,

Eleanor Emberson