

Non-Domestic Rates (Scotland) Bill

**Submission to the Scottish Parliament's Local
Government and Communities Committee**

May 2019

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About FSB

The Federation of Small Businesses (FSB) is Scotland's leading business organisation. Our mission is to help smaller businesses achieve their ambitions. These micro and small businesses comprise the majority of all enterprises in Scotland (98%), employ around one million people and contribute £68bn to the economy.

Overview

FSB welcomes the opportunity to provide this evidence to the Local Government and Communities Committee's consultation on the Non-Domestic Rates (Scotland) Bill. FSB sits on the Barclay Implementation Advisory Group, representing smaller businesses and other smaller operators.

FSB broadly supports the Bill, especially the switch to a more frequent revaluation cycle.

FSB recommends:

- A new national business rates interface to reduce the administrative burden of a more frequent revaluation cycle;
- Scrutiny of the Scottish Government's, local authorities, and assessors' reform programme to facilitate this switch;
- Legislative safeguards to ensure that public bodies prioritise rates reforms.

A modern rates system

Many of the legislative measures outlined in the Bill are necessary for the development of a more responsive and modern non-domestic (NDR) property tax system, the development of which was the overarching recommendation

of the Barclay Review. However co-ordinated multi-organisation administrative reforms are – in our view – also necessary. FSB would ask the committee to consider whether Ministers should introduce legislative safeguards to ensure that this reform programme is prioritised.

Similarly, the committee may wish to consider whether the NDR system is sufficiently resourced at every level to both deliver the changes proposed and to run a more frequent revaluation cycle. Feedback from FSB members suggests that the customer service of the current system is poor, especially at the point of revaluation. Anecdote from local government suggests that NDR teams are small (on occasion not even a full time equivalent staff member) especially in comparison to council tax staff resources.

FSB is broadly supportive of the switch to a more frequent revaluation cycle and we accept the need to reduce appeals as a consequence of this change. We contend that the most effective means to reduce appeal volumes is through a substantial improvement to the comprehensibility and usability of the Scottish rates system.

Evidence gathered from FSB members suggests that only about one in three smaller businesses have ever submitted information to their assessor. We would argue that this is primarily because so few firms understand the important role of the assessor and that paper-based correspondence can be easily missed.¹

FSB's view is that a national digital rates interface – where firms can pay their bill, submit rental data, and get advice – is a clear solution for many of the administrative and communicative

¹ More detail on practices and processes following the last revaluation in our [2013 response to the Scottish Government's Supporting Business, Promoting Growth consultation](#)

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problems associated with the Scottish rates system. While rates systems across the UK are increasingly different, FSB in Scotland notes that the administrative system north of the border is relatively old fashioned. FSB does not believe that these legislative proposals necessarily facilitate a move towards this sort of modern digital tax system.

Barclay reform programme

The Non-Domestic Rates (Scotland) Bill is a key element of the rates reform programme in Scotland, alongside a series of administrative reforms, and a small number of discrete pieces of work (e.g. the review of the Small Business Bonus, the review of Plant and Machinery rating).

A large share of this work needs to be in place well advance of the next revaluation in 2022. In our discussions with officials and Ministers, it has been suggested that Barclay's reform timescales may have been ambitious. Therefore the Local Government committee may wish to ask the Scottish Government to provide an updated project plan for rates reform ahead of the 2022 revaluation, outlining key dependencies in their programme.

For example, FSB understands that the modest Barclay proposal to introduce a standard Scottish business rates bill has taken far longer than expected, due in part to the long-standing rolling contracts which local authorities have with their IT suppliers.

In our view, the spirit of the Barclay review was the development of a more predictable and comprehensible property tax system. Therefore FSB was disappointed to see the devolution of Empty Property Rate Relief to local authorities accepted without consultation during this year's Scottish Government budget.

Given the recommendations of Barclay, and the importance of these issues to Scotland's business community, we would express a preference for appropriate consultation before any substantial changes to Scotland's NDR system.

Similarly, FSB has concerns regarding the decision to introduce a number of changes to the proposed legislation at Stage 2, reducing the opportunity for scrutiny from both committee and third parties.

Revaluation cycle

FSB supports the principle of moving to a more frequent revaluation cycle. Broadly, more frequent revaluations could ensure that rateable values better reflect up to date property market conditions. Further, the reforms necessary to facilitate a 3 year cycle give policymakers an opportunity to ensure that rates' processes are modern and transparent.

For example, FSB has long argued that the Scottish Parliament should have a role in scrutinising the activity of assessors. By reforming the revaluation process, there's an opportunity to insert a role for parliament in that process.

In addition closing the gap between revaluations, should make both policymakers and ratepayers more familiar with the process.

In our view, work is required to ensure that the switch to a 3 year cycle does not become burdensome for smaller firms. We would argue that action needs to be taken to improve firms' understanding of the rates system; to make it easier for businesses to interact with every element of the tax, including the provision of rental data; and to improve the sharing of data relevant to accurate valuations between public sector bodies.

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Evidence gathered by the FSB at the last two revaluations suggests that few in the business community understood the process. While FSB undertook efforts to encourage our own membership to provide appropriate information to the assessors, and provided briefing materials to key influencers such as MSPs, widespread confusion about the process was still reported. FSB would suggest that improved communications could be improved through the development of a single Scottish NDR digital interface.

Further we would suggest that the Scottish Government should be charged to communicate revaluations in a similar way to the introduction of regulatory change (e.g. the plastic bag charge), so that at the next revaluation fewer businesses are taken by surprise.

FSB understands that the switch to a more frequent revaluation cycle will require significant changes to the way that rates system operate, and that the majority of these reforms need to be in place for 2021. The Committee may wish to ask the Scottish Government, assessors, and local government for evidence that these reforms can be in place for the next revaluation.

SBBS Review

The Barclay review included a recommendation that the Scottish Government should review the Small Business Bonus scheme.

While a separate piece of work to the Non-Domestic Rates Bill, FSB looks forward to providing evidence to this important project.

More than a third of our members use the savings yielded through the SBBS scheme to invest in their business,

according to a recent survey, while a similar proportion use the relief to mitigate against rising overheads, such as utility bills.²

FSB would argue that given the review and the economic context, no additional changes to the SBBS scheme should take place in the short term.

FSB has made representation to Ministers that the review should look at the best means to provide rates help for premises based smaller operators.

FSB would highlight that should some or all help be removed for smaller firms, not only do we believe that this could have a substantial impact on the success of smaller operators, it could also put substantial pressure on the wider rates system. For example, a reduction in the support available could result in a substantial increase in appeal volumes.

Business accelerator

FSB supports ongoing moves to give firms an opportunity to recoup costs associated with improvements, before facing an enhanced rates bill.

For example, if a business invests in an extension to their premises, their rates bill historically could have faced an overnight increase. The business accelerator mitigates this disincentive.

Further, we accept that this principle holds for the development of new properties – that a property developer should have a grace period before paying their full rates bill.

The switch from a relief based system to putting this help on a statutory basis could reduce any administrative burden on firms and local authorities.

² Online survey of FSB Scotland members conducted in August-September 2016 with 960 responses.

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Anecdotally, this new support – which currently requires application – is not well understood amongst the business community.

The Scottish Government should consider a communications campaign to encourage businesses to take advantage of this change to the rates system. For example, they could suggest to businesses that they invest in retail space improvements, highlighting the benefit of this relief.

Park properties

FSB accepts the principle that the non-domestic rates system should apply to property in public parks, with the provision that the smaller property on parks would still be able to apply for the Small Business Bonus scheme. We would suggest that local authorities should have the capacity to phase in this change.

Holiday Homes

FSB broadly supports measures to address the misapplication of the Small Business Bonus scheme – especially when applied to non-business recipients of the relief. We have argued that the scheme should tightly apply to small enterprise properties and not other non-domestic, non-enterprise premises (e.g. MSPs' offices, second homes etc.).

In FSB's report looking at the growth of home based businesses in Scotland, we highlighted an issue regarding the regulatory and tax treatment of properties which are used as both residences and for enterprises.

While FSB notes that the Scottish Government has issued some guidance regarding the tax treatment of properties that are used both as a residence and a non-domestic

premises, we would highlight that it advises that the treatment of these properties are predominantly at the discretion of the assessor.

More generally, FSB understands the upcoming review of the Small Business Bonus scheme will examine the interaction between self-catering premises and the relief and looks forward to engaging fully with the review.

Reducing appeals

FSB accepts that to introduce a more frequent revaluation cycle, reducing the volume of valuation appeals is necessary. Indeed, we accept that a more frequent revaluation cycle may in itself reduce the volume of NDR appeals.

We would highlight that we believe that few smaller businesses appeal their valuation as a matter of course, and would suggest that it is likely larger organisations (both public and private) with property professionals on staff, or property management firms on contract that may be responsible for this behaviour, as noted by the Barclay review. FSB survey works suggests that only 14 per cent of smaller businesses have sought the advice of a property professional in relation to business rates.³

We note that this move may lead to a charging regime to lodge appeals, or may require firms' to evidence their grounds for appeal before lodging. When approaching these issues, FSB would suggest policymakers consider the interests of smaller ratepayers. We would argue that the very smallest businesses should not face fees for lodging appeals and that any evidential barrier to appeals is proportionate.

³ Online survey of FSB Scotland members conducted in August-September 2016 with 960 responses.

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FSB would argue that poor communications at the point of revaluation is at least partly responsible for the high volume of appeals, with ratepayers encouraged by some parties to lodge appeals if they're unhappy with their valuations rather than if they have evidence that their valuation is inaccurate. Similarly, poor communication of rating formulae used by assessors increases confusion and may currently result in appeals that have little chance of success.

Moving the NDR appeals system to the tribunal system – as is planned – is a substantial change. As Ministers and officials design the new system, FSB would ask that consideration is given to organisations – including smaller businesses but also third sector bodies – who may not have immediate access to professional legal advice.

FSB work conducted after the last revaluation suggested that of those who lodged an appeal, over half (57%) represented themselves throughout the process.⁴

Tax avoidance and debt recovery

FSB broadly supports measures to address the misapplication of existing rates reliefs. Further, we accept that when support for charities, small businesses and other operators is misused, it undermines the wider rates system.

FSB would argue that to reduce fraud and tax mistakes, it is important that the Scottish non-domestic rates system is both modern and well-resourced. New anti-avoidance regulations may be a valuable tool for rates authorities, but legal changes alone may not be sufficient.

Further, FSB broadly supports improved data-sharing between NDR authorities and other parts of the public sector, especially if it results in more accurate valuations and better customer service. In certain circumstances, our members expect data to be shared between public sector departments and are surprised when they are not e.g. when a business applies for planning permission to extend their premises and this information is not passed to the assessor or when a business moves premises.

FSB understands that new debt recovery processes will be accompanied by additional efforts to quickly repay overpaid rates. Where there's a legitimate reason for a delay to an NDR payment – e.g. bad debt or a late payment – FSB would encourage councils to offer some flexibility to smaller businesses.

⁴Online survey of FSB Scotland members conducted in August-September 2016 with 960 responses.

Further Information

For further information please contact Stuart Mackinnon, FSB's external affairs manager for Scotland (stuart.mackinnon@fsb.org.uk)

The FSB campaigns for a better social, political and economic environment in which to work and do business. With a strong grassroots structure and dedicated Scottish staff to deal with Scottish institutions, media and politicians, the FSB makes its members' voices heard at the heart of the decision-making process. It is therefore recognised as one of Scotland's most influential business organisations. The FSB also provides a suite of services to help our members reduce the cost and risk of doing good business – from legal and tax protection to business banking.

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