



**Scottish Parliament
Finance and Constitution Committee**

**Land and Buildings Transaction Tax
(Relief from Additional Amount) (Scotland) Bill:
call for evidence**

Evidence from ICAS

19 January 2018

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About ICAS

1. The following submission has been prepared by the ICAS Tax Board. The ICAS Tax Board, with its five technical Committees, is responsible for putting forward the views of the ICAS tax community, which consists of Chartered Accountants and ICAS Tax Professionals working across the UK and beyond, and it does this with the active input and support of over 60 board and committee members. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants and we represent over 21,000 members working across the UK and internationally. Our members work in all fields, predominantly across the private and not for profit sectors.

Introduction

2. ICAS is grateful for the opportunity to give evidence to the Finance and Constitution Committee regarding its inquiry into 'Land and Buildings Transaction Tax (Relief from Additional Amount) (Scotland) Bill', as requested in the call for evidence issued in December 2017.
3. ICAS has contributed the experience of its members and their technical expertise in the development and implementation of the two existing devolved taxes, Land and Buildings Transaction Tax (LBTT) and Scottish Landfill Tax (SLfT), in the development of the proposed Air Departure Tax, and the establishment of the tax authority Revenue Scotland. ICAS has also contributed to the development of both Scottish Rate of Income Tax and the Scotland Act 2016 measures for Scottish Income Tax rates and bands.
4. ICAS has a public interest remit, a duty to act not solely for its members but for the wider good. From a public interest perspective, our role is to share insights from ICAS members into the many complex issues and decisions involved in tax and financial system design, and to point out operational practicalities.

General comments

5. We are content that this Bill sets out to give retrospective effect to the amendments made by the Land and Buildings Transaction Tax (Additional Amount-Second Homes Main Residence Relief (Scotland) Order 2017. We have no comments in relation to the wording of the Bill.

Other LBTT concerns

6. This Bill addresses a single issue but there are other issues in the LBTT legislation that give concern, and which would benefit from being revisited.

Share pledges and group relief

7. Some areas of detailed policy in LBTT lead to commercial outcomes that are different when compared with SDLT. Most notably, according to a recent Revenue Scotland Technical Bulletin¹, groups cannot get group relief essentially wherever they have bank borrowing. This is the case where the bank borrowing is secured by share pledges, as it frequently will be. This could be remedied by introducing a provision to allow share pledges similar to that introduced into SDLT in 2013.
8. Additionally, in a demerger transaction where a property is transferred out of a trading company to another group company prior to the sale of the trading company. There are provisions which deny relief where there are arrangements for the company which acquires the property to leave the group in Sch.10 LBTT (S) Act 2013. It is understood that Revenue Scotland is of the view that relief is not available in these circumstances;

¹ Page 2, LBTT Technical Bulletin 3 28 December 2017,
https://www.revenue.scot/sites/default/files/LBTT%20Technical%20Update%20-%2028%20December%202017_1.pdf

but this is a different approach to HMRC where relief from SDLT would be available. We suggest that this detailed area of policy should be revisited as soon as possible otherwise Scotland is left at a competitive disadvantage when compared to the rest of the UK.

Care and maintenance process

9. Beyond this immediate budget, a process is needed in which to address such matters. There is a need for 'care and maintenance' measures in the existing tax law so that if stakeholders such as Revenue Scotland find parts of the legislation do not work as intended, or the legislation does not work as taxpayers may wish from a commercial perspective, there is an opportunity to revisit the law. To date, the budget process has been expenditure focused and so possible amendments to tax law need to be raised on an ad hoc basis.
10. We believe that the existing limited annual tax procedure to vote on income tax rates and bands is not enough. To maintain and improve the Scottish devolved taxes a regular, formal, tax process is needed.