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agus Beartas Còimhearsnachd
Minister for Public Finance, Planning and Community
Wealth
Tom Arthur MSP



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Ariane Burgess MSP
Convener to the Local Government, Housing and
Planning Committee
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14 November 2022

Dear Convener,

I am writing to update you on the work which is progressing to address avoidance behaviours in the non-domestic rates system.

As you will be aware, the Bute House Agreement contained the following commitment:

“We are committed to using the anti-avoidance powers in the Non-Domestic Rates (Scotland) Act 2020 (The Act) to assist local authorities in tackling known tax avoidance tactics including when they make decisions on applying empty property relief and charity relief.”

The Scottish Government is dedicated to ensuring that the non-domestic rates system is fair and transparent, and not undermined by avoidance tactics that are artificial. Artificial tax avoidance in the context of non-domestic rates takes place when a ratepayer seeks to reduce, delay or avoid the tax liability by taking action(s) which, although permissible within the existing legal framework, are not in keeping with the spirit of non-domestic rates legislation. Tackling this avoidance is important because it reduces public revenues and it is unfair to the majority of ratepayers who do not engage in avoidance. Avoidance can also undermine public confidence in the non-domestic rates system and lead to reduced rates of compliance. For this reason, it is necessary that we empower Local Authorities to tackle known avoidance tactics that are artificial.

The Scottish Government has, in partnership with Local Government, drafted Anti-Avoidance Regulations to be delivered under the powers conferred by the Non-Domestic Rates (Scotland) Act 2020 (“the Act”), which allows Scottish Ministers to make regulations with a

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view to preventing or minimising advantages arising from non-domestic rates avoidance arrangements that are artificial.

In accordance with the Act, we are currently consulting various professionals and practitioners, including certain Local Authority revenue managers and the Scottish Assessors Association, as well others considered appropriate.

I am notifying you, as the Convener to the Local Government, Housing and Planning Committee, meeting the requirement under the Act that the Scottish Parliament be notified of such a consultation.

Given the nature of these Regulations, and the risk that public dissemination could pose to public finances should information about avoidance measures become more publicly available at this stage, we are conducting a closed consultation (by invitation only).

All responses will be analysed and taken into account before the draft regulations are laid before the Scottish Parliament, alongside information about the outcome of the consultation; and subject to Parliamentary scrutiny, with a view of these regulations coming into force on 1 April 2023.

I look forward to further discussions with you and the committee as we seek to progress these regulations.

Tom Arthur

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