

Non-domestic rates/ council tax on second and empty homes: Consultation



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- Yes
- No

Questionnaire

The current definition has worked in practice.

Question 1

Do you think the current definition of a second home should continue to apply?:

More information:

For council tax purposes, the current definition of a second home is, 'a dwelling which is no one's sole or main residence and that is lived in for at least 25 days during the 12 month period of the council tax charge'.

Answer:

- Yes
 No
 Don't know

Please give reasons for your answer.

The current definition has worked in practice.

Question 2

Do you think the discount eligibility for job related dwellings and purpose built holiday accommodation is appropriate?:

More information:

Eligible job related dwellings and purpose built holiday accommodation are entitled to a council tax discount of 50%.

Purpose built holiday accommodation is defined as a dwelling that is used for holiday purposes and has a licence or planning permission limiting its use for human habitation throughout the whole year. An example might be chalets or other types of holiday accommodation that are either unsuitable to be occupied all year round (their construction may mean they are only suitable to be lived in during the warmer months) or are not allowed to be lived in all year due to planning, licensing or other restrictions.

Job-related dwellings are defined as homes owned by someone who has to live elsewhere for most or all of the time as part of their job, or the home the person occupies to undertake their job if the person has another home that is their main residence.

Answer:

- Yes
 No
 Don't know

Please give reasons for your answer.

Question 3

Do you think councils should be able to charge a council tax premium on top of regular council tax rates for second homes?

More information:

A premium is charging more than the full rate of council tax.

Answer:

- Yes
- No
- Don't know

Please give reasons for your answer.

This would bring in further revenue raising avenues for the Council and it may help bring properties on to the rental market or ensure greater use although in our area it will not be significant numbers. An additional charge will also bring 2nd homes into line with unoccupied properties. Although the additional income will not be significant in Angus we note that in other Council areas it may be able to bring in greater revenue.

Question 4

If you have answered yes to question 3, what do you think the maximum premium councils could charge should be?

More information:

- 50% premium is the same as one and a half times the normal rate of council tax.
- 100% premium is double the normal rate of council tax
- 150% premium is two and a half times the normal rate of council tax
- 200% premium is three times the normal rate of council tax
- 250% premium is three and a half times the normal rate of council tax
- 300% premium is four times the normal rate of council tax

Answer:

- 50%
- 100%
- 150%
- 200%
- 250%
- 300%
- Other (specify)

Please give reasons for your answer.

Any premium beyond 100% would seem difficult to justify and may just bring the Council into un-necessary time consuming conflict with the owners of these properties. While the ability to charge a premium would be a welcome option not currently available we have concerns about the extent to which this can address some of the issues facing Scotland in relation to housing supply.

Question 5

What factors should be taken into account by councils when deciding whether to introduce a premium on council tax for second homes?

More information:

A non-exhaustive list of potential factors is set out below:

- numbers and percentages of second homes in the local area
- distribution of second homes and other housing throughout the council area and an assessment of their impact on residential accommodation values in particular areas
- potential impact on local economies and the tourism industry
- patterns of demand for, and availability of, affordable homes
- potential impact on local public services and the local community
- other existing measures or policies that are aimed at increasing housing supply and the availability of affordable housing

Councils may also decide not to use the powers or to disapply a premium for a specific period of time.

A non-exhaustive list of examples of where a council might consider doing this include:

- where there are reasons why the home could not be lived in as a permanent residence
- where there are reasons why a home could not be sold or let
- where the owner's use of their accommodation is restricted by circumstances not covered by an exception from the premium
- where charging a premium might cause hardship

Answer:

Please list the factors and provide reasons for your answer:

The examples provided in the lists above cover the key potential factors which a Council may wish to consider but there is also a need for simplicity. We would prefer for Councils to be able to decide locally which factors to choose rather than have these determined nationally. The more factors that are introduced adds complexity and administrative burden. The more a factor is discretionary such as "charging a premium might cause hardship" the more this leads to time and resource consuming disputes between owner and Council. The most relevant factor would be where "a home could not be sold or let" but even that can be difficult to determine.

Question 6

If you do, or were to, own a second home please tell us what you would do if the applicable rate of council tax were to increase, and the 'thresholds' to be classed as self-catering holiday accommodation for non-domestic rates purposes stayed the same?

More information:

The current threshold for defining premises as self-catering holiday accommodation liable for non-domestic rates is it must be available to let for 140 days or more and actually let for 70 days or more in the same financial year.

A private residential tenancy is when a registered landlord lets accommodation to an individual/s and it will be their sole or main residence. All tenancies created on or after 1 December 2017 are open-ended, which means a landlord will no longer be able to ask a tenant to leave simply because the fixed term has ended.

Answer:

- The home is (or would be) already used as self-catering accommodation and liable for non-domestic rates
- The home is (or would be) already used as a private residential tenancy and the tenant is liable for council tax
- I would continue to use it purely for personal use and pay the higher rate of council tax
- I would continue with split use between self-catering accommodation (below the non-domestic rates threshold) and personal use, and pay council tax
- My second home already has/would have split use between self-catering accommodation (below the non-domestic rates threshold) and personal use. Rather than pay the higher rate of council tax, I would increase the number of days the accommodation is available to let and actually let in order to meet the non-domestic rates thresholds
- My second home is purely for personal use. However, in order to stop paying council tax, I would make it available as self-catering accommodation for 140 days or more and actually let it for 70 days or more in order to be liable for non-domestic rates
- I use my second home purely for personal use but I would change its use to a private residential tenancy
- I use my second home as self-catering accommodation (below the non-domestic rates threshold) but I would change its use to a private residential tenancy
- I will seek reclassification as an empty home and pay council tax
- I will sell the second home

Question 7

Do you think councils should be able to charge a higher premium than the current 100% (double the full rate) of council tax on homes empty for longer than 12 months?

More information:

Councils currently have the discretion to charge up to 100% premium on council tax on homes empty for longer than 12 months.

Answer:

- Yes
- No
- Don't know

Please give reasons for your answer.

Long term empty properties represent a missed opportunity to increase housing supply in an area much more so than second homes and so additional incentives to encourage property owners to bring such properties back into use is to be welcomed as an option Councils could deploy if required. As is the case now safeguards and exemptions are important to deal with specific circumstances.

Question 8

If you have answered yes to question 7, what do you think the maximum premium councils could charge should be?

More information:

This question is asking what the maximum premium should be for homes that have been empty for longer than 12 months.

The current maximum is 100% premium, which is double the normal rate of council tax.

Answer:

- 150%
- 200%
- 250%
- 300%
- Other (specify)

Please give reasons for your answer.

An additional premium of 200% is considered to provide an appropriate balance between incentivising bringing such properties back into use without being punitive towards property owners.

Question 9

Do you think there should be a stepped approach to charging higher rates of council tax on long-term empty homes?

More information:

Appendix 1 to Report 190/23

By 'stepped approach' we mean only giving councils powers to charge higher rates of council tax the longer the home is empty. For example, 100% premium at 12 months, 200% premium at 2 years, 300% premium at 5 years.

100% premium is the same as double the normal amount of council tax.

200% premium is the same as three times the normal amount of council tax

300% premium is the same as four times the normal amount of council tax.

Answer:

- Yes
 No
 Don't know

Please give reasons for your answer.

200% after 2 years is thought to strike a reasonable balance between incentivising action without being punitive. We do need to be mindful that affordability for owners is a consideration – the higher the premium the greater the risk that these charges become uncollectable and are then written off thereby achieving nothing.

Question 10

Are there any exceptions that are not already taken into account, that should be, when charging a premium of council tax on homes empty for longer than 12 months?

More information:

Current discretionary powers for councils to change council tax liability for empty homes

Status of empty home	Up to 6 months	6-12 months	12 months +	2 years +
No work underway and not for sale or let	Owner may apply for an unoccupied and unfurnished exemption	Discount can be varied between 50 and 10%	Discount can be varied between 50 and 10% or discount can be removed or premium of up to 100% can be applied	Discount can be varied between 50 and 10% or discount can be removed or premium of up to 100% can be applied
If undergoing repair work to make them habitable	50% discount cannot be changed	Owner may apply for a major repairs or structural	Discount can be varied between 50 and 10% or discount can be removed	Discount can be varied between 50 and 10% or discount can be removed

Appendix 1 to Report 190/23

		alterations exemption.	or premium of up to 100% can be applied.	or premium of up to 100% can be applied.
		Discount can be varied between 50 and 10%.		
If being actively marketed for sale or let	50% discount cannot be changed	50% discount cannot be changed	50% discount cannot be changed	a premium of up to 100% can be charged

The current list of exemptions to council tax are:

Exemption	Period of Exemption
Dwellings last occupied by charitable bodies	Up to 6 months
Dwellings last occupied by persons living or detained elsewhere	Unlimited
Deceased owners	Unlimited up to grant of confirmation 6 months after grant of confirmation
Dwellings empty under statute	Unlimited
Dwellings awaiting demolition	Unlimited
Dwellings for occupation by ministers	Unlimited
Dwellings occupied by students, etc.	Unlimited
Repossessed dwellings	Unlimited
Agricultural dwellings	Unlimited
Dwellings for old or disabled persons	Unlimited
Halls of residence	Unlimited
Barracks, etc.	Unlimited
Dwellings occupied by young people	Unlimited
Difficult to let dwellings	Unlimited
Garages and storage premises	Unlimited
Dwellings of persons made bankrupt	Unlimited
Visiting forces	Unlimited

Dwellings occupied by severely mentally impaired persons	Unlimited
Prisons	Unlimited
Prescribed housing support services accommodation	Unlimited

Answer:

Please tell us about exemptions that you feel should apply and give reasons for your answer. Do not include exemptions that are already provided for.

No additional exemptions suggested

Question 11

What factors should be taken into account by councils when deciding whether to introduce a premium on council tax for homes empty for longer than 12 months?

More information:

A non-exhaustive list of potential factors might be:

- numbers, percentages and distribution of long-term empty homes throughout a local area
- potential impact on local economies and the community
- patterns of demand for, and availability of, affordable homes
- potential impact on local public services
- impact on neighbours and local residents

Councils may also decide not to use the powers or to disapply a premium for a specific period of time. A non-exhaustive list of examples of where a council might do this include:

- where there are reasons why a home could not be sold or let
- where an offer has been accepted on a home but the sale has not yet been completed and the exception period has run out
- if the home has been empty for longer than 12 months but has been recently purchased by a new owner that is actively taking steps to bring the home back into use
- if an owner has submitted a timely planning application or is undergoing a planning appeal that is under consideration by the council or Scottish Government. This means they cannot undertake work to bring the home back into use until that process is concluded
- where charging a premium might cause hardship or act as a disincentive to bringing the home back into use e.g. where extensive repairs are actively being carried out

Answer:

Please list factors and give reasons for your answer.

The 2nd list of examples would provide Councils with some discretion and may be seen as allowing some fairness in these situations and not un-necessarily penalising the owners.

Question 12

If you do, or were to, own a home that has been empty for longer than 12 months, please tell us what you would do if your council decided to increase the maximum council tax charge above 100% premium?

More information:

Council tax premium:

- 100% premium is the same as double the normal rate of council tax. This is the current maximum councils can decide to charge. This question asks what you would do if councils are given powers to charge more than this e.g. up to 300% premium/ four times the normal rate and the council where your empty home is located decided to apply an increase.
- You may find it helpful to view what we mean by some of the options given e.g. short-term lets and private residential tenancies.

Short-term lets:

- In this consultation, short-term lets is a term used to refer to the whole or part of accommodation provided to one or more guests on a commercial basis that does not become the main residence of the guest/s. Self-catering accommodation is a type of short-term let and may be liable for council tax or non-domestic rates depending on the number of days they are available to let and actually let in the financial year.
- Self-catering accommodation must be available for let for 140 days or more and actually let for 70 days or more in the financial year, to be exempt from council tax and liable for non-domestic rates

Private residential tenancies:

- A [private residential tenancy](#) is when a registered landlord lets accommodation to an individual/s and it will be their sole or main residence. All tenancies created on or after 1 December 2017 are open-ended, which means a landlord will no longer be able to ask a tenant to leave simply because the fixed term has ended.

Answer:

- Leave the home empty and pay the higher council tax
- Sell the empty home
- Use the home as a private residential tenancy
- Use the home as a short-Term Let
- Other (specify)

Please give reasons for your answer.

N/A

Question 13

Do you think that the letting thresholds for self-catering accommodation for non-domestic rates should be changed?

More information:

The owners, tenants or occupiers of self-catering accommodation (who may be businesses, the public or the third sectors) may be liable for either council tax or non-domestic rates. This includes owners of second homes who use them for self-catering accommodation.

The current threshold for defining premises as self-catering holiday accommodation liable for non-domestic rates is it must be available to let for 140 days or more and actually let for 70 days or more in the same financial year.

Answer:

- Yes
- No
- Don't know

Please give reasons for your answer.

The current number of days may still possibly be open to exploitation so this needs to be addressed by increasing the threshold.

If the issue is that if the property remains in NDR the owner may be eligible for Small Business relief so do not pay rates then an alternative approach would be to prohibit these properties from receiving the relief. This could avoid then moving the properties to Council Tax which will require a wholesale review of existing properties by the Assessor.

Question 14

If you have answered yes to question 13, what do you think the threshold for the number of days self-catering accommodation must actually be let for should be?

More information:

The current threshold is self-catering accommodation must actually be let for 70 days in the financial year.

Answer:

- 50 days
- 100 days
- 140 days

- 180 days
- Other (specify)

Please give reasons for your answer.

50% of the year as being actually let would seem reasonable to be regarded mainly as self-catering accommodation.

Question 15

If you have answered yes to question 13, what do you think the threshold for the number of days self-catering accommodation must be available to let should be?

More information:

The current threshold is self-catering accommodation must available to let for 140 days in the financial year.

Answer:

- 120 days
- 160 days
- 200 days
- 250 days
- Other (specify)

270 days

Please give reasons for your answer.

Being available for let for 75% of the year would seem reasonable to be regarded mainly as self-catering accommodation.

Question 16

Do you think councils should have discretion to change the self-catering accommodation 'days actually let' threshold, for their local area?

Answer:

- Yes
- No
- Don't know

Please give reasons for your answer.

This just leads to comparisons being made between Councils, disputes between owners and the Council, national criteria is the better option in this instances as everyone knows it is the same in each area.

Question 17

If you answered yes to question 16 do you think that councils should have discretion to:

Answer:

- Increase the number of days actually let only
- Decrease the number of days actually let only
- Increase or decrease the number of days actually let

Please specify if you think councils should have discretion to do something else

Please give reasons for your answer

N/A

Question 18

Do you have any other comments on the non-domestic rates system in respect of self-catering accommodation?

Answer:

Please provide your views

No

Question 19

If you do, or were to, own a second home please tell us what you would do in the event that the applicable rate of council tax and non-domestic rate thresholds both increased?

More information:

The current threshold for defining premises as self-catering holiday accommodation liable for [non-domestic rates](#) is it must be available to let for 140 days or more and actually let for 70 days or more in the same financial year.

A [private residential tenancy](#) is when a registered landlord lets accommodation to an individual/s and it will be their sole or main residence. All tenancies created on or after 1 December 2017 are open-ended, which means a landlord will no longer be able to ask a tenant to leave simply because the fixed term has ended.

Answer:

- The home is already used as a private residential tenancy
- I would continue to use it purely for personal use and pay the higher rate of council tax
- I would continue with split use between self-catering accommodation (below the thresholds to be liable for non-domestic rates) and personal use, and pay council tax
- My second home already has/would have split use between self-catering accommodation (below the non-domestic rates threshold) and personal use. Rather than pay the higher rate of council tax, I would increase the number of days the accommodation is available to let and actually let in order to meet the non-domestic rates thresholds
- My second home already has/would have split use between self-catering accommodation (above the non-domestic rates threshold) and personal use. Rather than revert to paying council tax, I would increase the number of days the accommodation is available to let and actually let in order to meet the higher non-domestic rates thresholds
- My second home is purely for personal use. However, in order to stop paying council tax, I would make it available as self-catering accommodation and let it for the number of days I needed to in order to be liable for non-domestic rates
- I use my second home purely for personal use but I would change its use to a private residential tenancy
- I use my second home as self-catering accommodation (below the non-domestic rates threshold) but I would change its use to a private residential tenancy
- I would seek reclassification as an empty home and pay council tax
- I would sell the second home
- Other (specify)

N/A

Please give reasons for your answer.

N/A

Question 20

If you do, or were to, own a second home please tell us what you would do in the event that:

- a) council tax powers remained as they are for second homes (i.e. no provision for councils to charge a premium), but
- b) the 'thresholds' to be classed as self-catering holiday accommodation for Non-domestic rates purposes increased?

More information:

The current threshold for defining premises as self-catering holiday accommodation liable for [non-domestic rates](#) is it must be available to let for 140 days or more and actually let for 70 days or more in the same financial year.

A [private residential tenancy](#) is when a registered landlord lets accommodation to an individual/s and it will be their sole or main residence. All tenancies created on or after 1 December 2017 are open-ended, which means a landlord will no longer be able to ask a tenant to leave simply because the fixed term has ended.

Answer:

- The home is already used as a private residential tenancy
- I would continue to use it purely for personal use and pay council tax
- I would continue with split use between self-catering accommodation (below the thresholds to be liable for non-domestic rates) and personal use, and pay council tax
- My second home already has/would have split use between self-catering accommodation (above the non-domestic rates threshold) and personal use. I would increase the number of days the accommodation is available to let and actually let in order to meet the higher non-domestic rates thresholds
- I use my second home as self-catering accommodation (above the current non-domestic rates threshold). If I was not able to meet the new thresholds, I would change its use to a private residential tenancy
- I would seek reclassification as an empty home and pay council tax
- I would sell the second home
- Other (specify)

Please give reasons for your answer:

N/A

Question 21

Please tell us how you think changes to council tax and/or non-domestic rates thresholds for self-catering accommodation might affect businesses in your area.

Answer:

Please provide your views

It is not likely to be significant as there are only around 300 self-catering properties in Angus which are on the non-domestic rates register at present and they are likely to be smaller lower banded/value properties so although they may generate additional income it will not be significant.

Question 22

Please tell us how you think changes to the maximum council tax rate for second and/or empty homes and non-domestic rates thresholds might affect your local area or Scotland as a whole (social, economic, environment, community, cultural, enterprise).

More information:

We have prepared a partial Business Regulatory Impact Assessment and undertaken screenings to initially consider other impacts. We would welcome your views and comments to help us expand on these assessments.

Answer:

Its difficult to know what the outcome will be. Historically the numbers of such properties in Angus has been low and its difficult to judge how changes in taxation will affect behaviours and choices of property owners. As stated earlier the ability to charge additional premiums would be a welcome option not currently available but its impact on Council finances and housing supply is likely to be quite modest in our area. Those taxpayers affected by potential changes are likely to be unhappy and that could result in more disputes for the Council to deal with.

Please provide your views

Question 23

N/A

Please tell us how you think the changes identified might affect island communities.

More information:

We have prepared a partial Island Communities Impact Assessment and undertaken screenings to initially consider other impacts. We would welcome your views and comments to help us expand on these assessments.

Answer:

Please provide your views

N/A

Question 24

Do you think there are any equality, human rights, or wellbeing impacts in relation to the changes set out in the consultation?

Answer:

- Yes
 No
 Don't know

Please give reasons for your answer.

Yes charging significant additional charges can be seen as being unfair on a small group of property owners depending on the levels applied. The changes are intended to incentivise behaviours which is fine but there is a need to avoid being punitive in developing the policy in this area.

Question 25

Is there anything else you would like to tell us in relation to this consultation?

Answer:

Please provide any further comments on the proposals set out in this consultation in the box below.

About you

Please tell us which of the following categories best describe you (select all that apply):

- Owner of a Second Home
- Owner of a Long-term Empty Home
- Short-Term Let/Self-Catering accommodation operator
- Council or Assessor
- Organisation e.g. third sector or industry body
- Member of the Public
- Other, please specify

Organisation – local government

Please tick whichever council areas apply to you (or select all of Scotland)?:

- Aberdeen City
- Aberdeenshire Council
- All of Scotland
- Angus Council ✓
- Argyll and Bute Council
- City of Edinburgh Council
- Clackmannanshire Council
- Dumfries and Galloway

Angus Council

- Dundee City Council
- East Ayrshire Council
- East Dunbartonshire Council
- East Lothian Council
- East Renfrewshire Council
- Falkirk Council
- Fife Council
- Glasgow City Council
- Highland Council
- Inverclyde Council
- Midlothian Council
- Moray Council
- Na h-Eileanan Siar Council
- North Ayrshire Council
- North Lanarkshire Council
- Orkney Council
- Perth and Kinross Council
- Renfrewshire Council
- Scottish Borders Council
- Shetland Council
- South Ayrshire Council
- South Lanarkshire Council
- Stirling Council
- West Dunbartonshire Council
- West Lothian Council