



Llywodraeth Cymru  
Welsh Government

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Welsh Government  
Consultation Document

# Views on the Appropriate Mechanisms for Making Changes to the Welsh Tax Acts

Date of issue: 8 September 2025

Action required: Responses by 28 November 2025

Mae'r ddogfen hon ar gael yn Gymraeg hefyd / This document is also available in Welsh  
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg / We welcome correspondence and telephone calls in Welsh

## Overview

This Green Paper consultation is seeking your views on the most appropriate approach for making changes to the Welsh Tax Acts. The Welsh Tax Acts include the Acts that set the rules for our 2 devolved taxes, land transaction tax<sup>1</sup> and landfill disposals tax<sup>2</sup>, and the Act that provides rules and powers for the Welsh Revenue Authority (the WRA) to collect those taxes, as well as the establishment of the WRA itself<sup>3</sup>.

Your responses to this consultation will help inform the possible development of a White Paper including proposals to provide a permanent mechanism to make changes to the Welsh Tax Acts. New legislation may be required to give effect to any proposals the Welsh Government may choose to take forward and will be subject to Senedd Cymru approval.

## How to respond

Submit your comments by 28 November 2025, in any of the following ways:

- complete our **online form**
- download, complete our **response form** and email: [changestowelshtaxacts@gov.wales](mailto:changestowelshtaxacts@gov.wales)
- download, complete our **response form** and post to:

Tax Strategy and Intergovernmental Relations team  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

## Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

## Contact details

For further information:

Tax Strategy and Intergovernmental Relations team  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

Email: [changestowelshtaxacts@gov.wales](mailto:changestowelshtaxacts@gov.wales)

This document is also available in Welsh: [hyperlink](#)

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<sup>1</sup> The Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017

<sup>2</sup> The Landfill Disposals Tax (Wales) Act 2017

<sup>3</sup> The Tax Collection and Management (Wales) Act 2016

## UK General Data Protection Regulation (UK GDPR)

The Welsh Government will be data controller for Welsh Government consultations and for any personal data you provide as part of your response to the consultation.

Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. The lawful basis for processing information in this data collection exercise is our public task; that is, exercising our official authority to undertake the core role and functions of the Welsh Government. (Art 6(1)(e))

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. In the case of joint consultations this may also include other public authorities. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation and that the Welsh Government may be under a legal obligation to disclose some information.

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than 3 years.

## Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the UK GDPR, please see contact details below:

Data Protection Officer:  
Welsh Government  
Cathays Park  
CARDIFF  
CF10 3NQ  
e-mail: [dataprotectionofficer@gov.wales](mailto:dataprotectionofficer@gov.wales)

The contact details for the Information  
Commissioner's Office are:

Wycliffe House  
Water Lane  
Wilmslow  
Cheshire SK9 5AF  
Tel: 0303 123 1113  
Website: <https://ico.org.uk/>

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## Ministerial Foreword

The devolution of taxes in Wales marked an historic moment in Welsh history. The Welsh Revenue Authority has successfully collected land transaction tax and landfill disposals tax since April 2018 and, to March 2025, it has raised over £2bn to fund our public services. At the same time, the partial devolution of income tax through the Welsh rates of income tax (WRIT) has operated since April 2019 raising, to March 2025, over £15 billion.

Our principles for Welsh taxes are now well established. We aim to develop taxes that are fair to the businesses and individuals who pay them; which are simple, with clear rules, aiming to minimise the costs of compliance and administration; that support growth and jobs, which in turn will help tackle poverty; and which provide stability and certainty for taxpayers. Taxation is a lever for policy objectives and revenue generation for critical public services in Wales upon which our citizens depend, helping to create a country that we all want to live in, now and in the future.

We have previously consulted on tools to ensure we can make changes to the Welsh Tax Acts<sup>4</sup> at short notice. This led to the introduction of and approval by the Senedd of the Welsh Tax Acts etc. (Power to Modify) Act 2022. The Act provided the Welsh Ministers with a power to make regulations<sup>5</sup> that:

- ensure that landfill disposals tax or land transaction tax is not imposed where to do so would be incompatible with any international obligations;
- protect against tax avoidance in relation to landfill disposals tax or land transaction tax;
- respond to a change to a predecessor tax that affects, or may affect, the amounts paid into the Welsh Consolidated Fund; or,
- respond to a decision of a court or tribunal that affects, or may affect, the operation of any of the Welsh Tax Acts or regulations made under any of those Acts.

Amendments were made to this short Bill through Senedd scrutiny stages including an obligation on the Welsh Ministers to review the operation and effect of the Act. The Welsh Ministers must also include an assessment of alternative legislative mechanisms for making changes to the Welsh Tax Acts. The Welsh Ministers must publish the conclusions of the review by 8 September 2026.

The amendments also introduced a sunset clause that will come into effect in September 2027 (subject to a single possible extension approved by the Senedd to extend the power until up to 30 April 2031).

The risks to the revenues generated by our taxes remain, especially where changes are made to “predecessor” UK taxes by the UK government. That risk arises every time there is a UK budget or other fiscal event when a change that impacts on a devolved tax may occur, with the most recent examples being in stamp duty land tax with the repeal of multiple dwellings relief (June 2024) and the increase in the rate of tax charged for higher rates additional dwelling transactions (October 2024). Such

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<sup>4</sup> The Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017, The Landfill Disposals Tax (Wales) Act 2017 and The Tax Collection and Management (Wales) Act 2016

<sup>5</sup> There are also a number of other powers to make changes to the operation of the Welsh Tax Acts, most notably the setting of the tax rates.

changes can have implications for citizens, businesses, the property market and a direct budgetary impact on Welsh resources.

This paper seeks views on the current arrangements for making changes and invites proposals for any better, but also efficient and effective, process for making changes to the Welsh Tax Acts.

I look forward to reading your responses.

**Mark Drakeford MS**

Cabinet Secretary for Finance and Welsh Language

## Section 1 - Overview

- 1.1 This green paper seeks your view on what you consider to be the most appropriate approach for the Welsh Government and Senedd to make changes to the Welsh Tax Acts<sup>6</sup>. The Welsh Tax Acts is used as a collective term for the Acts that govern the rules related to the charging, collection and management of the devolved taxes. The devolved taxes are the taxes that are under the full control and management of the Welsh Government and Senedd. It does not include the Visitor Accommodation (Register and Levy) Etc. (Wales) Bill. However, should legislative changes be introduced to make changes to the Welsh Tax Acts then consideration can be given to the inclusion of the Visitor Levy (and potentially Visitor Accommodation Provider national registration) at that point.
- 1.2 It is a fundamental principle of our constitutional system that whilst proposing and raising taxes is a matter for the executive, they cannot impose taxes without seeking the consent, through their elected representatives, of those to be taxed. This principle has generally been expressed through the use of primary legislation for the imposition of taxation. However, because of the need for flexibility, the UK Parliament, Senedd Cymru and Scottish Parliament, have provided mechanisms, through secondary legislation, for the government to modify the taxes to which they have given their consent.
- 1.3 This Green Paper explores how we can best maintain this fundamental principle of our constitutional landscape, whilst also ensuring the government is able to make changes to tax law quickly and effectively better to respond when required by fiscal pressures. It seeks views on how this can be achieved to provide Senedd Cymru and the Welsh Government with the appropriate mechanisms to make tax changes at this stage in Wales's devolution journey.
- 1.4 The paper is divided into the following sections;
- Funding of Welsh Government and current budgetary processes in Wales and the UK,
  - A review of the methods that the Welsh Ministers currently have available to them to make changes to the Welsh Tax Acts,
  - The approaches taken by the UK and Scottish Parliaments to making changes to their tax acts,
  - Potential approaches to the making of changes including issues arising and the legislation that may be required to support the making of those changes.
- 1.5 The Welsh Government will not be making a recommendation as to which approach it considers most appropriate, rather questions will be asked seeking your views on what you consider the most appropriate approach and

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<sup>6</sup> The Welsh Tax Acts include the Tax Collection and Management (Wales) act 2016, the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 and the Landfill Disposals Tax (Wales) Act 2017.

issues you identify in bringing those proposals into effect. Whilst the document includes a number of possibilities, you are encouraged to provide alternatives that you consider better. This will be especially helpful if you have knowledge of non-UK examples (especially those relating to similar devolved administrations in other countries).

- 1.6 The paper includes a number of references to ‘Tax Devolution in Wales – Enabling Changes to the Welsh Tax Acts’<sup>7</sup> conducted in 2020. A number of links are also included to sections that illustrate in greater detail some of the matters raised in this green paper. The intention is that this shorter and more accessible green paper will encourage the greatest number of responses. However, consideration of the sections identified may help provide additional relevant matters that may help with your answers and proposals.
- 1.7 A response to the Tax Devolution in Wales – Enabling Changes to the Welsh Tax Acts consultation was published in December 2020<sup>8</sup>, and the passage of the Bill introduced after that consultation in December 2021 included a number of reports which may again help you when considering the questions raised. These are;
- The Finance Committee Stage 1 report on the Welsh Tax Acts etc. (Power to Modify) Bill<sup>9</sup>,
  - The Legislation, Justice and Constitution Committee report on the Welsh Tax Acts etc. (Power to Modify) Bill<sup>10</sup>, and
  - The Senedd’s record of the proceedings from introduction to Royal Assent for the Welsh Tax Acts etc. (Power to Modify) Act 2022<sup>11</sup>.
- 1.8 This green paper will make direct reference to some of parts of the documents and the consultation documents to help illustrate in greater detail the issues raised. It is not necessary to refer to them, and not to read all the documents in full in order to be able to understand the issue and respond to the questions posed.
- 1.9 This green paper is only seeking views in relation to how changes are made to the Welsh Tax Acts. It is not looking for views on the process by which the Welsh Government’s budget is approved by the Senedd. The process for approving the Welsh Government’s budget is set by the Senedd’s approval of a motion following scrutiny including witness sessions. Once approved the motion, subject to supplementary budgets, sets the Welsh Government’s spending for the following year. The Welsh Government has sought to

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<sup>7</sup> [enabling-changes-to-welsh-tax-legislation-consultation-document.pdf](#)

<sup>8</sup> [enabling-changes-to-the-welsh-tax-acts-summary-of-response.pdf](#)

<sup>9</sup> [Welsh Tax Acts etc. \(Power to Modify\) Bill: Committee Stage 1 Report](#)

<sup>10</sup> [Report on the Welsh Tax Acts etc. \(Power to Modify\) Bill](#)

<sup>11</sup> [Welsh Tax Acts etc. \(Power to Modify\) Act 2022](#)



continue to improve the processes for the Senedd's scrutiny of the draft budget including regularly publishing budget improvement plans<sup>12</sup>.

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<sup>12</sup> [Welsh Government budget improvement plan 2025 to 2026 | GOV.WALES](#)

## **Section 2 - Funding of Welsh Government and interaction between the UK and the Welsh budgets**

- 2.1 The Welsh Government funding for public services comes from a variety of sources. The largest amount, £21bn in 2025-26, comes from the block grant which is money provided by the UK government from the taxes that it collects in Wales and the rest of the UK. The devolved taxes - land transaction tax (LTT), landfill disposals tax (LDT), and the Welsh rates of income tax (WRIT) – contribute £4bn and non-domestic rates a further £1bn.
- 2.2 The Welsh Government's draft budget has, in recent years, been published following the UK government's Autumn Budget. This has meant that the Welsh draft budget has been published in December. For 2026-27 a single-year budget will be published increasing departmental budgets by inflation. This is despite there being a multi-year settlement and is because of the Senedd elections in May 2026. The Welsh Government will publish the outline Draft Budget on 14 October. The detailed Draft Budget will follow on 3 November. The Final Budget will be published on 20 January 2026, with a debate and vote scheduled for 27 January.
- 2.3 At times, when the Welsh Government has greater certainty over its funding due to a UK multi-year budget being in place, it has been possible for the Welsh Government's draft budget to be published earlier. The Welsh Government's final budget must be approved by early in the following March at the latest, in order that local authorities and other organisations receiving Welsh Government funding can set their budgets before the new financial year. There is, therefore, usually a cross over between the Welsh Government's budget cycle including announcements relating to the Welsh Tax Acts and the annual UK Finance Bill (which makes changes to the UK government's taxes, duties and levies).
- 2.4 However, whilst a multi-year spending budget may provide certainty to the funding through the block grant, there will still be a degree of uncertainty due to potential changes to the UK predecessor taxes. A predecessor tax is a tax that prior to being devolved to Wales were collected in Wales by the UK government. Currently there are 2, stamp duty land tax (SDLT) which was replaced by LTT, and landfill tax which was replaced by LDT. Both devolved taxes started to be collected in April 2018. A block grant adjustment is made to the block grant depending upon what the predecessor tax would have collected had the predecessor tax still been payable in Wales. The block grant adjustment at the point of devolution in 2018 was based upon the amount, for example, SDLT would have collected in 2018-19 had it, rather than LTT, been payable by Welsh taxpayers.
- 2.5 In subsequent years, the block grant adjustment is calculated to reflect changes in prices paid (for example, house price inflation) and the impact of the wider economy on tax revenues (such as a recession). In the main, these impact the SDLT and LTT revenues in tandem. Another factor that can change the block grant adjustment are changes made to the predecessor

taxes at UK government budget and other fiscal events. The effect of the UK government tax changes can include changing the rates (and where relevant the bands) payable or changing the rules so that, for example a relief is newly available, or a previously available relief has been repealed. In these situations, the predecessor tax will be making either:

- a lesser tax effort (the revenues that would have been collected will be lower because the tax rate has been reduced or because there is a new relief available to some taxpayers), or
- a greater tax effort (the revenues that would have been collected will be higher because the tax rate has been increased or because a previous relief is no longer available).

- 2.6 When a single year spending plan is in place the Welsh Government will have to wait before publishing its draft budget to know what funding will be available. The Welsh Government can introduce updates prior to its final budget being voted on, or in supplementary budgets during the year in question. The Welsh Government's budget is usually voted on prior to the UK government's Finance Bill receiving Royal Assent, which can potentially create difficulties if there are further last-minute changes to UK tax legislation.
- 2.7 Changes to UK taxes are generally announced as part of UK government budgets. The UK government has tended towards a single annual fiscal event in the autumn. The most recent UK budget statement was on 30 October 2024. However, the number and timing of UK fiscal events each year can still vary, especially in uncertain times, and in general election years it is not uncommon for there to be a budget either side of that election.
- 2.8 The previous UK government's guidance is that most tax policies will continue to be developed through an established cycle, whereby a policy announcement at the budget is followed by a policy consultation, the publishing of draft legislation, and finally included in the next Finance Bill. Draft legislation will then usually be published in the spring/summer for technical consultation. The aim is for an autumn Finance Bill to reach Royal Assent before the start of the following tax year. The first budget of the new UK government in October 2024 did not follow that approach, in part because of the change in government in July 2024 and therefore changed priorities from the previous government.
- 2.9 As well as changes made at budgets, there have also been a number of tax changes that were not preceded by consultation and draft legislation, or where the timeframe was considerably reduced. Examples include tackling tax avoidance, raising rates, introducing a new charging regime, introducing, amending or repealing a relief, responding in a way that differs from the options set out in a consultation etc<sup>13</sup>. Immediate or very quick changes may be made to prevent taxpayers forestalling or delaying their transactions to

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<sup>13</sup> See Part 4 of [enabling-changes-to-welsh-tax-legislation-consultation-document.pdf](#) for some detailed examples.

benefit from pre-announced tax changes, both of which may impact on government revenues, and in relation to the land transactions taxes destabilise the market.

- 2.10 As already noted, the UK government's budget timetable is not fixed, and therefore the timetable of the introduction of Finance Bills also varies. An example of this was the UK budget held on 6 March 2024, the day after the final debate and vote of approval of the Welsh Budget. The Finance Bill introduced following the budget statement was very short, however, substantial changes to SDLT were included resulting in SDLT making a greater tax effort (meaning that the block grant was reduced, and less money was available for the Welsh Government). The uncertainty as to what may occur at a UK budget to the predecessor taxes makes it more difficult to plan and respond quickly to any UK government changes, especially when the revenues generated by LTT form an important part of the spending commitments made through the draft and final Welsh budget.

### **Section 3 - Review of the methods that the Welsh Ministers currently have to make changes to the Welsh Tax Acts**

- 3.1 The Welsh Ministers can currently propose changes to the Welsh Tax Acts, and regulations made using the powers in those acts, by several statutory methods. If the Senedd approves those changes then that legislation becomes law setting out the rules that must be followed by taxpayers and by the WRA.
- 3.2 The devolved taxes can only be collected if the law requires the amounts to be paid by the taxpayer. Tax cannot be collected through guidance, although guidance from the WRA is important in helping taxpayers understand their obligations. Ultimately the courts will decide the effect of legislation in the event of a dispute between the taxpayer and the WRA.

#### ***Primary Legislation***

- 3.3 The Welsh Government may introduce a Bill into the Senedd. There are a number of processes that are set out in the Senedd's Standing Orders that must be followed for a Bill to pass through the relevant stages and be approved by the Senedd and receive Royal Assent (at which point it may come into force immediately or through staged introductions with different parts or sections commenced at different dates following Royal Assent).
- 3.4 There are 3 processes available for the passage of Bills introduced to the Senedd: 'standard', 'emergency', and 'fast track'.
- 3.5 As a general rule, the 'standard' process for developing and passing primary legislation in Wales can take around 6-9 months depending on the scope of the legislation and other primary legislation before the Senedd.
- 3.6 A minimum of 4 weeks are provided for the determination and the intimation periods, a total of 8 weeks.

3.7 Table 1: Stages of a Bill<sup>14</sup>

Stage	Activity
<b>Llywydd's Determination</b>	The Llywydd gives their determination of to whether the Bill is within the competence of the Senedd
<b>Introduction</b>	Bill introduced and announced in Welsh and English (Written and Oral Statements made by the lead minister)
<b>Stage 1</b>	Consideration of the Bill by one or more Committees of the Senedd
<b>General Principles</b>	Senedd is asked to agree the general principles of the Bill (if agreed the Bill proceeds to Stage 2, if not agreed the Bill falls)
<b>Stage 2</b>	Detailed consideration by a Committee of the Senedd (the Bill can be amended during this Stage)
<b>Stage 3</b>	Detailed consideration by Plenary (the Bill can be amended during this Stage)
<b>Stage 4</b>	Senedd is asked to pass the Bill as amended (if agreed the Bill proceeds towards Royal Assent, if not agreed the Bill is rejected)
<b>Intimation</b>	The Counsel General or Attorney General can refer the question of whether the Bill, or any provision of the Bill, is within the Senedd's legislative competence to the Supreme Court for a decision and/or the Secretary of State for Wales may make an order prohibiting the Bill from being sent for Royal Assent.
<b>Royal Assent</b>	The Monarch agrees to make the Bill into an Act and the Welsh Seal is applied.

<sup>14</sup> [Stages of Public Bills](#)

3.8 The passage of the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 through the Senedd scrutiny process to Royal Assent is a good example of the legislative procedure. It passed through the Senedd in just over 29 weeks receiving Royal Assent around 36 weeks after introduction:

- Provided to Llywydd for determination
- Introduced - 12 September 2016
- Stage 1 - completed 10 January 2017
- Stage 2 - completed 16 February 2017
- Stage 3 - 28 March 2017
- Stage 4 - 4 April 2017
- Royal Assent - 24 May 2017

### ***Emergency Bills***

3.9 The use of Emergency Bills both in the UK Parliament and in other devolved legislatures is rare. In Wales, an Emergency Bill is a Welsh Government Bill that needs to be enacted more quickly than the Senedd's usual legislative process allows. A definition of an Emergency Bill is not provided in the Government of Wales Act 2006 (GoWA 2006) or in the Senedd's Standing Orders. However, Standing Order 26.95 states that: "If it appears to a member of the government that an Emergency Bill is required, he or she may by motion propose that a government Bill, to be introduced in the Senedd, be treated as a government Emergency Bill."

3.10 An Emergency Bill enables the quick enactment of urgent legal provisions. The Senedd's Standing Orders set out a streamlined version of the Senedd's usual legislative processes to avoid any time delays. The way in which the Senedd considers an Emergency Bill broadly follows the usual Stages of a Bill but with some significant alterations to speed them up.

3.11 As an example of an emergency Bill, the Law Derived from the European Union (Wales) Act 2018 was given Royal Assent 13 weeks after introduction, with only 2 weeks between the introduction of the Bill and its approval by the Senedd. The relevant dates were:

- Introduced - 7 March 2018
- Stage 1 - 13 March 2018
- Stage 2 - 20 March 2018
- Stage 3 and 4 - 21 March 2018
- Royal Assent - 6 June 2018

### ***Fast-track Bills***

3.12 The term 'fast-track' or 'expedited' in Wales is given to Bills which follow the usual 4 stage legislative process, but do so in the shortest time possible. Fast-

track and emergency bills are usually introduced in response to specific events or court rulings. Fast-track Bills are usually not referred to a Senedd Committee for detailed consideration. Instead, fast-track Bills proceed straight to the Stage 1 general principles debate after being introduced (subject to the agreement of the Senedd's Business Committee).

- 3.13 Fast-track Bills are not Emergency Bills, and do not attract the same requirements and differences to Standing Orders. A fast-track Bill moves through the Stages as quickly as possible but still according to the requirements of Standing Orders for a normal Bill. Therefore, expediting legislation is more of a question of managing timing than of a formal procedure. If a Bill usually takes between 6 and 9 months to receive Royal Assent, a fast-track Bill could take around 3 months.
- 3.14 As with Emergency Bills, the use of fast-track Bills is rare. The Welsh Government has brought forward 2 such Bills, both of which were passed by the Senedd and became law; the National Health Service Finance (Wales) Act 2014 and the Control of Horses (Wales) Act 2014.

#### ***Legislative Affairs Committee's Making Laws report (4th Senedd)***

- 3.15 The lack of time for detailed scrutiny of emergency or fast track bills was considered in the Constitutional and Legislative Affairs Committee's Making Laws report in the 4th Assembly<sup>15</sup>. The inquiry considered the curtailed scrutiny afforded to 3 Welsh Government Bills:
- Agriculture Sector (Wales) Bill – subject to the emergency procedure under Standing Orders
  - Control of Horses (Wales) Bill – by-passed Stage 1 scrutiny
  - National Health Service Finance (Wales) Bill – by-passed Stage 1 scrutiny
- 3.16 The inquiry noted there are potential drawbacks to both emergency procedures and fast-tracking legislation, including;
- losing the opportunity for stakeholders who have not been consulted by the Welsh Government to provide any formal evidence to the Senedd on the proposals;
  - in situations where there is broad agreement that an issue needs to be addressed, losing an opportunity to test with all stakeholders whether the drafting of the Bill represents the best possible solution; and,
  - that Members of the Assembly may be unfamiliar with a Bill's content, potentially making for less-informed scrutiny at Stages 2 and 3.
- 3.17 The inquiry concluded that any decision to adopt curtailed scrutiny should not be taken lightly and agreed with the Llywydd commenting: "It is important that the reputational risks and resource implications of using fast-track and

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<sup>15</sup> Constitutional and Legislative Affairs Committee's Making Laws report in the 4th Assembly: [cr-ld10379-e.pdf](#)



emergency procedures, especially if these are subsequently found to be inappropriate, are fully considered when such decisions are made.”

### **Secondary legislation**

- 3.18 The Welsh Ministers can use a number of regulation making powers to make changes to the Welsh Tax Acts as set out in the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017, the Landfill Disposals Tax 12 (Wales) Act 2017, and the Tax Collection and Management (Wales) Act 2016. The regulations are limited to specific areas of the Welsh Tax Acts and are subject to scrutiny and, in most cases, a vote in the Senedd following the regulations having been laid in draft (the ‘draft affirmative’ procedure). In part, the provision of these regulation-making powers was linked to areas where change in UK rules could have an impact on devolved taxes in Wales, or where it was known the UK version of the tax was potentially subject to change<sup>16</sup>, where legislation was relatively new<sup>17</sup>, or where longstanding pressure for change existed.
- 3.19 Following the landfill disposals tax first applying in Wales on 1 April 2018, there have been 9 sets of regulations made; 2 to improve identified operational issues with the tax in relation to site restoration relief and quarry relief, and 7 to introduce annual changes to the rates payable.
- 3.20 For land transaction tax there have been 10 sets of regulations made since the tax first applied in Wales; 5 to introduce or amend reliefs (including the introduction of the special tax sites relief for Welsh freeports), amend the rules related to higher rates residential property transactions, and to change the relevant rent figure, and 5 to make changes to the rates and bands (2 of which related to the covid-19 temporary tax reduction provided between July 2020 to June 2021).
- 3.21 For the Tax Collection and Management (Wales) Act 2016, 2 sets of regulations have been made since the 2 devolved taxes first applied on 1 April 2018: one to correct a numbering error in the Act, and the second to update sections of the Proceeds of Crime Act 2002 due to the introduction of our devolved taxes.
- 3.22 There are, however, other parts of the legislation where it was not considered appropriate or necessary to take specific regulation-making powers; for example, in LTT the provisions relating to linked transactions and substantial performance. One key area is the provisions relating to the calculation of tax. For example, it is unlikely that if the Welsh Government were to consider the introduction of a new surcharge was necessary (similar to the 5 per cent higher rates rules on additional residential premises), that this could be fully achieved through the existing suite of regulation-making powers.
- 3.23 The likelihood of it being necessary to make changes to the rates and bands for Welsh devolved taxes was anticipated and led to the Senedd approving

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<sup>16</sup> See for example the Office for Tax Simplification’s work on the taxation of partnerships - [Review of partnerships: update and call for evidence](#)

<sup>17</sup> For example, the higher residential rates legislation introduced in SDLT in April 2016, just 2 years before LTT came into force in Wales

bespoke powers which enable those changes to be made through regulations. Mindful of the particular risk of forestalling associated with rate and band changes, regulations made under those powers are subject to a provisional affirmative procedure. This enables changes to tax rates and bands to have provisional, but immediate, legal effect from the date the regulations are made by the Welsh Ministers. Provided the regulations are subsequently approved by the Senedd within 28 sitting days, the regulations will then have permanent effect. The use of the provisional affirmative procedure is particular to the power to vary tax rates and bands – the remaining suite of regulation-making powers in the Welsh Tax Acts are subject to the draft affirmative or negative procedures.

3.24 The Senedd passed the Welsh Tax Acts etc. (Power to Modify) Act 2022 which provides the Welsh Ministers with a new power to make regulations (subject to Senedd approval through the draft affirmative procedure, or where appropriate the made affirmative procedure). The regulations can, in specified circumstances, be made with retrospective effect. The power can only be used to address these 4 situations–

(a) ensuring that landfill disposals tax or land transaction tax is not imposed where to do so would be incompatible with any international obligations;

(b) protecting against tax avoidance in relation to landfill disposals tax or land transaction tax;

(c) responding to a change to a predecessor tax that affects, or may affect, the amounts paid into the Welsh Consolidated Fund under section 118(1) of the Government of Wales Act 2006 (this is essentially the monies received through the block grant after any relevant block grant adjustments);

(d) responding to a decision of a court or tribunal that affects, or may affect, the operation of any of the Welsh Tax Acts or regulations made under any of those Acts.

3.25 The Welsh Ministers have not yet used the power provided by the Welsh Tax Acts etc. (Power to Modify) Act 2022. However, had the decision been made following the abolition by the previous UK government of the equivalent relief in SDLT to abolish the LTT relief for acquisitions involving multiple dwellings at the same time it would have been possible for the power to have been used to match the same date that the SDLT relief was abolished (1 June 2024). The power would have enabled the Welsh Ministers to make the change through made affirmative regulations as there would not have been sufficient time (allowing for the Welsh Government consultation<sup>18</sup>) for the draft affirmative procedure in the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 to add, amend or remove reliefs to match the UK government's abolition date.

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<sup>18</sup> The consultation was launched on 8 April 2024 and closed on 19 May 2024, leaving only 11 days between then and the date the SDLT change came into force.

- 3.26 The initial proposal consulted on by the Welsh Ministers<sup>19</sup> in 2020 had been for a wider power to cover any changes to the Welsh Tax Acts but that the use of the power would have to be approved by the Senedd, the so-called “Senedd lock”. Following the consultation, the decision was made to limit the situations in which the power could be used but remove the proposed Senedd lock.
- 3.27 The intention of the Senedd lock was to provide Senedd approval to the use of the power and the making of the regulations, with the Senedd then considering the impact and effect of the regulations and voting to approve or reject those regulations at a later date. This would have provided a similar form of resolutions to those made using the powers in the Provisional Collection of Taxes Act 1968 made by the UK Parliament to give immediate effect (or effect before the subsequent Finance Bill received Royal Assent) – see paragraph 4.2.

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<sup>19</sup> [enabling-changes-to-welsh-tax-legislation-consultation-document.pdf](#)

## **Section 4 - The approaches taken by the UK and Scottish Parliaments to making changes to their tax acts**

### ***UK Primary legislation***

- 4.1 Finance Bills are the principal legislative vehicle for tax legislation to be enacted by the UK government. The Bill includes provisions relating to the imposition and alteration of taxes to raise money for financing central government. The Finance Bill can also introduce new tax regimes, such as the annual tax on enveloped dwellings in the Finance Act 2013. It is an annual process, partly because income tax and corporation tax are annual taxes which must be renewed by primary legislation each year but also reflects the scale and regularity of change required to the UK taxes. Finance Bills can include many hundreds of pages of legislation.
- 4.2 The Finance Bill will include measures that are to come into effect at the date of Royal Assent or later, or that have been brought into temporary immediate effect, or at a date before Royal Assent, through resolutions made under the powers in the Provisional Collection of Taxes Act 1968 ("PCTA"). It is worth noting the Finance Bill is untypical of UK Parliament's legislative processes in several respects. In general, the Finance Bill usually takes around 4 months to pass through UK Parliament. This timetabling is quite short compared to most Bills in the UK Parliament and, because of this, the use of evidence sessions by the relevant committee to take external evidence occurs rarely, if at all. More frequently, evidence of the impact of the Finance Bill provisions is provided in writing to the relevant government departments and members of the House of Commons Public Bill Committee.
- 4.3 As noted above, the UK government makes most of its changes to tax legislation through the Finance Bill. Those changes will either come into force at some point after the Bill receives Royal Assent, or, in certain circumstances, may have already come into force on a temporary basis through resolutions. This enables proposals for tax changes and tax continuations, such as the annual re-imposition of income tax, to have provisional effect pending the necessary primary legislation receiving Royal Assent. It is also possible to introduce changes to tax legislation outside a budget cycle using a Provisional Collection of Taxes Act (PCTA)<sup>20</sup> resolution, but only if there is draft primary legislation published within the statutory time period to give the change permanent effect.
- 4.4 In 2009, the House of Lords Constitution Committee identified the reasons why Bills had been fast-tracked in the UK Parliament. These included:
  - a) remedying an anomaly, oversight, error or uncertainty that has come to light in legislation;
  - b) responding to the effects of a court judgment;
  - c) ensuring legislation is in force in time for a forthcoming event;
  - d) dealing with economic crisis;
  - e) changing a public authority's borrowing or lending limit or other funding issues;

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<sup>20</sup> See paragraphs 4.6 to 4.8 below

- f) dealing with a crisis in prisons as a result of industrial action;
- g) responding to international agreements;
- h) **implementing Treasury announcements in the Budget or autumn statement.**

4.5 'Implementing Treasury announcements in the budget or autumn statement' provides for the annual Finance Bill to follow an expedited route through the UK Parliament. There are only limited examples of the UK government using an expedited or Emergency Bill process outside of the annual Finance Bills to make policy changes to tax legislation. Below is an example of the relevant timings in relation to the 2021 Autumn budget and the corresponding Finance Bill's passage through Parliament is the Finance Act 2022 (unless indicated the events relate to the House of Commons):

- budget speech - 27 October 2021
- budget resolutions - 27 October 2021
- Finance Bill introduced - 2 November 2021
- Committee Stage - 14 December 2021 (am and pm)  
- 5 January 2022 (pm and evening)  
- 11 January 2022
- Report Stage - 2 February 2022
- 3<sup>rd</sup> Reading - 2 February 2022
- House of Lords 1<sup>st</sup> Reading - 2 February 2022
- House of Lords 3<sup>rd</sup> Reading - 22 February 2022
- Royal Assent - 24 February 2022

4.6 A recent example of the use of a Provisional Collection of Taxes Act 1968 resolution, outside of a budget and Finance Bill, is the introduction of the 'SDLT holiday' in July 2020. On 8 July 2020, the Chancellor announced an uplift in the starting threshold for SDLT from £125,000 to £500,000, which meant that no tax was payable on properties subject to the main rates of residential SDLT on properties costing up to £500,000. The announcement on 8 July 2020 was accompanied by a resolution to bring that change into immediate effect. The Stamp Duty Land Tax (Temporary Relief) Bill to make the changes permanent was introduced on 13 July, and by 17 July had passed all UK Parliamentary stages, receiving Royal Assent on 22 July 2020<sup>21</sup>.

4.7 As well as any necessary PCTA resolutions, the UK Government also lay 'ways and means' resolutions that describe (typically in general terms) what is to be included in the Finance Bill. Typically, some PCTA resolutions are approved on the day of the budget enabling them to come into force before the budget debate concludes. But those resolutions and all other ways and means resolutions must also be approved at the end of the budget debate (or

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<sup>21</sup> [Stamp Duty Land Tax \(Temporary Relief\) Act 2020 Stages - Parliamentary Bills - UK Parliament](#)

the relevant end of the debate for other fiscal events). For budget debates this is usually a few days after the budget speech.

- 4.8 The ways and means resolutions set the scope of the Finance Bill ensuring that any amendment to the Bill must be covered by one or more of the resolutions. In addition, no-one other than the UK Government can propose an amendment that has a charging effect (even if it might otherwise appear to be covered by the general words of the resolution). For example, resolution 35 on 30 October 2024 (which was also a PCTA resolution) that increased the higher residential rates for additional dwellings in SDLT by one percentage point, an amendment would be possible that substituted the figure in the resolutions with a lower percentage, but not one that would result in the rates of SDLT being higher than set out in the ways and means resolution (and the PCTA resolution). The resolution mechanism ensures that the laying of a Finance Bill does not result in the totality of the UK government's tax code being potentially subject to amendments laid during scrutiny process.

### ***UK secondary legislation***

- 4.9 The UK government has been provided with a number of regulation making powers in relation to the UK taxes by the UK Parliament. The power in section 113 Finance Act 2021 provides for the UK government to designate areas of the UK that will receive the benefit of the tax incentives<sup>22</sup>. These regulations are subject to the negative procedure so that they come into force on the date set out in the regulations and, unless any Parliamentarian prays against them (asks for them to be subject to a Parliamentary vote), within a fixed number of days from the making they remain as law. These regulations do not amend the primary legislation.
- 4.10 Examples of regulation making powers are more limited in UK taxes, perhaps due to the presence of an annual Finance Bill cycle. However, examples, do exist including those that increase tax liabilities; such as section 404B Income Tax (Earnings and Pensions) Act 2003<sup>23</sup> which provides that the threshold amount (currently £30,000) of termination of employment benefits and payments is not taxable can be increased or decreased by regulations. Where the regulations reduce the amount of the threshold (that is increases the amount of tax payable) then the changes can only be made by regulations subject to the draft affirmative procedure. A further much broader regulation making power is provided in sections 465A and 701A of the Corporation Tax Act 2009 and provide a wide-ranging regulation making power to change the rules relating to both the taxation of derivatives and loan relationships to cater for extensive changes to accounting standards by an accountancy body<sup>24</sup>.
- 4.11 The plastic packaging tax introduced in the Finance Act 2021 included a number of regulation making powers that are subject to the made affirmative

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<sup>22</sup> plant and machinery allowances, structures and buildings allowances, and, for England only, SDLT relief.

<sup>23</sup> [Income Tax \(Earnings and Pensions\) Act 2003](#)

<sup>24</sup> The International Accounting Standards Board or the Accounting Standards Board, or a successor body to either of those Boards

procedure<sup>25</sup>. The power enables HM Treasury Ministers to change some of the fundamental taxing definitions including, the meaning of “packaging component” (section 48<sup>26</sup>), the meaning of “plastic” and “recycled plastic” (section 49<sup>27</sup>) and creating exemptions from the plastic packaging tax (section 52<sup>28</sup>).

### **Section 109 Finance Act 2003**

- 4.12 Section 109(1) of the Finance Act 2003<sup>29</sup> provides HM Treasury Ministers with a general power to make regulations to vary SDLT legislation, other than to rates and thresholds: *“The Treasury may if they consider it expedient in the public interest make provision by regulations for the variation of this Part in its application to land transactions of any description”*.
- 4.13 Such regulations will amend the primary legislation governing the SDLT regime and are subject to the made affirmative procedure. The regulations must be approved by the House of Commons within 28 sitting days, and cannot have effect for more than 18 months, meaning the changes are often incorporated into the next Finance Bill. If the House of Commons does not approve the regulations within 28 sitting days, the changes cease to have effect on the 28<sup>th</sup> day, or when voted down in the House of Commons if earlier.
- 4.14 In practice, the UK government has seldom used this power as most changes to SDLT are made through Finance Bills. The most notable instance was in December 2006, when it was used to amend the Finance Act 2003 to tackle SDLT tax avoidance schemes, by the introduction of Section 75A Finance Act 2003 (and make amendments to the partnership rules)<sup>30</sup>. It was also used twice in 2003 in relation to the introduction of SDLT.

### **UK ‘exceptional’ procedures**

- 4.15 If the UK government wishes to respond to avoidance activity outside the period when a Finance Bill is before Parliament, then a public announcement can be made, and legislation published that will be included in the next finance bill<sup>31</sup>.
- 4.16 For example, the UK government announced on 21 December 2012 that it would immediately close an avoidance scheme “which was being marketed as a way for companies to artificially reduce their corporation tax bills”<sup>32</sup>. Draft legislation was published at the same time, and it was announced that the legislation would be included in the Finance Bill 2013 (which was published after the budget on 20 March 2013) and applied retrospectively (see section

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<sup>25</sup> The made affirmative procedure enables changes to be brought into effect at very short notice with the regulations amending the primary legislation so long as those regulations are approved by Parliament within 28 days see section 84(8) [Finance Act 2021](#)

<sup>26</sup> [Finance Act 2021](#)

<sup>27</sup> [Finance Act 2021](#)

<sup>28</sup> [Finance Act 2021](#)

<sup>29</sup> [Finance Act 2003](#)

<sup>30</sup> [The Stamp Duty Land Tax \(Variation of the Finance Act 2003\) Regulations 2006](#)

<sup>31</sup> [Tackling tax avoidance](#) page 19

<sup>32</sup> [Government closes tax avoidance scam - GOV.UK](#)

78 Finance Act 2013<sup>33</sup>). Finance Bill 2013 received Royal Assent on 17 July 2013.

### ***Scottish legislation***

- 4.17 The Scottish Parliament and Scottish Government have used both primary and secondary legislation to introduce Scottish devolved taxes or to make changes to the laws that govern these taxes. This has included Acts related to the introduction of new taxes or significant new elements of existing taxes and secondary legislation to provide for changes to the existing devolved taxes. This includes, for example, secondary legislation to introduce new reliefs and to set tax rates and bands.

### ***Scottish primary legislation***

- 4.18 Tax specific Acts are used to legislate for new national and local taxes, with further provisions then introduced via secondary legislation. Relevant Acts include the:
- Landfill Tax (Scotland) Act 2014,
  - Land and Buildings Transaction Tax Act 2013,
  - Revenue Scotland and Tax Powers Act 2014,
  - Air Departure Tax (Scotland) Act 2017,
  - Aggregates Tax and Devolved Taxes Administration (Scotland) Act 2024 (Part 1)
  - Visitor Levy (Scotland) Act 2024.
- 4.19 Other Bills have been used to make changes to the Scottish devolved taxes with the Land and Buildings Transaction Tax (LBTT) Additional Dwelling Supplement (ADS) in 2016 being a good example for illustrating an approach to responding at pace to UK government changes to a predecessor tax.
- 4.20 An expedited timetable was agreed with the Scottish Parliament for the relevant Bill (The Land and Buildings Transaction Tax (Amendment) Scotland Bill 2016), to ensure that the introduction of the ADS could follow the same timeline as planned by the UK government for introduction of the similar SDLT higher rates for additional dwellings (HRAD) regime, and taking account of the dissolution of Parliament in advance of the 2016 Scottish Parliament elections. This meant that the ADS could be introduced with effect from 1 April 2016, at the same time as SDLT HRAD. The key stages for the Bill's route through the Scottish Parliament were:
- Introduction on 28 January 2016,
  - Stage 1 on 23 February,
  - Stage 2 on 2 March,
  - Stage 3, and passing of the Bill on 8 March<sup>34</sup>.

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<sup>33</sup> [Finance Act 2013](#)

<sup>34</sup> There are only 34 stages in the Scottish Parliament



- Royal Assent was received on 24 March enabling Revenue Scotland to start collecting the ADS from 1 April, the same date that HMRC started collecting the higher rates for additional dwellings element of SDLT.

4.21 By way of contrast, the UK Government announced at the Autumn Statement on 25 November 2015 that it was to introduce legislation in the March 2016 Finance Bill for a higher rate of SDLT to be applied to transactions where a buyer who already owned an interest in a dwelling bought another dwelling (the SDLT HRAD legislation). A consultation on the proposed changes was published on 28 December 2015, closed on 1 February 2016, with the UK government's response published on 16 March 2016 (the date of the UK Budget), with the Finance Bill laid on 22 March 2016 and the resolutions approved on 22 March 2016 to enable the SDLT HRAD to come into force on 1 April 2016.

4.22 As can be seen, although the SDLT HRAD and the LBTT ADS were both introduced with effect from 1 April 2016, the differing legislative arrangements meant that the Scottish Parliament passed the LBTT ADS legislation before the relevant UK Finance Bill had been laid in the UK Parliament.

4.23 Another example of primary legislation is The Land and Buildings Transaction Tax (Relief from Additional Amount) (Scotland) Act 2018<sup>35</sup> introduced in order for the effect of a change made through secondary legislation to have retrospective effect. That change related to the treatment of joint buyers in relation to the LBTT ADS in very specific circumstances. The secondary legislation<sup>36</sup> had been approved by the Scottish Parliament on 29 June 2017 and came into force on 30 June 2017. The Bill's route through the Scottish Parliament<sup>37</sup> was:

- introduced on 13 November 2017,
- Stage 1 ended 6 March 2018,
- Stage 2 ended 25 April 2018,
- Stage 3 and final debate 17 May 2018,
- Royal Assent was received on 22 June 2018.

4.24 In addition to providing for key elements of a future Scottish Aggregates Tax (due for introduction in April 2026), the Aggregates Tax and Devolved Taxes Administration (Scotland) Act 2024<sup>38</sup> includes a number of changes to the Revenue Scotland and Tax Powers Act 2014 intended to support the efficient and effective collection of tax by Revenue Scotland. The Act also includes a provision giving retrospective effect to amendments made by the Land and

<sup>35</sup> [Microsoft Word - QueensPrintCover.doc](#)

<sup>36</sup> [The Land and Buildings Transaction Tax \(Additional Amount-Second Homes Main Residence Relief\) \(Scotland\) Order 2017](#)

<sup>37</sup> [Land and Buildings Transaction Tax \(Relief from Additional Amount\) \(Scotland\) Bill | Scottish Parliament Website](#)

<sup>38</sup> [Aggregates Tax and Devolved Taxes Administration \(Scotland\) Act 2024](#)

Buildings Transaction Tax (Group Relief Modification) (Scotland) Order 2018<sup>39</sup>.

### ***Scottish Secondary legislation***

- 4.25 Extensive order making powers in the relevant tax Acts allow most changes to be made through SSI (primarily affirmative and a small number of provisional affirmative), including many changes that amend primary legislation.
- 4.26 Rate or band changes are usually made in the context of the Scottish Budget, but these and other changes can be made at any time. The use a provisional affirmative SSI, which allows changes to have near immediate effect (usually from the day after announcement) but these must then be approved within 28 days by Parliament in order to remain in force.
- 4.27 Non-rates and bands changes are usually preceded by consultation, including on draft legislation, but the timings will vary.
- 4.28 Other changes which require primary legislation need to have either a standalone Bill slot or be incorporated in another Bill. For example, a standalone Bill was used to introduce the LBTT Additional Dwelling Supplement, whilst Part 2 of the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill incorporated a number of non-SAT specific measures.
- 4.29 As well as the 2 sets of regulations to make changes to the LBTT rules referred to above, another 9 sets of regulations have been made in relation to LBTT since April 2015. Three sets introduced new reliefs; in 2015 for the conversion or amalgamation of certain collective investment entities<sup>40</sup>, in 2018 a first-time buyers relief<sup>41</sup>, and in 2023 the relief for land transactions in Green Freeports<sup>42</sup>. Five sets of regulations make changes to the LBTT rates and bands (in 2018, 2020 (two sets of regulations), 2022 and 2024). The last set<sup>43</sup>, made in 2024, make a number of changes to the LBTT rules, including, the introduction of a new relief for certain acquisitions by local authorities, and a number of amendments to the LBTT ADS (higher residential rates) rules.
- 4.30 In relation to Scottish landfill tax (SLT), 14 sets of regulations have been made since SLT replaced the UK government's landfill tax in April 2015. Eleven relate to the annual increases in the rates of the tax. The other 3 brought in changes that affect the operation of the SLT, not to the Landfill Tax (Scotland) Act 2014, but to regulations made by the exercise of powers in that Act. The amending regulations were the Scottish Landfill Tax (Prescribed Landfill Site Activities) Amendment Order 2022<sup>44</sup>, the Scottish Landfill Tax

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<sup>39</sup> [The Land and Buildings Transaction Tax \(Group Relief Modification\) \(Scotland\) Order 2018](#)

<sup>40</sup> [The Land and Buildings Transaction Tax \(Open-ended Investment Companies\) \(Scotland\) Regulations 2015](#)

<sup>41</sup> [The Land and Buildings Transaction Tax \(First-Time Buyer Relief\) \(Scotland\) Order 2018](#)

<sup>42</sup> [The Land and Buildings Transaction Tax \(Green Freeports Relief\) \(Scotland\) Order 2023](#)

<sup>43</sup> [The Land and Buildings Transaction Tax \(Miscellaneous Amendments\) \(Scotland\) Order 2024](#)

<sup>44</sup> [The Scottish Landfill Tax \(Prescribed Landfill Site Activities\) Amendment Order 2022](#)

(Administration) Amendment Regulations 2017<sup>45</sup>, and the Scottish Landfill Tax (Qualifying Material) Order 2016<sup>46</sup> (which also revoked the original 2015 order).

### ***The Scottish Devolved Taxes Legislation Working Group***

- 4.31 In Scotland, the Devolved Taxes Legislation Working Group<sup>47</sup> published an interim report<sup>48</sup>, which highlighted and sought views on some of the key advantages and challenges of different legislative options for devolved taxation.
- 4.32 The group was paused following the publication of the interim report and has not been reconvened. Referring to the issues which were considered, the Scottish Government's recent tax strategy<sup>49</sup> however included a commitment to: "...renew this consideration in light of the planned introduction of new taxes and seek the Scottish Parliament's participation in this work, given that the viability of any proposals may depend on changes to Parliamentary process and procedures".
- 4.33 The Group's consideration of the case for introducing an equivalent to the UK Finance Bill in Scotland noted the need to consider the relevance of/interaction with the annual Scottish Budget Bill process. As the Welsh Budget is approved through a budget motion rather than through an annual legislative budget process, the considerations in relation to a Finance Bill are different in Scotland and Wales in this respect.

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<sup>45</sup> [The Scottish Landfill Tax \(Administration\) Amendment Regulations 2017](#)

<sup>46</sup> [The Scottish Landfill Tax \(Qualifying Material\) Order 2016](#)

<sup>47</sup> [Devolved Taxes Legislation Working Group - gov.scot](#)

<sup>48</sup> [\[ARCHIVED CONTENT\]](#)

<sup>49</sup> [Scotland's Tax Strategy: Building on our Tax Principles](#)

## **Section 5 - Potential approaches to the making of changes including issues arising and the legislation that may be required to support the making of those changes**

### ***Welsh Ministers current regulation making powers***

- 5.1 The purpose of this green paper is to help inform the Welsh Ministers in meeting their statutory obligation to review the operation and effect of the Welsh Tax Acts etc. (Power to Modify) Act 2022 including an assessment of alternative legislative mechanisms for making changes to the Welsh Tax Acts.
- 5.2 The Welsh Government does not intend that the development of any new mechanisms will lead to changes to the regulation making powers already provided by the National Assembly for Wales or Senedd Cymru to the Welsh Ministers in the 3 existing Welsh Tax Acts. However, we are interested in any views you may have on this proposed approach.
- 5.3 For example, the use of the made affirmative regulations to change the rates for LDT and the rates and bands in LTT have enabled rate changes to be made timeously. This is especially true for LTT, where LTT changes were able to come into effect to provide our taxpayers with reduced tax liabilities during the 2020 summer recess of the Senedd, after opportunities were created due to the UK government making changes to SDLT just before Parliamentary recess.
- 5.4 Similarly for LDT, the regulation making powers enabled 2 reliefs to be amended to give certainty to those businesses carrying out site restoration (October 2018) or refilling opencast mines and quarries (July 2019) enabling those businesses to have early legal certainty and commence that important restoration work as early as possible.
- 5.5 The Welsh Ministers consider the use of the powers in all cases, as demonstrated by these examples, to be expedient and appropriate. In many cases, the changes have needed to be made outside the Welsh Government's budget cycle, giving taxpayers early certainty of the law, following Senedd approval, of those changes. Carrying out similar activity through a series of separate bills throughout the year, or by publishing draft legislation that is intended to have retrospective effect is not considered to give that early legal certainty, although again we are interested in any views you may have on this proposed approach.

### ***An annual finance bill for Wales***

- 5.6 An annual finance bill process could be developed for Wales that would mean a bill being laid on the same date as the draft budget is announced, or very shortly thereafter. That bill would then likely need to follow an expedited process to ensure that it, and the budget, would be receive Senedd approval by the date that local authorities and other bodies funded by the Welsh Government must have their funding confirmed (early March at the latest).
- 5.7 The UK government has committed to a single annual budget event in the Autumn at which tax changes are made or announced. The last budget

occurred on 30 October 2024, with the Welsh draft budget announced on 10 December 2024. The motion for the final budget was approved on 4 March 2025.

- 5.8 There may be amendments that the Welsh Government wishes to make to the Welsh Tax Acts separate from any response to changes made by the UK government to the predecessor taxes or the rules governing the collection of tax etc. It will be necessary to establish the timing for the laying of a Welsh Finance Bill, which will ideally follow the UK budget event. There are 2 possible options for the timing of the laying of a Welsh Finance Bill (although we are interested in any views you may have of other options):
- on the date of the Welsh Government's draft budget (in the autumn each year – and potentially sometimes in Christmas recess)
  - before the date of the Welsh Government's draft budget, with introduction being potentially before or after the UK government's budget and publication of their finance bill.
- 5.9 There are different issues that arise with each of the options. Laying alongside the Welsh draft budget would give the maximum time before laying to give the Welsh Ministers time to consider the impacts of the UK government's finance bill and to instruct officials on their preferred response. Officials may then be able to develop the necessary legislation, costings, explanatory memorandum and integrated and regulatory impact assessments in time for the Welsh Finance Bill to be laid to include the legislation. Whether that is possible will depend on the complexity of the changes to which the response is necessary and the period between the publication of the UK government's finance bill and the Welsh Government's draft budget.
- 5.10 If there was insufficient time between the publication of the UK government's finance bill and the Welsh Government's draft budget for the legislation, and other necessary documents, to be ready then the choice will be to introduce the changes at Stage 2 if possible, to (if the necessary powers are available) make regulations to make the change, or to wait until the following year to introduce the changes.
- 5.11 The second approach of laying the Welsh Finance Bill in advance of the UK government's finance bill would mean that any changes that are necessary to respond to changes to predecessor taxes would need to be introduced as Stage 2, or potentially Stage 3, amendments, limiting the time for scrutiny by the Senedd. Again, the time required to draft the necessary amendments and other documents would depend on the complexity of the changes.
- 5.12 Each option raises different issues. The first approach would reduce the Senedd Committees' available scrutiny time and also reduces taxpayers' and representative bodies' ability to consider and respond as the period between laying and the vote to approve would be reduced. It would also, even allowing for the additional time, potentially mean introducing significant changes at Stage 2, thereby limiting the scrutiny time available to the Senedd. The second approach would mean that the Senedd Committees and other interested parties will have longer to consider the changes introduced when the Welsh Finance Bill is laid, but responses to changes to predecessor taxes

would always need to be introduced as Stage 2, or potentially Stage 3, amendments.

- 5.13 However, it may prove to be very difficult, if not impossible, for the timeline required for a Welsh Finance Bill to include time for a consultation on the proposals in response to the UK budget proposals to the predecessor taxes.
- 5.14 It may also be necessary to provide for a process similar to the Provisional Collection of Tax Act 1968 (PCTA) arrangements so that the Welsh Ministers, subject to Senedd approval, can introduce changes with immediate but temporary effect prior to consideration and scrutiny of the legislation through the Bill Stages (see below). The absence of a PCTA approach would mean that the earliest any changes could be implemented would be the day after the Welsh Finance Bill received Royal Assent, allowing for potential undesirable forestalling activity.

### ***An annual (or less frequent) tax bill for Wales***

- 5.15 A tax bill would be similar to a finance bill (in that it provides the legislative vehicle to make changes to tax legislation) but it would not be as directly linked to the budget process with the date for passing of the tax bill not being required by the date of the final vote on the budget.
- 5.16 This would mean that where the Welsh Government wishes to make changes to the Welsh Tax Acts, and the Senedd wishes for the Bill to follow the usual Bill timeline, a tax bill could follow this hypothetical timeline. The tax bill could be introduced in September to include the changes that the Welsh Ministers wish to make, Stage 1 could conclude in December or January, Stage 2 would start in December/January (and amendments could include those to address an Autumn UK Budget), Stage 3 could commence in February, with the vote on Stages 3 and 4 occurring in March, and Royal Assent in May following the intimation period.
- 5.17 It could also be possible for the tax bill to follow an expedited route through the Senedd, although in such a situation the ability to include Welsh Government responses to changes to the predecessor taxes is more limited. This will especially be the case if it is considered necessary for a consultation to be conducted on the proposed changes.
- 5.18 Unlike an annual Welsh Finance Bill process, a tax bill would be laid only when the Welsh Ministers consider there is a need for it. Therefore, if there are a number of changes that the Welsh Ministers wish to make, they may choose to wait until there are sufficient changes to be made to make laying a tax bill appropriate. That timing will depend on changes that are desirable to make, but which can potentially wait for a year or two, and those that require immediate or near immediate introduction. Immediate introduction could be required in the event that there is a change to the predecessor taxes that has a significant impact on tax revenues, or it is found that the current legislation does not operate as was originally intended.

### ***Is a form of Provisional Collection of Taxes Act 1968 needed for Wales?***

- 5.19 The Provisional Collection of Taxes Act 1968 (PCTA) allows the UK government to introduce some changes to their taxes with (near) immediate effect or otherwise before the finance bill will receive Royal Assent. The changes are given effect through resolutions approved by the House of Commons. This occurs at the end of the day of the budget statement, or other such fiscal event where tax changes are to be introduced immediately.
- 5.20 The PCTA includes a number of rules setting time limits on when the resolutions will cease to have effect<sup>50</sup>. The primary rule states that a resolution will cease to have statutory effect if a bill renewing, varying or abolishing the tax is not read a second time<sup>51</sup> by the House within the next 30 days after the day on which the resolution is passed. There is also a deadline of 7 months from the date on which the resolution applies before it ceases to be effective. The Senedd procedures differ from those of the UK Parliament with the closest equivalent being the Plenary debate shortly after the date the bill is introduced, or, perhaps, the publication of the Business Committee's timetable for consideration of the bill<sup>52</sup>.
- 5.21 A form of PCTA will potentially be desirable in Wales to ensure that the Welsh Ministers are given the opportunity to introduce changes with immediate effect so that necessary changes, subject to Senedd approval do not need to wait until any subsequent bill receives Royal Assent. A Welsh PCTA arrangement could follow the UK model of an Act with a similar resolution process requiring Senedd approval.
- 5.22 Alternatively, a different approach could be adopted with the 'Welsh PCTA' providing a regulation making power with a sunset clause, subject to the made affirmative procedure, whereby the Welsh Ministers would make the regulations and within 28 Senedd days the Senedd would need to approve the regulations for them to remain in force. The giving of temporary effect through either a resolution of the Senedd or by made affirmative regulations subsequently approved by the Senedd, would then be followed by the changes being included in a Welsh Finance or Tax Bill for consideration through the bill stages by the Senedd in accordance with the timetable agreed for the respective bill. Once the Welsh Finance or Tax Bill received Royal Assent, the resolution or regulations would cease to have effect.
- 5.23 There are advantages and disadvantages to both approaches. In relation to the 'resolution approach' the approval of the Senedd would be obtained on the same day that resolution is introduced by the Welsh Ministers. However, a number of potential disadvantages arise. The resolutions would need the Senedd to be sitting to be passed (if a UK government change occurs close to a recess that would mean either waiting for the recess to end or for the Senedd to be recalled), and, access to the legislative changes may be harder as they do not result in the actual legislation being changed but rather the resolutions need to be read in conjunction with existing legislation to

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<sup>50</sup> [Provisional Collection of Taxes Act 1968](#) – subsections 1(4) and 1(5).

<sup>51</sup> [Second reading \(Commons\) - UK Parliament](#)

<sup>52</sup> See [Visitor Accommodation \(Register and Levy\) Etc. \(Wales\) Bill \(Plenary 26/11/2024 - Welsh Parliament\)](#) and [Timetable for consideration: The Visitor Accommodation \(Register and Levy\) Etc. \(Wales\) Bill](#) respectively)

understand the effect of the changes. Furthermore, whilst improvements could be possible, access to the UK government resolutions is not always easy.

- 5.24 In relation to the ‘regulations approach’, the advantages are that the changes can be brought into effect when the Senedd is not sitting thereby allowing changes to be made as quickly as possible with the role of the Senedd still being key as it must approve the regulations to enable the changes to continue to have effect until the subsequent Welsh Finance or Tax Bill receives Royal Assent. The changes made through this approach will also mean that the relevant legislation will be published on the [legislation.gov.uk](http://legislation.gov.uk) website, and the relevant Welsh Tax Act, if the changes are to the primary legislation, will be updated to reflect the changes. This will provide increased clarity and certainty for our taxpayers as the law in force will be reflected on the [legislation.gov.uk](http://legislation.gov.uk) website giving our taxpayers and their advisers a clear and accessible view of the legislation in force.
- 5.25 Changes made by either the resolution or the regulations route would need a sunset clause. The PCTA requires a bill including the changes made by those resolutions to reach second reading within thirty days of the resolutions being passed. There is also a further sunset clause to limit the period that the PCTA resolutions can be in force<sup>53</sup> which, broadly, is 7 months after they are made. It will likely be equally important for a similar set of sunset clauses to be provided, or potentially for a single sunset clause to apply in both circumstances.
- 5.26 Any period for a sunset clause would be dependent upon whether the decision is to have an annual finance bill process, or a tax bill process with additional consideration given to the sunset clause if the tax bill is on a less than annual basis. Section 109 Finance Act 2003 (see paragraph 4.10 above) provides a maximum 18-month sunset period providing the UK government with the opportunity to include the legislative change in the next finance bill, or potentially the one thereafter.

***A new version of the Welsh Tax Acts etc. (Power to Modify) Act 2022 granting the Welsh Ministers a power to modify the Welsh Tax Acts***

- 5.27 The Welsh Tax Acts etc. (Power to Modify) Act 2022 (WTAPMA)<sup>54</sup> has a sunset clause that will mean that the power provided by the Senedd to the Welsh Ministers in that Act will cease to be available on 8 September 2027. The WTAPMA also includes the ability for the Welsh Ministers, through regulations to extend the period the power is available to 30 April 2031. The extension is subject to the regulations (draft affirmative procedure) gaining Senedd approval.
- 5.28 An extension may be desirable to provide the regulation making power for a longer period for the next Senedd and Welsh Government to establish the new approach for making changes to the Welsh Tax Acts. An option maybe

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<sup>53</sup> Section 1(3) PCTA 1968

<sup>54</sup> See paragraphs 3.24-3.27



for that power to again be provided to the Welsh Ministers, either with or without a sunset clause.

***Allow the Welsh Tax Acts etc. (Power to Modify) Act 2022 to reach its sunset point and then rely on the current regulation making powers and primary legislation when required***

- 5.29 This potential option would mean that the position was essentially returned to that which existed prior to the Senedd approval of the Bill which became the Welsh Tax Acts etc. (Power to Modify) Act 2022.
- 5.30 The Welsh Government, subject to Senedd approval, would continue to effect changes to the Welsh Tax Acts through the secondary powers that had been provided. If the powers did not exist for the change to be made then the Welsh Government could use primary legislation to effect the necessary changes. In some cases, those changes may have been possible using the power provided by the Welsh Tax Acts etc. (Power to Modify) Act 2022, but once that Act is no longer in force, such changes would necessarily be made by primary legislation.

## Section 6 – Questions

- 6.1 Are you aware of examples from other legislatures that could provide helpful examples for a devolved administration (allowing for constitutional and legal differences)? Please explain why these arrangements may be right for Wales.
- 6.2 Do you consider that the current secondary legislation powers should remain available to the Welsh Ministers in the respective Welsh Tax Acts? Please explain your answer.
- 6.3 Do you consider that all secondary legislation powers available to the Welsh Ministers should be removed from the respective Welsh Tax Acts? Please explain your answer.
- 6.4 Do you consider that some secondary legislation powers available to the Welsh Ministers should be removed from the respective Welsh Tax Acts? If so, please specify and explain why.
- 6.5 What process do you consider should be used in future to make changes to the Welsh Tax Acts -
- a. an annual finance bill for Wales,
  - b. an annual (or less frequent) tax bill for Wales,
  - c. a new version of the Welsh Tax Acts etc. (Power to Modify) Act 2022,
  - d. once the Welsh Tax Acts etc. (Power to Modify) Act 2022 has reached its sunset point to rely on the current regulation making powers and primary legislation as and when necessary, or
  - e. a different approach (please set out what).

Please explain your reasons.

- 6.6 Depending on your answer to question 5, do you consider that a process is necessary to bring changes into effect before the finance/tax bill comes into force? If so, do you consider a provisional collection of taxes route, a secondary legislation route (with sunset clause – ‘a section 109 Finance Act 2003 approach’), or a different route to be more appropriate for Wales?

Please explain your reasons.

- 6.7 Do you consider that it is appropriate for the Welsh Ministers to limit the scope of any finance or tax Bills laid in the Senedd or should any changes beyond amendments to those proposed by the Welsh Ministers be possible? If you do consider that there should be restrictions in the scope of such a Bill, what do you consider is the appropriate mechanism for doing so?

Please explain your reasons.

- 6.8 Do you consider that the sunset clause for the power to make regulations provided to the Welsh Ministers by the Welsh Tax Acts etc. (Power to Modify)

should be extended to 30 April 2031, or an alternative date, in order to provide the next government with sufficient time to develop the approach it chooses?

- 6.9 Any other comments you wish to make as to how changes could and/or should be made to the Welsh Tax Acts.

## **Section 7 – The Welsh Language**

- 7.1 What, in your opinion, would be the likely effects of the proposals on the Welsh language? We are particularly interested in any likely effects on opportunities to use the Welsh language and on not treating the Welsh language less favourably than English.
- Do you think that there are opportunities to promote any positive effects?
  - Do you think that there are opportunities to mitigate any adverse effects?
- 7.2 In your opinion, could the proposals be formulated or changed so as to:
- have positive effects or more positive effects on using the Welsh language and on not treating the Welsh language less favourably than English; or
  - mitigate any negative effects on using the Welsh language and on not treating the Welsh language less favourably than English?
- 7.3 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.