BARCLAY IMPLEMENTATION CONSULTATION – SUBMISSION
FROM THE ScottISH RETAIL CONSORTIUM

ABOUT SRC

1. Retail is an exciting, diverse and dynamic industry undergoing transformational change. The SRC is at the forefront – enhancing, assisting, informing and shaping. Our mission is to make a positive difference to the retail industry and to the customers it serves, today and in the future. Our broad range of stakeholders demonstrates how retailing touches almost every aspect of our culture. The SRC leads the industry and works with our members to shape debates and influence issues and opportunities that will help make that positive difference.

2. In addition to publishing leading indicators on Scottish retail sales, footfall and shop vacancies in town centres, our policy positions are informed by our 200-strong membership and determined by the SRC’s Board.

3. The SRC welcomes the opportunity to contribute to the Barclay Implementation consultation, especially as retail accounts for 22% of business rates. In addition to being represented on the Barclay Implementation Advisory Group, the SRC has previously produced several policy papers on business rates including in 2015 ‘Business Rates: Fundamental Reform’ and in 2016 ‘Holyrood 2016: Business Rates’. Both papers noted that the balance of business taxation has become increasingly weighted against people and property intensive firms. Our more recent 2017 ‘Shaping the Future of Scottish Retail’ paper alighted on the short and medium-term changes that ought to be made to business rates. We look forward to on-going engagement as Government continues its deliberations on rates reform.

THE RETAIL INDUSTRY IS REINVENTING ITSELF FOR THE FUTURE

4. A successful retail industry is a great route to better paid jobs, more private sector investment¹, and additional tax revenues for the public sector. It also keeps down prices for households, supports communities² and helps everyone saving for a pension³. The industry is crucial to supporting Scottish businesses, with billions of pounds of Scottish products exported by retailers every year to the rest of the UK and beyond. The industry provides a key market for many other indigenous suppliers, from logistics companies moving products to electricians and plasterers resolving issues in physical stores.

¹ 14 per cent of private sector investment in the UK comes from the retail sector including investment in buildings, vehicles, software and hardware
² Independent research shows that the public rate retailers as the top sector for getting involved in their local communities
³ 4 per cent of dividends into pension funds come from the retail industry
5. Scotland’s retail industry is in transition. The industry is one of the most dynamic and innovative, accounting for 13% of all new firms formed last year. This innovation can be seen through significant new investment in online retailing, in-store technology and order points, home delivery and logistics capabilities, digital customer loyalty and payment arrangements, and new and refreshed own-brand products. Retailers are re-inventing their business models as the industry is in the midst of a customer led revolution, and all of its investment - from new ways of working to competitive prices – is because customers are changing and demanding more choice, value, convenience and enhanced experiences.

6. However, these are testing times. Retail sales growth has been at a low ebb over the past three years. Retailers are working ever harder to maintain let alone grow sales, at a time of profound structural, economic and regulatory change. Retail is currently Scotland’s largest private sector employer, employing 245,000 people directly, 13 per cent of the private sector work-force. However recent official data highlighted a drop of 16,400 posts over the past eight years, down 6.3 per cent. During the same period there were 1,831 fewer shops, a 7.5 per cent reduction. Meanwhile net profitability in the industry has dipped to around 5 per cent of the value of sales. Embracing these changes and becoming more productive requires retailers to invest in new technology, a higher skilled workforce, revamped warehouses and logistics capabilities.

RESPONSE TO THE BARCLAY IMPLEMENTATION PROPOSALS

General
7. In the short to medium term the SRC wants to see a rates system that better flexes with economic and trading conditions and which leads to a substantially lower tax burden, as this would increase retailers’ confidence about investing in new and refurbished shop premises. With regards to the former we are very pleased to see the progress being made to deliver on the thrust of the Barclay reforms as well as the promise of a Bill during the current parliamentary term to deliver on those aspects which require legislative change, particularly more frequent revaluations and reducing by half the time taken between valuations and them coming into force.

8. The non-legislative decision to restore parity with England on the large business rates supplement is encouraging, albeit we would like to see a speedier timetable for this. We hold the view that the overall rates burden remains onerous, at a time when retailers are having to grapple with profound changes in shopping habits and other growing costs including the apprenticeship levy, higher statutory employer’ pension contributions, and the upcoming deposit return scheme for drinks containers.

Business growth accelerator
9. The 12-month delay before rates are increased when an existing commercial property is expanded or improved came into effect in April 2018, and we note the commitment to make this change permanent. The proposal to remove the need for ratepayers to apply annually for this relief is sensible, and legislating for this would helpfully replicate it across Scotland’s 32 local authorities.

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E.g. 25% of all non-food retail sales are online

Scottish Government’s Annual Business Statistics published 30 August 2017

5,128 retail premises pay the large business rates supplement, costing retailers in Scotland £14.1 million a year
3-yearly revaluations
10. The SRC has strongly advocated more frequent commercial property revaluations and a reduction in the period between the valuation date and the rating list starting, and so we are greatly heartened with the pledge to enshrine this in legislation.

11. Such a move should help the rates system flex better in response to changes in underlying economic conditions, and more frequent valuations would ensure that each property pays a fairer share of the rates burden relative to other properties and a more accurate one. This should have a positive effect of decreasing the likelihood over time of major fluctuations in values and should contribute to a reduction in the volume of appeals.

12. One in every ten retail premises in Scotland’s town centres is empty\(^7\), a visible manifestation of the changing nature of the industry and how the economics of investing in retail premises is being undermined by rising property costs. Not only has this meant fewer shops, it has also meant spending in town centres has declined\(^8\). During the previous valuation period commercial property valuations reflected the top of the market, from early 2008, and the retail and trading world had to live with this for a sustained period despite economic reality having moved on dramatically in the years after that. High valuations coupled with a high tax rate act as a barrier to improve, extend or move into new retail premises, more so now there is often a viable and lower cost alternative to trading from physical property i.e. online.

13. We note that the next commercial property revaluation is envisaged to come into force in 2022 in Scotland, in 2021 in England and Wales, and 2020 in Northern Ireland. Our preference would be for an aligned timetable, thus making the system simpler and easier for firms operating across different parts of the UK.

New business rates levy on out-of-town and online businesses
14. The SRC has profound concerns over the proposal to empower all local authorities to levy additional business rates surcharges on out of town or predominantly online businesses, and urge the Government not to proceed with this aspect of the overall proposals. From a retail perspective it completely misses the bigger picture about why some consumers take advantage of retail offerings based out-of-town or online, and it introduces an insidious ‘them and us’ element into the rates system which is already designed to account for property differences through revaluations. The levy proposal introduces a fresh element of unpredictability into the rates system, and is an admission that the local discretionary rates relief\(^9\) power introduced barely three years ago has thus far conspicuously underwhelmed.

15. This latter point is a pity as the focus for town centres ought to be on putting far greater effort into deploying local discretionary rates relief schemes – which see rates reductions as the key to growth – perhaps funded by the revenues councils accrue from the Business Rates Incentivisation Scheme or from the Scottish Government’s underspend\(^10\), which would be a far more sensible approach than introducing a new rates levy.

\(^7\) SRC/Springboard vacancies monitor
\(^8\) Spending in town centres has declined from 47% to 39% of total retail spending over the past 10 years, Verdict
\(^9\) Local discretionary rates relief came into effect at the end of October 2015 following the passing of the Community Empowerment Act. Only 3 out of the 32 councils have deployed it in its first 3 years of operation – see PQ S5W-17597
\(^10\) SNP government budget underspend almost £500 million, The Herald, 21 June 2018
16. The thinking behind this new levy proposal is purportedly to aid town centres. However this is inconsistent with the thrust of the Barclay report which was about ensuring competitiveness and about minimising complexity in the rates system. For many the current system is already opaque without adding further complexity with this new levy, in the process undermining transparency and perceptions of fairness. Any new levy of this nature will do little to aid town centres as it is not an answer to the high cost of operating faced by shopkeepers or other firms located on our high streets, nor to the profound shift in consumers shopping habits that we are witnessing and which is increasingly blurring the lines between physical and online retailing. Unless the additional tax receipts from this levy are applied to reduce their rates liabilities, it is difficult to comprehend how this will aid town centre-based retailers.

17. Our town centres have a great deal to offer but many need to offer a more compelling reason for people to visit, spend time and money. Indeed, for many town centre-located businesses part of their future success lies in leveraging digital and online to better engage consumers. Local councils already have a suite of powers which enable them to rejuvenate high streets, including the existing ability to reduce business rates, provide affordable and accessible parking, deploy revenues from the Business Rates Incentivisation Scheme, and support Business Improvement Districts.

18. This is a testing time for retail and public policy itself is directly contributing to the rising cost of maintaining an extensive store footprint and employing people in stores (e.g. recent changes to non-wage costs such as employer pension contributions and the apprenticeship levy). In turn, this is altering the attractiveness and potential returns from making commercial investment in online operations, as the cost and capability of technology improves and as customers’ shopping habits evolve. That said, building an e-commerce business on top of a traditional retail business is costly, given the need for effective online platforms and logistics and fulfilment capabilities which often ship products to individual customers rather than to stores in bulk. Hindering retailers with a new rates levy will not help equip them to embrace change.

19. Furthermore, a new Scotland-only rates levy on out of town or online businesses sits uncomfortably with the stated ambition of having a competitive rates regime compared to the rest of the UK. A new levy would be counter-productive by making it more expensive for retailers to operate in Scotland, many of whom often compete internally with other parts of the UK or overseas for increasingly mobile investment capital.

20. In addition to our objection in principle to this proposal we remain hugely concerned at how it could be fairly and effectively applied. There is a danger that local authorities will see it as a quick way of increasing the already onerous business rates burden on a specific edge of town area, and if the levy is progressed a safeguard would presumably need to be built in around councils’ own fiduciary interests in business and industrial parks etc.

21. We remain unclear as to what types of businesses would be liable for this new levy, its scope, what the definitions of out of town or ‘predominantly online’ are, how it will work, how much it is expected to generate in tax revenues, what the implementation and

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11 BRIS revenues amounted to £10.26 million in 2014-17, Ministerial response to written PQ S5W-17605
12 P13 of SNP’s 2016 election manifesto
administration costs for councils will be, how much it might cost firms, whether it will be a slab tax, how long it would apply for, and what any revenues would be used for.

22. On the latter, is it expected that all of the receipts will be used by councils – given their powers under the Community Empowerment Act - to fund reductions in business rates through local discretionary rates relief? If so this might be a more palatable outcome. If however the spending of the receipts from the levy is entirely at the discretion of individual councils, as the partial BRIA suggests\(^\text{13}\), how can we be sure it will “be used to support ratepayers in town centres”\(^\text{14}\) and not siphoned off for general council spending?

23. Many retailers already pay the headline business rate, the large business supplement, and a Business Improvement District levy (we would expect the appetite amongst firms to support BIDs to diminish should this extra levy be implemented). Would this new rates levy be over and above this?

24. Detail of what types of online businesses would be affected by the new rates levy is thin at best, and comes as the UK Chancellor is considering taxation of the digital economy following HM Treasury’s own recent consultation. Around 17% of retail sales are undertaken online, and 8 of the top 10 online retailers have a bricks and mortar network of shops too. Given trends in modern retailing it is increasingly difficult for example to make distinctions between distribution centres which support shops and those which support an online offering, as well as the fact that through ‘click and collect’ many online orders are collected by customers in-store.

25. Shop staff themselves will not be immune from the impact of any new levy, as staff bonuses for some retailers are dependent on the ‘profit and loss’ performance of their own individual store. A higher rates bill for an individual store as a result of this new levy would presumably affect staff bonuses as a result.

26. If Government is determined to press ahead with empowering councils to introduce a new rates levy then we agree there should be safeguards built in to the legislation. As outlined in our original submission to the Barclay Rates Review, we oppose repatriating control over the poundage rate to local authorities and fear this new levy might be the thin end of the wedge. A statutory cap on the level of the levy would therefore make sense and hopefully ensure this new tax is not punitive.

27. We note the suggestion that Ministerial approval could be sought for each local authority levy. We are attracted to this but appreciate such a requirement does not apply for Business Improvement Districts. What BIDs do have in their favour is a time-limit, and so a sunset provision ought to equally apply to any new levy. Ministerial approval should also ensure that each pilot is accompanied by a comprehensive plan to aid town centres.

28. We would expect local authorities to consult firms on any proposals for a new levy prior to progressing such an option (as the Tourism Secretary recently insisted when councils consider a tourism levy\(^\text{15}\)), as well as provide a robust business case, and agree that ratepayers should have a say on how the proceeds are spent. Care should be taken to

\(^\text{13}\) Partial BRIA, p10, “Councils ultimately decide how proceeds from the supplement will be spent.”

\(^\text{14}\) As stated in the Barclay Implementation consultation paper, paragraph 23

\(^\text{15}\) BBC Scotland News online, 4 July 2018, ‘Culture Secretary questions Edinburgh tourist tax plans’
ensure there is sufficient certainty in good time for firms’ budgetary processes, with clarity over tax rates and affected premises not left until the last minute. This is particularly the case for retailers of scale who often have shop premises across many local authority areas which means they have to deal with multiple different billing authorities.

29. A formal evaluation of the three levy pilots would be a sensible step and an opportunity learn lessons and assess whether the intended goals and impact were achieved.

30. We are concerned that the three pilots could be implemented from Spring 2020, yet Ministers expect to maintain a higher large business rates supplement than England until Spring 2021. This could see firms in Scotland in 2020-21 facing two extra taxes over and above that faced by competitors and counterparts down south. A solution is to accelerate the timetable for restoring the level playing field on the large business rates supplement.

Collection of information from ratepayers
31. We support the proposal to make it easier and simpler to gather information from ratepayers in order to inform commercial property valuations, including moving from criminal to civil penalties for non-compliance.

Empty properties and countering known avoidance tactics
32. Our members are liable for empty property rates following store closures up until the lease can be disposed of. Holding surplus and unproductive property is costly. For most retail property (other than listed buildings) there is no exemption period now and only a 3-month period of 50% discount followed by an indefinite 10% discount thereafter. These discount rates for empty property have been significantly reduced in recent years. As such holding costs for surplus retail property are expensive and there is every financial incentive already for our members to sub-let or dispose of the lease wherever possible, and further ‘incentives’ to do so are unnecessary.

33. In this structurally changing retail market, with limited and reducing demand for physical space overall and in many particular locations, sub-letting or disposal can be a challenge. Short term lets, frequently at nominal or low rents, remain attractive to empty ratepayers as, providing they last for at least the short period of 42 days, following their end a further 3-month period of 50% discount remains available to the empty ratepayer. It is noted that the proposal is to extend the 42 day period to six months to further dissuade such short lets being used as an avoidance tactic. Furthermore it is noted that the intention is that the six month period be discontinuous, allowing a series of short lets in any single rating financial year to be added together to trigger relief. We consider that re-setting the six-month occupation requirement at the start of each rating financial year (i.e. each 1st April) will however have practical implications on the availability of vacant property for short term lets by acting as a disincentive to empty rate payers to grant such lets. This is because the 3-month period of 50% discount may only be enjoyed again in full if the cumulative occupation of six months is achieved between 1st April and 1st January in any year. To help mitigate the effect on the availability of short term lets a better solution might be to make the cumulative six month period apply for any series of below six month lets irrespective of whether they cross rating financial years. At the end of the series when the property becomes vacant the liable empty ratepayer would at that point be entitled to the relevant exemption or increased discount period.