

Local variation to land transaction tax rates for second homes, short-term holiday lets and potentially other additional residential properties

Q1. Do you agree that the Welsh Government should be able to increase rates of LTT for second homes and short-term holiday lets in areas where there is an evidenced case to do so?

Yes.

Q2. What are your views on whether the size of areas covered by local variations of rates should be local authority- wide or only in smaller communities?

We consider that the variations of rates should be used in smaller communities. The main purpose of this proposal is to tackle the effect of second homes and short-term holiday lets on communities and the Welsh language, therefore the variations need to be targeted as specifically as possible. We understand the danger that the Government has identified that, if the rates were raised in some smaller communities, more second homes would be bought in other communities. A potential unintended side-effect of the policy would, therefore, be to introduce the problems associated with a high density of second homes into new areas.

However, we believe that it is impossible to respond in a sufficiently sophisticated manner to the complexity and diverse nature of the second homes problem by using local variations of rates in whole local authority areas. In order to determine whether the proposed new rates should apply in a particular area, it would be necessary to set criteria and collect information and data, discussed below. We consider that this information and data, when studied at a whole local authority level, could mask problems in smaller communities.

Not only that, but using the variations of rates across a whole county without exception could have an unintended knock-on effect on the purchase of houses intended for rent. This possibility is discussed in Simon Brooks's report, *Second homes: Developing new policies in Wales*. Brooks notes, "There are communities in counties with a second homes problem [...] where providing a sufficient supply of rented accommodation is more important than limiting the numbers of second homes." By operating strategically in smaller communities, according to Brooks, "varying the higher rates of the land transaction tax would not be to the detriment of an important rented housing sector used by local people."

Q3. In your view, what procedure should be used to determine whether an area should be subject to increased rates?

We agree that the following factors should be included in the process of deciding whether the proposed rates should apply in a particular area:

- the percentage of dwellings in the area that are either second homes or short-term holiday lets (excluding properties which cannot be occupied for all of the year)
- the average local house price relative to local income
- the potential impact on the Welsh language

Consideration should also be given to the sustainability of communities and Welsh as a community language. This was discussed in our response to the Government's recent consultation on the Welsh Language Communities Housing Plan. We supported Councillor Rhys Tudur's call for presumptions to be created for the future sustainability of communities. (See Councillor Tudur's evidence to the Local Government and Housing Committee on 26 January 2022.¹) In order to create such presumptions, including the sustainability of Welsh as a community language, data would be required on factors such as the number of children in the local schools, the language medium of schools, the number of permanent residents in the community, the age of residents, the number of second homes and patterns of house purchase. Other important factors are the economy, employability, access to services and public transport. Councillor Tudur notes that data on these aspects is already being collected and that what is needed now is to analyse it in a more detailed way, at a community level. This would allow presumptions to be created that would underpin timely and effective targeted action to protect the sustainability of Welsh as a community language.

As the Government notes in the consultation document, many local authorities are already gathering evidence on areas with second homes and short-term holiday lets as part of other activities to manage their impact and help inform other elements of their responsibilities and services. The Government suggests giving local democracy a role and allowing local authorities to present a case for applying increased rates in a specific area. We agree that the Government should work with other stakeholders in this area, including local authorities, to form the fullest possible picture of the situation. We note that the Government recognises the resource implications of this work for local authorities. We have discussed this in our response to the consultation on the Welsh Language Communities Housing Plan and ask again whether the Government will support local authorities with the work.

Q4. If criteria are used to determine which areas are subject to increases in rates, what do you think the criteria should be?

Please see our response to Question 3 above.

¹ [Local Government and Housing Committee 26/01/2022 - Welsh Parliament \(assembly.wales\)](#)

Q5. What are your views on how regularly areas where increased rates apply should be reviewed?

In our response to the consultation on the Welsh Language Communities Housing Plan, we emphasised the importance of using up-to-date information and data, as well as data for recent years, to ensure the future viability of communities and the language. We endorsed Professor Mark Tewdwr-Jones's call for the meaningful use of 'live', up-to-date data in the planning system. (See Professor Tewdwr-Jones's evidence to the Local Government and Housing Committee on 17 November 2021.²) We believe that areas where the rates have been increased should be reviewed, and consideration given to any other areas in which the rates should be increased, on a sufficiently regular basis so that timely action can be taken to safeguard the sustainability of Welsh as a community language, as noted above.

We would like greater clarity regarding who would review the areas and when, and whether the criteria themselves would be reviewed, and by whom? We recommend that the Government ensures that local authorities can make an urgent case to vary rates immediately, if evidence emerges that supports the need to do so.

Q6. What are your views on:

- varying the existing higher rates for all higher rate transactions within a specified area? or
- introducing new rates applied only to purchases of properties intended to be used as second homes or short-term holiday lets within a specified area?

In principle, the new rates should be introduced only for properties intended to be used as second homes or short-term holiday lets. After all, that is the purpose of this proposal to vary the tax rates. However, we acknowledge the complexity that the Government has identified in terms of the mixed or uncertain intentions of potential second home buyers, and the fact that the approach to applying the tax could be open both to error and abuse. It is possible therefore, after considering every reasonable option for introducing new rates that apply only to second homes or short-term holiday lets, that the Government will have to vary the existing higher rates for all transactions to which the higher rate is relevant.

Q7. Does the size of the area (the whole of the local authority or smaller areas within it) in which increased rates would apply influence your views on whether separate rates for second homes and short-term holiday lets are necessary?

Yes. Please see our response to Question 2 above.

² [Local Government and Housing Committee 17/11/2021 - Welsh Parliament \(senedd.wales\)](#)

Q8. Do you agree short-term holiday lets should be subject to any increased rates, as well as second homes? Please explain your answer.

Yes, in areas where evidence suggests that second homes and short-term holiday lets have a detrimental effect on the Welsh language. In such areas, the high density of second homes and short-term holiday lets means that there is less housing available for local people who wish to live in those communities. This, in turn, can affect the sustainability of Welsh as a community language.

Q9. Do you agree properties which cannot be occupied for all of the year should not be subject to any increased rates? Please explain your answer.

Yes. Such properties do not form part of the normal housing stock that would be available for local people to live in. For that reason, there is no need to try to limit the number purchased as second properties, as it does not affect the ability of local people to buy a main home locally.

Q10. Are there any current higher rates transactions, other than second homes and short-term holiday lets, for which you think increased rates may also be appropriate? Please explain your answer.

No comment.

Q11 Do you agree that there should be a clawback rule so that if within a specified period after the date of the transaction, the use of the property changes to one on which increased rates would have been payable, the taxpayer should have to submit a new return and pay the additional tax?

Yes.

Q12. Are there any circumstances where such clawback rules would apply, but you do not consider that it would be appropriate or fair?

No comment.

Q13 If a property was bought where the buyer's intention was to use it as a second home or short-term holiday let but it is not then used in this way, do you think the taxpayer should be able to claim a refund of the additional tax?

Yes.

Q14. What length of time do you think would be appropriate for a clawback and/or refund period?

We propose a period of three years, to be consistent with the current system.

Q15. If rates are introduced which require consideration of intended use, do you have any comments on how the design could make it simpler for taxpayers to comply with by minimising the scope for error?

There would need to be clarity for the taxpayer in terms of the potential uses for the property, and consistency with the definitions that the Government will set for main homes, second homes and short-term holiday lets, following its recent consultations in the area. There will also be work here for the Welsh Revenue Authority in terms of explaining the new system in a simple and clear way to taxpayers.

Q16. What effects do you think these proposals may have on the Welsh language and communities who predominately use Welsh? How could positive effects be increased, or negative effects mitigated?

If increasing the land transaction tax meant that fewer houses were bought for use as second homes or short-term holiday lets, and if more local people were able to rent or buy those houses, it is possible that the Government's proposals could have a positive impact on the Welsh language by protecting the sustainability of communities where the language is spoken.

As in the case of any new proposal or other variation to the tax system, its effect will have to be monitored carefully.

Q17. We have asked a number of specific questions. If you have any additional points related to LTT for second homes and short-term holiday lets which have not specifically addressed, please make them here.

No comment.

Name: Dyfan Sion

Organisation (if applicable): Welsh Language Commissioner

Email address: post@cyg-wlc.cymru

Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box:

Submit your comments by 28 March 2022, in any of the following ways:

- complete the response form and email LTTConsultation@gov.wales
- complete the response form and post to:

Tax Strategy and Intergovernmental Relations Division

Welsh Government

Cathays Park

Cardiff

CF10 3NQ