AREF

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By email: sdltadditionalproperties@hmtreasury.gsi.gov.uk

Dear Sir/Madam

HM Treasury consultation: Higher rates of SDLT on purchases of additional residential properties

The Association of Real Estate Funds (AREF) welcomes the opportunity to respond to HM Treasury's consultation on higher rates of stamp duty land tax (SDLT) on purchases of additional residential properties.

We understand that the government wishes to help people buy their own home. Over recent years, numerous factors have impacted on the ability of people to purchase a home, not least the level of housing stock not keeping pace with the rapidly expanding population. The government has set out a five point plan for housing[1] in order to address some of these issues.

However, alongside supporting home ownership, facilitating large scale professionally managed investment into both the private-rented sector and the build to rent sector is important. There are significant segments of the population who need or choose to rent such as:

- young people who wish to remain fairly mobile and do not wish to commit to living in a particular area
- people moving, perhaps for job reasons, from one area to another (and even into the UK from other countries) and who need to rent at least on an interim basis.

There is a risk that the proposed higher rates of SDLT will reduce the availability of rental property and so lead to an increase in rents, whilst home ownership remains a dream for many due to lack of supply and high prices.

Institutions are keen to invest in the residential market and are prepared to invest in both new builds and existing housing stock. Investing in new builds can be simpler due to the opportunity for bulk purchase. Institutions typically buy off-plan and this simultaneously benefits developers by significantly reducing risk.

Institutions invest in property for the long-term and need a level of certainty as to likely returns over that period. Various factors influence the decisions made by institutions as regards whether to invest in residential property. However, stability of rules and regulations, including tax, is crucial. For example, many institutions who had long held substantial rented portfolios exited, or significantly reduced their exposure to, the residential market during the 1970s due to legislative interference in the market in the form of rent controls and overly prescriptive tenure protection. Without an exemption from the proposed higher rates of SDLT, large scale investors may choose to limit or reduce investment in the residential market. Conversely, an exemption would support the building of additional homes via investment in the build to rent sector.

[1] Spending Review and Autumn Statement 2015 - Opportunities for home ownership: Five Point Plan

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In summary, institutional investment has a key role to play in solving the UK's housing crisis.

In the appendix, we respond to the consultation questions of particular relevance to property funds. We would welcome the opportunity to discuss the impact of the consultation proposals on property funds in more detail.

I am available at your convenience to discuss anything in this letter.

Yours faithfully

John Cartwright
Chief Executive
The Association of Real Estate Funds

APPENDIX

Question 13: Do you agree that an exemption should be available to individual investors as well as all non-natural persons? Alternatively, is there evidence to suggest any exemption should be limited to only certain types of purchaser? If so, which types of purchaser?

On the basis that the government does not wish to discourage large scale investors from contributing indirectly to the level of housing stock, then the exemption should be available to all large scale investors whatever their legal and ownership status.

Question 14: Do you think that either the bulk purchase of at least 15 residential properties or a portfolio test where a purchaser must own at least 15 residential properties are appropriate criteria for the exemption? Which would be better targeted?

A portfolio test would be preferable to a bulk purchase test. Facilitating large scale professionally managed investment into both the private-rented sector and the build to rent sector would be best achieved by considering the overall extent of investment rather than the scale of individual transactions. Also, a bulk purchase test would favour investment in new-builds rather than in existing housing stock.

We also question the value of a bulk purchase test. Six or more dwellings purchased in a single transaction are treated as non-residential and subject to the commercial 4% rate of SDLT (Finance Act 2003 s116(7)). As such, an exemption from the proposed higher rates would only be effective on a bulk purchase if a claim for multiple dwellings relief (Finance Act 2003 s58D) would be based on an average purchase price of no more than £250,000.

If a portfolio test is introduced, we would prefer the threshold to be set at 5 residential properties rather than 15. This would align more closely with the existing legislative approach that a purchase of six or more dwellings is a commercial activity.

In conjunction with a portfolio test to demonstrate that a particular investor is large scale, investors should be allowed a period of time in which to build up a portfolio. A suitable period could be 18 months. This would correspond with the suggested period in which an individual may sell a previous main residence after purchasing a new main residence. It would also align with the proposed period for relief from SDLT on seeding a property authorised investment fund or co-ownership authorised contractual scheme. Once the portfolio threshold had been exceeded, the investor should be able to reclaim the additional 3% rate of SDLT paid in relation to purchases made during the previous 18 months. Without such a mechanism, investors in residential property seeking to build up a portfolio but entering the market for the first time would be discriminated against.

Question 16: Are there any other issues or factors the government should take into account in designing an exemption from the higher rates?

Residential property is defined to include residential accommodation for students other than halls of residence for students in further or higher education (Finance Act 2003 s116). However, the proposed higher rates of SDLT should not apply to any type of student accommodation. The design of student accommodation is such that it would not be purchased by people wanting to buy a home. Quite a number of funds invest in student accommodation and additional SDLT costs could be detrimental to the fund, the fund's investors and the students being accommodated.

Question 19: Do you think that purchasers are more likely to give accurate answers to main residence questions if HMRC provides specific questions for the conveyancer to ask the purchaser?

Section 3.1 of the consultation document suggests that the SDLT return will be amended to include four categories of property: residential property, non-residential property, mixed, and residential – additional property. A category of "residential – additional property" category may not work for large scale investors, for example, because purchase of the first residential property would be subject to the higher rates.