

Number: WG39469



Llywodraeth Cymru
Welsh Government

Welsh Government Consultation – Summary of Responses

Non-Domestic Rates

Automatic Teller Machines (ATMs) and Small Business Rates Relief (SBRR) in Wales

November 2019

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview

This document provides a summary of the responses to the consultation on proposals

Action required

This document is for information only.

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Additional copies

This summary report and copies of all the consultation responses are published in electronic form only and can be accessed from the Welsh Government's website.

Related Documents

Link to the consultation document: <https://gov.wales/non-domestic-rating-small-business-relief-wales-amendment-order-2019>

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Automatic Teller Machines (ATMs) and Small Business Rates Relief (SBRR) in Wales

Introduction

1. Non-domestic rates apply to most types of non-domestic property. This includes uses such as parking, advertising rights, telecommunications masts and ATMs.
2. SBRR, as it operates in Wales, excludes certain types of property from eligibility on the grounds that they are not 'small businesses' in the sense in which the relief is intended to support. The exclusions include car parks, advertising rights (eg billboards) and electronic communications apparatus (ECA). The exclusion of ECA is intended to cover a wide range of equipment, including ATMs.
3. Provisions to exclude ECA are incorporated into the current SBRR scheme, through the Non-Domestic Rating (Small Business Relief) (Wales) Order 2017 (the 2017 Order). The SBRR guidance¹ accompanying the 2017 Order also reflects the exclusion of ECAs. The consultation² on the SBRR scheme referred explicitly to the exclusion of ATMs from eligibility for the relief.
4. In January 2018, a rating agent acting on behalf of an ATM ratepayer, Cardtronics UK Ltd, brought a legal challenge against Pembrokeshire County Council for the non-award of SBRR in relation to its ATM sites in the county.³ The court ruled in favour of Cardtronics UK Ltd on the ground that ATMs are not ECA. Therefore, where applicable, ATMs which meet the relevant criteria would now be eligible for SBRR.
5. SBRR is not intended to support ATMs on the basis that they are not viewed as small businesses. As such, the draft Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) Order 2019 (the Draft Order) was prepared to amend the existing legislation. The effects of the amendments are to ensure that non-domestic properties which are used exclusively for ATMs do not benefit from SBRR.
6. The consultation sought to gain views on the technical aspects of the Draft Order and the practicality of administering it. The consultation was not intended to gather views on policy regarding the treatment of ATMs with regards to SBRR as this had been done in previous consultations.

¹ Permanent Small Business Rates Relief Scheme for Wales. 2019.

<https://businesswales.gov.wales/sites/business-wales/files/SBRR%20-%202019%20-%20Guidance%202019%20%28ENG%29%20-%20Update%2009-2019%20FINAL%20DESIGN.pdf>

² Delivering a tax cut for small businesses: A new small business rates relief scheme for Wales. 13 December 2017.

<https://gov.wales/delivering-tax-cut-small-businesses-new-small-business-rates-relief-scheme-wales>

³ *Cardtronics UK Limited v Pembrokeshire County Council* [2018] EWHC 1167.

Engagement

- Views were invited as part of a six-week consultation period which began on 18 September 2019 and ended on 30 October 2019. The consultation was published on the consultation pages of the Welsh Government's website. Respondents were able to submit their views and comments on paper, by email or online, and in Welsh or English.

Overview of Responses

- In total, the consultation received nine responses. Of these nine responses, five were from local authorities along with a response from the Welsh Local Government Association. Two responses were from professional bodies, and one response was from an individual. A list of the respondents is given at Annex A.

Summary of Responses

- This document is intended to be a summary of the responses received. It does not aim to capture every point raised by respondents but to highlight the key themes.

Question 1 Are there any issues regarding the administration and enforcement of the Draft Order?

Conclusion of Responses

- In general, respondents appreciated the clarity in the Draft Order that Automatic Teller Machines (ATMs) are excepted hereditaments and not eligible for Small Business Rates Relief (SBRR) from 1 April 2020.
- It was suggested that the Draft Order should be approved by Welsh Government by the end of January 2020, so as to give local authorities ample opportunity to withdraw any current awards of SBRR as part of year-end billing. Concerns were expressed about the meaning of 'automated' and 'self-service', with potential technology developments possibly creating issues in the future.

Question 2 Do you have any other comments about the Draft Order?

Conclusion of Responses

- Responses to this question focused on the policy rather than the technical aspects of the legislation.

13. Three respondents provided no other comments. Local authorities held mixed views, some welcoming the clarity provided while others commented on possible impacts on rural communities. One authority suggested that a new class of Discretionary Relief could be introduced by the Welsh Government to protect ATMs providing services in rural areas.

14. It was also suggested that residents could face losing access to financial services forcing people to drive in order to access cash. Two respondents referred to the findings⁴ of the National Assembly for Wales: Economy, Infrastructure and Skills Committee in its inquiry into 'Access to Banking', recommending that the Welsh Government must continue to work with providers and regulators to strengthen and support a free-to-use ATM network.

Question 3 We would like to know your views on the effects that the Draft Order would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Conclusion of Responses

15. The responses identified no adverse effects on the Welsh Language as a result of the Draft Order. No recommendations were made about increasing positive effects on the Welsh Language.

Question 4 Please also explain how you believe the Draft Order could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Conclusion of Responses

16. The responses indicated that the Draft Order will have equal effect on both languages.

Question 5 We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

⁴ National Assembly for Wales. Economy, Infrastructure and Skills Committee. Access to Banking. October 2019. <http://www.assembly.wales/laid%20documents/cr-ld12818/cr-ld12818%20-e.pdf>

Conclusion of Responses

17. Two responses were received for this question. One raised concerns about access to money in rural areas which have been affected by bank closures. The other commented on the need to provide support to public conveniences in addition to ATMs to sustain rural life.

Other Comments

18. Written responses that did not follow the question format raised similar points to those raised in Question 2 and Question 5. Their responses have been factored into the conclusions for other questions.

Next Steps

19. The Welsh Government intends to finalise and implement the Order in time for changes to take place from 1 April 2020.

Annex A: List of Respondents

Responses were received from:

Flintshire County Council

Monmouthshire County Council

Denbighshire County Council

Rhondda Cynon Taf County Borough Council

Gwynedd Council

Welsh Local Government Association (WLGA)

Institute of Revenues, Rating and Valuation (IRRV)

Association of Convenience Stores (ACS)

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