OFFICIAL REPORT
AITHISG OIFIGEIL

Finance and Constitution Committee

Wednesday 26 October 2016

Session 5

The Scottish Parliament
Pàrlamaid na h-Alba

Wednesday 26 October 2016

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FINANCE AND CONSTITUTION COMMITTEE
8th Meeting 2016, Session 5

CONVENER

*Bruce Crawford (Stirling) (SNP)

DEPUTY CONVENER

Alex Johnstone (North East Scotland) (Con)

COMMITTEE MEMBERS

Neil Bibby (West Scotland) (Lab)
*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)
*Ash Denham (Edinburgh Eastern) (SNP)
*Murdo Fraser (Mid Scotland and Fife) (Con)
*Patrick Harvie (Glasgow) (Green)
*James Kelly (Glasgow) (Lab)
*Ivan McKee (Glasgow Provan) (SNP)
*Maree Todd (Highlands and Islands) (SNP)
*Adam Tomkins (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Aidan Grisewood (Scottish Government)
Scott Mackay (Scottish Government)
Derek Mackay (Cabinet Secretary for Finance and the Constitution)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Finance and Constitution Committee

Wednesday 26 October 2016

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (Bruce Crawford): Good morning and welcome to the eighth meeting in 2016 of the Finance and Constitution Committee. We have received apologies from our deputy convener Alex Johnstone and from Neil Bibby. I ask members to switch off their mobile phones or at least set them to a mode that ensures that they do not interfere with the proceedings.

The first item of business is a decision on whether to take item 7 in private. Are members agreed that we do so?

Members *indicated agreement.*

Land and Buildings Transaction Tax

10:00

The Convener: The second item is to continue to take evidence as part of our current inquiry into the first year of operation of the land and buildings transaction tax. This will be the final session of our inquiry. We are joined this morning by the Cabinet Secretary for Finance and the Constitution, Derek Mackay, who is accompanied by Aidan Grisewood, the head of the fiscal responsibility division of the Scottish Government. Members have received copies of the letter from Mr Mackay.

Before we move to questions, I ask the cabinet secretary whether he would like to make a short opening statement.

The Cabinet Secretary for Finance and the Constitution (Derek Mackay): Thank you and good morning, convener.

As I said in my letter of 26 August, I very much welcome the committee’s inquiry and the participation of all stakeholders in the earlier committee sessions. It is important to hear all aspects of the evidence around the first year of LBTT.

First, I will cover our policy priorities in setting residential LBTT rates and bands. We set progressive residential LBTT rates and bands to prioritise support for first-time buyers and those buying houses at the lower end of the market by redistributing the tax burden towards higher-value homes. At the lower end of the residential market, taxpayers in Scotland do not pay any LBTT until the value of the property that they purchase is above £145,000, as opposed to £125,000 for United Kingdom stamp duty land tax. That progressive measure took nearly 9,700 extra house buyers out of tax altogether in 2015-16. A further 41,700 house buyers in Scotland paid less tax on their house purchases between £145,000 and £330,000 than they would have paid under SDLT.

As our submission points out, those benefits have been achieved while meeting the residential LBTT forecast, allowing for forestalling effects, and exceeding the non-residential forecast. Our analysis has found no evidence of a long-term suppression of housing transactions at the upper end of the Scottish housing market following the introduction of LBTT in April 2015.

Turning to revenues, I informed Parliament in the provisional outturn statement in June that the devolved taxes generated £572 million in revenue in 2015-16 against our original forecast of £498 million, allowing me to take the responsible step of placing £74 million in the Scottish cash reserve. The overall surplus included a surplus of £44 million from LBTT, with a shortfall of £27 million on residential properties offset by a £71 million surplus on non-residential properties. However, it is important to note that the shortfall on residential properties includes transitional forestalling effects.

When the Deputy First Minister wrote to the previous Finance Committee with a detailed analysis of proposed residential LBTT rates in January 2015, he noted that the residential LBTT forecast for 2015-16 of £235 million did not take account of forestalling effects. The £27 million shortfall against that original forecast therefore includes the one-off loss of revenue arising from the transition from SDLT to LBTT, which resulted in the purchase of a significant number of high-value properties being brought forward to the 2014-15 financial year.

As I stated in my letter to the committee, the Scottish Government remains committed to undertaking a review of the operation of LBTT rates and bands now that we have a full year of outturn data. The committee’s inquiry is providing useful evidence, which I will consider as part of the review.

In addition, I have convened two round-table events to take place on 10 November, at which I will discuss and challenge the evidence of any impact of LBTT on residential and non-residential property markets with a range of stakeholders and gather evidence on other factors that may be having an impact on the performance of those markets. Not least of the factors is likely to be the local, oil-related economic difficulties in Aberdeen city and shire. Yesterday’s data from Registers of Scotland pointed to residential transactions falling sharply over the year, yet they were rising modestly in the rest of Scotland where local housing markets are not as exposed to those north-east difficulties.

Finally, I will announce my intentions for residential and non-residential LBTT rates and bands as part of the forthcoming Scottish budget.

I look forward to answering the committee’s questions.

The Convener: Thank you, cabinet secretary. You mentioned issues around forestalling. I am aware that our predecessor Finance Committee recommended to the Government that it should undertake analysis of the initial behavioural responses to LBTT once it had available to it a full year of outturn data, which would look in particular at whether there were any long-term behavioural aspects regarding the new tax at the higher end of the market. You mentioned that you had undertaken analysis and that the impacts could be considered as temporary phenomena, if I have got that right from what you said. Will you extrapolate a bit more on that? The committee has taken a considerable interest in whether we are dealing with temporary or longer-term behavioural changes.

Derek Mackay: I have covered some of the forecasting issues and the range of forecasts. With any forecast, we will not get it exactly right—it would be a damn good forecaster who could do that. There is obviously a range of forecasts.

There was inevitably going to be cultural behaviour, with people bringing forward sales to avoid a higher level of tax. There was certainly evidence of that happening, and that has impacted over the year. We cannot say what the long-term trajectory will be, because we are just beyond the one year, with data for a further couple of quarters. However, from the statistics that I have seen around the share and the composition of the value of properties, there seems to be more consistency.

An issue that has been raised, particularly by Murdo Fraser, was about properties at the higher end. I have taken a specific look at that in order to be reassured that, with the higher-value properties, there is not a distortion of the market and people are not forever putting off sales and transactions. On the data that we have, it appears that the broad composition is the same in terms of the share of the transactions.

There are separate issues around revenue, and impacts on the housing market around house prices and value. On the share of the transactions, the cultural behaviour that we saw in the early days seems to have levelled off, but that is based only on the data that we have so far. On your question about the longer term, we will know the answer only when we have more data.

Maree Todd (Highlands and Islands) (SNP): I have asked a number of people about the additional dwelling supplement. The supplement was introduced very quickly in response to a UK Government policy change. Do you have any reflections on how that went?

Derek Mackay: I suppose that the principle was to make sure that Scotland was not subject to more people simply investing in buy to let. We did not want to distort the housing market, particularly at the lower end. Therefore, we took the same action to follow on from that taken by the UK Government. That harmony has panned out to be the right decision.

Maree Todd: The supplement was introduced so rapidly that refinements will probably need to be made. You said that a policy objective was to target the buy-to-let market. As you know, I represent the Highlands and Islands, which has a high level of second-home ownership. That is important for the tourism economy, but when more than half the housing stock is owned by people who do not live there, that is a challenge for communities to absorb. What are your thoughts on refining the tax? I know that you will not be able to make an announcement today.

Derek Mackay: I do not have any immediate proposals to announce today in the committee, but I am in listening mode on that if you think that there are suggestions for improvements.

Legislation or regulations can have unintended consequences, and there might be individual constituency cases that have been raised with me that would lead me to look again at the matter to make sure that, if any refinements are required, we would do that methodically. There would absolutely be a focus on that. I think that the policy and the broad approach have been the right thing to do, considering how we followed on from the UK Government's move and reflected on its proposition.

Separately from LBTT, there are the policies on council tax that parliamentary committees have considered, such as the second home discount. There are other levers that can be used to address the issue that the member rightly raises, but on the specific issue of LBTT and the ADS, I want to look again and make sure that the approach is refined and that there are no unintended consequences arising from the legislation or how we have deployed the tax policy.

Maree Todd: Thank you.

Patrick Harvie (Glasgow) (Green): Good morning, cabinet secretary. A lot of the discussion on the impact of LBTT on the housing market has been on the issues that you mentioned about forestalling and the impact on sales at the upper end of the market, but I am interested in the impact on the housing market in general. For example, I tested one of our earlier witnesses on the claim that LBTT has undoubtedly been of benefit to first-time buyers. Although a first-time buyer might save a few hundred pounds, the impact on them is more likely to be in the long term, as a result of any changes in house prices. Has the Government done any work—or do you believe that there is any evidence—to show what effect the change will have on property values and housing costs for the majority rather than the tiny number of people who live in very high-value properties?

Derek Mackay: Mr Harvie is correct to point out some of the benefits for first-time buyers—

Patrick Harvie: I was questioning them rather than pointing them out.

Derek Mackay: I took the inference as quite positive, so forgive me. However, I will make that point anyway. I think that the policy has been good for first-time buyers and those at that end of the market. It is hard to determine how the policy has shaped or influenced house values. Any economist would say that we cannot take that issue in isolation, because so many other factors impact on house values and prices, such as income, general economic performance and geographic issues. Therefore, it is difficult for me to say what impact the tax regime has had on house prices and values. I am sure that a good conveyancing solicitor, surveyor or valuer would say that, when you are close to the margins of a tax layer, that maybe influences the final price. Potentially, they might argue that point, but personally I do not think that the new tax has shaped house values. There are many factors at play in that.

Patrick Harvie: Are you suggesting that the tax regime does not have an effect on property values?

Derek Mackay: I am saying that the tax is one of many considerations relating to values. One reason why we could not draw that conclusion is that, if we look at the state of the housing market across Scotland, we see that something totally different is happening in Aberdeen and Aberdeenshire from what is happening in the rest of the country. That is why I make the point that many different factors are at play. I am sure that the tax is one factor, but it is not the only factor. That is the point that I was fairly trying to make.

Patrick Harvie: You are sure that it is one factor. What analysis was done on how that factor would impact on property values when you were setting the rates?

Derek Mackay: It was not me at the time, but I imagine that there would have been various assessments. Maybe Aidan Grisewood can cover that.

Aidan Grisewood (Scottish Government): The cabinet secretary is correct that multiple factors impact on the housing market and house prices. We are developing our methodology and forecasts and the information that is produced on the impact of the regime and the wider effects that we have talked about. We are refining our capability to model house prices. There are wider policy reasons for doing that, but it is also about forecasting future revenues, which will obviously be an important factor in the Scottish Fiscal Commission's work.

On the specific question on the extent of the impact on house values, I am not aware of any effect that was counted in that process. In part, that was because we did not have previous analysis of such changes to allow us to model. However, that would certainly be the sort of thing that would be looked at closely, alongside all the various other factors, in any future forecasts of changes. That would be fully considered, if indeed a relevant and significant coefficient was derived in terms of the impact on house prices.

10:15

Patrick Harvie: That will be looked at by the Government and published as a result.

Aidan Grisewood: The Scottish Fiscal Commission publishes forecasts of future revenues from LBTT and has developed models that are capable of providing those forecasts. However, we also develop our own modelling in order to be able to understand the policy impacts of different decisions, and we need to retain that capability within the Scottish Government.

Patrick Harvie: It is my understanding that we heard from the commission that it was likely to conduct that kind of work on revenues but not on the impact of the tax on the housing market. I wonder whether the Government will undertake that kind of analysis. My gut feeling is that people's benefit or deficit as a result of the change is likely to be far greater than the few hundred pounds that they will save through the tax change itself. We need to understand that if we want to know whether the policy has, ultimately, been of global benefit to people who are buying and selling or to those who are unable to enter the housing market at all.

Derek Mackay: That is a helpful point. I was trying to answer the point with what we know already about a range of factors. I am happy to engage further with the committee and stakeholders at the round-table event and to hear from those who are working in the sector in order to get their intelligence of what further impacts the tax may be having on property values. I am happy to look at that.

Patrick Harvie: Thank you.

Adam Tomkins (Glasgow) (Con): Good morning, cabinet secretary. I have a couple of questions about the institutional structure of devolved taxation so far. We all know that LBTT was one of the taxes in the vanguard of fiscal devolution and that much more fiscal devolution is coming during the early part of this parliamentary session. Are you satisfied that we have got the institutional structure right—for example, in terms of the relationship between your office and Revenue Scotland and in terms of the relationship between Revenue Scotland and Her Majesty's Revenue and Customs—or are there lessons that need to be learned and corrections that need to be made as we engage in further fiscal devolution in the coming months and years?

Derek Mackay: That is a helpful question. LBTT is a good working example of how the infrastructure that is in place has been effective and efficient. I refer to the Adam Smith principles of taxation, which we have deployed, of efficiency, convenience, proportionality, certainty and reliability. We have been able to deliver on all those maxims in practice.

I read the evidence that you received from Revenue Scotland, which is a slick, efficient operation. That is partly because of its digital first approach, which is a good approach, and because it has good working arrangements with HMRC. LBTT is a good example of devolved taxation being delivered in an efficient and effective way. In other areas where there is a transition of powers there is much more work to be done, but I think that LBTT has been a success story.

Adam Tomkins: Thank you. I do not know whether you have had a chance to read the evidence that we received from the Law Society of Scotland near the beginning of our inquiry. I was struck by what the Law Society said about how the structure of LBTT is similar to the structure of many UK taxes in that we tax by statute and untax by extra-statutory concession. The idea is that tax legislation is as complete as it possibly can be but that there are always gaps, which are filled not by amendment of the law but by discretion exercised by the tax authority—in this instance, Revenue Scotland. I think that it is correct to say that the Law Society expressed concern—certainly not alarm—that we have missed an opportunity in the devolution of the tax. The Law Society believes that it is a problem that, at the UK level, we tax by statute and un-tax by concession—a problem that seems to have been imported into the devolved framework. Has that issue come across your desk, or do you have any reflections on it?

Derek Mackay: That is a helpful reflection, and it relates back to Maree Todd's question on the original purpose of something, delivering it and then refining it further. Sometimes we might have to work back from specific cases that we have seen. Generally, though, your point is well made.

I thought that the Law Society's evidence was quite measured. In the true spirit of any solicitor, it gave us a range of opinion and challenged statutory and delivery matters. However, although it is a helpful and fair point to make, I point out again that the tax has been deployed in an effective and efficient way, and in fairness, I make it clear that the UK and Scottish Governments have reflected on each other's decisions to get what from the UK Government's point of view is optimal for the UK and what for the Scottish Government is optimal for Scotland. We have been able to respond to what the other is doing. I would argue, would I not, that in inheriting stamp duty and moving it on to LBTT, we have been able to deliver principles that are very much in keeping with the Scottish Government's agenda.

Adam Tomkins: Thank you.

Murdo Fraser (Mid Scotland and Fife) (Con): Good morning, cabinet secretary. I want to go back to the convener's earlier question about the potential for behavioural change from tax rates, particularly for larger properties. I am gratified to learn that you have been following in detail my lines of questioning to those who are giving evidence.

To put this in context, I think it fair to point out that we are talking about not multimillion-pound houses but houses perhaps in the £400,000 to £700,000 or £800,000 bracket. The committee has taken a lot of evidence from those working in the sector, who feel that there has been a suppression of transactions in that bracket, but you have made it very clear in your letter to the committee, and indeed just a few moments ago, that the Scottish Government has found no evidence of such suppression of transactions.

When we took evidence on this issue from the Scottish Fiscal Commission on 5 October, Professor Campbell Leith said, with reference to the Scottish Government's own data collection:

> "The Scottish Government found that, over a two-year period, there was substantial growth in many of the price bands, except for the £325,000 to £750,000 band, in which there was growth of only 1 per cent."—[*Official Report*, *Finance and Constitution Committee*, 5 October 2016; c 6.]

The Scottish Fiscal Commission is not as bullish as you are—or appear to be—on this issue. Why do you think that it has got it wrong?

Derek Mackay: I am nothing if not diligent, so I have checked what the Fiscal Commission actually said. What it said—and this brings us back to comments that were made about revenues being subdued at that end of the market—was not about transactions. I have looked at the number of transactions. Mr Fraser would be right if the number of transactions at the upper end had nosedived; his argument would be valid if that were the case, which is why I have looked so closely at the matter.

However, what I have found is that the number of transactions has largely been sustained as a share of total transactions in Scotland, but values—the revenue—have been more subdued. I would relate that back to the general issue of house prices and values in Scotland and, within that, the geographic issue in the north-east and in Aberdeen city and shire. We know what is happening with the economy there, and I think that that has impacted on some of the values and therefore some of the outturn figures.

It is important to make it clear that I am not bullish; I am just leaning on the facts that I have and which I would like to share with you. Broadly speaking, in the range that Mr Fraser has highlighted, which is market activity from £325,000 up to £750,000, I note that in 2014—or before LBTT—the share of total transactions across the four quarters was 6 per cent, 7 per cent, 8 per cent and 8 per cent. In the four quarters of 2015, when LBTT was introduced, the share was 10 per cent, 7 per cent, 8 per cent and 8 per cent. That suggests that there has been no dip in the number of transactions; however, as I have said, the position might be different with regard to values. In 2016, the share is not quite as high; it is 7 per cent in the first two quarters. However, a figure of 7 per cent for quarter 2 is totally aligned with the quarter 2 figure for the past three years. If we did the same exercise for the range above £750,000, we would see the same kind of pattern.

Mr Fraser is right to put a focus on this because of how we have deployed the tax policy. We made it clear that our focus is on tax relief at the lower end of the market to stimulate the economy—to stimulate purchases and to support first-time buyers—and we are doing that. However, I am also very mindful of the impact at the top end and I am keeping a close eye on that. What I am saying is not that the SFC is wrong, but that the language that it used was around revenue not necessarily transactions.

Murdo Fraser: Your former First Minister and former boss, Alex Salmond, was a great advocate of the Laffer curve theory of economics. Do you share his enthusiasm for Arthur Laffer's economic theory?

Derek Mackay: I have to say that in my very comprehensive briefing, I do not have the details of such an economic model. Since my appointment, I have spent enough time with economists to think that I thought I knew it all, but you will have to educate me. Maybe you could give me a synopsis now.

Murdo Fraser: I will—very briefly, if I may, convener. I thought that the Laffer curve theory was well understood, even by those with a limited grasp of economic theory. However, essentially, the Laffer curve theory says that if you raise taxes above a certain level, that suppresses activity and your tax take falls. Therefore, there is an optimum level of taxation at which you maximise tax revenue, and tax rates that are below that level or above that level generate a lower income. I was interested to know whether you accept the principle that if you set tax rates too high, you receive less revenue as a result, because that suppresses activity.

Derek Mackay: Yes, of course I accept the principle.

Murdo Fraser: So you agree with Arthur Laffer.

Derek Mackay: Now that you have given me an understanding of the theory, I am not going to sign up to it, but I accept the principle that if you tax too much, you might inhibit activity. However, we have not done that. We have delivered an optimal tax system that has supported the economy and raised revenue above the figure that we anticipated. We have deployed sound financial management to put cash in reserve for a rainy day, which we may well be embarking on.

Murdo Fraser: Thank you. Of course, that is precisely the issue that the committee is currently considering—whether in fact the tax rates have been set at an optimum rate.

The Convener: This is probably a good time to bring in Ivan McKee.

Ivan McKee (Glasgow Provan) (SNP): To talk about the Laffer curve? [*Laughter*.]

I have a couple of observations. Thank you, cabinet secretary, for coming along to give evidence and for reflecting on Murdo Fraser's points. Certainly the analysis that we have done and the response to our lines of questioning both support the data that you have given us on the number of transactions in that middle band, if you like—although I thought it was really the top end; it is the top 6 or 7 per cent of all transactions. In any case, the data in that £325,000 to £750,000 band does hold up very well.

There was some evidence that if you had not done this, the number might have increased more significantly, but that is very much a counterfactual, which there is no real evidence for. Certainly the hypothesis that it has damaged activity in that part of the market is absolutely not supported by the data that we have seen in evidence.

To reflect on your comments about the regional impact, we have, thankfully, got some data in the past week or so, which we have analysed. It shows that, two or three years ago, transactions in Aberdeen and Aberdeenshire were sitting at about 13.5 per cent of Scottish transactions. That has dropped to 8.5 per cent in the most recent data, which shows a significant reduction in activity in that part of the market relative to the rest of the country, which may answer some of the concerns that Alex Johnstone has raised previously.

We are still in the early days of this, as you indicated—we are a year and a half in. At what point do you think that we will have seen enough data to be able to say that we now fully understand the impact and can move on to consider potential changes to the bands and rates?

Derek Mackay: To connect Mr McKee's point to Murdo Fraser's point, it seems that we are all economists now.

You ask at what point we will have enough data to be able to understand the past, present and future. It is always easier to understand the past and what is going on in the present and it is always difficult to predict the future.

Even the latest information that I have had this morning on the wider economy—for example, the Resolution Foundation's report into the choices that the chancellor will have regarding the Brexit decision—tells us that it is very hard to forecast the future. However, we will do our best to produce a range and we will adapt the policy and the tax position year by year, as we would do through the budget process, by engaging, listening and consulting as best we can.

The same goes for income tax. We take the right decisions: we do not want to encourage bad cultural behaviours and tax avoidance, and we continue to apply Adam Smith's four maxims in delivering Scottish tax policy. Does that assist you?

Ivan McKee: Yes.

10:30

The Convener: James Kelly wants to cover some aspects regarding the future. You mentioned future budgeting, cabinet secretary.

James Kelly (Glasgow) (Lab): Cabinet secretary, you said in your opening statement that you would announce new rates and bands in the 2016-17 budget. I do not expect you to comment on that this morning. However, the current outturn information for 2015-16 shows that, although the forecast was £381 million, the actual amount came in at £425 million, which is £44 million more.

Derek Mackay: It is £44 million higher.

James Kelly: Sorry—did I say that it was lower? I apologise—it is £44 million higher.

What is your outturn objective for the 2017-18 budget? Is it within that range?

Derek Mackay: It would be within the range. Obviously, the Scottish Fiscal Commission will produce forecasts too. Again, there will be issues around turbulence in the economy, and we do not know what that will mean for house values. We want to sustain the income but, if there is an impact in the next financial year and if we do not meet the forecasts and planned income in the budget, we will have the Scottish cash reserve to draw down from. We will revise the figures—as will the SFC—and publication will be part of the methodology for the budget process.

James Kelly: Okay—thank you.

The Convener: Willie Coffey has a supplementary on this area, I think.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): It is more a supplementary to Murdo Fraser's question on the impact on different areas.

The Convener: I will let you in, because your question is still on the residential sector. We will then move to a question from Ash Denham on the non-residential sector.

Willie Coffey: Good morning, cabinet secretary. In your opening remarks, you reminded us about some of the impacts of LBTT. You said that 90 per cent of people now pay less or nothing at all as a result of the measure that you have introduced. Is the impact pretty much as you expected when you were doing your forecasting for the tax, notwithstanding the difficult nature of forecasting at all? Is it performing pretty much as you expected?

Secondly, some people who gave evidence indicated that there were some pressures in the north-east, but they also indicated pressures in the high-value market in Edinburgh. How do we square that with the data that we have in front of us, which shows that the highest-value range—over £750,000—is performing much better than the range to which Murdo Fraser just referred? Is there a difficulty in understanding how the highest-value properties in Scotland can be performing much better than the range beneath that?

Derek Mackay: There will always be differential impacts on different parts of the country because of the economy and more localised issues. The headline for LBTT is that it has been delivered effectively and responsibly. We have inherited the powers, and we have a sound policy approach and efficient management. The committee has heard from Revenue Scotland, which I think everyone appreciates runs a slick and efficient operation.

I remember the debates around this tax policy and how it should be implemented and who should operate it. Modelling was done on how best to do that, and the creation of Revenue Scotland has been vindicated. It was suggested that HM Revenue and Customs or somebody else could operate the tax, but we considered that setting up Revenue Scotland would be the most efficient way to do it, and that has turned out to be true.

With regard to the overall headline for Scotland, I have highlighted that the tax has resulted in higher than expected revenue performance in the first year, in addition to the policy benefits. The exact figure is 93 per cent of house buyers paying less tax than under stamp duty land tax. That includes those who pay no tax at all under LBTT, which I am sure is welcome.

I have listened carefully to some of the commentary and the anecdotes around the upper end of the market, and I have explained that the evidence suggests that there is not an issue as has been suggested.

I have also seen alternative suggestions, and it is maybe helpful to make the committee aware of them. The Scottish Property Federation and Homes for Scotland have suggested changing the bands and the thresholds. It is reasonable for people to suggest how things could work differently. However, preliminary modelling—which cannot truly judge behaviours—tells me that raised thresholds could lead to losses. The figures from the Scottish Property Federation modelling suggest an estimated loss of £32 million, and those from the Homes for Scotland modelling show an estimated loss of £44 million. Unless we got those amounts from elsewhere in the tax system, it would mean cuts somewhere. Given that modelling of the alternatives suggests that they would result in losses, I think that our balance is the right one. However, I will be happy to engage with stakeholders at the round-table meeting to which I referred.

I hope that what I have said covers the benefits of LBTT and shows that I have looked at alternative models. It would be wrong for the Government just to rule out other people's suggestions, but our study of them shows that they carry a significant risk of potential loss of income as we enter what might be a more difficult economic period.

Willie Coffey: Thank you for your answer to that question. I have a brief follow-up one. As you said, there are clear reasons why there has been an impact at the high end of the market in the Aberdeen area. However, we have been given evidence that there has been stagnation at the higher end of the market in the Edinburgh area. What do you think might be causing that impact in the Edinburgh area?

Derek Mackay: I am sure that the economy secretary, Keith Brown, could go into far more detail on specific local economies. However, Aberdeen, Aberdeenshire and Edinburgh have been buoyant for some time in terms of growth. Inevitably, the oil and gas situation has had an economic impact in the north-east, but we are doing everything that we can to support the economy there and have taken a range of actions. The high and increasing house prices that Edinburgh has had for some time were perhaps unsustainable.

The Convener: We have done a lot on residential taxation issues but have not really touched, for the record, on non-residential taxation, so I am glad that Ash Denham has a question on that area.

Ash Denham (Edinburgh Eastern) (SNP): Obviously, on the non-residential side, we have seen higher than expected revenues. The driver for the policy decision to set the rates slightly lower than those in the rest of the UK was to make Scotland a more attractive location for business. Is there evidence from the data that you have seen of businesses choosing to locate here?

Derek Mackay: It is hard to say whether our tax policy has been the critical factor in a company locating to Scotland. However, our decisions on non-residential LBTT have generally been well received and, again, the pattern shows a satisfactory number of transactions. When it comes to income, Ash Denham is correct to say the outturn was much higher—by some £71 million—than the forecast. The forecast was £146 million but the outturn was £217 million, which assisted with the overall positive variance.

Ash Denham: Obviously, that tax base is quite volatile, and a small number of really high-value transactions—for example, a shopping centre—can make it particularly difficult to make precise forecasts. The paper before us indicates that there is a development with regard to the methodology for future forecasting. Will you comment on that a bit further?

Derek Mackay: We caveat what we say about methodology by saying that there are issues around predictability and making assessments from month to month or quarter to quarter. An annual view, therefore, gives us a better picture of what is happening. However, you are right to say that there is probably more consistency in the reasons for house transactions than there is in those for property transactions. Beyond the tax levers, there can be significant, specific reasons for high-value property transactions.

Ash Denham: I suppose that I am asking whether you expect the outturn and the forecast to come closer together as the tax beds in.

Derek Mackay: I do not necessarily expect them to, for the reason that I just gave. Things will continue to be volatile because of the nature of commercial transactions. Transactions are often not planned and there are many influences on why property changes hands, so it is fair to say that things will continue to be volatile. I want the outturn to be as close to forecast as possible, unless it is positive and much higher than the forecast.

I hope that our forecasting is accurate and sustainable. The Scottish Fiscal Commission will oversee it, of course.

The Convener: One of the challenges that the committee has been facing—it is certainly a challenge that I have faced—in recent weeks relates to the publication of data on the housing market in Scotland. Revenue Scotland and Registers of Scotland publish different sets of data at different times, which are retrospectively updated and corrected. Therefore, at times I have been at cross-purposes with witnesses due to the data that has been before us. Will the Government reflect on that and make it easier not just for this committee but for outside stakeholders to analyse the information that Revenue Scotland and Registers of Scotland produce? Might you want to do something in that regard that could help everybody?

Derek Mackay: If you will allow me to reflect on that point I will see what I can do about better alignment of data and statistics. I would not want to set any hares running, though. The publication of month-to-month statistics can say that you are not meeting your forecast every month, or that you are, or that you are getting too much—whatever. As I have described, month-to-month statistics do not give you the full picture. Quarterly is better and annually is reality, but please allow me to reflect on that point. Some release of data is outwith our direct control, but let us try to harmonise some of it.

The Convener: I recognise that Registers of Scotland and Revenue Scotland have different needs, but it would help transparency if we could do something around the information that they produce.

I thank both our witnesses for coming along and giving us evidence in this session.

Subordinate Legislation

Public Appointments and Public Bodies etc (Scotland) Act 2003 (Treatment of Scottish Fiscal Commission as Specified Authority) Order 2016 [Draft]

10:42

The Convener: Item 3 is consideration of a Scottish statutory instrument relating to appointments to the Scottish Fiscal Commission. Before we come to the motion for which our approval is sought, under agenda item 4, we have an evidence session on the draft order. We are joined by the same witnesses who gave us evidence on LBTT, so without further ado I invite the cabinet secretary to make an opening statement.

Derek Mackay: You can see that the day job keeps me quite busy, convener.

The purpose of the draft order is to enable Scottish ministers to bring within the remit of the Commissioner for Ethical Standards in Public Life in Scotland appointments to the Scottish Fiscal Commission, which does not yet exist in law, and therefore enable the commissioner to regulate appointments. The role of the commissioner will help to ensure that the appointments process is fair and open and that the successful applicants are appointed on merit.

The Convener: There are no questions from members.

Item 4 is consideration of the draft order. I invite the cabinet secretary to move motion S5M-01595.

Motion moved,

That the Finance and Constitution Committee recommends that the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Treatment of Scottish Fiscal Commission as Specified Authority) Order 2016 [draft] be approved.—[*Derek Mackay*]

Motion agreed to.

The Convener: The committee will now publish a short report to the Parliament, setting out our decision on the draft order.

I suspend the meeting to allow for a changeover of witnesses.

10:43

Meeting suspended.

10:44

On resuming—

Budget (Scotland) Act 2016 Amendment Regulations 2016 [Draft]

The Convener: Item 5 is consideration of the Scottish statutory instrument that provides for the 2016-17 autumn budget revision. Before we come to the motion seeking approval at item 6, we will hear evidence on the order. We are joined by the Cabinet Secretary for Finance and the Constitution, Derek Mackay, and by supporting officials from the Scottish Government, Scott Mackay and Ian Storrie. I invite the cabinet secretary to make an opening statement.

Derek Mackay: The autumn budget revision provides the first of two opportunities to amend formally the Scottish budget for 2016-17. In order to assist the committee with its scrutiny, I have provided a brief guide to the autumn budget revision, which has been prepared by my officials. The guide sets out the background to, and details of, the main changes that are proposed. I hope that committee members have found the guide to be helpful.

Table 1.8 on page 9 of the supporting document shows the approved budgets for the budget bill as realigned to reflect the new portfolio structure that was announced by the First Minister on 18 May 2016.

This year's autumn budget revision deals with four different types of amendment to the budget. First, there are a few funding changes. Secondly, there are a couple of technical adjustments that will have no impact on spending power. Thirdly, there is a Whitehall transfer and, finally, there are some budget-neutral transfers of resources between portfolio budgets. The net impact of those changes is an increase of £259.4 million in the approved budget.

Table 1.1 on page 4 of the supporting document shows the approved budgets following the changes that are sought in the autumn budget revision. The first set of changes comprises mainly deployments of available resources that are sourced from Barnett consequentials, budget exchange and tax receipts to various portfolios to meet ministerial priorities and to manage outstanding pressures. In total, those changes increase the budget by £151.8 million.

The second set of changes comprises a couple of technical adjustments to the budget. The technical adjustments are non-cash and will be budget neutral because they cannot be redeployed to support discretionary spend elsewhere. They have a net positive impact of £107 million on the total aggregate position. It is necessary to reflect those adjustments to ensure that the budget is consistent with accounting requirements and with the final outturn that will be reported in our annual accounts. The Scottish budget aligns with the accounting requirements under the UK Government's "Financial Reporting Manual 2015-16" and, in accordance with those requirements, budget provision is included within the Scottish budget for the financial year to reflect the recognition of relevant transport assets within revenue finance infrastructure schemes. The adjustment to budget at the autumn budget revision is £157 million.

The other technical adjustment is to reduce the student loans resource accounting and budgeting charge by £50 million in line with forecast requirements, following a change to the UK discount rate.

With regard to Whitehall transfers and allocations from HM Treasury, there is a net positive impact on the budget of £0.6 million from the proceeds of the tampon tax, which will be used to fund women's charities.

The final part of the budget revision concerns the transfer of funds within and between portfolios to better align the budgets with profiled spend. In line with previous years, there are a number of internal portfolio transfers that will have no effect on portfolio totals, but will ensure that internal budget lines are monitored and managed effectively. The main transfers between portfolios are noted in the ABR supporting document and the guide to the ABR.

As we move towards the financial year end, we will continue to monitor forecast outturn against budget, in line with our normal practice. Furthermore, we will seek to utilise any emerging underspends wherever possible to ensure that we make optimal use of the resources that are available in 2016-17, and to proactively manage the flexibility that is provided under the budget exchange mechanism that was agreed between HM Treasury and the devolved Administrations.

The Convener: The material that has been provided by the Government is helpful, but it begs some questions. I have a couple myself, and I know that other members also want to come in.

My first question relates to the interportfolio transfers greater than £5 million—they are noted in annexe B—and, in particular, the transfer of £54 million to the education and skills portfolio from the health, wellbeing and sport portfolio for nursing and midwifery education.

From discussions, my understanding is that such transfers have been happening for a considerable length of time, but for the life of me I cannot understand why. If you could explain to me why the funds are transferred and persuade me that that is the right thing to do with regard to accounting for that expenditure, that would be very helpful.

Derek Mackay: Okay, convener. I appreciate the point. I suppose that it is really as simple as this: the relevant spend is controlled by one minister or through one portfolio—for example, health. That minister has the budget because they make the policy decision, but the amount is spent elsewhere. An example is how health and education relate to each other. The decision maker can be in one of those areas, but the spend can be made in the other, hence the cross-portfolio transfer. Those are my words. If you want an official interpretation, we can supplement my answer with one.

Scott Mackay (Scottish Government): The minister is absolutely right. The policy decisions and the outcome of those decisions are felt in the budget within the health portfolio and the delivery is funded through the Scottish Further and Higher Education Funding Council, which does not take the policy decisions. It is right that, at the start of the year, the budget is reflected in the area where responsibility for the policy lies.

The Convener: I will put the matter in my terms, if that is okay. Does it really mean that if the health, wellbeing and sport portfolio sees the need for a greater level of skills for nursing and midwifery, that portfolio area is, in effect, the commissioning agent to the education and lifelong learning organisation to make that happen? Is that the simple way to put that?

Derek Mackay: Yes.

The Convener: Now I understand.

Derek Mackay: Thank you for helping us out, convener.

The Convener: That is okay. Will you update the committee on block grant adjustment devolved taxes for 2016-17? They do not appear to have been included in the autumn budget revision. When will the final figure for 2016-17 be agreed? Will it be in the spring budget revision, which is due in February?

Scott Mackay: Will you clarify what aspect of the block grant adjustment you are asking about?

The Convener: I am asking about the devolved taxes for 2016-17.

Scott Mackay: We have agreed a block grant adjustment for the year, as set out in the draft budget document. The block grant adjustment will not be revisited until the outturn data are available for the Scottish taxes, which will be after the year end. A correction mechanism is embedded within the fiscal framework, but once we have agreed it at the start of the year, the block grant adjustment is not revisited until that time.

The Convener: Is there no in-year adjustment?

Scott Mackay: There is no in-year adjustment to the block grant adjustment, although there may be revisions to the forecast as part of the work through the year as data become available.

The Convener: Okay. I think that we might come back to you on the issue—not in relation to today's exercise—as I would certainly like a bit more clarity on what that means.

James Kelly: You mentioned funding changes of £151.8 million, which is split between the budget exchange mechanism, Barnett consequentials and tax receipts. Will you detail how that is broken down?

Derek Mackay: Some of the information on budget exchange and income will have been released before. I have reported in the chamber on that, but I can happily reprovide all the information.

We have covered before, and touched on earlier, the higher-than-forecast income from devolved taxes—LBTT and landfill tax. In terms of carry forward, 0.4 per cent of the total budget was carried forward, which is available to spend. I can give you further information in writing on anything else relating to the Barnett consequentials, if you would like me to do that.

As you will recall, the figure for above-forecast income from devolved taxes was £77 million, which we put into the Scottish cash reserve. If you want a further breakdown, I can certainly provide that, but the position is as I outlined it in the chamber previously.

James Kelly: It would be helpful if you could break down how the £151.8 million splits over the three areas. I appreciate that you do not have the information with you right at this minute.

On tax receipts, you mentioned LBTT. You have spoken about how that money was transferred into a cash reserve and not used for day-to-day funding. How does that work? From the note that we have, it looks as though tax receipts that are part of the £151 million have been used in the revision for day-to-day funding, although you talked about tax receipts being held separately in a cash reserve.

Derek Mackay: The money will rest in the cash reserve, and it can be drawn down in the next financial year if the revenues from the devolved taxes are not what we require them to be.

James Kelly: Are you saying that part of the £151 million is tax receipts, which have gone to the cash reserve?

Derek Mackay: I will clarify the exact line, because there is a separate issue to do with the additional dwelling supplement. What I said would happen with the cash reserves is exactly what has happened. Scott Mackay can pick up on your specific point.

Scott Mackay: In relation to supporting the additional funding, tax receipts that were forecast in relation to the additional dwelling supplement were not applied at budget bill stage. They are part of what has been brought in to support the additional funding allocations that have been made in the autumn budget revision—not the surplus tax receipts from last year, which have gone into the reserve, as Mr Mackay said.

James Kelly: I am sorry. Maybe I am not getting this. Funding changes of £151 million are detailed over a number of lines. In your explanation for the funding changes, you are saying that the figure includes tax receipts. Where are the tax receipts? Are they in the table, or are they in the cash reserve?

Scott Mackay: There are two different elements to the tax receipts. There are the surplus tax receipts over and above what was forecast in 2015-16, which have been put in the cash reserve. In terms of sources of funds that have been applied to the £151 million, forecast tax receipts in respect of the additional dwelling supplement were set out in the draft budget but were not applied as we moved through the budget bill process, and they are part of what has supported the additional funding. That is part of the overall forecast receipts for 2016-17, rather than the surplus tax receipts—

James Kelly: If those receipts were set out in the draft budget, how come they are being produced as additional funding now? Are you saying that they were included in a note in the draft budget but were not applied—

Scott Mackay: They were not applied as part of the funding. The legislation in that regard had not been passed, at that point. There was an indication that it would come forward and there was an estimate of the additional revenues that were expected to be generated, but because the legislation had not come forward, the forecast receipts were not applied at that point.

James Kelly: So, the receipts were not included in the overall total in the draft budget.

Derek Mackay: The ADS came after the budget bill, hence the provision now.

James Kelly: Okay. When you provide clarification and a breakdown of the funding changes in relation to tax receipts, it might be helpful also to provide an explanation of that—even it is just for my benefit.

Derek Mackay: You make a helpful point. I think that we all recognise that tax and spend is now far more complex and that there have been some changes over the year. You make a fair point about the information that is given to Parliament about how everything interrelates, so we can produce a summary, if that would be of assistance.

The Convener: Thank you.

Murdo Fraser: I am trying to understand what has been happening with the strategic forum. I remember from my days of convening the Economy, Energy and Tourism Committee that the committee took quite a bit of interest in the body, which was, if I recall, set up to try to deliver efficiency savings across a range of public sector bodies.

According to annex A in our briefing note, the strategic forum appears to have had a spending increase of £11.7 million, but according to annex B there has been a transfer of £5.4 million from the culture, tourism and external affairs portfolio to the economy, jobs and fair work portfolio. I am not quite sure what is going on. Can you explain that, cabinet secretary?

11:00

Derek Mackay: It is right to say that there are strategic forum savings. All public sector organisations are expected to be more efficient and to co-operate and collaborate to achieve savings. That has been going on. Scott Mackay can give you details of the exact budget line transfers.

Scott Mackay: The transfer from culture represents the contribution from VisitScotland to the strategic forum savings. There was an in-built target in setting the budget to embed the efficiency challenge, and the contribution flows from each of the organisations over the course of the year in order to support the generality of funding across different portfolios.

Murdo Fraser: How does that relate to what looks like an additional spend of £11.7 million?

Derek Mackay: Sorry, the additional spend of £11.7 million—

Murdo Fraser: Annex A shows strategic forum additional spend of £11.7 million.

Derek Mackay: If you want, we can get back to you in writing to give you the detail on that.

Murdo Fraser: Perhaps, cabinet secretary, if you stuck to the day job, you might have more time to look at such issues.

Derek Mackay: If you want to ask questions, that is absolutely fine. If you want detail, we can give it to you line by line.

Ivan McKee: I have a small question on the numbers in the budget bill, and I might want to explore something else, as well.

The numbers that we have for the baby box are for 2016-17. Obviously, the baby box pilot starts in the new year, but it will go out to only 1 per cent or 2 per cent of the country, and will not be rolled out fully until the summer, as I understand it. Given that, why is that spend in this year's budget? Should it not be in next year's budget?

Derek Mackay: I think that we have described how we will be rolling out the baby box from pilot to implementation. Obviously, that means some spend in the current year and further spend in future years.

Ivan McKee: Yes—but I imagine that it would be a smaller number than £6 million for the first year.

Derek Mackay: The numbers are simply based on forecasting.

Ivan McKee: So, clearly, if it does not happen, the figures just roll into the next year.

Derek Mackay: Yes, but I think that we have begun to outline how we will implement the policy.

Ivan McKee: This might not be the best place to ask this, but I have a question about the performance framework.

The Convener: That is probably not an issue that is involved in this particular discussion, Ivan.

Ivan McKee: Okay. No problem.

The Convener: As there are no further questions, we will move to item 6, which involves consideration of the motion on the order. I invite the cabinet secretary to move motion S5M-01839.

Motion moved,

That the Finance and Constitution Committee recommends that the Budget (Scotland) Act 2016 Amendment Regulations 2016 [draft] be approved.—[*Derek Mackay*]

Motion agreed to.

The Convener: The committee will now publish a short report to Parliament setting out our decision on the order.

I thank the cabinet secretary and the officials for attending.

As agreed at the start of the meeting, we will take the next item of business in private. At our next meeting, we will take evidence on public finances and economic performance, as we start our pre-budget scrutiny.

11:03

Meeting continued in private until 11:22.

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