



The Association of Real Estate Funds  
65 Kingsway London WC2B 6TD  
+44 (0)20 7269 4677  
info@aref.org.uk

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By email: [finance.committee@scottish.parliament.uk](mailto:finance.committee@scottish.parliament.uk)

Dear Sir/Madam

## **Scottish Government call for evidence: Proposed LBTT supplement on additional residential homes**

The Association of Real Estate Funds (AREF) welcomes the opportunity to respond to the Scottish Government's call for evidence on a proposed land and buildings transaction tax (LBTT) supplement on additional residential homes.

Our response focuses on the need for exemption for significant investors in residential property, including collective investment schemes. As such, we do not comment on the government's overall policy objectives.

We understand that the government wishes to help people buy their own home. 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. These include young people who wish to remain fairly mobile and do not wish to commit to living in a particular area, and people moving, perhaps for job reasons, from one area to another (or even from another country) and who need to rent at least on an interim basis. There is a risk that the proposed LBTT supplement will reduce the availability of rental property and so lead to an increase in rents.

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 LBTT supplement, 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.

The Association of Real Estate Funds (AREF) represents the UK real estate funds industry. It has about 65 members with a collective net asset value of around £60 billion under management on behalf of investors. This includes around £20 billion in UK authorised retail funds and similar amounts in various forms of UK unregulated collective investment vehicles (CIVs) and in offshore domiciled funds. Member funds represent about two-thirds of UK commercial real estate held in CIVs.



### *Exemption for significant investors*

Certain reliefs are currently available to investors (as well as to others):

- Six or more dwellings purchased in a single transaction are treated as non-residential and subject to non-residential rates of LBTT (Land and Buildings Transaction Tax (Scotland) Act 2013 s59(8)).
- Multiple dwellings relief is available where at least two dwellings are purchased together (Land and Buildings Transaction Tax (Scotland) Act 2013 Sch 5).

However, in addition to these existing reliefs, a complete exemption from the LBTT supplement should be available to all institutional investors. This would enable institutions to continue to:

- support individuals who cannot or choose not to buy homes
- invest in build to rent thereby increasing the overall level of housing stock.

Such an exemption might be available by reference to tests which ensure that an investor is widely held or owned by institutions which are themselves widely held. A two step test could be used:

- the genuine diversity of ownership (GDO) test used for authorised investment funds (SI 2006/964 Part 1A) – this test ensures that units of a fund are widely available to attract a large number of investors
- the non-close test for REITs (CTA 2010 s528) – a company which is not close (ie, broadly, not controlled by five or fewer persons) or which would be close only by virtue of having an institutional investor as a participator.

Alternatively the Scottish Government might consider exempting all large scale investors in residential property in order to support the rental sector and increase housing stock. 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. In this case the test might be by reference to the size of the existing portfolio. For example, the exemption could be available for all transactions where the existing portfolio comprises at least five residential properties. This would align with the current 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 minimum suitable period could be 18 months. This would align with the suggested period in which an individual may sell a previous main residence after purchasing a new main residence. Once the portfolio threshold had been exceeded, the investor should be able to reclaim the 3% LBTT supplement 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.

### *Scope of property subject to the LBTT supplement*

Residential property is defined to include residential accommodation for students other than halls of residence for students in further or higher education (Land and Buildings Transaction Tax (Scotland) Act 2013 s59). However, the proposed LBTT supplement on certain purchases of



residential property 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 LBTT costs could be detrimental to the fund, the fund's investors and the students being accommodated.

*Conclusion*

In summary, institutional investors have a key role to play in solving the UK's housing crisis. This should not be jeopardised by subjecting those investors to a supplementary rate of LBTT on residential property purchases.

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

Yours faithfully

A handwritten signature in black ink, appearing to read "John Cartwright", with a long horizontal line extending to the right.

**John Cartwright**  
Chief Executive  
The Association of Real Estate Funds