LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

CALL FOR VIEWS ON THE NON-DOMESTIC RATES (SCOTLAND) BILL

SUBMISSION FROM THE ASSOCIATION OF ACCOUNTING TECHNICIANS

1. Introduction

1.1. The Association of Accounting Technicians (AAT) is pleased to have the opportunity to respond to this Call for Evidence, published in March 2019.

1.2. AAT is submitting this response on behalf of its membership and for the wider public benefit of achieving sound and effective administration of taxes.

1.3. The comments particularly reflect the potential impact that the proposed changes would have on SMEs and micro-entities, many of which employ AAT members or would be represented by AAT’s 4,250 licensed accountants.

2. Executive summary

2.1. **AAT welcomes Scottish Government plans to reduce revaluation frequency from 5 to 3 years.**

   However, this should only be an interim measure, with a commitment to move to annual revaluations shortly thereafter (see below at 3.1).

2.2. **AAT agrees that the loophole relating to second homes must be closed.**

   Avoiding council tax by classing the home as a business and then claiming business rates relief is clearly unacceptable. AAT suggests the Committee carefully consider the Welsh model to tackle this problem (see below at 3.16).

2.3. **AAT is generally supportive of the Scottish Government’s proposed legislation.**

   For example, in relation to proposals on new and improved homes, on restricting public parks relief, on creating a General Anti-Avoidance Rule (GAAR) and removing the exemption for independent schools.

2.4. **There are many short-term improvements that can be made to the system including those the Scottish Government has proposed.**

   However, in the medium to long term it must be recognised that the current business rates system is a 20th century system now widely viewed as not being fit for purpose in the 21st century. Wholesale reform is therefore essential.
3. AAT response to the consultation

Revaluations

3.1. Section 2 of the Bill provides that revaluation of properties subject to non-domestic rates would be carried out every 3 years rather than every 5 years.

3.2. AAT welcomes this proposal as a step in the right direction.

3.3. Indeed, AAT also welcomed the recent commitment to revaluations every three years in England and Wales.

3.4. However, as with AAT’s view in relation to the rest of the UK, this proposal should only be considered as an interim measure, with progression to annual revaluations being the ultimate objective.

3.5. Annual revaluations will provide increased certainty and accuracy whilst simultaneously leading to a significant reduction in costly and bureaucratic use of the appeals system.

3.6. There are various international examples of such a system operating effectively but Hong Kong is perhaps the most useful.

3.7. Hong Kong introduced annual revaluations in 1845 and although the requirement was removed in 1973, they recognised that lengthy periods without revaluations were resulting in large and often unmanageable increases. As a result, they returned to annual revaluations in 1999.

3.8. Hong Kong has continued to operate annual revaluations successfully ever since and enjoys a low appeals rate as a result.

3.9. Any concerns about the practicalities, costs, technical challenges of annual revaluations in Scotland are greatly weakened by the fact Hong Kong has a business population four times greater than Scotland (1.4m registered businesses\(^1\) compared to 345,000 in Scotland\(^2\)). This suggests adopting a similar system in Scotland would be feasible.

3.10. The Committee may also wish to consider the system of annual revaluations currently operated in Holland.\(^3\)

New or improved properties

3.11. AAT understands the rationale for delaying the point at which non-domestic rates are increased because a property has been expanded or improved, or at which a new property is first occupied.

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\(^1\) Companies registered in Hong Kong, 6 August 2018: [http://eltoma-global.com/news/1.4m-local-companies-are-registered-in-hong-kong.html](http://eltoma-global.com/news/1.4m-local-companies-are-registered-in-hong-kong.html)

\(^2\) Scottish Government, March 2018: [https://www2.gov.scot/Topics/Statistics/Browse/Business/Corporate/KeyFacts](https://www2.gov.scot/Topics/Statistics/Browse/Business/Corporate/KeyFacts)

\(^3\) RICS, November 2017: [https://www.isurv.com/Info/390/features/11415/business_rate_valuation_the_netherlands_approach](https://www.isurv.com/Info/390/features/11415/business_rate_valuation_the_netherlands_approach)
build property begins to incur liability to non-domestic rates and agrees that seeking to incentivise development and investment in business properties is a worthwhile ambition.

3.12. However, it is important that any such delays are balanced by the need to maintain equity and fairness within the system so that other ratepayers do not feel some are being granted unnecessarily generous treatment.

3.13. This can be reconciled by ensuring the reasoning for such a change is clearly and consistently communicated and by ensuring any grace period is long enough to encourage investment but short enough to avoid any perception of unfair treatment.

**Parks & Non-Domestic Rates**

3.14. AAT supports section 4, which aims to increase the degree to which parks are subject to non-domestic rates, in recognition of the commercial activities that take place in some parks (e.g. the running of a café).

3.15. Although AAT believes that the longstanding general exemption for public parks should remain, as is the case across the UK, it also seems entirely fair and reasonable that commercial activity on current exempt parks and Local Authority land should pay the same level of rates as similar activity elsewhere - the example of running a commercial business premises such as a café being a prime example.

**Holiday Home “loophole”**

3.16. AAT supports proposals to close the loophole relating to second homes where council tax is avoided by classifying the home as a business and then avoiding business rates by taking advantage of small business rates relief.

3.17. In seeking to tackle this problem, the Committee may wish to consider the Welsh model. In Wales, any home classified as a business must be let for a minimum of 70 days a year to qualify as a business. That period may be considered too short, 140 days would probably be a more appropriate measure, but it is certainly better than the existing system which allows for evasion.

3.18. 140 days is the length required in England, but unlike Wales, the property does not have to be let for this period, simply “available to let” which itself creates another potential loophole.

3.19. Scotland could merge the best of the Welsh and English systems to ensure a robust, fair and effective policy in this area.

**Valuation appeals**

3.20. The Scottish Government has identified many appeals as speculative and even where this is not the case, appeals are greatly encouraged by the substantial changes brought about by infrequent revaluations.
3.21. As the Scottish Government acknowledges, increasing the frequency of ratings revaluations is a key component of this reform. However, whilst a reduction from 5 to 3 years will improve matters it will be far less effective than annual revaluations. In Hong Kong, which undertakes annual revaluations, the rate of appeal is approximately 1%. This low rate of appeal is an inevitable outcome of relatively minor annual changes compared to often excessive increases after 3,5 or as England recently managed, 7 years, which is certain to result in substantial appeals.

Charitable relief for independent schools

3.22. AAT recognises there has been much debate over many years, both in Scotland and other nations, about independent schools’ financial advantage in being able to claim charitable relief from non-domestic rates.

3.23. There does appear to be something inherently inequitable in permitting independent schools with charitable status to only have to pay a maximum of 20% of their NDR, a situation compounded by the fact that current legislation allows local authorities to reduce this to 0% should they choose to.

3.24. In contrast, local authority controlled schools are liable for full rates.

3.25. In addition to ending this inherent unfairness, removing this exemption is forecast to generate an additional £7m per annum for public spending/investment, which is much needed in the current financial climate that sees the gap between Scottish government spending and income being almost four times higher than the UK as a whole.4

3.26. Inevitably these charges will have to be recovered by affected schools and increased fees are the most obvious solution. This could result in some parents removing their children from the independent sector and placing additional strain (and cost) on the state sector. However, given independent schools account for only 100 or so of the 5,000+ schools in Scotland; that this equates to less than 5% of all school pupils5 and that they have imposed substantial increases in fees every year for the past decade, this potential problem should not be overestimated.

Tax Avoidance

3.27. AAT believes that Section 12, which aims to address what the Scottish Government describes as a known tax avoidance tactic concerning unoccupied or under-used properties, is entirely reasonable.

3.28. Given a General Anti-Avoidance Rule (GAAR) is already in place for Revenue Scotland in respect of devolved taxes, having a similar arrangement for local authorities in respect of non-domestic rates, addresses an obvious shortcoming.

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4 The Government Expenditure and Revenue Scotland (GERS), August 2018: [https://www2.gov.scot/Topics/Statistics/Browse/Economy/GERS](https://www2.gov.scot/Topics/Statistics/Browse/Economy/GERS)
Debt recovery proceedings

3.29. AAT is sensitive to the needs of struggling businesses, particularly small businesses, who may be suffering from temporary cash flow or other financial difficulties and has therefore given much consideration to this issue.

3.30. Equally, AAT recognises the need to ensure equity and fairness amongst all rate payers and a need to protect revenue. The system of two reminders, various payment options and arrangements for those facing hardship, also provides sufficient opportunity for those facing difficulties to meet their responsibilities and/or gain assistance.

3.31. Furthermore, the changes are not unreasonable given this simply brings the process for recovery of unpaid non-domestic rates into line with the process for recovery of unpaid council tax.

3.32. AAT is therefore satisfied that such changes represent an acceptable updating of the system.

General comments

3.33. Recognising that the focus of the Committee is on the effectiveness of improving the existing business rates system in Scotland, it would be remiss not to highlight the increasingly pressing need for wholesale reform of the non-domestic rates system.

3.34. In England, AAT has previously called for a cross-party, consultative approach to agreeing a fairer, simpler alternative to business rates and believes that the current Treasury Select Committee inquiry could be an important step in achieving this.

3.35. On both sides of the border there has been much debate about scrapping business rates and replacing them with a sales tax which would apply equally to online businesses and those with a physical presence, as proposed by former Iceland and Wickes Chief Executive Bill Grimsey. Grimsey suggested a 2% tax on all retail sales would raise the same amount as that already being paid by retailers through the business rates system. An energy tax has been proposed by the British Retail Consortium and a more simplistic but fraught with difficulties, profits tax or even a turnover tax has gained supporters too. There are numerous alternatives available, each with advantages and disadvantages.

3.36. If the Committee is interested in further information on significant reform, AAT has considered each of the main alternatives to business rates in its recent response to the Treasury Select Committee.

3.37. In short, there are many short-term improvements that can be made to the system, including those the Scottish Government has proposed, but in the medium to long term it must be recognised that the current business rates system is a 20th century system now widely viewed as not being fit for purpose in the 21st century. Wholesale reform is therefore essential.
4. About AAT

4.1. AAT is a professional accountancy body with approximately 140,000 members, including 1,800 in Scotland.

4.2. AAT boasts 4,250 licensed accountants who provide accountancy and taxation services to over 400,000 British businesses.

4.3. AAT is a registered charity whose objectives are to advance public education and promote the study of the practice, theory and techniques of accountancy and the prevention of crime and promotion of the sound administration of the law.

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