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Welsh Government & Welsh Revenue Authority Consultation Document

Consultation on legislative proposals relating to the Welsh Tax Acts

Date of issue: 3 November 2025

Action required: Responses by 26 January 2026

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 consultation seeks your views on Welsh Government and Welsh Revenue Authority proposals to make changes to the Welsh Tax Acts, namely Tax Collection and Management (Wales) Act 2016 ('TCMA'), Landfill Disposals Tax (Wales) Act 2017 ('LDTA') and Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 ('LTTA'). The proposed legislative changes would seek to remedy areas where, in practice, the WRA has found difficulty in operating the legislation effectively, in response to feedback from taxpayers or to bring Wales in line with changes that have happened elsewhere within the UK. New primary legislation will be required to give effect to proposals that the Welsh Government chooses to take forward and will be subject to Senedd Cymru approval.

How to respond

Please respond to this consultation by answering the questions set out within this document and in the response form. Responses can be submitted in a number of ways:

Online: [link](#)

Email: consultation@wra.gov.wales, ymgynghoriad@acc.llyw.cymru

Post: **Welsh Revenue Authority**

PO Box 108

Merthyr Tydfil

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Further information and related documents

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

Contact details

For further information:

Welsh Revenue Authority

PO Box 108

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

UK General Data Protection Regulation (UK GDPR)

The Welsh Revenue Authority (the WRA) and Welsh Government (the WG) will be data controllers 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. Any response you send us will be seen in full by the WRA and WG staff dealing with the issues which this consultation is about or planning future consultations. Where the WRA or the WG 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. The WRA's and the WG'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 WG and the WRA intend 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 in order to publish a summary of the responses to this document.

You should also be aware of our responsibilities under the Freedom of Information legislation. 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 the WRA or the WG relating to this consultation response, will be kept for no more than three 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 WRA or the WG holds and its use, or if you want to exercise your rights under the UK GDPR, please see contact details below:

WRA Data Protection Officer:
Welsh Revenue Authority
Cathays Park
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CF10 3NQ
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Cathays Park
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The contact details for the Information
Commissioner's Office are:
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF
Tel: 01625 545 745 or
0303 123 1113
Website: <https://ico.org.uk/>

Contents

UK General Data Protection Regulation (UK GDPR)	3
Foreword	6
Introduction	8
Background	8
The Welsh Revenue Authority	8
A Welsh way of doing tax.....	9
Welsh Government's tax principles and policy-making	9
Welsh Tax Acts	10
Tax Maintenance Bill aims and objectives	11
Purposes of this consultation	11
Definitions	12
Next Steps.....	12
Consultation format	12
Consultation Questions	14
WRA governance	14
WRA tax powers	16
Tax changes	34
Welsh language	44
Other questions.....	44
Transparency and engagement	45
Implementation timescales.....	45
Annex A – Summary of consultation questions	46
Annex B – List of sources.....	52

Foreword

Since April 2018, Wales has benefited from the devolution of two taxes: the Landfill Disposals Tax (LDT) and Land Transaction Tax (LTT), both of which are collected and managed by the Welsh Revenue Authority (the WRA). From 2026, the WRA will administer the national register of visitor accommodation, and from 2027 will collect visitor levy on behalf of principal councils.

During the 2024/2025 financial year, £372 million in tax revenue has been collected for Wales from our two devolved taxes. Revenue from Land Transaction Tax and Landfill Disposals Tax is re-invested by the Welsh Government in public services, like the NHS and schools, in communities across Wales.

Over time, practical experience has shown that certain aspects of the legislation underpinning each of the devolved taxes, and the operation of the WRA itself, are in need of refinement.

This consultation contains a package of proposed changes to the Welsh Tax Acts:

- Tax Collection and Management (Wales) Act 2016 ('TCMA')
- Landfill Disposals Tax (Wales) Act 2017 ('LDTA')
- Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 ('LTTA')

The amendments outlined in this consultation are drawn from seven years' operational experience in collecting and managing devolved taxes, feedback from industry, representatives, Welsh public service partners, and in response to relevant UK government legislative changes. The technical changes are intended to clarify, enhance and future-proof the Welsh Tax Acts to enable the WRA to continue to collect taxes as effectively as possible and support wider public service delivery in Wales.

Whilst this consultation strives to future-proof important aspects of Welsh tax legislation, there are further areas beyond the present consultation that will fall to the next Welsh Government to consider. These will include whether the WRA has all the tools it requires to adapt to changes in the behaviour of taxpayers and their agents alike, and taking account of impacts and opportunities arising from changes to the wider tax administration framework across the United Kingdom. Furthermore, as the WRA is the first non-ministerial department established by the Welsh Government, it is right to consider, as the organisation approaches its ten-year anniversary, whether its governance arrangements are as effective as they can be, and what lessons can be learned from them. If it chooses to do so, it will be for the next Government to bring forward proposals via a Green Paper to consider these issues.

This consultation seeks views on the matters raised, many of which are technical in nature. Should you have other issues that you wish to raise, I would encourage you to take this opportunity to do so.

I look forward to reading your responses.

Mark Drakeford MS, Cabinet Secretary for Finance and Welsh Language.

Introduction

Background

In April 2018, the Welsh Revenue Authority (the WRA) began to collect and manage two Welsh devolved taxes on behalf of Welsh Government: Land Transaction Tax (LTT) and Landfill Disposals Tax (LDT).

LTT¹ is a tax on land transactions in Wales. LDT² is charged on taxable disposals of waste in Wales. These taxes replaced UK stamp duty land tax and UK landfill tax respectively in Wales.

Over the seven years since the WRA started to administer these taxes, a number of areas have been identified where the legislation would benefit from further clarification to help taxpayers ensure they pay the right amount of tax. The WRA's operational experience over this period has also highlighted areas where aspects of its internal governance structure or the powers it uses to carry out its functions need updating.

Whilst this is a matter for the next Welsh Government, the current Welsh Government wishes to put its successor in the position to take forward the first 'tax maintenance bill' – which will comprise a series of unrelated amendments to the Welsh Tax Acts³ to be made through the introduction of primary legislation. These changes should ensure that the Welsh Tax Acts deliver the outcomes intended by Senedd Cymru. They should enable taxpayers and their advisers to clearly understand their obligations, and that the WRA can collect taxes as efficiently as possible and to support wider public service delivery in Wales.

The Welsh Revenue Authority

The WRA is a non-ministerial department of the Welsh Government. As Welsh Government's tax administration body, it develops and delivers services for people to register, calculate and pay tax in Wales. The WRA is also now responsible for collecting and managing the visitor levy on behalf of Welsh principal councils and will operate the register of visitor accommodation providers across Wales.

The WRA's overall purpose is to design and deliver Welsh national revenue services and to lead the better use of Welsh taxpayer data for better policy outcomes in Wales. The WRA's strategic objectives, set out in its Corporate Plan⁴ are to:

¹ <https://www.gov.wales/land-transaction-tax-introduction>

² <https://www.gov.wales/landfill-disposals-tax-introduction>

³ 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](#).

⁴ <https://www.gov.wales/welsh-revenue-authority-corporate-plan-2025-2028>

- make it easy to do the right thing
- be fair and consistent in the way we deliver our services
- be a sustainable and future focused organisation

The changes put forward in this consultation aim to enable the WRA to achieve its strategic objectives.

A Welsh way of doing tax

The WRA helps to deliver a fair tax system for Wales through 'Our Approach', a Welsh way of doing tax. By working with taxpayers, representatives, partners and the public, the WRA can make sure taxes are collected effectively and efficiently.

'Our Approach' is defined by these 3 Welsh terms:

- 'Cydwethio' means 'to work together' and carries a sense of working towards a common goal;
- 'Cardarnhau' suggests a solid, robust quality that can be relied on; this is about providing certainty, being accurate and reinforcing trust;
- 'Cywiro' literally means 'returning to the truth' and is about the way the WRA works with taxpayers to resolve errors or concerns.

'Our Approach' is inspired by the WRA's Charter⁵ which explains the shared values, behaviours and standards which underpin the WRA's relationship with taxpayers and their representatives.

Welsh Government's tax principles and policy-making

Collaboration and involvement are at the heart of how we develop tax policy. The Welsh Government and the WRA work closely with external stakeholders to make decisions that work for all.

We seek to balance immediate need with longer-term considerations to future-proof the Welsh Tax Acts to better serve Welsh citizens and businesses.

The proposals set out through this consultation align with Welsh Government's five core tax principles⁶ which serve to ensure a consistent and strategic approach to tax policy development and delivery in Wales. The consistent assessment and application of these principles provides for the alignment of tax policies with wider

⁵ <https://www.gov.wales/welsh-revenue-authority/our-charter>

⁶ As set out in the Welsh Government's tax policy framework: <https://www.gov.wales/tax-policy-framework-update>

Welsh Government objectives. Our taxes also need to operate coherently and cohesively as part of a wider UK tax and benefits system. Aligning our approach and taxes with these core principles ensures we are better able to address the wider needs of Welsh citizens and businesses.

Welsh taxes should:

- Raise revenue to fund public services as fairly as possible.
- Deliver Welsh Government policy objectives.
- Be clear, stable and simple.
- Be developed through collaboration and involvement.
- Contribute directly to the Well-Being of Future Generations Act 2015 goal of creating a more equal Wales.

These tax principles reflect the Welsh Government's values and objectives. They provide the platform from which we can build into policy and sustainability considerations, and the importance of ensuring Welsh taxes remain proportionate and progressive. As such, together with the WRA's Welsh way of doing tax, our tax policy principles provide a clear set of criteria from which to assess the contribution of tax policy and our wider tax system in creating a greener, fairer and more inclusive Wales.

Welsh Tax Acts

The Welsh Tax Acts comprise:

- Tax Collection and Management (Wales) Act 2016 ('TCMA')
- Landfill Disposals Tax (Wales) Act 2017 ('LDTA')
- Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 ('LTTA')

Collectively, the Welsh Tax Acts contain the legislation the WRA uses to administer taxes in Wales.

TCMA contains legislation establishing the WRA and setting down provisions for its functions, governance and its powers (such as raising penalties, enquiring into the accuracy of a taxpayer's return), and the safeguards provided to taxpayers through rights of appeal to the independent tribunal. It also includes provisions for the General Anti-Avoidance Rule ('GAAR') – an important tool to deter and counteract instances of tax avoidance.

LDTA established LDT and sets down the basis for how the tax works. Likewise, LTТА established LTT.

Tax Maintenance Bill aims and objectives

We propose that a tax maintenance bill be designed with the following aims:

- Using the WRA's experience of administering Welsh devolved taxes to make amendments to the Welsh Tax Acts to clarify the application of the tax in certain areas and to allow for more effective and efficient tax administration.
- Supporting the delivery of public services in Wales by enabling the sharing of WRA-collected data with Welsh Government and local government partners.
- Whilst some of the amendments put forward in this consultation could be made through regulations using powers provided to the Welsh Ministers by the Senedd, others cannot. The opportunity has therefore been taken to group together both those that can only be made by primary legislation and those that could be made by using regulation-making powers provided to the Welsh Ministers.

Purposes of this consultation

While we have set out in this consultation (where relevant) the direction in which the Welsh Government wish to take the policy, the consultation responses will be reviewed and fully considered before any final decisions are made on the proposed changes to the Welsh Tax Acts. The extent to which the proposed changes align with the Welsh Government and the WRA's core tax principles will guide the decision-making process. These will be applied consistently when assessing consultation responses and in taking the final decision on which changes to pursue.

Definitions

Throughout this document we refer to various groupings or words that may be interpreted differently by those reading. The definitions of these words are set within the context of this consultation document and the proposed tax maintenance bill. They should be understood in this manner. For the purposes of clarity, we have set out some key definitions used in this document:

Senedd	the devolved legislature in Wales by whatever name it was known at the time.
WRA-collected taxes	land transaction tax, landfill disposals tax, or visitor levy

Next Steps

Following the consultation period policy development will continue, informed by the responses received. Next steps will be communicated following full consideration of the consultation responses. Any decision to introduce the proposed new legislation will be taken by the next Welsh Government after the Senedd Cymru election in 2026.

Consultation format

This consultation explores a range of discrete legislative issues relating to the Welsh Tax Acts, presenting the case for change and the proposed way forward in each instance. Context is provided ahead of each question to enable the respondent to provide an informed response. All the questions are listed together in Annex A. References are provided where required in footnotes and a full list of sources is provided towards the end of this document in Annex B.

This consultation covers areas where the WRA has experienced challenges in the administration of WRA-collected taxes, or where changes to wider UK legislation gives reason to consider amending its tax powers. These changes are largely disconnected from each other, with some common themes.

The first question addresses an issue relating to the WRA's internal governance, as established in TCMA. The proposed change seeks to clarify existing governance structures and ensure they work as effectively as possible.

Questions 2-10 then address aspects of the WRA's powers as conferred by TCMA. A range of issues are presented where in practice the WRA's current powers do not work as intended, or where there are opportunities to build on the current provisions to support tax administration in Wales.

Questions 11-16 present a number of discrete tax issues relating to the operation of LTT and LDT, where there are opportunities to clarify or enhance the provisions to help ensure that the right tax is paid.

Questions 17 and 18 cover the potential impact of the proposed changes on the Welsh language, and any changes to proposals that may be needed to mitigate effects on the Welsh language.

Question 19 gives the opportunity for respondents to the consultation to provide feedback on any related issues not addressed by this consultation.

Consultation Questions

WRA governance

1. Non-executive membership of WRA committees

- 1.1 When the WRA was first established as a non-ministerial department of the Welsh Government, consideration was given to the corporate makeup of the WRA. There were early-stage options around the corporate governance of the new organisation: specifically, whether to establish a familiar and tested (in Wales) governance structure (a Board with a non-executive Chair), or to replicate the HMRC structure of Executive Commissioners. The governance benefits of a Board chaired by and comprising a majority of non-executive members was considered preferable.
- 1.2 Section 3⁷ TCMA provides for the membership of the WRA, which will comprise non-executive and executive members and consist of between eight and thirteen members.
- 1.3 Section 8⁸ TCMA makes provision for the WRA to establish committees (which may establish sub-committees) for any purpose relating to its functions. The WRA may determine the committees' composition and also appoint people who are not members of the WRA and remunerate them for their services, with the approval of the Welsh Ministers. Non-members are unable to vote in a committee.
- 1.4 Section 12⁹ TCMA sets out the WRA's functions, including its general function to collect and manage WRA-collected taxes and particular functions relating to such taxes including: providing information and assistance to the Welsh Ministers and taxpayers and others; resolving complaints and disputes; and promoting tax compliance and working to protect against tax evasion and tax avoidance. The WRA may undertake other actions which it considers necessary or expedient in connection with exercising its functions.
- 1.5 Section 13¹⁰ TCMA makes provision for the WRA to internally authorise the carrying out of its functions by WRA members, committees, sub-committees or WRA staff. **Section 13(2) requires that at least one non-executive member is a member of any committee or sub-committee that is authorised to carry out WRA functions.** Where the WRA has authorised the carrying out of any function under section 13, the WRA's ability to exercise that function and responsibility for the exercise of the function is not affected.

⁷ <https://www.legislation.gov.uk/anaw/2016/6/section/3>

⁸ <https://www.legislation.gov.uk/anaw/2016/6/section/8>

⁹ <https://www.legislation.gov.uk/anaw/2016/6/section/12>

¹⁰ <https://www.legislation.gov.uk/anaw/2016/6/section/13>

- 1.6 The operational functions of the WRA have been delegated to the 'chief executive or to any other member of staff of WRA' per s13(1)(c), which in practice has meant senior executive leaders of the WRA and members of staff as appropriate. Senior leaders and staff will arrange themselves in committees to discharge these functions. These committees include but are not limited to the Executive Committee and the Case Management Committee (which makes operational decisions on cases).
- 1.7 On one reading of the legislation, these committees could require non-executive membership when discharging the functions of the WRA. Also, only the members of the WRA (as defined in section 3) can vote in a committee. This would mean that the non-executives become involved in the operational day-to-day management of the organisation. This is contrary to best practice as it limits the board's ability to scrutinise the executive performance of the WRA's functions and undermines the integrity of board oversight. It also means that in certain instances the non-executives (who are not civil servants) would become involved in the executive function of government.
- 1.8 **We propose amending TCMA to clarify:**
- a. **that the Board will determine which committees or sub-committees require non-executive membership; and**
 - b. **that non-members of the WRA (i.e. WRA staff who are not Board members) can vote in committees and sub-committees of which they are members (according to the Terms of Reference) other than Audit, Risk and Assurance Committee (ARAC) and Remuneration Committee (RC).**
- 1.9 This change aims to maintain good governance whilst putting it beyond doubt that WRA staff members can make decisions on operational matters in a committee without non-executive membership.
- 1.10 An alternative approach would be to prevent non-executive members having access to protected taxpayer information. However, this change would not deal with the issue of all committees requiring non-executive membership, and it would prevent decisions on tax cases being able to be made in committee (as taxpayer information cannot be disclosed to the non-executives present), even though WRA staff are able to take such decisions as a result of internal authorisations under section 13 TCMA.

- a) **Do you agree or disagree with the proposed amendment to TCMA to clarify the constitution of committees and sub committees of the WRA board?**
- Agree
 - Disagree

b) Do you agree that non-members of the WRA (i.e. WRA staff who are not Board members) can vote in committees and sub-committees of which they are members (according to the Terms of Reference) other than Audit, Risk and Assurance Committee (ARAC) and Remuneration Committee (RC)?

- Agree
- Disagree

c) What are the reasons for your answers?

WRA tax powers

2. Information Sharing Powers

2.1 Section 16¹¹ TCMA 2016 allows for information acquired by the WRA, or an organisation to which WRA functions have been delegated, to be used by the WRA or by any organisation to whom functions have been delegated, in relation to any function of the WRA.

2.2 Section 17¹² prohibits the disclosure of protected taxpayer information by a relevant official (as defined by s17(2)) unless it is expressly permitted.

2.3 Protected taxpayer information is defined as information relating to a person (the “affected person”)—

(a) which was acquired by WRA or which was acquired by a person to whom any of the functions of WRA have been delegated in connection with those functions, and

(b) by which the affected person may be identified (whether by reason of the affected person's identity being specified in the information or being capable of being deduced from it).

2.4 Section 18¹³ of TCMA sets out the permissible grounds for disclosure of protected taxpayer information. These are:

(za) it is made for the purposes of WRA's functions, other than the functions mentioned in TCMA section 12(2)(a) and (e), and (3)

¹¹ <https://www.legislation.gov.uk/anaw/2016/6/section/16>

¹² <https://www.legislation.gov.uk/anaw/2016/6/section/17>

¹³ <https://www.legislation.gov.uk/anaw/2016/6/section/18>

- (a) it is made with the consent of each person to whom the information relates,*
- (b) it is made for the purpose of obtaining services in connection with a function of WRA,*
- (c) it is made for the purposes of a criminal investigation or criminal proceedings or for the purposes of the prevention or detection of crime,*
- (d) it is made to a body with responsibility for the regulation of a profession in connection with misconduct on the part of a member of the profession which relates to a function of WRA,*
- (e) it is made for the purposes of civil proceedings,*
- (f) it is made in pursuance of an order of a court or tribunal,*
- (g) it is made in accordance with an enactment requiring or permitting the disclosure,*
- (h) it is made to WRA or to a person to whom WRA has delegated any of its functions for use in accordance with section 16,*
- (i) it is made to His Majesty's Revenue and Customs in connection with a function of WRA or in connection with a function of HM Revenue and Customs, or*
- (j) it is made to Revenue Scotland in connection with a function of WRA or in connection with the collection and management of a devolved tax within the meaning of the Scotland Act 1998.*

2.5 The WRA collects a substantial amount of data which could be useful in supporting the effective delivery of other public bodies' functions. The WRA is currently unable to share this data due to sharing restrictions on WRA data which is classed as 'protected taxpayer information' (PTI). A legislatively permitted route for disclosure is required for this data's disclosure as there is not a suitable route to permit its disclosure per TCMA section 18.

2.6 The Visitor Accommodation (Register and Levy) Etc. (Wales) Act 2025 (VARL Act) creates another vehicle for the WRA to share PTI. Schedule 2 paragraph 4 will amend TCMA section 18 to add an additional information sharing permitted disclosure:

- (k) the disclosure is of information acquired in connection with the functions of WRA under Part 2 of the Visitor Accommodation (Register and Levy) Etc. (Wales) Act 2025 and it is made—*

(i) to a principal council in connection with a function of the principal council, or

(ii) to the Welsh Ministers in connection with their functions under section 2 of the Development of Tourism Act 1969 (c. 51).

- 2.7 As announced, Schedule 2 Part 1 shall be commenced via order before April 2026¹⁴. Once the above information sharing permitted disclosure is commenced, the WRA will be able to share National Registration scheme data in the manner described above. It was recognised during the VARL Act's passage through the Senedd that non-aggregate details (such as the addresses of registered accommodation providers) would be of use to principal councils for matters such as council tax and non-domestic rates compliance as well as tourism research given the lack of current available data in that area.
- 2.8 This rationale that the information the WRA collects in accordance with their functions has utility to other public bodies (such as principal councils for local taxation purposes) can be applied to the information the WRA collects for the devolved taxes and the visitor levy.
- 2.9 **We propose amending section 18(1) TCMA to introduce two new legislatively permitted disclosures to allow WRA to disclose information to principal councils and Welsh Government, for the purposes of their functions.**
- 2.10 This change aims to help with the effective management of local taxation by principal councils as well as supporting local and national policy development and research by sharing information the WRA already collects.
- 2.11 Information sharing of this nature will be with named public bodies for limited purposes related to their functions. For example, it is envisaged that LTT information may be requested and disclosed to a principal council in instances of suspected council tax or non-domestic rates evasion to assist the locating of a property owner and liable party. Furthermore, sharing of addresses of recent property transactions in tranches with Welsh Government or principal councils would assist both national and local policy research in areas such as social housing and planning.
- 2.12 Information sharing to support cross-department tax administration exists at the national level between the WRA, HMRC and Revenue Scotland to aid compliance activity. This is facilitated via information sharing permitted disclosures in TCMA section 18 as detailed above. Extending the WRA's information sharing permitted disclosures to aid principal council compliance

¹⁴ [Plenary 01/07/2025 - Welsh Parliament](#) at para 671 Stage 3 of the Visitor Accommodation (Register and Levy) Etc. (Wales) Bill

efforts and Welsh Government for the purposes of their functions would represent the next frontier of data utilisation.

- 2.13 The WRA is a non-ministerial department of the Welsh Government to ensure there is sufficient separation between Welsh Ministers and sensitive taxpayer data. The proposed permitted disclosure to Welsh Government will be restricted to certain members of Welsh Government for specified purposes to ensure this data is not available to Welsh Ministers. Furthermore, it is vital to ensure that data the WRA discloses to principal councils is afforded this same ring-fencing and protection so that only officials in need of the data to carry out a principal council's functions may access it. Thus, we will need to build in sufficient safeguards to ensure that taxpayers' affairs cannot come under the direct purview of the elected members of principal councils. We are interested in the views of respondents regarding how this could be achieved.

a) Do you agree or disagree with an amendment to TCMA to allow the WRA to share protected taxpayer information with principal councils and Welsh Government for the purposes of their functions?

- Agree
- Disagree

b) What safeguards do you think are necessary to protect taxpayer information?

c) What are the reasons for your answers?

3. Sharing protected taxpayer information with principal councils for the purposes of WRA visitor levy functions

- 3.1 Section 16 TCMA allows for information acquired by the WRA, or an organisation to which WRA functions have been delegated, to be used by the WRA or by any organisation to whom functions have been delegated, in relation to any function of the WRA.
- 3.2 Section 17 prohibits the disclosure of protected taxpayer information by a relevant official (as defined by s17(2)) unless it is expressly permitted.
- 3.3 Protected taxpayer information is defined as information relating to a person (the "affected person")—

(a) which was acquired by WRA or which was acquired by a person to whom any of the functions of WRA have been delegated in connection with those functions, and

(b) by which the affected person may be identified (whether by reason of the affected person's identity being specified in the information or being capable of being deduced from it).

- 3.4 The Visitor Accommodation (Register and Levy) Etc (Wales) Act 2025 (VARL Act) amended TCMA to introduce an information gateway for the WRA to share information, when doing so is for the purposes of the WRA's functions.

(1) A disclosure of protected information is permitted by this section if—

(za) it is made for the purposes of WRA's functions, other than the functions mentioned in section 12(2)(a) and (e), and (3),

- 3.5 Section 12 details the main functions of the WRA and in particular provides

(2) WRA has the following particular functions— [...]

(e) providing information, advice and assistance relating to the visitor levy to principal councils

- 3.6 This means that the gateway for the WRA to share information for its functions introduced by VARL Act does not apply where it is seeking to share information with a principal council in relation to visitor levy.

- 3.7 The gateway at section 18(1)(za) allows the WRA to disclose protected taxpayer information to a principal council during an enquiry into an LTT return if the disclosure is for the purpose of the WRA's LTT related functions. For example, the WRA could ask a principal council if a named taxpayer is a non-domestic rates payer in order to help the WRA assess whether the taxpayer had paid the correct amount of LTT.

- 3.8 However, the WRA would not be able to ask the same question in order to support a visitor levy enquiry as it is prohibited from disclosing protected taxpayer information relating to the visitor levy to principal councils. This could have an impact upon the WRA's delivery of the visitor levy, making it more difficult to resolve cases in a timely manner.

- 3.9 **We propose to amend TCMA to lift the restriction on the disclosure of protected taxpayer information relating to visitor levy to principal councils.**

- 3.10 This change will impact visitor levy taxpayers, however only serves to put them on the same footing as devolved tax taxpayers. As the visitor levy has not yet been implemented no change will be felt by visitor levy taxpayers. This change will ensure that there is consistency in the tax code as all taxpayers, whether paying a devolved tax or visitor levy will be treated in the same way. It will also help the WRA to administer the visitor levy more efficiently.

- 3.11 The WRA is a non-ministerial department of the Welsh Government to ensure there is sufficient separation between elected members and sensitive taxpayer data. It is vital to ensure that data the WRA discloses to principal councils is afforded this same ring-fencing and protection so that only officials in need of the data to carry out a principal council's functions may access it. Thus, we will need to build in sufficient safeguards to ensure that taxpayers affairs cannot come under the direct purview of the elected members of principal councils. We are interested in the views of respondents of how this could be achieved.

- a) **Do you agree or disagree with amending TCMA to allow the WRA to share protected taxpayer information with principal councils for the purposes of WRAs visitor levy functions?**
- Agree
 - Disagree
- b) **Do you believe any additional taxpayer safeguards need to be put in place?**
- c) **What are the reasons for your answers?**

4. Withholding repayments during an enquiry

- 4.1 Part 3¹⁵ TCMA sets out the WRA arrangements for establishing a taxpayer's liability to a WRA-collected tax and provides for the opening of an enquiry, and the making of a determination or an assessment by the WRA. The duties and powers in this part of the Act are intended to make the tax system work effectively and provides the tools for the WRA to ensure taxpayers' compliance with their duties.
- 4.2 In particular, section 40¹⁶ gives the definition of "the filing date" as being the date by which a tax return for a WRA-collected tax is due. Legislation about the particular devolved taxes make provisions about what that date is in particular circumstances.
- 4.3 Section 41¹⁷ provides for a person who has made a tax return to be able to amend it and sets out how and when this can be done. A person making an amendment must do so within 12 months of the filing date or by any other date that Welsh Ministers have prescribed by regulations.

¹⁵ <https://www.legislation.gov.uk/anaw/2016/6/part/3>

¹⁶ <https://www.legislation.gov.uk/anaw/2016/6/section/40>

¹⁷ <https://www.legislation.gov.uk/anaw/2016/6/section/41>

- 4.4 Land Transaction Tax and Landfill Disposals Tax are self-assessed taxes (see section 44 LTTA¹⁸ and section 39 LDTA¹⁹). Where a taxpayer requests a refund by way of amendment to their tax return, it is automatically processed.
- 4.5 There have been cases where it would appear prudent for the WRA to withhold repayment while undertaking an enquiry into an amendment to a return made by a taxpayer until that enquiry has been closed. For instance, when an amendment to a return is made, and reviewed by a case officer and flagged as being high risk of being incorrect.
- 4.6 Whilst many taxpayers are content with the service they receive and understand the “process first, check later” principle of self-assessed taxes, the WRA is aware of dissatisfaction amongst some taxpayers where the WRA enquires into taxpayer amendments to returns. Under the current process where the taxpayer amends their return, a refund is made automatically even where the WRA considers there to be a risk that the claim is incorrect or invalid. This may be enquired into at a later date and where the WRA disagrees with the amendment, it will recover the lost tax and late payment interest from the taxpayer. Taxpayer feedback notes that the imposition of the late payment interest could be prevented if the WRA retained the tax paid until conclusion of the enquiry.
- 4.7 **We propose amending TCMA to give WRA a power to withhold repayments while undertaking an enquiry for the purposes of LTT and LDT. We also propose inserting a regulation making power to allow Ministers to extend these provisions to apply to visitor levy should the need arise.**
- 4.8 The intention of this change is to help taxpayers comply with the law as simply and with as minimal a cost as possible. The WRA is committed to working with taxpayers, representatives, partners and the public to deliver a fair tax system in Wales. This change will address taxpayer concerns around their money being refunded and then recharged, with interest. It will also address collection difficulties that may arise for the WRA when seeking the return of tax previously repaid under the “process first, check later” approach.
- 4.9 Where the WRA decides to withhold a repayment, we propose that this will be an appealable decision, meaning that the taxpayer would be able to ask for a review or appeal to the tribunal.

¹⁸ <https://www.legislation.gov.uk/anaw/2017/1/section/44>

¹⁹ <https://www.legislation.gov.uk/anaw/2017/3/section/39>

- 4.10 Taxpayers are already entitled to apply to the tribunal to close an enquiry (section 51 TCMA²⁰). Making a WRA decision to withhold repayment appealable provides taxpayers with an additional safeguard.
- 4.11 There is of course a risk that taxpayers making correct amendments will be impacted by this change if the WRA incorrectly considers an amendment to be high risk and decides to withhold the repayment as a result until an enquiry is concluded. However, repayment interest will accrue on any refund paid to them and they have the right of appeal to the tribunal to challenge the withholding of the repayment.
- 4.12 We are aware that taxpayers may already be asked if they wish the WRA to retain the money as payment on account, rather than refunding it immediately. However, there are certain instances when taxpayers make amendments to their return knowing there is a low likelihood of those amendments being correct or knowing them to be false. In these instances, a power to withhold repayment would allow WRA to protect the revenue particularly where there is a risk that recovery of the tax may be difficult later in time.
- 4.13 In our consideration of this issue, we have not been able to identify any other potential solutions that do not erode the concept of the self-assessed nature of the devolved taxes but allow us to strike the right balance to protect the Welsh Government's revenues and the taxpayers from claiming a refund that will, very likely, be repayable to the WRA. We would be interested to learn of any other solutions you may be aware of.

²⁰ <https://www.legislation.gov.uk/anaw/2016/6/section/51>

- a) Do you agree or disagree with amending TCMA to give the WRA the power to withhold repayments while undertaking an enquiry?
- Agree
 - Disagree
- b) Do you agree that a decision to withhold repayment should be an appealable decision?
- Agree
 - Disagree
- c) Would any additional taxpayer safeguards be beneficial to accompany this power?
- d) Do you think there should be a time limit on how long the WRA has to decide whether to repay or open an enquiry, following a taxpayer amendment being received?
- e) What are the reasons for your answers?

5. Claims for overpayment relief

5.1 Section 30²¹ of the LTTA 2017 introduces Schedules 9 – 22 which make provision about reliefs that can be claimed in respect of certain transactions normally liable to pay LTT. The section is divided into those reliefs that provide 100% relief from charge to LTT and those where partial relief is provided or where relief is provided by LTT being calculated in a different manner or at a different rate to that which normally applies. Reliefs are not applied automatically but must be claimed through a tax return or amendment to such a return (except in relation to visiting forces and international military headquarters relief). The Welsh Ministers may by regulations add, modify or remove reliefs and also may amend section 31²².

5.2 Section 30 divides the reliefs into three categories:

²¹ <https://www.legislation.gov.uk/anaw/2017/1/section/30>

²² <https://www.legislation.gov.uk/anaw/2017/1/section/31>

- S30(1) gives a list of Schedules which make provision about reliefs and other provision connected to those reliefs
- S30(2) gives a list of provisions of the Act that provide relief from tax for certain land transactions (and accordingly if relief is claimed such transactions are not chargeable transactions)
- S30(3) gives a list of provisions of the Act that provide relief for certain chargeable transactions in the manner specified in the respective provision
- S30(4) states that any relief under the any of the provisions mentioned in subsections (2) and (3) (other than relief under paragraph 3 of Schedule 22 (visiting forces and international military headquarters relief)) **must be claimed in the first return made** in relation to the land transaction, or in an amendment of that return.

5.3 Section 26²³ of the LDTA 2017 introduces the chapter on reliefs and sets out the following general rules: reliefs apply only in relation to disposals at authorised landfill sites (so do not apply in relation to unauthorised disposals); where a relief applies, tax is not chargeable; and relief from tax must be claimed in a tax return.

5.4 The WRA interprets these provisions to mean that a relief listed in s30(1) of LTTA 2017 and reliefs contained in LDTA 2017 must be claimed in the initial return or an amendment to that return and cannot be the subject of a successful claim for overpaid tax under section 63²⁴ TCMA if they have failed to do so.

5.5 Where a taxpayer makes a claim for overpaid tax because they have failed to claim the relief in their initial return or an amendment thereof, the WRA relies on section 67²⁵ TCMA (case 1) to reject the claims.

5.6 In order to process the claims that the WRA need not give effect to under case 1 of section 67 TCMA, the WRA has in practice been opening enquiries to reject the claim. This is not explicitly required by the legislation, but the approach is taken to prevent later disputes around whether an enquiry should have been opened. This process is inefficient, places a burden on the WRA and taxpayers alike.

5.7 **We propose amending TCMA to provide clarity that WRA need not open an enquiry to reject a claim under section 67 TCMA.**

²³ <https://www.legislation.gov.uk/anaw/2017/3/section/26>

²⁴ <https://www.legislation.gov.uk/anaw/2016/6/section/63>

²⁵ <https://www.legislation.gov.uk/anaw/2016/6/section/67>

- 5.8 We want to ensure that such a change does not erode taxpayer protections. Therefore, the WRA's refusal to accept a taxpayers overpayment relief claim will be an appealable decision and this is already provided by the current wording of section 172 TCMA²⁶. This means that safeguards for taxpayers remain, but the administrative burden for the taxpayer, their adviser and the WRA will be lifted if the legislation is clarified.
- 5.9 This change would help us to achieve one of our tax policy principles of making tax legislation clear, stable and simple.

a) Do you agree or disagree with clarifying TCMA to ensure that WRA need not open an enquiry to reject a claim where s67 applies?

- Agree
- Disagree

b) What are the reasons for your answer?

6. Information notices to check whether a relief has been withdrawn

- 6.1 Some reliefs in LTТА include provision that certain events after the effective date of the transaction will trigger the withdrawal of that relief.
- 6.2 Example
- 6.3 The Land Transaction Tax (Relief for Special Tax Sites) (Wales) Regulations 2024 amended LTТА 2017 to insert a new Schedule 21A²⁷ (relief for special tax sites) which provided for a relief from land transaction tax for qualifying transactions of land within a special tax site.
- Relief is withdrawn if, during the control period, the qualifying land is not used exclusively in a qualifying manner.
 - The control period begins on the effective date of the transaction for which special tax site relief is claimed.
 - The control period for that transaction will end either:

²⁶ <https://www.legislation.gov.uk/anaw/2016/6/section/172>

²⁷ <https://www.legislation.gov.uk/anaw/2017/1/schedule/21A>

- after the period of 3 years beginning with the effective date of the transaction
 - or, on the effective date of the final transaction if this occurs before the end of the 3-year period
- 6.4 It is procedurally difficult for the WRA to know whether a relief is withdrawn. In practical terms it is often the case that a return is filed claiming the relief, and often no further information follows. Whilst the WRA may open an enquiry, it only has 12 months to do so from the later of the filing date for the return, or the actual date the return was filed. The WRA either may not have any cause to open an enquiry within that timeframe or the relief may not be withdrawn until after that 12-month window.
- 6.5 The WRA can make an assessment under section 54²⁸ TCMA after the enquiry window has closed. However, the WRA may not have enough information to be able to make such an assessment.
- 6.6 It may therefore be necessary for the WRA to issue an information notice to a taxpayer to gather information to know whether a relief is withdrawn. However, under section 100²⁹ TCMA where a tax return has been made an information notice may only be issued either:
- during an enquiry or
 - where there's a reason to suspect there is a tax loss (which can be difficult to meet if WRA has limited information).
- 6.7 In practice this prevents the proper administration of reliefs which contain a withdrawal provision.
- 6.8 **We propose amending TCMA to include a provision to allow the WRA to issue an information notice to gather information to check whether the conditions for the withdrawal of a relief have been met.**
- 6.9 It is proposed that information notices of this nature be afforded the same protections provided to information notices in TCMA, namely that per s172(2) be a reviewable decision and a decision capable of appeal to the tribunal.
- 6.10 The VARL Act amended TCMA per paragraph 36 of Schedule 2 Part 2 to allow WRA, subject to compliance with TCMA section 97, to issue taxpayer notices without approval from the tribunal. It is proposed that information

²⁸ <https://www.legislation.gov.uk/anaw/2016/6/section/54>

²⁹ <https://www.legislation.gov.uk/anaw/2016/6/section/100>

notices proposed to check whether a relief has been withdrawn be bound by the same rules and safeguards for the taxpayer.

- 6.11 HMRC have already have a similar power³⁰. This approach will help us to ensure the correct tax is paid and to protect the revenue. It is not expected to have a wide taxpayer impact, and we will ensure there are taxpayer safeguards by making the information notice appealable. In addition, a taxpayer notice issued to check whether the conditions for the withdrawal of the relief have been met will not be able to be given later than 4 years after the effective date of transaction.

a) Do you agree or disagree with amending TCMA to provide a power for WRA to be able to issue an information notice to gather information to check whether the conditions for the withdrawal of a relief have been met?

- Agree
- Disagree

b) What are the reasons for your answer?

7. Powers of Inspection

- 7.1 Section 103³¹ TCMA provides that the WRA can enter a business premises and inspect the premises (including business assets and documents that are on the premises) to check a person's tax position. Such an inspection can only be carried out with either the agreement of the occupier of the premises or with the approval of the tribunal.
- 7.2 Subsection (3)³² provides for the date and time for an inspection, which permits the WRA to undertake an inspection at a time agreed with the occupier or if the inspection has been approved by the tribunal, the WRA must notify the taxpayer seven days before it is due to take place, unless the tribunal is satisfied that giving such notice would seriously prejudice the assessment or collection of tax.
- 7.3 If an inspection has been approved by the tribunal, the notice issued to the occupier must make that clear. This requirement is relevant because a person

³⁰ <https://www.legislation.gov.uk/ukpga/2008/9/schedule/36/paragraph/21A>

³¹ <https://www.legislation.gov.uk/anaw/2016/6/section/103>

³² <https://www.legislation.gov.uk/anaw/2016/6/section/103/3>

will only be liable to a penalty if access is refused (Chapter 5 of Part 5³³) where the inspection has tribunal approval.

- 7.4 The WRA is not permitted to enter or inspect any part of premises that are used solely as a dwelling. There are no proposals to change these important rights.
- 7.5 Any unannounced visit by the WRA must seek approval of the tribunal, however the time and resources needed to obtain that approval reduces the WRA's ability to act swiftly to inspect premises. This is especially relevant in LDT cases involving potential tax evasion, where the WRA may need to inspect premises without delay to confirm whether tax is due and thereby protect revenues. Amending the WRA's inspection power to enable it to inspect premises without the tribunal's prior consent would support such investigations. This move would also bring the WRA's inspection powers more in line with HMRC's³⁴, which is already able to carry out inspections without prior approval from the tribunal. This proposed change will therefore only apply to LDT.
- 7.6 **We propose amending TCMA section 103 to allow the WRA to carry out inspections without seeking tribunal or taxpayer approval. We also propose this additional route for WRA to carry out inspections be undertaken following similar rules to the Finance Act 2008 Schedule 36 paragraph 12; namely that the occupier of the premises has been given at least 7 days' notice of the time of the inspection, unless a WRA committee is satisfied that notifying the occupier would seriously prejudice the assessment or collection of LDT in which case contemporaneous notice may be provided.**
- 7.7 The test that the WRA would need to meet to undertake an unannounced visit will be the same as under current powers as set out in TCMA. Namely, that there must be grounds for believing the inspection of a person's business premises is required for the purposes of checking the person's tax return.
- 7.8 The proposed power to undertake an unannounced visit will not extend to private dwellings and will be restricted to business premises.
- 7.9 At the beginning of the visit the WRA would present the taxpayer with a notice which clearly set out the purpose of the visit and their rights.
- 7.10 This change would not impact taxpayer safeguards to request a review of the WRA's decision to carry out an inspection, and the ability to appeal this to the

³³ <https://www.legislation.gov.uk/anaw/2016/6/part/5/chapter/5>

³⁴ <https://www.legislation.gov.uk/ukpga/2008/9/schedule/36>

tribunal would be retained. Again, this is in line with comparable HMRC powers.

- 7.11 A taxpayer could refuse entry to the WRA staff members where the WRA have not sought prior tribunal consent for the visit. In such a situation, the WRA would then need to seek tribunal approval for the visit.
- 7.12 Where the WRA has not sought prior tribunal approval for the visit and the taxpayer refuses entry then the taxpayer would not be subject to any penalties.

a) Do you agree or disagree with amending TCMA to allow WRA to carry out unannounced visits for the purposes of Landfill Disposals Tax without the approval of the tribunal or taxpayer?

- Agree
- Disagree

b) Are there additional taxpayer safeguards you think that should be included?

c) What are the reasons for your answers?

8. Power to amend fixed penalty amounts

- 8.1 The TCMA 2016 sets various fixed penalties for failure to file a tax return on time.
- 8.2 Section 118³⁵ provides that the penalty amount for a person who fails to make a tax return on or before the filing date (as defined by section 40) is £100.
- 8.3 Section 119³⁶ provides that the penalty amount for a person who continues to fail to make a tax return after 6 months after the filing date is the greater of 5% of the devolved tax owed and £300.
- 8.4 Section 120³⁷ provides for a further penalty where the failure to make a tax return continues for more than 12 months after the filing date. In these circumstances, the penalty is the greater of 5% of devolved tax owed and £300. If this failure is accompanied by a deliberate withholding of information

³⁵ <https://www.legislation.gov.uk/anaw/2016/6/section/118>

³⁶ <https://www.legislation.gov.uk/anaw/2016/6/section/119>

³⁷ <https://www.legislation.gov.uk/anaw/2016/6/section/120>

which would enable or assist the WRA to assess the person's liability, subsection (2) provides for an increased penalty which is the greater of 100% of the devolved tax owed and £300.

- 8.5 The sole purpose of the penalty regime is to promote compliance and deter non-compliance.
- 8.6 The fixed penalty amounts in TCMA were set in 2016, but in reality, pre-date this as they were inherited from equivalent HMRC legislation. This means they do not account for inflation or economic changes in over 20 years. This is in contrast to tax-gearred penalties which are based on a percentage of the amount of tax due.
- 8.7 In the case of LTT where the tax is calculated based on the amount of consideration paid for the property, the tax-gearred penalty will ultimately reflect the economic conditions at the effective date of the transaction. In the case of LDT where the rate of tax is ordinarily increased in line with forecast inflation, the tax geared penalties will also reflect the broader economic conditions at the time of the return.
- 8.8 Therefore, the economic cost between the fixed penalties and tax geared penalties continues to diverge. This may reduce the behavioural impact of fixed penalties, meaning that there is less of an incentive for a taxpayer to fully comply with their obligations. Had the £100 penalties increased in line with CPI from the introduction of SDLT in 2003, they would now be £182 in April 2025.
- 8.9 Presently, the amounts of fixed penalties can only be varied through primary legislation.
- 8.10 **We propose inserting a regulation making power to enable Welsh Ministers to amend the TCMA fixed penalties. This would allow Welsh Ministers to increase or decrease fixed penalty amounts.**
- 8.11 As this would be a regulation making power there will not be an immediate change to penalty rates and it will be for a future government to consider whether they wish to change penalty rates. A future government would need to carry out a broader examination of the efficacy of the penalty regime , before bringing forward amendments to the value of the penalties following evidence-based policy scrutiny.
- 8.12 The current taxpayer safeguards for the reduction of penalties for making a disclosure, reasonable excuse and special circumstances will be unaffected by this regulation making power.

a) Do you agree or disagree with inserting a regulation making power to allow Welsh Ministers to vary the fixed penalty amount?

- Agree
- Disagree

b) What are the reasons for your answer?

9. Increasing late payment interest

- 9.1 Section 163³⁸ of TCMA provides the Welsh Ministers with the power to set the rates of late payment interest and repayment interest to be paid. Different rates may be set for different purposes. The charging of interest is not a penalty or sanction; it is charged to compensate for the loss of use of money.
- 9.2 The current rate of late payment interest is set at the Bank of England (BoE) Base Rate + 2.5%. This was the same rate of interest charged by HMRC and ensured consistency across the UK.
- 9.3 HMRC have increased the late payment interest rate charged on unpaid tax liabilities by 1.5 percentage points from 6 April 2025. This means that the HMRC interest rate is BoE base rate + 4%. This creates a risk that taxpayers with debts owed to both HMRC and the WRA will be incentivised to pay the HMRC debt first as our interest rates are lower.
- 9.4 **We propose increasing the interest rate charged on late payment interest to match that charged by HMRC, namely BoE base rate + 4%.**
- 9.5 Whilst this change can be made through regulations, we intend to use the opportunity to make all changes consulted on in this paper through the Tax Maintenance Bill. The decision to introduce that Bill and make this change through the bill rather than by regulations will be decisions made by the next Welsh Government.
- 9.6 Increasing the late payment interest charged would promote consistency across the UK tax system, align with many G7 comparators and is comparable with commercial rates. The policy intention behind this change is to ensure that WRA debts are treated by taxpayers in the same way as HMRC debts.

³⁸ <https://www.legislation.gov.uk/anaw/2016/6/section/163>

a) Do you agree or disagree with increasing the interest amount on late payment interest to BoE base rate + 4%?

- Agree
- Disagree

b) What are the reasons for your answer?

10. Recalculating interest amounts following an amendment

- 10.1 Section 157³⁹ and section 157A⁴⁰ of TCMA 2016 provides that interest is payable by a person on WRA-collected tax liabilities and related penalties that are not paid before the late payment interest start date. Interest is incurred from the late payment interest start date until the tax or penalty is paid. Subsection (3) states that in a normal case the late payment interest start date is usually the day after the filing date for the return.
- 10.2 The TCMA provides that late payment interest must be calculated on the amount of tax stated on the original return. Section 157(1)(b) TCMA provides that where a taxpayer amends their return and their tax liability increases then this should be reflected in the amount of interest they owe. No similar provision exists for when a taxpayer amends their return and reduces their tax liability. Accordingly, taxpayers may pay more, interest in relation to the tax that is properly due.
- 10.3 Equivalent legislative provision for Scottish taxes and UK taxes ensures that interest amounts are revised when a taxpayer amends their return.
- 10.4 **We propose amending section 157 TCMA to ensure that any interest payable reflects the amount of WRA-collected tax and related penalties that are due.**
- 10.5 This change is being pursued to achieve greater fairness in the tax system. This is one of our tax policy principles. We have not been able to identify any other means which remedy this position as efficiently or clearly as an amendment to s157 TCMA.

³⁹ <https://www.legislation.gov.uk/anaw/2016/6/section/157>

⁴⁰ <https://www.legislation.gov.uk/anaw/2016/6/section/157A>

a) Do you agree or disagree with amending TCMA to ensure that where a taxpayer amends their tax liability downwards that any interest amount should reflect the amendment to the tax return?

- Agree
- Disagree

b) What are the reasons for your answer?

Tax changes

11. Taxable disposals

11.1 Under section 3⁴¹ of the Landfill Disposals Tax (Wales) Act 2017 (LDTA), a disposal is considered taxable if all four of the following conditions are met:

- Material is disposed of by way of landfill (see section 4⁴²).
- The disposal occurs either:
 - at an authorised landfill site (see section 5(1)⁴³), or
 - at a site requiring an environmental permit (see section 5(2)) but which is not an authorised landfill site.
- The material is disposed of as waste (see Sections 6⁴⁴ and 7⁴⁵).
- The disposal takes place in Wales.

11.2 Additionally, section 8⁴⁶ of the Act specifies certain activities that are treated as taxable disposals whether or not the above conditions are satisfied. These include:

- Using material to construct or maintain a temporary road to a landfill disposal area.
- Creating or maintaining a temporary hard standing.
- Constructing or maintaining a cell bund.
- Using non-naturally occurring site-extracted material to build or maintain a temporary screening bund.

⁴¹ <https://www.legislation.gov.uk/anaw/2017/3/section/3>

⁴² <https://www.legislation.gov.uk/anaw/2017/3/section/4>

⁴³ <https://www.legislation.gov.uk/anaw/2017/3/section/5>

⁴⁴ <https://www.legislation.gov.uk/anaw/2017/3/section/6>

⁴⁵ <https://www.legislation.gov.uk/anaw/2017/3/section/7>

⁴⁶ <https://www.legislation.gov.uk/anaw/2017/3/section/8>

- Covering a landfill disposal area during a temporary pause in disposals.
- Placing material to provide a base for or protect anything used to line, cap, or drain a landfill area.
- Retaining material in a non-disposal area beyond the permitted period (unless covered by an agreement under section 56(4)(a)).
- Storing ashes (e.g., fly ash, bottom ash).
- Using material in restoration works.

11.3 Section 8 also grants Ministers the power to amend this list by regulations.

11.4 Disputes and queries about when a taxable disposal occurs under the LDTA can arise between the WRA and taxpayers. These disputes can delay progress toward the Welsh Government's circular economy goals, increase costs for taxpayers, and create inconsistencies across the waste sector. Currently the legislation leads to different outcomes for taxpayers, as due to the lack of clarity in legislation some taxpayers have the resources to make arguments and appeal to the tribunal regarding the definition of a landfill cell. Meaning those with the greatest propensity to litigate are delaying monies being collected for the Welsh public purse.

11.5 To address this, we propose the LDTA is amended to clarify that any use of material within a landfill cell is taxable unless explicitly excluded.

11.6 We propose that the following uses of material within a landfill cell will be excluded from being taxable disposals:

- Material used to form a drainage layer directly above the base of the cell;
- Installation of pipes, pumps, or related infrastructure for managing liquid or gas within the cell;
- the use of plant or equipment for waste or environmental management purposes.

11.7 **We propose using the same definition of landfill cell as used in the Scottish Landfill Tax (Prescribed Landfill Site Activities) Amendment Order 2022⁴⁷. Namely:**

a unit or structure within a landfill site formed of an impermeable layer at its base and sides and, save where the cell only contains inert material, at the top of the unit or structure.

11.8 This change is intended to provide clarity for landfill site operators and reinforce good engineering practice on landfill sites. This change will prevent lengthy disputes over whether certain materials used in certain landfill site

⁴⁷ [The Scottish Landfill Tax \(Prescribed Landfill Site Activities\) Amendment Order 2022](#)

engineering activities have been disposed of as waste and are therefore not taxable disposals.

<p>a) Do you agree or disagree with amending LDTA to clarify that any use of material within a landfill cell is taxable unless explicitly excluded?</p> <ul style="list-style-type: none">• Agree• Disagree <p>b) Do you agree or disagree with using the same definition for landfill cell as used in the Scottish Landfill Tax (Prescribed Landfill Site Activities) Amendment Order 2022?</p> <ul style="list-style-type: none">• Agree• Disagree <p>c) What are the reasons for your answers?</p>
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12. Group relief and consideration provided from outside the group

- 12.1 Schedule 16⁴⁸ to the LTTA 2017 provides, when the relevant conditions are met, relief from LTT for the intra-group transfers of property. Part 3⁴⁹ of Schedule 16 outlines restrictions on the availability of group relief; Part 4⁵⁰ of Schedule 16 provides for the withdrawal of the relief; and Part 5⁵¹ of Schedule 16 makes provision for the recovery of unpaid tax.
- 12.2 Paragraph 2 of the Schedule provides that a transaction is relieved from LTT where the transaction is between companies within the same group. This is referred to as “group relief”. Group relief allows companies to transfer property within a corporate group without incurring a LTT charge, as such transfers do not result in the property leaving the group.
- 12.3 In this Schedule a company is defined as a “body corporate”, and companies are defined as members of the same group if one is the 75% subsidiary of the other or both are 75% subsidiaries of a third company.
- 12.4 Part 3 of the Schedule sets out specific anti-avoidance rules (with exceptions set out at paragraph 4(2) and (7)) which restrict the availability of group relief.

⁴⁸ <https://www.legislation.gov.uk/anaw/2017/1/schedule/16>

⁴⁹ <https://www.legislation.gov.uk/anaw/2017/1/part/3>

⁵⁰ <https://www.legislation.gov.uk/anaw/2017/1/part/4>

⁵¹ <https://www.legislation.gov.uk/anaw/2017/1/part/5>

This Part applies where different types of arrangements are entered into whereby the acquiring company may become controlled from outside the group or where the buyer is to cease being a member of the same group as the seller. Where such arrangements exist at the effective date of the transaction, group relief is not available.

- 12.5 Part 3 of the Schedule also sets out that the relief will be unavailable where consideration is provided (directly or indirectly) from outside the group. Paragraph 6 sets out that certain mortgage arrangements do not stop a claim for group relief.
- 12.6 The exception to mortgage arrangements not triggering withdrawal of the relief ensure that commercial transactions are not caught by the anti-avoidance measure. However, there are other ways in which consideration could be provided from outside the group in a manner that does not amount to avoidance. These currently result in the withdrawal of relief.
- 12.7 For example, Arthur is the sole director and shareholder of two companies Alpha and Omega. Alpha is the parent company of Omega. They are group companies. Omega owns a residential property which has been valued (book value) at £550,000. Arthur has a director's loan to Omega of £550,000. Arthur's loan was used to acquire the residential property and renovate it. The residential property will be transferred from Omega to Alpha at the book value of £550,000. Upon completion this would result in an intercompany balance due from Alpha to Omega of £550,000. Arthur would then agree to assign his Director's Loan account balance in Omega in full at completion date against the intercompany balance due from Alpha in agreement for a credit to his Director's Loan account in Alpha, which would offset the intercompany balance due to Beta.
- 12.8 In our view, this example should not lead to the withdrawal of relief, but based on the current drafting of the legislation relief will be withdrawn/not allowed in the first instance.
- 12.9 Section 31⁵² LTTA provides a targeted anti-avoidance rule (TAAR) that applies to all claims for relief made by a buyer. The rule operates so that a buyer cannot claim relief where the transaction is, or is part of, a "tax avoidance arrangement". A tax avoidance arrangement is defined as an arrangement where the obtaining of a "tax advantage" by any person was the main or one of the main purposes of the arrangement, and the arrangement lacks a genuine economic or commercial main purpose (other than the obtaining of a tax advantage).

⁵² <https://www.legislation.gov.uk/anaw/2017/1/section/31>

12.10 We propose to amend LTТА 2017 to specify when consideration provided from outside of the group will not result in the withdrawal of the relief, unless the transaction is part of a scheme to save LTT.

12.11 This change would ensure that legitimate intra-group transactions are not inadvertently caught by the anti-avoidance provision.

a) Do you agree or disagree with amending LTТА to achieve the stated aim?

- Agree
- Disagree

b) What are the other circumstances where you think it would be appropriate to not withdraw the relief?

c) Do you think that this amendment will increase the risk of tax avoidance?

d) What are the reasons for your answers?

13. “A to A+B” transactions

13.1 A common property transaction involves Person A (“A”) transferring a property (held solely in A’s name) into the joint names of A and Person B (“B”).

13.2 While it is clear that B, having acquired a new interest in a property, will be a ‘buyer’ for the purposes of the LTТА, the LTТА does not explicitly clarify whether A is also treated as a ‘buyer’ in such transfers.

13.3 This lack of clarity gives rise to legal and tax uncertainties, leaving taxpayers in an ambiguous position regarding their LTT liability in such transactions.

13.4 The issue can be seen, by way of one example, in the context of higher rates residential property transactions. Schedule 5⁵³ LTТА sets out the rules for determining when the acquisition of a major interest (or an interest that is deemed to be a major interest) is subject to the higher rates. Generally, when an individual retains a major interest in a residential property and purchases a major interest in an additional residential property then they must consider if the rules on higher rates residential property transactions apply to the acquisition.

⁵³ <https://www.legislation.gov.uk/anaw/2017/1/schedule/5>

- 13.5 Part 2 of Schedule 5 sets out when a chargeable transaction entered into by an individual and involving a single dwelling is a higher rates residential property transaction". For a transaction to be a "higher rates residential property transaction" it must be within paragraph 3(2) and paragraph 5 applies.
- 13.6 Paragraph 3 and 5 specifies that a transaction is a higher rates residential property transaction when:
- the buyer is an individual;
 - the main subject-matter of the transaction consists of a major interest in a dwelling;
 - the chargeable consideration for the transaction is £40,000 or more; and
 - the buyer already owns a dwelling, and this dwelling has a market value of £40,000 or more.
- 13.7 Paragraph 6 sets out that where the transaction involves more than one buyer, all of whom are individuals, the transaction is a higher rates residential property transaction if the transaction meets the conditions set out in paragraph 3 in respect of any one of the buyers.
- 13.8 Presently, there is ambiguity under the LTTA as to whether A is a 'buyer' in this scenario.
- 13.9 Example
- Arwel owns a buy-to-let property. He lives with his partner (not married or in a civil partnership), Bethan, in a separate property that he also owns solely. The property is worth more than £400,000. Bethan owns no properties in her own name.
 - Arwel is looking to transfer the buy to let property into the joint names of himself and Bethan. Bethan will give over £200,000 of consideration for her acquisition in the property.
 - This is an A to A and B transaction as Arwel (person A) is selling an interest in the buy-to-let and both Arwel and Bethan (person B) will come to hold the property jointly.
 - LTTA does not explicitly say how Arwel is to be treated in this scenario.
 - In an A to A+B transaction if Arwel were treated as a (joint) buyer when he is reducing his interest in the property by transferring part to Bethan; and

- he continues to hold an interest in another property (with a value >£40,000)

then the transaction could fall within the scope of higher rates, even though Bethan alone might not qualify.

13.10 In order to provide clarity and increase the fairness of the tax we propose introducing a provision into LTTA to clarify that, in an A to A+B transaction, A is not to be treated as a buyer.

a) Do you agree with amending LTTA to clarify that in an A to A+B transaction A is not to be treated as a buyer?

- Agree
- Disagree

b) Can you identify any avoidance risks in this approach and how they could be countered?

c) What are the reasons for your answers?

14. Reflecting leasehold reform in LTTA

- 14.1** Collective enfranchisement is a legal right in England and Wales that allows leaseholders of flats in a building to together buy the freehold of that building from the landlord. This right is granted under the Leasehold Reform, Housing and Urban Development Act 1993.
- 14.2** At the introduction of LTT, clarification of the rules was provided that the taxpayer must consider their position “at the end of the day” to establish if their purchase was liable to the higher residential rates or not. At the same time an anti-avoidance rule was introduced into the higher residential rates rules in Schedule 5 to the LTTA (paragraph 3(4)) to ensure that the higher residential rates could not be avoided by a buyer granting a lease of 21 years or longer to a connected person out of their newly acquired interest on the day of purchase.
- 14.3** Whilst that rule has been effective in stopping the potential avoidance route, it has become clear that the rule may have the unintended consequence of potentially making some collective enfranchisement transactions liable to the higher residential rates. Whether the higher residential rates depends on the amount of the consideration given by the leaseholders. The collective enfranchisement relief (a relief that provides a different calculation method rather than 100% relief) should provide that the leaseholders are liable to the

main residential rates when acquiring, with other leaseholders, the freehold of their home.

- 14.4 Furthermore, the UK Government are proposing reforms of this right through the Leasehold and Freehold Reform Act 2024 that may result in further changes to our LTT legislation which will be facilitated through this Bill where relevant.
- 14.5 **We propose making an amendment to make it clear that the higher residential rates will not apply to a transaction to which the leasehold enfranchisement relief applies.**
- 14.6 We are also currently working with colleagues in HMRC and Ministry of Housing Communities and Local Government to understand the effect of the Leasehold and Freehold Reform Act 2024 in full and its impact on LTT.

- a) **Do you agree that the changes to ensure collective enfranchisement transactions are not charged at the higher residential rates is appropriate?**
- Agree
 - Disagree
- b) **Can you identify any avoidance risks in this approach and how they could be countered?**
- c) **What are the reasons for your answers?**

15. Nominees and leases

- 15.1 Paragraph 3(1)⁵⁴ Schedule 8 LTTA sets out the general rule that nominees and bare trustees are “looked through” for LTT purposes, so that the buyer and seller are beneficial, rather than the legal, owners. A bare trust is defined (para 2(1)) as one where property is held by a trustee for beneficiaries who are absolutely entitled against the trustee. Nominees are treated as bare trustees for these purposes.
- 15.2 For leases, however, different rules apply. Under para 3(3) and (4):
- *if a lease is granted to a bare trustee, the trustee is treated as both legal and beneficial lessee; and*

⁵⁴ <https://www.legislation.gov.uk/anaw/2017/1/schedule/8>

- *if a lease is granted **by** a bare trustee, the trustee is treated as the lessor, disposing of both the legal and beneficial interest in the lease.*

- 15.3 Although prior changes made in the Finance (No.2) Act 2005 FA 2003 paragraph 11 of Schedule 17A para 11 to the Finance Act 2003 already countered avoidance where a lease was granted **to** a nominee (by taxing the first assignment of the lease as if it were at the grant of the lease). This rule ensured that the rents payable under the lease were brought into charge (as normally on the assignment of a lease only a premium is chargeable consideration as the rents payable will have been taxed on the grant of the lease).
- 15.4 However, the initial SDLT rules, it did not cover leases granted **by** nominees. This left scope for arrangements to avoid SDLT such as transferring land to a nominee and granting a lease back, which could then be sold to a third party with no SDLT charge.
- 15.5 The Finance (No.2) Act 2005 replaced those provisions with the current rules, which treat leases granted **to or by** nominees as chargeable transactions. This closed the avoidance risk but also marked a departure from the usual “transparency” principle for nominees and bare trusts, creating an exception within the SDLT/LTT framework that can produce inconsistencies in the treatment of leases.
- 15.6 In particular, the availability of certain reliefs has been restricted by this look through, meaning transactions which are genuinely commercial are unable to benefit from reliefs as they are caught by this anti-avoidance measure.
- 15.7 **We propose amending LTTA to ensure that the availability of reliefs is not restricted by this look through.**
- 15.8 This amendment will help us meet our tax policy principle around fairness. It will also simplify the application of tax to nominees of leases helping us ensure devolved taxes are simple and stable.

a) Do you agree with amending LTTA to achieve this?

- Agree
- Disagree

b) How do you propose we best achieve this?

c) Do you foresee any tax avoidance activity that such a change could give rise to?

d) If so, how should we legislate to prevent the avoidance activity?

e) What are the reasons for your answer?

16. LTТА application to the Crown

- 16.1 Section 187A(1) sets out how TCMA will apply to the Crown in relation to LTT. Section 187A(1)(e) provides that Part 8 of TCMA (reviews and appeals) binds the Crown, except for certain specified provisions which do not. There are a number of typographical errors in this subsection.
- 16.2 In the first instance, references to section 172(1) in section 187A(1)(e) are incorrect as there is no such provision as s172(1)(d) or (e). The reference should instead be to section 172(2) which lists appealable decisions.
- 16.3 Section 172(2)(e) (which currently says section 172(1)(e) in error) should also be removed from the list of provisions that do not bind the Crown in section 187A(1)(e). This is because it is considered appropriate that the Crown should have the right to request a review of or appeal against a decision to issue an information notice or to include a particular requirement in such a notice. Furthermore, removing:
- s172(3)(b) and (c);
 - s172(4);
 - s172(5);
 - s172(6) and
 - s183

from the excepted provisions in s187A(1)(e) will also ensure that the usual rights to request a review or appeal against information notices in TCMA are provided to the Crown.

- 16.4 **We suggest amending the legislation at section 187A(1) to include the correct reference and ensure that the Crown's rights of appeal against information notices are provided.**
- 16.5 We are pursuing this change in order to give effect to the intention of the legislature when the Act was passed.

a) Do you agree to the proposed amendments for this section and particularly amending section 187A(1) to ensure the rights to request a review or appeal are provided to the Crown?

- Agree
- Disagree

b) Do you have any other comments on the operation of Crown application?

c) What are the reasons for your answers?

Welsh language

17. 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.

a) Do you think that there are opportunities to promote any positive effects?

b) Do you think that there are opportunities to mitigate any adverse effects?

18. In your opinion, could the proposals be formulated or changed so as to:

a) have positive effects or more positive effects on using the Welsh language and on not treating the Welsh language less favourably than English; or

b) mitigate any negative effects on using the Welsh language and on not treating the Welsh language less favourably than English?

Other questions

19. We have asked a number of specific questions.

a) If you have any related issues which we have not specifically addressed, please use this space to report them.

Please enter here:

Transparency and engagement

We believe in the principles of co-creation and strong partnership with taxpayers and the tax industry across Wales. We are committed to the principle of transparency to support accountability and understanding of how our taxes work.

Implementation timescales

This consultation will run from 3rd November 2025 and close on 26th January 2026.

We anticipate the outcome of the consultation to be fully considered by the Welsh Government following the 2026 Senedd elections. Any changes to legislation as a result of this consultation will be taken forward by the Welsh Government post-election. We would anticipate a Bill to be laid during the first year of the Senedd term.

Annex A – Summary of consultation questions

WRA governance

Question 1

- a) Do you agree or disagree with the proposed amendment to TCMA to clarify the constitution of committees and sub committees of the WRA board?
- Agree
 - Disagree
- b) Do you agree that non-members of the WRA (i.e. WRA staff who are not Board members) can vote in committees and sub-committees of which they are members (according to the Terms of Reference) other than Audit, Risk and Assurance Committee (ARAC) and Remuneration Committee (RC).
- Agree
 - Disagree
- c) What are the reasons for your answers?

WRA tax powers

Question 2

- a) Do you agree or disagree with an amendment to TCMA to allow the WRA to share protected taxpayer information with principal councils and Welsh Government for the purposes of their functions?
- Agree
 - Disagree
- b) What safeguards do you think are necessary to protect taxpayer information?
- c) What are the reasons for your answers?

Question 3

- a. Do you agree or disagree with amending TCMA to allow the WRA to share protected taxpayer information with principal councils for the purposes of WRAs visitor levy functions?
- Agree

- Disagree
- b. Do you believe any additional taxpayer safeguards need to be put in place?
- c. What are the reasons for your answers?

Question 4

- a) Do you agree or disagree with amending TCMA to give WRA the power to withhold repayments while undertaking an enquiry?
- Agree
 - Disagree
- b) Do you agree that a decision to withhold repayment should be an appealable decision?
- Agree
 - Disagree
- c) Would any additional taxpayer safeguards be beneficial to accompany this power?
- d) Do you think there should be a time limit on how long the WRA has to decide whether to repay or open an enquiry, following a taxpayer amendment being received?
- e) What are the reasons for your answers?

Question 5

- a) Do you agree or disagree with clarifying TCMA to ensure that WRA need not open an enquiry to reject a claim where s67 applies?
- Agree
 - Disagree
- b) What are the reasons for your answer?

Question 6

- a) Do you agree or disagree with amending TCMA to provide a power for WRA to be able to issue an information notice to gather information to check whether the conditions for the withdrawal of a relief have been met?

- Agree
- Disagree

b) What are the reasons for your answer?

Question 7

a) Do you agree or disagree with amending TCMA to allow WRA to carry out unannounced visits for the purposes of Landfill Disposals Tax without the approval of the tribunal or taxpayer?

- Agree
- Disagree

b) Are there additional taxpayer safeguards you think that should be included?

c) What are the reasons for your answers?

Question 8

a) Do you agree or disagree with inserting a regulation making power to allow Welsh Ministers to vary the fixed penalty amount?

- Agree
- Disagree

b) What are the reasons for your answer?

Question 9

a) Do you agree or disagree with increasing the interest amount on late payment interest to BoE base rate +4%?

- Agree
- Disagree

b) What are the reasons for your answer?

Question 10

a) Do you agree or disagree with amending TCMA to ensure that where a taxpayer amends their tax liability downwards that any interest amount should reflect the amendment to the tax return?

- Agree
- Disagree

b) What are the reasons for your answers

Tax changes

Question 11

a) Do you agree or disagree with amending LDITA to clarify that any use of material within a landfill cell is taxable unless explicitly excluded?

- Agree
- Disagree

b) Do you agree or disagree with using the same definition for landfill cell as used in the Scottish Landfill Tax (Prescribed Landfill Site Activities) Amendment Order 2022?

- Agree
- Disagree

c) What are the reasons for your answers?

Question 12

a) Do you agree or disagree with amending LTITA to achieve the stated aim?

- Agree
- Disagree

b) What are the other circumstances where you think it would be appropriate to not withdraw the relief?

c) Do you think this amendment will increase the risk of tax avoidance?

d) What are the reasons for your answers?

Question 13

a) Do you agree with amending LTITA to clarify that in an A to A+B transaction A is not to be treated as a buyer?

- Agree
 - Disagree
- b) Can you identify any avoidance risks in this approach and how they could be countered?
- c) What are the reasons for your answers?

Question 14

- a) Do you agree that the changes to ensure collective enfranchisement transactions are not charged at the higher residential rates is appropriate?
- Agree
 - Disagree
- b) Can you identify any avoidance risks in this approach and how they could be countered?
- c) What are the reasons for your answers?

Question 15

- a) Do you agree with amending LTTA to achieve this?
- Agree
 - Disagree
- b) How do you propose we best achieve this?
- c) Do you foresee any tax avoidance activity that such a change could give rise to?
- d) If so, how should we legislate to prevent the avoidance activity?
- e) What are the reasons for your answers?

Question 16

- a) Do you agree to the proposed amendments for this section and particularly amending section 187A(1) to ensure the rights to request a review or appeal are provided to the Crown?
- Agree

- Disagree

b) Do you have any other comments on the operation of the Crown application?

c) What are the reasons for your answers?

Welsh language

Question 17

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?

a) Do you think that there are opportunities to promote any positive effects?

b) Do you think that there are opportunities to mitigate any adverse effects?

Question 18

In your opinion, could the proposals be formulated or changed so as to:

a) have positive effects or more positive effects on using the Welsh language and on not treating the Welsh language less favourably than English; or

b) mitigate any negative effects on using the Welsh language and on not treating the Welsh language less favourably than English?

Other questions

Question 19

We have asked a number of specific questions.

a) If you have any related issues which we have not specifically addressed, please use this space to report them:

Annex B – List of sources

Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017
<https://www.legislation.gov.uk/anaw/2017/1>

Land Transaction Tax: introduction <https://www.gov.wales/land-transaction-tax-introduction>

Landfill Disposals Tax (Wales) Act 2017 <https://www.legislation.gov.uk/anaw/2017/3>

Landfill Disposals Tax: introduction <https://www.gov.wales/landfill-disposals-tax-introduction>

Senedd record: Plenary debate 01/07/2025
<https://record.senedd.wales/Plenary/15175>

Tax Collection and Management (Wales) Act 2016
<https://www.legislation.gov.uk/anaw/2016/6>

Tax policy framework update <https://www.gov.wales/tax-policy-framework-update>

The Scottish Landfill Tax (Prescribed Landfill Site Activities) Amendment Order 2022
<https://www.legislation.gov.uk/ssi/2022/233/made>

Welsh Revenue Authority Corporate Plan 2025 to 2028
<https://www.gov.wales/welsh-revenue-authority-corporate-plan-2025-2028>

Welsh Revenue Authority: Our charter <https://www.gov.wales/welsh-revenue-authority/our-charter>