**Introduction**

1.1 The Scottish Government’s Finance Committee has issued a Call for Evidence into the operation of the Land and Building Transaction Tax (LBTT) after its first year of operation. The LBTT was introduced in April 2015.

**Call for evidence**

2.1 The Scottish Government’s Finance Committee is interested in hearing views on the first full year’s operation of LBTT. In particular, the Committee would be interested in hearing views in respect of the following issues—

2.1.1 The impact on both the residential and commercial property market of the various rates and bands.
2.1.2 The extent to which the rates and bands are consistent with the principles of “fairness, equity and the ability to pay”
2.1.3 The level of receipts for residential and non-residential transactions in relation to the forecasts;
2.1.4 The impact of forestalling and whether it is likely to have a short-term impact only or lead to longer-term changes in the market;
2.1.5 Whether there should be any changes to the rates and bands in the draft budget for 2017-18;
2.1.6 The performance of Revenue Scotland in administering and collecting the tax.

2.2 Responses to the Call for Evidence are to be submitted by 26th August 2016.

**Background**

3.1 The Council has no operational locus on the levying, billing or collection of the LBTT. The impact of LBTT is felt by the Council directly where it is buying properties and indirectly through the impact it has on the property market within North Lanarkshire.

**Response to Call for Evidence**

4.1 The proposed responses to the questions raised in the Call for Evidence are contained in appendix 1.

4.2

4.3

**Recommendation**

5.1 Note the response submitted
Head of Revenue & e-Government Solutions

Mr. Brian Cook, Head of Revenue & e-Government Solutions
Q1 The impact on both the residential and commercial property market of the various rates and bands.
A The application of LBTT in the initial year is substantially the same as the previous stamp duty scheme and the Council has not noticed any significant change in it’s exposure to the property market.

Q2 The extent to which the rates and bands are consistent with the principles of “fairness, equity and the ability to pay”
A It is noticeable that both Residential and Non-domestic are benefitting from a 0% rate for properties in the range 0-£145,000 / £150,000 respectively. Thereafter there is a significant additional burden on residential in terms of the rate of LBTT applied with properties in the £250,000 - £325,000 bearing 5% LBTT if residential but only 3% if non-domestic. Unclear why the perception / expectation that individuals are able to bear a higher rate. The weighting borne be residential increase with a top rate of 12% compared to 4.5% if non-domestic, some 2.66 times greater rate of LBTT for residential. It is unclear the rationale for the presumption that individuals are equitably treated when there is such a large disparity in rates.

The outcome is that an individual buying a residential property in the top band i.e. £751,000 would pay LBTT of £48,470. A purchase of a non-domestic property of the same value would bear an LBTT of £24,045. The residential buyer will be paying over two times the LBTT of a non-domestic buyer for the same value of property.

To assist Councils and other Social Landlords the Scottish Government should extend the exemption criteria in Schedule 6 to include LAs / Other Social Landlords. This would complement other Scottish Government policies of increasing affordable housing supply.

Q3 The level of receipts for residential and non-residential transactions in relation to the forecasts;
A Detailed below is the projections of income from LBTT for 2015/16 and the actual collections as per Revenue Scotland. Clearly there is a significant disparity in the actual yield in comparison to the projections ranging from -14% to +47%. Clearly there needs to be an improvement in the methodology applied in the projections / statistical analysis to provide the Scottish Government with a more realistic projection of the tax raising opportunity from LBTT.

<table>
<thead>
<tr>
<th></th>
<th>Projections</th>
<th>Actual</th>
<th>%</th>
<th>£</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>£235,000,000</td>
<td>£201,900,000</td>
<td>85.9%</td>
<td>(£33,100,000)</td>
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<tr>
<td>Non Domestic</td>
<td>£146,000,000</td>
<td>£214,300,000</td>
<td>146.8%</td>
<td>£68,300,000</td>
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<tr>
<td><strong>TOTAL</strong></td>
<td><strong>£381,000,000</strong></td>
<td><strong>£416,200,000</strong></td>
<td><strong>109.2%</strong></td>
<td><strong>£35,200,000</strong></td>
</tr>
</tbody>
</table>

Q4 The impact of forestalling and whether it is likely to have a short-term impact only or lead to longer-term changes in the market;
A In respect of the Additional Dwelling Supplement (ADS) this may be a prompter to behavioral change to avoid paying the ADS i.e. sell before you buy or ensure sell and buy on the same day. Presumably the intent of ADS is to tax multiple ownerships e.g. buy to let
etc., rather than penalize those who own for relatively short periods of time. The government should consider exempting short dual ownerships (one week / one month etc.).

Q5 Whether there should be any changes to the rates and bands in the draft budget for 2017-18;

A Following on from Q2 would suggest that an increase in the number of bandings are needed for non-domestic, there are 5 bands for residential but only 3 for non-domestic. In addition the highest rate should be raised for non-domestic as the top rate of 4.5% is significantly lower than the 12% borne by residential. This would move towards addressing the imbalance of the LBTT being borne by residential buyers who bear a greater burden of LBTT when purchasing any property of similar value to a non-domestic except when the purchasing a property between the values of £160,000 - £295,000. Residential buyers also start bearing LBTT at a lower value £145,000.

Q6 The performance of Revenue Scotland in administering and collecting the tax.

A Given the obligation is on the selling agent / lawyer to collect and pay over the self-reporting tax liability due the collection performance is more a measure of the remittance performance of those agent / lawyers rather than the collection by Revenue Scotland.