NAEA
National Association of Estate Agents

Response to the Welsh Assembly's Finance Committee inquiry into the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Bill from National Association of Estate Agents (NAEA)

October 2016

Background

1. National Association of Estate Agents (NAEA) is the UK's leading professional body for estate agency personnel, being part of a group representing more than 16,000 members who practice across all aspects of property services both in the UK and overseas. These include residential and commercial sales and lettings, property management, business transfer, auctioneering and land. The NAEA is a sister organisation to the Association of Residential Letting Agents (ARLA).

2. NAEA is dedicated to the goal of professionalism within all aspects of property, estate agency and land. Its aim is to reassure the general public that by appointing an NAEA member to represent them they will receive in return the highest level of integrity and service for all property matters. Both NAEA and ARLA members are bound by a vigorously enforced Code of Practice and adhere to professional Rules of Conduct. Failure to do so can result in heavy financial penalties and possible expulsion from the Associations.

Evidence

<u>General principles of the Bill</u>

3. NAEA welcomes the new powers for the Welsh Government to collect Land Transaction Tax (LTT) receipts. We think it will have a largely positive impact on the residential housing sector in Wales. The introduction of the new initiative will create a fairer system and in turn increase the desirability of Welsh property.

4. In the longer term we think that an LTT system that is reflective of the regional differences in housing markets will lead to an increase in house prices as demand rises. As a consequence the Welsh Government is likely to see an increase in revenue which can be used to regenerate communities across the country.

5. NAEA acknowledges the intention of LTT to provide a replacement for Stamp Duty Land Tax (SDLT) so that public services in Wales can continue to receive the benefit of

the revenues raised by that tax. However, it is essential that the revenues are ring-fenced by the Welsh Government to spend on house building projects.

6. We believe that flexibility to create an LTT system unique to Wales will help to ensure that the Welsh residential market is healthy. However, where possible the LTT should broadly replicate SDLT processes and systems in order to provide stability and ensure that procedures and processes used to collect and manage the tax continue to be understood by tax payers, estate agents and businesses in both England and Wales.

Whether there are any unintended consequences arising from the Bill

7. The Welsh Government need to communicate widely to estate agents, purchasers, solicitors and mortgage advisors to ensure that everyone understands the changes and what tax they will be paying on a planned purchase. People in England and Wales need to be aware that LTT is a replacement tax and not an additional one.

Potential barriers to implementing provisions of the Bill

8. We believe that further guidance is needed when land transactions involve the acquisition of a chargeable interest where the land is partly in Wales and partly in England and are treated as comprising two separate transactions – one relating to land in Wales and the other relating to land in England. We note that the legislation states "land in Wales", however under the proposed arrangements this could create some complicated valuations and thus guidance models are needed.

The Financial implications of the Bill

9. As previously stated, NAEA agrees with the Welsh Government's decision to introduce LTT to replace SDLT. We approve of the commitment made by Welsh Ministers for the use of a marginal rate calculation of LTT for residential and non-residential transactions, which means the rates will be payable on the portion of a property price which falls within each band. This is consistent with SDLT and will help the majority of buyers.

10. However, we urge the Welsh Government to caution against revenue forecasting following the introduction of LTT. NAEA members in Scotland reported a slowdown in

sales at the high-end of the market following the introduction of Land Buildings Transaction Tax (LBTT).[1]

Implementation of tax bands and rates

11. NAEA believes that the Welsh Government should consider making the tax bands and rates more suited to the value of property in Wales in comparison to England and Scotland. By doing this the Welsh Government can take into consideration the uniqueness of the Welsh property market in order to better meet the housing needs of the population and maximise tax revenue. Further to the issue we raised at Point 7 in this response online calculators and guidance is also useful for estate agents.

12. Taking Scotland as a comparison, any proposals need to avoid slowing down sales in an economic centre like Cardiff where property prices are well above average, but demand remains high. For instance, the LBTT rates in Scotland mean that for purchasing property priced up to £325,000, purchasers are paying less tax in Scotland than they would on the same priced property under UK SDLT. Conversely, purchasers buying property priced from £500,000 to £1,000,000 in Scotland pay more tax than they would on similar priced property outside of Scotland under UK SDLT. This makes Scotland a more affordable place to invest for first-time buyers and middle-income earners. However, whilst policy makers may believe that those buying prime property are less sensitive to tax changes, we know that property sales in the high end of the market have slowed since the introduction of LBTT. Furthermore, sales activity in the high end of the market increased prior to the introduction LBTT while after the change our members in Scotland saw fewer properties sold valued up to £145,000 in the months after the introduction of LBTT when comparing the same period in 2015.[2]

13. If the Welsh Government decide to change or introduce new rates and bands they should take a consultative approach with a long lead in time to benefit the property sector. This is because any sudden change would negatively distort prices and cause uncertainty in the market.

[1] http://www.naea.co.uk/media/1043549/naea-scottish-parliaments-finance-committee-call-for-evidence-on-lbtt.pdf

[2] http://www.naea.co.uk/media/1045004/naea-response-to-scottish-parliament-call-for-evidence-lbtt-august-016.pdf

Approach to tax avoidance

14. NAEA welcomes the Welsh Government's desire to enable the Welsh Revenue Authority (WRA) to robustly tackle tax avoidance. However, it is our view that there needs to be transactional consistency between LTT and SDLT in relation to the General Anti-Abuse Rule (GAAR). There is a risk that property transactions in Wales could be reduced if there are more favourable tax loopholes in England for example.

15. Where appropriate we support the simplification of the Targeted Anti-Avoidance Rules (TAARs), but we believe that strong guidance around both GAAR and TAAR is needed. It would also seem appropriate for the WRA to set up a panel to look at the implications of property deemed "land in Wales" and the anti-avoidance rules.

Proposed exemptions

16. NAEA does not believe that the rent element of residential leases in Wales should be taxed under LTT. This is because the yields from such taxes would be too low to make the arrangement worthwhile.

17. We understand that the provision for 15 per cent slab rate for certain transactions involving non-natural persons is not considered currently relevant to Wales. NAEA believes that for some transactions a lower rate will potentially benefit revenues because, for instance, foreign investment can often bring with it economic prosperity and this type of investment should not be discouraged.

Proposed reliefs

18. NAEA believes that the current reliefs and exemptions for SDLT should be retained. The reliefs and exceptions as they stand are understood by tax payers which will mean that they apply equally to Welsh home buyers as they currently do to home buyers in England. This will also assist in a smooth transition to LTT for the property market in Wales.

How residential and non-residential transactions are defined and treated

19. We are concerned that whilst the definition of "residential property" means "dwelling" we think that it should include a more explicit reference to "personal habitation" be it as a primary or secondary residence. Currently this distinction is not

clear and will be particularly important if the Welsh Government decide to introduce a 3% surcharge on the purchase of additional homes.

20. Furthermore, greater clarity will help prevent confusion with properties which have mixed elements of residential and commercial use such as residential hotels, residential care homes, hostels, mobile homes and park homes, as it is not always clear under which taxation system such properties fall.

21. We agree with the WRA's approach to allow taxpayers to submit a return electronically, while retaining the option for tax payers to submit a paper return. Over 90% of SDLT returns are done online as well as millions of firms who already manage their VAT returns, Corporation Tax and Self-Assessment returns online.

22. In order to maintain consistency with SDLT, NAEA believes that an LTT return should be submitted within 30 days of the transaction. If HM Revenue and Customs decide to change this date then it is advisable that the WRA also align themselves with this change in order to avoid confusion for estate agents and tax payers working and living across England and Wales.