Scottish Council for Development and Industry

Scottish Government

Written consultation response

Barclay Implementation: A consultation on non-domestic rates reform

The Scottish Council for Development and Industry (SCDI) is an independent and inclusive economic development network representing all sectors and all geographies of the Scottish economy. Our mission is to convene our members and partners across the private, public and third sectors to collaborate to deliver inclusive and sustainable economic growth.

For more information on this consultation response, please contact the SCDI Policy Team:

Matt Lancashire
Director of Policy and Public Affairs
matt.lancashire@scdi.org.uk

Gareth Williams
Head of Policy
gareth.willians@scdi.org.uk

David Kelly
Policy Analyst and Administrator
david.kelly@scdi.org.uk

Scottish Council for Development and Industry
1 Cadogan Square
Cadogan Street
Glasgow
G2 7HF

0141 243 2667

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Introduction

The Scottish Council for Development and Industry (SCDI) is an independent and inclusive economic development network which has been serving Scotland since 1931. Our diverse membership represents all sectors and all geographies of the Scottish economy. We represent FTSE 100 companies, world-class universities and colleges, local authorities, charities, public sector agencies, trade unions, social enterprises and small- and medium-sized enterprises from across Scotland. Our mission is to inform, influence and inspire our members, alongside policymakers, government and other stakeholders, to deliver social and economic prosperity for Scotland.

SCDI welcomed the Barclay Review of Non-Domestic Rates, and the publication of its final report in August 2017, as an opportunity to comprehensively appraise Scotland's present system of non-domestic rates taxation and deliver much-needed reform to support business, increase inclusive economic growth and keep Scotland open for business.

Our members welcome the fact that the Scottish Government, through early action on the Business Growth Accelerator and new relief for day nurseries, has gone beyond the Barclay Review recommendations to ensure that Scotland offers the most competitive package of non-domestic rates reliefs in the UK. Further progress, however, can be made to enhance the business environment. The proposal for a small number of pilot local authorities being given the power to increase rates paid by "out-of-town" and "predominantly online" businesses needs to be carefully considered to prevent complicating the existing system and disincentivising investment.

This response to the Scottish Government's consultation on implementation of the recommendations of the Barclay Review reflects the views and interests of our members after extensive engagement.

1. What are your views on how the growth accelerator and new unoccupied build should be treated in legislation?

SCDI strongly supports the creation of the Business Growth Accelerator, which gives ratepayers a 12-month pause before rates are increased when an existing property is expanded or improved, and also before rates apply to a new build property.

We also support its continued delivery through the current system of secondary legislation as the most appropriate means by which to do so. The requirement for applications to be made should not be removed by a move to primary legislation, because the current system ensures transparency, integrity and equity. Local authorities can be audited in their application of reliefs by ratepayers and a judicial process can be followed to challenge decisions where any disagreements arise. Nonetheless, the status quo can be complex and bureaucratic for ratepayers to understand and complete. Moves to simplify existing processes where possible would be welcome.

Business values predictability. The stability and longevity of the system of taxation or relief can often be as important as its design to incentivise investment. The Scottish Government and other political parties should, therefore, commit to this programme and its system of delivery for a minimum period of several years.

2. **Do you have any comments on three-yearly revaluations?**

SCDI supports the move to a three-year revaluation cycle. However, there are concerns in some industries and sectors – particularly those which are subject to greater market volatility, such as oil and gas, or those which are more vulnerable to other external shocks caused by changes in government policy or expenditure, such as renewable energy – that this new cycle may not be sufficiently responsive to sudden macroeconomic or sector-specific change. Abrupt changes between revaluations could mean property being valued far higher than current real market prices, with ratepayers facing inflated and problematic bills from local authorities. Recent volatility in Aberdeen has powerfully illustrated this point, as Global Brent Crude prices and property values fell dramatically, but valuations did not re-adjust. This had a particularly strong negative effect on the hospitality sector where trade and income severely declined just as valuations, based on old data, increased. The Scottish Government should therefore explore the creation of a mechanism to assess fundamental macroeconomic and sector-specific changes between revaluations and review non-domestic rates in light of this assessment.

It is important that the next revaluation occurs in 2021, with the new three-yearly cycle commencing thereafter, to ensure rates accurately reflect market conditions and prevent Scotland being at a competitive disadvantage. The UK Government and the Welsh Government have both committed to perform the next revaluations in England and Wales respectively in 2021. The interconnectedness and interdependencies between the Scottish, English and Welsh economies also supports the synchronisation of revaluation cycles.

SCDI also suggests that any rate increases should await the 2022 revaluation, because the Barclay proposals have been accepted too late for many bodies to appeal their rates valuation in the current period. As such, properties should undergo an up-to-date revaluation before rate rises are implemented.

3. **From 2020 a small number of pilot councils will have a new power to increase rates paid by out of town or predominantly online businesses. Do you agree or disagree with putting in place safeguards?**

Many countries around the world are considering how to design taxation and regulatory systems which respond to the growth of the digital economy. Businesses have responded and will continue to respond to the changing needs and behaviours of 21st century consumers, increasing the scale of their online operations, products and services. However, there is a need for governments to balance support for this growth industry with interventions to reverse the decline of many of Scotland's town centres. Diversification, regeneration and improved infrastructure and connectivity is required to breathe new economic life into these

potential engines of growth. There are different views and numerous proposals about how this balance could be achieved.

The proposal for pilot local authorities to be given the power to increase rates paid by “out-of-town” and “predominantly online” businesses needs to be carefully considered. The case for the introduction of this levy has not yet been made. The mandate of the Barclay Review was clear: to simplify the existing system and to increase inclusive economic growth. The levy risks compromising these objectives by complicating the existing system and disincentivising investment. We would also request further clarity on the definition of “out-of-town” and “predominantly online” businesses.

Safeguards should be put in place during any pilot schemes, including a statutory cap on the size of the levy. Local authorities should also engage with ratepayers and the local business community to discuss how the proceeds are to be spent, alongside production of a clear strategy to invest in and improve town centres.

4. **Do you have any comments on the criteria and process which should be used to assess the pilot scheme(s)?**

Pilots should be assessed independently of both local government and the Scottish Government. They should be considered to have been unsuccessful if they do not impact positively on key indicators of economic performance such as GDP growth, business growth and employment.

5. **It is recommended that the current criminal penalty for non-provision of information to Assessors should become a civil penalty and Assessors should be able to collect information from a wider range of bodies. What level(s) should this civil penalty for non-provision be set at?**

Our members have not expressed a view on this question.

6. **How should the penalty be set? Should it be a fixed penalty or proportionate to/ banded by rateable value?**

Our members have not expressed a view on this question.

7. **Do you have any views on who is responsible for administering the penalty and the process for appeals against the penalty notice?**

Our members have not expressed a view on this question.

8. **Which organisations/ individuals should be required to supply necessary information to the Assessors, where applicable?**

The Proprietor/Tenant or Occupier should be required to supply necessary information to the Assessors.

9. **It is recommended that a new civil penalty for non-provision of information to Councils by ratepayers should be created. What level(s) should this penalty be set at?**

Our members have not expressed a view on this question.

10. **How should the penalty be set? Should it be a fixed penalty or proportionate to / banded by rateable value?**

Our members have not expressed a view on this question.

11. **Do you have any views on who is responsible for administering the penalty and the process for appeals against any penalty notice?**

It would be optimal for a trusted body independent of local government and the Scottish Government to administer penalties and process appeals against penalty notices. The organisation which is mandated to do so must be appropriately resourced.

12. **Should this be a mandatory penalty or one that the Council has discretion over (please indicate your preference and add any comments)?**

SCDI has no objection to local authorities being able to exercise discretion in a transparent manner where appropriate.

13. **How should the debt recovery changes be communicated to ratepayers?**

Changes should be communicated through digital and print media and through engagement with business representative organisations, including SCDI. Our members represent all sectors, all geographies and all levels of the Scottish economy.

14. **What are your views on whether Councils should retain a discretion over debt recovery to allow for any extenuating circumstances?**

Our members have not expressed a view on this question.

15. **In the longer term, the functions of the current Valuation Appeal Committees (VACs) are expected to transfer to the Scottish Tribunals in 2022, noting that the functions of the VAC extend beyond those related to non-domestic valuation. How should this change be communicated to ratepayers?**

Changes should be communicated through digital and print media and through engagement with business representative organisations, including SCDI. Our members represent all sectors, all geographies and all levels of the Scottish economy.

16. **Do you have any points about the change to allow valuation appeals to increase?**

The power to increase a Valuation on appeal could and should only be given to the independent Valuation Appeal Committee or Valuation Tribunal. If the Assessor becomes aware of new evidence which confirms his valuation of a property is too high, he currently has no powers to amend the Valuation unless that property has been appealed. The Local Government (Scotland) Act 1975 would need to be amended simultaneously.

17. **When the General Anti Avoidance Rule is introduced, do you have any recommendations or principles that this should encompass?**

It should be noted that substantial incentives presently exist for property owners and ratepayers against avoidance and in favour of sub-letting or disposing of the lease for an empty property wherever possible. Holding on to unproductive property is expensive given that for most retail property other than listed buildings there is no exemption period. A 50% discount only applies for a 3-month period, with a subsequent indefinite discount of 10%. Discount rates have been significantly reduced in recent years.

18. It is recommended that the current 42 days reset period for empty property should be increased to 6 months in any Financial year. How do we raise awareness of this change among ratepayers?

Changes should be communicated through digital and print media and through engagement with business representative organisations, including SCDI. Our members represent all sectors, all geographies and all levels of the Scottish economy.

19. Do you have any further comments around the 6-month reset period for empty property relief?

A 3-month reset period for empty property relief would more closely reflect current market trends, which are towards shorter leases with break clauses.

20. It is recommended that second homes, owners or occupiers of self-catering properties must prove an intention to let for 140 days in the year and evidence of actual letting for 70 days. Should there be any local discretion in the application of this policy? If so, under what circumstances should this discretion apply?

SCDI supports this policy and welcomes local discretion in its application where appropriate to enable flexibility in response to local market conditions, housing supply and tourist demand. The provision of short-term lets to support increased local economic growth and tourist spend should be balanced with the need to deliver an adequate supply of affordable housing and build vibrant, sustainable and all-year-round communities.

21. The Scottish Government will remove charity relief for most independent schools from April 2020 to bring independent schools into line with Council schools. How should independent schools with exceptional circumstances such as specialist music schools be treated?

Creating a new category of “independent schools with exceptional circumstances” would be unprecedented. There is no distinction in successive Education Acts or in the Charities and Trustee Investment Act 2005 between mainstream independent schools, which often deal with complex additional support needs, and those that cater to specialist areas, including music. Many independent schools host substantial learning support facilities and resources, or deliver substantial music or arts provision accessed by other schools and the wider local community. Independent schools are beneficiaries of charitable status because such provision has been recognised as a public good.

Those in favour of removing charity relief for independent schools would counter that there are issues of social justice at stake. It is important that public services are adequately funded and that socio-economic opportunities are distributed in a fair and equal way. It is SCDI’s mission to deliver inclusive economic growth and prosperity for all of Scotland. Nevertheless, it should also be recognised that independent schools contribute to local economies by supporting employment and stimulating consumer spending, often in rural areas without copious economic opportunities.

22. To focus relief on economically active properties, it is recommended that only properties in active occupation should be entitled. How should active occupation be defined?

Defining “active occupation” in the economy of the 21st century, given the pace and scale of change in technology and working patterns, is challenging and problematic. Traditional conceptions of what might constitute “active occupation” have been rendered archaic. One property with several permanently-based staff and large amounts of conventional office equipment might appear more actively occupied than another property intermittently home to a one-person digital start-up with a much greater economic footprint and impact. Attempting a definition may be more economically damaging than maintaining the status quo, unless it is very carefully delineated to reflect and accommodate digital businesses and future change.

23. To encourage bringing empty property back into economic use, relief should be reformed to restrict relief for listed buildings to a maximum of 2 years and the rates liability for property that has been empty for significant periods should be increased. What are your views on whether Councils should have discretion in the application of this measure for properties, so that local circumstances can be accounted for?

SCDI supports local discretion being exercised where appropriate and in a transparent manner, particularly to support the conservation and restoration of listed buildings which are a highly significant part of Scotland’s architectural, social and political history and essential to the continued growth and success of Scotland’s heritage and tourism sectors.

24. It is recommended that sports club relief should be reviewed to ensure it supports affordable community-based facilities, rather than members clubs with significant assets which do not require relief. How should affordable/community sports facilities be defined?

If sports club relief is reviewed to support affordable community-based facilities, this should be done on a consistent basis to include facilities operated by independent schools and shared with state schools, local teams and neighbouring communities. The Scottish Government should support partnerships which widen access and deliver improved health and wellbeing outcomes.

25. It is recommended that commercial activity on current exempt parks and Local Authority (council) land vested in recreation should pay the same level of rates as similar activity elsewhere so as to ensure fairness. How should commercial activity on parks be defined?

The definition of commercial activity in parks should align with the definition used in non-park areas and in other legislation.