Furniture Makers' Hall
12 Austin Friars
London
EC2N 2HE

enquiries@clls.org
www.clls.org

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By email to: sts.consultation@hmrc.gov.uk

Dear Sir or Madam

City of London Law Society's Response to Securities Transfer Tax Draft Legislation

Please find below The City of London Law Society's ("**CLLS**") response to the HM Revenue & Customs ("**HMRC**") consultation on the draft legislation published on 13 July 2026 (the "**Draft Legislation**").

Introduction

The CLLS represents over 22,000 City lawyers through individual and corporate membership including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multi-jurisdictional legal issues.

The CLLS responds to a variety of consultations on issues of importance to its members through its 17 specialist committees. This response to the Consultation Document has been prepared by the CLLS Tax Committee.

The current members of the Tax Committee are listed at https://clls.org/committees/tax.html

1. Initial Comments

We welcome the opportunity to respond to the Draft Legislation. This follows lengthy engagement by the CLLS on this topic including our responses to the call for evidence in 2020 and consultation in 2023 to which we provided detailed responses (the **"2020 Response"** and **"2023 Response"** respectively) which are attached for ease of reference.

We also welcome involvement in the technical consultation meetings (the **"Consultation Meetings"**) held in August at which most of the points repeated in this written response were made.

It is pleasing to note that many of the issues identified in our earlier responses have been dealt with in the draft legislation. We would also like to take the opportunity to express thanks for the clarity and brevity of the draft legislation. We really feel the opportunity has been taken to produce something short, clear, modern and coherent out of something which most assuredly was not and don't underestimate the amount of work which must have gone into that.

We have seen a draft of The Law Society's response to the Draft Legislation. We agree with the points made in that response.

2. SCOPE OF THE DEBT CHARGE – NON-MARKETABLE DEBENTURES

We understand from the Consultation Meetings that the Draft Legislation is primarily intended to consolidate and simplify the current legislation rather than to make significant policy changes. One area where the Draft Legislation fails in that respect is the scope of the charge on debt instruments.

In our 2023 Response we understood that bilateral debt would be outside the scope of STT, which we welcomed (paragraph 10) and noted at paragraph 38 that the non-marketable debenture exemption at Paragraph 25(a) of Schedule 13 to the Finance Act 1999 (the **"Debenture Exemption"**) was relied on by the market to exempt transfers of large portfolios of commercial loans which are likely to be covered by the loan capital exemption in any event but where the cost of analysing that exemption against each loan would be disproportionate.

We understood HMRC's position from the Consultation Meetings to be that there was no intention to introduce instruments which are currently exempt into the charge to STT, and we were reassured that HMRC would amend the Draft Legislation so as to retain the effect of the Debenture Exemption.

We hold the same view we did in 2023 that bilateral loans should simply be outside the scope of STT. Bilateral loans cannot be listed on a stock exchange, so it seems to us they should currently be exempt from SDRT and stamp duty under the Debenture Exemption. As we mentioned in the 2023 Response and above, in many cases the Debenture Exemption would overlap with the loan capital exemption. But the edge cases where they do not overlap are important.

One example in arm's length commercial transactions where the Debenture Exemption is currently used is in warehouse securitisations. In securitisations the debt is almost invariably "limited recourse", but also sometimes profit-participating. Since The Securitisation Companies and Qualifying Transformer Vehicles (Exemption from Stamp Duties) Regulations 2022 (SI 2022/464) came into force in 2022, profit-participating debt which is a capital market investment issued by a note-issuing securitisation company has been exempt from stamp tax. But this does not apply to capital market investments issued by warehouse companies or to any loans. Loans to warehouse companies are transferred in the same way as other commercial loans and these transfers are currently not subject to stamp duty as a result of the Debenture Exemption. If the STT were to change the law in this area, it would not in our view be likely to raise any tax, but merely to cause friction with these commercial transactions.

In our view a simple way to maintain the status quo for loans would be to change the reference in draft section 4(1)(b) which is currently to "equity-like debt interests" to "equity-like notes", change the title in draft section 66 accordingly and change draft section 66(1) to read:

"In this Part a "note" issued by a company means a security that consists in a debt owed by the company to the holder of the security."

Interests in notes would already be covered by draft section 4(1)(d) – the definition of chargeable securities, so there is no need for the definition of what is essentially replacing "loan capital" to refer to "interests in" debt. It is also important not to accidentally revive stamp tax on book debts by making the definition in draft section 66 excessively wide. That was a real pain which was very sensibly abolished in 2003.

Whilst the change just suggested would cover most of the practical impact of the non-marketable debenture exemption, there would still be a change in law because for example a private loan note without transfer provisions with profit-participating terms would currently be covered by the

Debenture Exemption but would be taxable under the Draft Legislation. Dealing with that without resurrecting unsatisfactory concepts which have helpfully been expunged from the Draft Legislation such as that of “marketable securities” is slightly trickier, but we would suggest an exemption for “non-marketable debentures” could be introduced which is simply a debenture of such description as not to be capable of being listed on any stock market in the United Kingdom.

3. JOINT AND SEVERAL LIABILITY

We know from the Consultation Meetings that you are well aware of this point but the effect of draft section 10(3) would be to make law firms who pay STT on behalf of clients as we currently do an “accountable person” and therefore jointly and severally liable for the tax. As explained, this is simply unacceptable and unworkable, as well as being an unjustified change of law. We understand HMRC are looking into alternative solutions. The Law Society’s response goes into detail on this point which we will not repeat here other than to express our agreement.

4. DE MINIMIS TRANSACTIONS

Please see our previous comments in response to question 34 in the 2023 Response on the proposed removal of the £1000 *de minimis*. We understood that this consolidation was not intended to change the law more than necessary. This is an area of concern in terms of adding a disproportionate regulatory burden on small transactions, most of which are likely carried out by small businesses. From a policy perspective, it would seem unfair to burden the smallest businesses in this way – they are the least likely to receive the benefit of professional advice. It may also raise little extra tax if it reduces the number of such transactions. This would also represent a change in long-standing law which may catch companies unawares (unless a public education programme is undertaken) resulting inadvertent non-compliance and generally more friction than tax raised.

5. 1.5% CHARGE AND INTER-SYSTEMS TRANSFERS

We agree with the approach of the legislation to be shorter and more principles-based than that which it replaces, however we note that clause 29 is intended to condense the existing exemptions in sections 67(9), 70(9), 72A(1), 90(5), 95(1), 99(6), 97(1) and 97B FA 1986. We feel this may need some unpacking and clarifying and that this would be better done in legislation than merely in guidance. For example, it is not clear from the current drafting this would cover withdrawal from clearance services/depositary receipt issuers to a party which is neither. For clarity we would suggest including the following points in the legislation:

(a) amending the definitions of “clearance service provider” and “depositary receipt issuer” in draft section 3(5) to expressly include their nominees and/or agents; and

(b) Adding interpretation provisions to draft section 29 to clarify the following are in-scope of the exemption:

   (i) where chargeable securities are withdrawn from a clearance service or depositary receipt arrangements; and

   (ii) where chargeable securities are transferred between a clearance service provider or depositary receipt issuer (noting their agents/nominees will also be covered by the suggested amendment to draft section 3(5) above).

6. GUIDANCE

Particularly given that draft section 74 disapplies the presumption (from section 17 of the Interpretation Act 1978) that the STT provisions are a re-enactment of the previous stamp duty and SDRT legislation, which will have implications on historic guidance, case-law, clearances etc, we think it is essential that clear guidance is published and that a draft of that should be made available before the legislation is finalised. The CLLS Tax committee would be happy to assist with the draft guidance.

7. Contact Details

Should you have any queries or require any clarifications in respect of our response or any aspect of this letter, please feel free to contact me by telephone on 020 7296 5783 or by email at philip.harle@hlc.com.

Yours faithfully

Philip Harle
Chair of the City of London Law Society Tax Committee