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Kenneth Gibson MSP
Convener, Finance & Public Administration Committee
The Scottish Parliament

By email

Additional Dwelling Supplement Changes – 16 December 2022

Call for Comments on Secondary Legislation

Dear Convener

1. The Scottish Property Federation is pleased to respond to your call for comments on the Additional Dwelling Supplement change to a 6% rate announcement on 15 December by the Scottish Government.

2. The Scottish Property Federation (SPF) is the voice for the real estate industry in Scotland. We include among our members: property investors, including major institutional pension and life funds; developers; landlords of commercial and residential property; and professional property consultants and advisers. Our members build Scotland's workplaces, homes, shops, schools and other facilities and the infrastructure that serves them. Our industry is therefore a core component of the Scottish economy.

3. The increase of the LBTT Additional Dwelling Supplement to 6% on 16 December is a significant and unexpected increase in taxation for those taxpayers affected. The significance of the change in rate is enhanced because unlike the introduction of LBTT itself, ADS was established as an old style SDLT 'slab' tax that is based on the full consideration for all transactions above £40,000. The budget decision now means that the Scottish rate is double that of the equivalent rate in England and is considerably above the Welsh LTT rate. Professional experts at Brodies note that even for relatively lower value purchases eligible to pay ADS the change in rate means that an averagely priced house transaction of £188,000 eligible for ADS (it does need to be a second home as explained below) on 16 December would cost £12,140 as opposed to £8,380 if transacted just a day before. The same transaction in England on 16 December would cost £5,640 if required to pay the second homes tax.

4. The Budget statement and the SSI Policy Note both argue that this measure is intended to support first time buyers. There is little further explanation and certainly no evidence provided to support this

assertion. The implication is that by deterring second home purchasers out of the market then this must support those new buyers seeking to enter the market. It appears to us that the market for second homes and in particular buy to let investors is very much changed from the inception of ADS. The loss of mortgage rate relief support by the Westminster Parliament, the change in mortgage interest tax relief for BTL investors and the introduction of rent controls on existing tenancies make this a very different market from 2016. We believe the reality is that this is a straightforward revenue raising measure and therefore the real question is whether the additional money raised (£34m) will be achieved and perhaps more significantly, what the wider consequences of this tax increase may be.

Wider Policy Context and Market Consequences

5. The increase in ADS has clearly been viewed by the market as a further assault upon the PRS sector and in particular on buy-to-let landlords. The tax increase follows closely upon the recently announced rent cap for existing tenancies. Again, the evidence for that measure was extremely limited and at best anecdotal – the evidence cited during the passage of the legislation largely referred to published data on *new tenancies* rent increases which are not impacted by the Cost of Living (Tenant Protection) Act measures. The rent control legislation is not alone however and wider changes to mortgage interest tax relief, landlord and tenant legislation and the financial markets since autumn are all significant policy changes that have negatively impacted the attractiveness of the sector for individual sectors.

6. The outcome of this accumulation of measures is a reduction of the supply of rented private accommodation in Scotland. This reduction is estimated to have led to 29% fewer properties listed for rent in 2022 compared to 2016 (Savills: budget response, 15 December 2022) at a time when the demand for rented accommodation in locations such as Edinburgh and Glasgow, and indeed outside the big two cities in locations such as such as Linlithgow, is at extremely high levels. The combination of increasing demand and loss of supply of rented accommodation will inevitably result in further upwards pressure on rents in the private rented sector for the foreseeable future which will support the government objectives of reducing the cost of living. The Scottish Association of Landlords also suggest this will reduce choice for people seeking to rent accommodation.

7. Looking further ahead the potential loss of private investor interest in the PRS also raises the question of how the sector with its 365,000 homes, will raise the investment required to meet forthcoming retrofit regulations required to meet the built environment contribution towards meeting the net zero obligations that the Scottish parliament has approved.

Outstanding technical issues with ADS – Scottish Government consultation closed January 2022

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8. The SPF believes this sudden and unexpected increase in taxation underlines the need for the government to progress with its widely welcomed proposals to correct and improve the existing ADS legislation, which covers more than BTL situations meaning that the charge is wider ranging than simply being applied to 'second homes'. The government consultation included proposals to address situations of divorce and separation, the length of time allowed to sell a former main residence, inadvertent second home ownership through low value inherited holdings of shares in a property, and indeed removing tax penalties on local authorities acquiring houses. These government proposals were widely supported, uncontroversial and we urge the Committee to ask the Scottish Ministers why this consultation which was intended to improve fairness in the ADS system has not been progressed. This major increase in the taxation costs of ADS will add to unfairness on the taxpayers affected and must make this an urgent question for Ministers to answer.

Views on the forecast £34 net increase in revenue

9. The Scottish Fiscal Commission have modelled behavioural changes expected from the increases in ADS. They expect a change in behaviour of £6m (increase) in the 2023-24 year. This estimate is based on previous methodology and our only comment would be to question whether the wider policy context outlined above might be expected to have a greater influence on behaviour than was perhaps the case with previous forecasts.

10. The Committee has specifically asked for views on where the forecast £34m would be removed from other sections of budget should we call for it not to be applied. This is a question that goes beyond the scope of the SPF to comment on, or indeed a question that our membership would wish us to answer. However, we do think the increase in taxation may make it more challenging to sustain the contribution of ADS, estimated now to be close to a quarter of all LBTT revenue, to the revenue pool because we believe that in a tighter financial market it will deter potential private investors from entering or increasing their PRS portfolio.

11. We understand that the Committee may wish to make this response public and may share the views expressed with other public authorities.

12. The SPF would be pleased to respond to any further questions on our comments and our contact details are provided below.

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