



# Short Term Lets – Taxation

## Briefing Paper No. 2

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# Foreword

Since I was elected in May 2016, an increasing number of constituents have been in touch with me to express a range of concerns about the growth of short term lets in Edinburgh. Such issues range from anti-social noise and nuisance through to worries about the long term future of the City Centre as a viable residential community. Short term lets are not a new phenomenon. In many rural areas, holiday homes have long been the subject of debate. In essence, how residential dwellings are used is a long-standing matter of public interest.



It is clear to me that short term lets are causing a number of problems for residents, visitors, landlords and local authorities. In our first paper, we provided some analysis of the extent and growth in the short term letting market<sup>1</sup>. In this second briefing paper we examine the question of property taxation and short term lets and how over £10 million of non-domestic rates is being avoided by the owners of short term lets.

If you want to check whether a property you think is being run as a short term let is paying non-domestic rates, you can search on the Scottish Assessors Association portal at [www.saa.gov.uk](http://www.saa.gov.uk)

To find out more information about short term lets or to contribute your thoughts on this work, please contact my office. Details are on page 2 of this paper.

A handwritten signature in black ink, appearing to read 'Andy Wightman', with a long horizontal line extending to the right.

*Andy Wightman MSP*

# What is a Short Term Let?

## Summary

- A total of around £10.6 million in local property taxes are being avoided because of the Small Business Bonus Scheme and a failure to declare properties being run as a commercial business.
- Only 50% of properties managed as short term lets are being declared as liable for non-domestic rates.
- Over £6 million in non-domestic rates is not being collected because of the £15,000 threshold for 100% relief from non-domestic rates under the Scottish Government's Small Business Bonus Scheme.
- Around £4 million in non-domestic rates is not being collected because the owners are failing to declare that their properties are being run as a business.

Short term or holiday lets are properties which are rented out for a few days or weeks at a time typically to tourists and visitors. These properties are popular with tourists and visitors looking for self-catering accommodation which is cheaper than a hotel or guesthouse room. The rapid growth in online platforms is driving demand for this type of accommodation.

In addition, the profitability of short term lets is encouraging not only existing homeowners but increasingly speculators to acquire residential property as a business opportunity. In Edinburgh, the top 20 hosts on one website operate multiple short term let properties indicating that this is seen as a potentially lucrative and large scale practice (see Table 1).

Ranking on a short term let website	Number of properties
1	56
2	36
3	30
4	23
5	22
6	21
7	20
8	19
9	16
10	15
11	14
12	14
13	14
14	14
15	14
16	13
17	12
18	12
19	11
20	11

Table 1: Short term let hosts with more than 10 properties in the City of Edinburgh

# Taxation

Residential property is subject to local property tax according to how the premises are used.

## Council Tax

Dwelling houses are liable for council tax under the provisions of Section 72 of the Local Government Finance Act 1992. Such properties generate around £2 billion per year for local authorities across Scotland which contributes to the funding of local services such as schools, street lighting, libraries and refuse collection<sup>2</sup>. Council tax contributes around 12% of local government finance.

Dwellings are liable for council tax so long as they remain a dwelling house (whether occupied or unoccupied). If a residential property is used for any other purpose, it may become liable for non-domestic rates.

## Non-Domestic Rates

Non-domestic rates is a tax due on property that is not in domestic use. Like council tax, local authorities administer this tax payable by the occupiers of premises classed as a non-domestic property such as offices, factories, shops, hospitals and libraries.

Rates are payable according to the rateable value (broadly speaking its assessed rental value) of properties as assessed by one of Scotland's fourteen Valuation Authorities. The rate itself is set by Scottish Ministers (46.6p per pound of rateable value for 2017-18). So, for example, a property with a rateable value of £10,000 will be liable for £4,600 in non-domestic rates.

Schedule 2(2) of The Council Tax (Dwellings and Part Residential Subjects (Scotland) Regulations) 1992 excludes from the definition of dwelling for the purpose of council tax:

*Any lands or heritages*

- (a) *which are not the sole or main residence of any person; and*
- (b) *which either—*
  - (i) *are made available by a relevant person for letting, on a commercial basis and with a view to the realisation of profits, as self-catering accommodation for short periods amounting in the aggregate to 140 days or more in the financial year; or*
  - (ii) *if they have not been made so available for letting in that year, are intended by a relevant person to be made so available for letting in that year and the interest of the relevant person in the lands and heritages is such as to enable him to let them for such periods<sup>3</sup>.*

Depending on the number of days that a residential property is let for, it may become liable for non-domestic rates instead of council tax. If it is made available on a commercial basis for less than 140 days per year, council tax will remain payable. For more than 140 days per year, it becomes liable for non-domestic rates.

# Short Term Lets in Edinburgh

An examination of the Valuation Roll maintained by the Lothian Valuation Joint Board shows the numbers of properties categorised as self-catering premises across Edinburgh.

	Total		Under £15,000		Over £15,000	
	Number	Rateable Value	Number	Rateable Value	Number	Rateable Value
City of Edinburgh	1,262	£16,063,600	1,043	£7,254,550	219	£8,809,050

Table 2: Self-catering properties in the Valuation Roll of the City of Edinburgh

There are 1,262 properties on the Valuation Roll for the City of Edinburgh with a total rateable value of £16,063,600. Ordinarily, this would yield the Council £7,485,637 in non-domestic rates income (£16,063,600 x 46.6p). The fact that it does not is due to two factors – under-reporting of short term lets and the Small Business Bonus Scheme.

## Under-reporting of Short Term Lets

According to research reported in our first briefing paper, there are 6,200 properties available for short term let across the City of Edinburgh advertised on one online platform alone. Of these, 55% (3,410 properties) are entire homes where the owner is not present. Taking into account properties advertised on other websites and the duration of the year properties are made available for, we estimate that there are around 2,500 properties advertised for commercial letting available for more than 140 days per year across the City of Edinburgh (and the number is rising).

Given that only half of these (1,262) are on the Valuation Roll, there are around 1,250 properties being let for over 140 days per year that are missing from the Roll and currently paying council tax instead of non-domestic rates.

A dwelling in Band D for council tax is currently charged £1,204 per year. The average rateable value of short term let properties on the Valuation Roll is £12,728 yielding £5,931 per year in non-domestic rates. Thus the lost revenue is £4,727 (£5,931 – £1,204), which when multiplied by 1,250 properties = £5,908,750.

The total non-domestic rates that are therefore liable to be collected by the City of Edinburgh Council is in the region of £14.8 million per year (2,500 properties at £5,931 per property).

But even with the 1,262 short term let properties that are on the Valuation Roll, this tax is being avoided because of the Small Business Bonus Scheme.

## Small Business Bonus Scheme

The Small Business Bonus Scheme was established in April 2008 to provide rates relief to occupiers of non-domestic property below certain thresholds. In 2008-09 properties under £15,000 rateable value were given 20% relief. From April 2017, relief is now set at 100%. In other words, non-domestic properties with a rateable value of less than £15,000 are liable for no local tax.

According to data from the Lothian Valuation Joint Board (see Table 2), around 83% of short term lets are valued at under £15,000 accounting for 45% of the total rates paid. Thus of the total potential rates yield of £14.8 million, 45% (**£6.6 million**) is exempted and not collected and around 50% of the remainder (**£4 million**) is uncollected because properties are not on the Valuation Roll. The true figure will be higher because properties valued up to £35,000 are also given tax breaks of 25% but are not taken into account in our calculations.

In total, over **£10.6 million** in non-domestic rates revenue is being avoided by the owners of short term let properties every year. The Scottish Government compensates Councils for tax foregone due to the Small Business Bonus Scheme and so Scottish taxpayers are paying the taxes that should be being paid by the owners of short term let properties.

In February 2017, Andy Wightman raised concerns about the way Non-Domestic Rates (the second largest source of public finance controlled by the Scottish Parliament) are scrutinised by the Scottish Parliament<sup>4</sup>. It is a feature of non-domestic rates policy that there is very little scrutiny. Typical of this is the fact that, in answer to a Written Question answered on 20 July 2016, the Scottish Government confirmed that no economic assessment has been made of the Small Business Bonus Scheme<sup>5</sup>.



# Conclusion

As a consequence of the failure to properly identify all domestic dwellings that should be paying non-domestic rates and because of the shortcomings of the Small Business Bonus Scheme, the current extent of short term lets across the City of Edinburgh is avoiding an annual tax bill of around £10.6 million.

That is a significant figure, which could assist in the funding of vital local facilities and services that are in desperate need for funding. Yet, instead, thanks to the Small Business Bonus Scheme, landlords of such properties can enjoy the use of the services of local authorities without contributing a penny.

The impact of this will get worse as short term letting grows across Edinburgh. As more and more buyers from the UK and abroad buy property and remove it from the residential housing market, they generate profits far in excess of that available in the residential property market, pay no tax and have their property values underpinned by the public services provided by the City of Edinburgh Council at no cost to themselves.

# References

<sup>1</sup> The first briefing paper introducing the case for better regulation of short term lets can be accessed via <http://bit.ly/2qWCLfW>.

<sup>2</sup> Scottish Government, 2017, *Council Tax*, <http://bit.ly/1WE9K1L>.

<sup>3</sup> The Council Tax (Dwellings and Part Residential Subjects (Scotland) Regulations) 1992, <http://bit.ly/2uQKXiX>.

<sup>4</sup> BBC News, 22 February 2017, *Calls for 'fundamental' Scots business rates review*, <http://bbc.in/2rVh6Vg>.

<sup>5</sup> Scottish Parliament, 20 July 2016, *Question S5W-00988*, <http://bit.ly/2tVaEM6>