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Kezia Dugdale MSP  
The Scottish Parliament  
Edinburgh  
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Dear Ms Dugdale

### Land and Buildings Transactions Tax - Answers to Parliamentary Questions

You recently submitted a number of Parliamentary questions relating to Land and Buildings Transaction Tax. In response to several of the questions, Kate Forbes, the Minister for Public Finance and Digital Economy noted that she had asked me to respond to you and I am pleased to provide answers to your questions below:

**S5W-19494: To ask the Scottish Government how many penalties have been imposed each year on businesses that have failed to submit their Land and Buildings Transaction Tax (LBTT) returns on time.**

- Revenue Scotland does not collect information on whether or not the taxpayer is a business, but does however collect information on whether the taxpayer is an individual or an organisation (such as a limited company, partnership or charity). For the purpose of responding to this query organisational buyers have been used as a proxy for businesses. In some cases, taxpayers for a specific transaction may be a mix of individuals and organisational buyers. For the purpose of responding to this query, the buyer type (individual or organisation) has been determined from the primary buyer as shown on the tax return received by Revenue Scotland.
- The table below shows the number of penalty notices issued by Revenue Scotland for late filing of an LBTT return where the primary buyer was an organisation.

Year	Number of late filing cases	Total number of penalties
2015/16	230	322
2016/17	512	821
2017/18	1,212	2,397
2018/19 (up to 1 Nov)	588	1,150

- There may be multiple penalties associated with a penalty case so the total number of penalties created is also shown. For example, if an LBTT return with LBTT declared due is submitted late then the penalty case may include late filing, late payment and interest penalties.
- Revenue Scotland has up to two years from becoming aware of a failure to issue a penalty notice. Some of the penalty notices issued in later years relate to returns that were received in earlier years.

**S5W-19495: To ask the Scottish Government how many Land and Buildings Transaction Tax (LBTT) returns have been submitted following the three-year review return date that were (a) within one to three and (b) over three months late.**

- In relation to LBTT, the date of completion of the land transaction is known as the effective date which is the date at which a liability to tax is triggered. Taxpayers then have 30 days in which to submit a tax return and any payment of tax, known as the filing date.
- Lease review returns are slightly more complicated and the filing date is linked to the effective date of the original tax return. When a taxpayer is required to submit a lease review return then, in most cases, the return must be submitted no later than the filing date which is the effective date of the original lease return plus three years plus 30 days. In some cases the filing date may be based on the relevant date of the original lease return. For the purpose of responding to this query it is assumed that the filing date is based on the effective date of the original lease transaction in all cases.
- The table below shows the number of lease review returns submitted as at 1 November 2018. A total of 2,258 lease reviews had been submitted as at this date. The majority (1,647 or 73 per cent) were submitted on or before the filing date.

Lease review submitted	Number	Percentage
a) On time	1,647	73%
b) Less than one month late	262	12%
c) Between one and three months late	257	11%
d) More than three months late	92	4%
All	2,258	100%

- It should be noted that these numbers and percentages will change over time as more lease review returns are submitted (on time or late).
- The table above does not take account of returns that were due to be submitted during this period but have not yet been received.

**S5W-19496: To ask the Scottish Government what its response is to reports of leases that were not notifiable for Land and Buildings Transaction Tax (LBTT) purposes being subject to penalties under the LBTT late returns review.**

- When Revenue Scotland receives an LBTT return, we assume that it was submitted because the transaction was notifiable and the return due. We do not routinely interrogate incoming returns to determine whether or not the transactions were notifiable. If we have received a return in relation to a lease, we will expect lease review returns to be submitted on the 3-year review date and on assignation or termination of the lease.
- Penalties for failure to make a return will be assessed if a return we receive appears to be late according to the information contained in it, or where we expect a 3-year lease review return but do not receive one within 30 days following the review date. If we are informed that a transaction was not in fact originally notifiable, we will cancel any penalties which have been assessed for failure to make that return (and any expected further returns) on time. We do not assess penalties against transactions which were not in fact notifiable.

**S5W-19497: To ask the Scottish Government what guidance it provides to businesses that are tenants and are being served with Land and Buildings Transaction Tax (LBTT) return reminders after their solicitors filed their initial returns.**

- Although there is no statutory requirement to do so, to help taxpayers (tenants) with tax obligation to make a further return on every third anniversary of the lease, Revenue Scotland issues a lease review return reminder letter to the tenant 3 months before the return is due;
- The Revenue Scotland website contains a 'How to' section to help tenants completing their lease review return. This is available at: <https://www.revenue.scot/land-buildings-transaction-tax/guidance/how-to/how-make-online-lbtt-lease-review-return-tenants#overlay-context=land-buildings-transaction-tax/guidance/how-to/how-make-online-lbtt-lease-review-return-tenants>
- The website also contains guidance on the legislation relating to LBTT leases;
- Revenue Scotland has also provided additional sources of information to assist tenants, including an information leaflet available to download from its website, and Youtube information videos.
- Support is also available for tenants through the LBTT email-box; emails can be sent to [lbtt@revenue.scot](mailto:lbtt@revenue.scot) and the Revenue Scotland support desk lines are open Monday to Friday 9.00 - 16.00 (T: 03000 200 310).

**S5W-19498: To ask the Scottish Government whether a form was made available for businesses to complete if a lease was terminated or assigned to another party prior to the start of the three-year Land and Buildings Transaction Tax (LBTT) lease reviews.**

- Yes. A form was available for assignments and terminations from 1 April 2015. Prior to the launch of the new lease review return in March 2018, the existing LBTT return was available to be used in such instances.
- Revenue Scotland provides information about how to report the termination of a lease by submitting an LBTT return on its website at <https://www.revenue.scot/land-buildings-transaction-tax/guidance/lbtt-legislation-guidance/leases/lbtt6017>. In brief, the requirement is as follows:  
*“Where a lease has been notified to Revenue Scotland and is later terminated for any reason (including a renunciation of the lease), the tenant at the point of termination must make a further LBTT return to Revenue Scotland within 30 days of the day after the lease is terminated.”*
- Support is also available for tenants through the LBTT email-box; emails can be sent to [lbtt@revenue.scot](mailto:lbtt@revenue.scot) and the Revenue Scotland support desk lines are open Monday to Friday 9.00 - 16.00 (T: 03000 200 310).

**S5W-19499 Kezia Dugdale: To ask the Scottish Government how all tenants, including businesses, can notify Revenue Scotland that a lease has been terminated with regard to the Land and Buildings Transaction Tax (LBTT).**

- Revenue Scotland provides information and guidance on submitting a lease review return at <https://www.revenue.scot/land-buildings-transaction-tax/leases/submit-return>.
- Tenants can either complete the paper return form or submit an online lease review return.
- Revenue Scotland has a ‘How to section’ setting out the steps for both of these options at <https://www.revenue.scot/land-buildings-transaction-tax/leases/how>
- Tenants can email [lbtt@revenue.scot](mailto:lbtt@revenue.scot) or call the support desk on 03000 200 310 for guidance on completion of forms or where to find appropriate information needed.

To make the answers to the questions more widely available, Revenue Scotland will provide the Scottish Parliament Information Centre (SPICe) with a copy and we will publish them on our website. Should you require any further information, please let me know.

Yours sincerely



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