FINANCE COMMITTEE
DRAFT BUDGET 2015-16
SUBMISSION FROM THE SCOTTISH BUILDING FEDERATION

Background

From April 2015, under the terms of the Scotland Act 2012, control of Stamp Duty Land Tax (SDLT) will be devolved to Scotland.

The Land and Buildings Transaction Tax (Scotland) Act has already been adopted by the Scottish Parliament and provides for a proportional progressive tax structure for both residential and non-residential property transactions, replacing the existing ‘slab’ structure of SDLT.

The Scottish Building Federation has previously submitted evidence to the Scottish Parliament supporting in principle the proposed transition from a slab system to a progressive system on the basis that this would remove existing distortions in the property market.

An overwhelming majority (88%) of SBF members responding to a recent survey confirmed that they supported the transition from a slab system under SDLT to a progressive system under LBTT.

Finance Committee Call for Evidence

The Scottish Parliament’s Finance Committee has issued a call for evidence on Land and Buildings Transaction Tax as part of its strategic scrutiny of the 2015-16 Scottish Budget. The call for evidence asks for views on the following issues:

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

The zero rate threshold has been raised from £125,000 under SDLT to £135,000 under LBTT, taking those transactions valued between these rates out of paying transaction tax. Conversely, the new marginal rates for properties valued above £250,000 mean that any residential property valued at more than £325,000 will pay more under LBTT than under SDLT. The zero banding for non-residential properties remains unchanged.

75% of SBF members responding to a recent survey said they thought a larger percentage of property transactions should qualify for a zero rate under LBTT compared to SDLT.
Comments from individual members also suggest that the raising of the zero rate threshold could have a positive impact on the construction industry, in particular by stimulating activity in the affordable housing sector. At the same time, there were concerns that significantly higher rates of taxation on higher value properties could have a negative impact on what continues to be a relatively fragile market. Members also indicated that they would be keen to see an additional stimulus to the market as part of the transition from SDLT to LBTT.

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

It should be borne in mind that increasing the number of bands will inevitably lead to increased complexity in the LBTT system. At the same time, there may be merit in examining the need for additional tax bands around those property values representing the highest proportion of transactions by value. In particular, in the case of non-residential properties, there may be a case for introducing additional tax bands for properties above the £2 million threshold, since this is where around 75% of total transactions by value are grouped.

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

With the transfer of control of this tax to the Scottish Government, it is assumed that the overall block grant allocated to Scotland would be reduced correspondingly based on current average annual receipts from SDLT. These have apparently been quite volatile in recent years, implying that this calculation could be potentially difficult to make. Given the corresponding reduction in block grant, any move away from a broadly financially neutral approach would have knock-on impacts on other areas of Scottish Government expenditure. Within the envelope of a financially neutral approach, there is scope to consider the extent to which the overall burden of taxation should be shifted between property transactions of a higher or lower value as well as the balance to be struck in overall tax burden between residential and non-residential property transactions.

A majority (56%) of SBF members responding to our survey said they agreed that the impact of replacing SDLT with LBTT should be broadly financially neutral.

At the same time, 63% of respondents indicated that higher value property transactions should bear a larger share of the overall tax burden under LBTT compared to SDLT.
Feedback in relation to the balance in overall tax burden between residential and non-residential property transactions indicates there is stronger support for a financially neutral approach with respect to non-residential property transactions than for residential property transactions.

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

Analysis shows that the new rates proposed for LBTT will mean that non-residential property transactions valued below £1.75 million will pay less in transaction tax under LBTT than under SDLT. Transactions valued at £2 million or above start to pay more under LBTT than under SDLT albeit the marginal differential between the two is relatively modest, even for much larger transactions. Nonetheless, given the still fragile state of the commercial property market and the relative importance of this sector to the construction industry (the value of private commercial construction activity over the 12 months to March 2014 was £2.2 billion compared to £1.7 billion of output from the house-building sector over that same period), it would be sensible to consider whether the increase in taxation on larger transactions, however marginal this may be, is desirable. This is particularly pertinent given that around 75% of non-residential property transactions by value are above the £2 million threshold. Additionally, there is a legitimate argument for the overall tax burden on non-residential property transactions to be reduced compared to SDLT in order to provide an additional stimulus to the economically important commercial property sector.

50% of respondents said the tax burden on residential property transactions should remain the same overall under LBTT compared to SDLT compared to 44% who said the overall tax burden on this category of transactions should be lower.

A comparatively larger percentage (63%) said the tax burden on non-residential property transactions should remain the same under LBTT compared to SDLT compared to 32% who said it should be lower.

The likely impact on the property market and wider economy

The transition to a progressive system of taxation of property transactions will undoubtedly have a positive impact on the property market and the wider economy by eliminating current distortions in the market, caused by the existing slab structure of SDLT. The introduction of LBTT could also give a further boost to the commercial property sector if the banding were to be restructured in such a way that the overall tax burden was reduced. However, to maintain the principle of broad financial neutrality, this would imply a corresponding increase in the tax burden on residential property transactions, which may be considered undesirable.
Responding to a recent survey, a greater percentage of SBF members (25%) said they thought the transition to LBTT would have a negative impact on the property market than those who said it would have a positive effect (19%). However, an even larger percentage of respondents (38%) indicated that they remain unsure what the impact will be.

Conclusion

SBF remains broadly supportive of the transition from SDLT to LBTT and believes the introduction of a progressive tax structure will have a positive impact on the property market by removing distortions imposed by the existing slab structure under SDLT.

As a general principle, there is a majority view within the SBF membership in favour of the impact of replacing SDLT with LBTT being broadly financially neutral.

SBF members are supportive of the raising of the zero rate threshold and believe this could boost the construction industry, in particular by stimulating affordable housing. Although there is support for higher value transactions bearing a larger share of the overall tax burden under LBTT, there are outstanding concerns about the substantially higher levels of taxation to be levied on higher value residential property transactions (i.e. £350,000 or higher) due to the rates and bands now proposed by the Scottish Government. There may be merit in particular in looking again at the impact this is likely to have on property transactions valued up to £500,000.

SBF would also like to see additional measures taken as part of the transition from SDLT to LBTT to stimulate non-residential property transactions given the relative importance of the private commercial sector to the construction industry and the wider economy. With 75% of non-residential property transactions valued above £2 million, there is concern that these transactions will pay more under LBTT than under SDLT, albeit the difference is marginal relative to the overall value of the transaction.