Introduction

Revenue Scotland welcomes the opportunity to contribute to the Finance Committee’s inquiry considering Land and Buildings Transaction Tax (LBTT) in 2015-16, its first full year of operation.

Revenue Scotland

Revenue Scotland is the tax authority responsible for the collection and management of Land and Buildings Transaction Tax (LBTT) and Scottish Landfill Tax (SLfT). These taxes came into effect on 1 April 2015, replacing their UK equivalents (Stamp Duty Land Tax and UK Landfill Tax respectively). Revenue Scotland will also be responsible for the collection and management of Scotland’s third devolved tax, Air Passenger Duty, from 1 April 2018.

Revenue Scotland was established by the Revenue Scotland and Tax Powers Act 2014 (RSTPA 2014) as a Non-Ministerial Department (NMD) on 1 January 2015. As an NMD, governed by a Board, Revenue Scotland is part of the Scottish Administration, accountable to Parliament to ensure that the collection and management of the devolved taxes is independent, fair and impartial.

In addition to taking a collaborative approach to stakeholder engagement, the Scottish approach to taxation is founded on four principles – certainty, convenience, efficiency and taxes proportionate to the ability to pay – first articulated in the 18th century by Adam Smith in his book ‘An Inquiry into the Nature and Causes of the Wealth of Nations’\(^1\). These four principles – applied in a modern Scottish policy and legal framework to a 21st century tax system in the digital age – underpin all that Revenue Scotland does. The principles are integral to Revenue Scotland’s Corporate Plan\(^2\) and central to its purpose, strategic objectives, operational approach and measures of performance and success.

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Revenue Scotland’s Tax Collection

Revenue Scotland has collected £425 million of LBTT from land transactions for 2015-16. This figure is the aggregate of £208 million of LBTT from acquisitions of residential property and £217 million of LBTT from non-residential property transactions including leases.

In accordance with the Scottish Government’s ‘digital first’ approach, Revenue Scotland encourages taxpayers and their agents to make use of the online SETS (Scottish Electronic Tax System) platform as it is the easiest and most convenient method available to make returns.

In the first year, taxpayers and their agents made over 115,000 LBTT returns to Revenue Scotland. Of this total, over 98% were made using Revenue Scotland’s online tax collection system, SETS. Prior to the introduction of LBTT it was anticipated that around 90% of LBTT returns would be submitted online, based on the proportion of returns made online for the equivalent UK tax, Stamp Duty Land Tax.

When the SETS platform was being developed, Revenue Scotland worked closely with stakeholders to ensure that the platform was tested by users. This feedback improved the functionality of the platform that was delivered for the introduction of LBTT on 1 April 2015 and led to increasing confidence amongst agents and taxpayers in utilising it to make LBTT returns. In our view, the user acceptance testing, seminars and roadshows with the legal profession prior to and since the introduction of LBTT have contributed to the very high proportion of returns made online.

Since it was made available to users, the SETS platform has proved to be stable and secure. In the first year of operation, it was available online for 99.97% of the time. We observed 1 hour and 10 minutes of unplanned outage time over the entire year.

The SETS platform combines strong passwords with multifactor logon security (much like the authentication key used by online banking sites) to ensure that the data held on the system is protected. In the first year of operation, we experienced no security breaches in SETS.

Indeed, Revenue Scotland has experienced no security breaches arising from the unintentional release of confidential or personal information to unauthorised persons through accidental or deliberate disclosure, loss or theft of the information, as defined in Revenue Scotland’s Security Breach and Incident Management Policy.

Around 93% of LBTT payments were received on time during the financial year. Where payments are not received on time, Revenue Scotland staff initially contact agents and taxpayers to expedite settlement. Where necessary, Revenue Scotland uses the powers provided in the RSTPA 2014 to take more formal action to recover the outstanding debt.

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3 This figure, which is subject to audit, includes a relatively small amount of tax paid after the financial year end relating to land transactions that took place in 2015-16.
a result, a total of 99.8% of all expected LBTT payments were received for the financial year 2015-16.

To ensure that taxpayers and their agents who do not have access to the online SETS platform are able to make returns, taxpayers have the option to post a paper return. Using the power available in section 4(1)(a) of the RSTPA 2014, Revenue Scotland has delegated to Registers of Scotland the processing of all LBTT returns and amendments made in paper form and the processing of all LBTT cheque payments received by post or hand delivered. During 2015-16, Registers of Scotland processed around 2,200 paper returns on behalf of Revenue Scotland. We continue to work with stakeholders to encourage greater use of our online system to eventually move to a fully online service.

**Tax management and compliance**

Parts 6 to 11 of the RSTPA 2014 set out powers that enable Revenue Scotland to carry out a range of tax management and compliance activities to protect the revenue. These Parts of the Act make provision for Revenue Scotland assessments, investigatory powers, the issue and collection of penalties and interest, enforcement powers and the review and appeal of Revenue Scotland decisions.

When tax returns are submitted, Revenue Scotland carries out an initial compliance assessment and contacts taxpayer’ agents when returns have been found to include inaccuracies. The information in the return is then amended by taxpayers’ agents or corrected by Revenue Scotland. In some cases, this has involved amending or correcting the amount of tax that is chargeable for the land transaction.

Stamp Duty Land Tax, the UK-wide tax that LBTT replaced in Scotland on 1 April 2015, was in operation in Scotland for over a decade and practices had become well established and understood during that time. Although LBTT is broadly similar in nature to Stamp Duty Land Tax, the introduction of LBTT created a range of significant changes and challenges for taxpayers and their agents, including a new legislative framework, different tax rates and bands, new guidance, a new online system for making returns and new payment processes. In recognition of this complexity and to assist taxpayers and their agents with the transition to LBTT from Stamp Duty Land Tax, Revenue Scotland did not raise penalties or charge interest for late registrations, late returns and late payments for the first six months of the operation of LBTT and, indeed, SLfT.

In 2015-16, a total of £450,000 of LBTT was secured through Revenue Scotland’s compliance activities, ranging from early interventions through to formal tax enquiries. This figure includes tax paid following the application of Revenue Scotland opinions where the liabilities declared were greater than the amount of tax originally proposed by the taxpayer or agent. Of the £145,000 worth of penalties and interest charged between October 2015 and end March 2016, a total of £58,268 was paid by the year end. Penalties and interest totalling a further £166,000 had been identified at the year end, making the total chargeable for the financial year to £311,000.
Revenue Scotland’s engagement with taxpayers and their agents

LBTT is a self-assessed tax and it is the responsibility of the taxpayer to complete and submit an LBTT return and pay any tax due. Revenue Scotland undertakes a range of activities to help taxpayers and their agents make LBTT returns and payments on time.

The Revenue Scotland website provides extensive guidance, including worked examples, on the application of LBTT legislation. The guidance is regularly reviewed in light of user feedback which can be provided through the website itself. The Support Desk provides a first point of contact for assistance with registration and access to SETS and general queries about guidance. Over the course of the year, the Support Desk received nearly 8,000 calls and the average waiting time was around 10 seconds.

Where a taxpayer or an agent has a technical query about the application of LBTT legislation or guidance, they can send an email to the LBTT mailbox, or write to us requesting a Revenue Scotland opinion. During 2015-16, Revenue Scotland provided 38 opinions on the tax consequences of specific transactions and responded to 1,931 items of taxpayer-initiated written communication, 95.6% (1,846) of which were answered within 10 days. Revenue Scotland publishes information on each of its Key Performance Indicators on a quarterly basis.5

Since early 2015, Revenue Scotland has held roadshow events and webinars for taxpayers’ agents across Scotland. The events have included demonstrations of the SETS platform and provided an opportunity to those making LBTT returns to have their queries addressed. Revenue Scotland has continued to adopt an inclusive and transparent approach to its communications and engagement activities. This approach has been welcomed by stakeholders.

The Devolved Tax Collaborative (DTC), a forum for taxpayers, agents, academics and representative groups with an interest in the development of devolved taxes, was established in 2013 by the Scottish Government. Building on the success of the DTC, Revenue Scotland established tax-specific forums to discuss emerging tax issues and forthcoming changes. Regular meetings have also been held with a number of membership bodies such as the Law Society of Scotland, Chartered Institute of Taxation and the Institute of Chartered Accountants in Scotland, either on request from the membership body or by Revenue Scotland.

The Revenue Scotland website (www.revenue.scot) hosts information and news about the devolved taxes, including tax calculators and other materials taxpayers and their agents need to comply with the taxes such as legislative and ‘how to’ guidance. It also provides a gateway to the SETS platform. Our mailing lists and Twitter account signpost followers to updates on the website and YouTube videos. Revenue Scotland has also made use of the publications of professional bodies such as the Law Society Journal and stakeholders’ internal communication channels to raise awareness of tax-related issues such as the introduction of the LBTT Additional Dwelling Supplement on 1 April 2016.

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5 Revenue Scotland Key Performance Indicators, published quarterly, available at: https://www.revenue.scot/about-us/publications/key-performance-indicators
LBTT Additional Dwelling Supplement

The Land and Buildings Transaction Tax (Amendment) Bill was published at the end of January 2016, and made provision for an additional amount of LBTT known as the Additional Dwelling Supplement (the ADS), which is due on the purchase of additional dwellings in Scotland, such as buy-to-let properties and second homes.

The ADS applies to most purchases of additional dwellings in Scotland by individuals where, at the end of the day that is the effective date of the transaction, a buyer owns two or more dwellings and is not replacing their main residence. It also applies to most purchases of dwellings by non-natural persons (e.g. companies, partnerships) in Scotland.

The ADS charge is 3 per cent of the total purchase price of an additional residential property purchase of £40,000 or more. Where ADS applies, it is payable in addition to the LBTT due on the acquisition of the property. The legislation came into effect on 1 April 2016.

In early 2016, Revenue Scotland established a project team to co-ordinate the implementation of the ADS. The project included legislative guidance on how the ADS applies, changes to the online and paper versions of the LBTT return which were tested by users, the development of an online tax calculator and ‘how to’ guidance on completing LBTT returns when ADS is due. The project also delivered extended online guidance on the ADS together with over 70 worked examples which were reviewed prior to publication by key stakeholders. To ensure that agents were aware of the legislation and how to make returns and payments and any claims for repayments, Revenue Scotland engaged in a range of communications activities such as road shows, webinars and other events.

After successful delivery of the project and implementation of the ADS on 1 April 2016, Revenue Scotland has been effectively managing and administering the collection of the ADS, issuing repayments of the ADS when appropriate and carrying out compliance checks. The Revenue Scotland website has been updated with further guidance, Youtube videos and additional worked examples in light of the increased number of queries answered through the Support Desk, mailbox and/or opinions functions.

Impact of LBTT rates and bands on Scotland’s property markets

Revenue Scotland’s role as Scotland’s tax authority is focused on the collection and management of the devolved taxes and we have no comment to make on the impact of LBTT rates and bands on Scotland’s property markets. The Scottish Government is responsible for the setting of tax rates and bands and the forecasting of tax revenues. The tax rates and bands are subject to Parliamentary scrutiny and approval.

In addition to the quarterly updates on our Key Performance Indicators mentioned above, Revenue Scotland also publishes monthly statistics\(^6\) from LBTT returns for residential and non-residential land transactions. Although it is too soon to make any observations on

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trends, we anticipate that over time, Revenue Scotland’s data series will become a valuable resource for monitoring activity in Scotland’s property markets.

**Next steps**

Revenue Scotland is committed to maintaining a high level of service and has identified a number of priorities for our work on devolved taxes. These are set out in our Business Plan and include:

- Maintaining a high level of service to taxpayers and their agents;
- Keeping our legislative and ‘how to’ guidance for LBTT under review;
- Reviewing our stakeholder engagement and communications activities;
- Improving the effectiveness of the online systems in response to operational requirements and taxpayer experience through planned system upgrades;
- Developing a compliance strategy to address any avoidance and evasion of LBTT and improving the use of data across Revenue Scotland, Registers of Scotland and HMRC to inform our approach to compliance and decision making; and
- Supporting the Scottish Government to develop a draft Bill for a Scottish replacement for Air Passenger Duty and undertaking preliminary work to implement and administer the replacement tax on 1 April 2018.

**For further information please contact:**

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