The Shopkeepers' Campaign

Consultation: Local Government Finance (Wales) Bill Shopkeepers' Campaign Response

Introduction

The Shopkeepers' Campaign represents the interests of property-based retail, whose aim is to create, develop and operate vibrant and economically active places across Britain's high streets, towns and cities.

The Local Government Finance (Wales) Bill proposes several reforms to the non-domestic rating (business rates) system in Wales, including shorter revaluations and new powers for Welsh Ministers to make changes to reliefs, exemptions and multipliers.

The business rates system in its current form is too complicated and the rate of tax at too high at 53.5p. Business rates represents a fixed tax that is not linked to performance. At 53.5p, the tax is so high that a complex system of reliefs has been made necessary, just to stop many retailers going out of business.

Any reform to the system must be pursued with the aim of lowering the business rate multiplier, reducing the time between revaluations, and making it easier to navigate for all ratepayers. In its current form, the Bill does not achieve these objectives.

Response

1. Shorter revaluation periods

The Shopkeepers' Campaign agrees with the Welsh Government's assessment that "*there are merits to more frequent revaluations.*"[1] The Local Government Finance Bill proposes a move from five to three-yearly revaluations, with the aspiration for the rate of tax payable to be "*closely aligned with changes in market conditions*"[2] and "*responsive to the evolving context for taxpayers*"[3]. Recent economic shocks, such as the pandemic and the war in Ukraine, have demonstrated the need for taxes to reflect changes in the market as soon as possible.

The Bill proposes a move from five to three-yearly revaluations and a power for Welsh Ministers to amend the revaluation year and interval between revaluation years through regulations. This is a step in the right direction, but the Welsh Government should be aiming for **annual revaluations with a one-year Antecedent-Valuation date**, which would ensure that the system is responsive and as up to date as possible.

Even with three-yearly revaluations, rateable values will still be five years out of date at the time of the 2026 revaluation, owing to a two-year antecedent valuation date. The Welsh Government should strive to reduce this as much as possible to ensure that ratepayers are not paying business rates based on outdated market valuations.

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[1] Reforming Local Government Finance in Wales: Summary of Findings 2021 – p.12
[2] Local Government Finance (Wales) Bill, explanatory memorandum – p.9
[3] Ibid

The new Duty to Notify provisions outlined in the Non-Domestic Rating Act require ratepayers – even those benefitting from 100% relief – to notify the Valuation Office Agency of any changes to their property. This adds an administrative burden to the ratepayer and could only be acceptable if used to justify a move to annual revaluations.

2. Lower the multiplier for all ratepayers

The Bill proposes to give the Welsh Government the *"flexibility to prescribe alternative multipliers via regulations, according to the property description, rateable value, or geographical location."*[4]

Any reform of the business rate system should be pursued with simplicity in mind. Charging different multipliers for different types of business will produce unforeseen complexities. This is a policy that has emerged as a result of a multiplier that is too high for all businesses. 53.5p in the pound represents a tax that is too high for businesses to pay, so the Government is attempting to reduce it for some businesses, which will inevitably mean raising it for others to compensate for the loss in revenue.

The larger chain retailers that make up our high streets are often forced to bear the increase in these costs, with the Government appearing to operate on the assumption that they are endless sources of revenue and can be charged as such. The converse is true, as is evidenced by the number of high street brand names that have closed their doors in recent years.

The multiplier should be set at 30p in the pound (£0.30) for all businesses. A lower multiplier means that all businesses will be able to pay an affordable rate. This would represent a fair and unimposing rate, which would ultimately enlarge the tax base as fewer businesses will be deterred from occupying physical retail spaces. This policy suggestion is made in line with the principles outlined by Welsh Government for pursuing administrative improvements to its tax systems[5].

At the affordable rate of 30p, the tax would ensure "*greater fairness in the treatment of taxpayers"*[6] by charging a fixed tax at a lower rate for all retailers. It would also "*safeguard the future sustainability of services to communities through stable funding streams"*[7] by charging an affordable rate that will not push retailers out of business.

Business rates income contributes £1bn in Wales and is a vital source of funding for local authorities. Setting it at such a high rate means that many retailers are unable to afford it (as evidenced by the many reliefs) and those that qualify for exemptions, such as the Small Business Rate Relief, will find themselves facing a cliff edge if their rateable value were to increase past the threshold. Future-proofing the revenue from business rates means setting a fair rate to ensure that rates are not continually raised on a shrinking tax base as more and more retailers go out of business.

[4] Local Government Finance (Wales) Bill, explanatory memorandum – p.73
[5] Reforming Local Government Finance in Wales: Summary of Findings 2021 – p.14
[6] Ibid – p.14
[7] Ibid – p.15

3. Reliefs

Conferring and altering reliefs

As acknowledged by the explanatory memorandum, "*non-domestic rates reliefs have increased in scale and complexity over time."*[8] The existence of these reliefs is an acknowledgment that business rates are too high and unaffordable for many ratepayers. While some reliefs – such as empty property relief – seek to address systematic realities of the business rates system, a vast majority of them have come about because rates are too high.

The Bill proposes to remove the need for primary legislation to confer, vary or withdraw reliefs, leaving it instead to the discretion of Welsh Ministers. This is an unnecessary step, and will only further complicate the system, especially for those retail real-estate investors with portfolios in both England and Wales. The power to set and alter reliefs must remain as one only granted by primary legislation.

Discretionary reliefs

The parameters within which local authorities can award or change all discretionary (i.e. non-mandatory) relief schemes, including those set up to deliver centrally funded schemes, are set out in primary legislation. Local authorities have broad powers to award discretionary relief, subject to a residual timing restriction. They are currently unable to award or change discretionary relief decisions more than six months after the end of the financial year to which a decision relates.

There is no need for local authorities to retrospectively change discretionary relief decisions, and this term should be removed from the Bill. **The Bill should only allow Local Authorities the discretion to retrospectively award reliefs, not change them**. The ability to change them implies a power to revoke previous reliefs and hit businesses with sudden and potentially devastating rates bills.

4. Countering artificial avoidance arrangements

The Bill proposes giving Welsh Ministers the power to counteract advantages arising from artificial non-domestic rates avoidance schemes. This is counterintuitive, considering that it acknowledges that "*a considerable majority pay what is due"*[9] and that the scale of avoidance was last assessed in 2017, where only 1-2% (£10m-£20m) of business rates revenue was lost,[10] compared to the cost of the various reliefs, which amounted to £240m.[11]

Avoidance measures are acknowledged by the consultation as legal and are often pursued in response to a punitive empty property relief regime that charges landlords for having empty properties, in the hope that this incentivises them to fill them faster. Yet commercial landlords are already incentivised to fill their properties as this is the only way for them to generate revenue. They have no reason to leave a property empty.

[8] Local Government Finance (Wales) Bill, explanatory memorandum – p.13
[9] Local Government Finance (Wales) Bill, explanatory memorandum – p.79
[10] Ibid – p.80
[11] Ibid – p.13

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The Welsh Government should not assume that new revenues would automatically flow from making landlords pay tax on properties that they cannot let. There normally needs to be a receipt before tax can be paid on it. Many property owners simply do not have the funds to pay a tax on loss and will be driven to insolvency; some will strip back their premises and take them out of the rating list; some may divest of their assets; others may resort to contrived activities to avoid empty rates.

The Welsh Government has already taken the steps available to it under primary legislation to crack down on avoidance measures. The results have been disastrous. The Welsh Assembly increased the reset period from six weeks to 26 weeks in 2022 to "tackle the misuse of empty property relief."[12] Since then, the vacancy rate on Welsh high streets has steadily increased to 16.9% in Q2, 2023.[13] Data shows that a year on from this change, one in six high street shops in Wales are now empty.[14]

It is telling that the legislation does not request the power to alter the empty property rates system in a way that would make it less punitive. Instead, it specifically requests powers to crack down on avoidance arrangements that it considers artificial. This mindset will only lead to further vacancies on Welsh high streets as the Government pursues increasingly punitive measures.

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[12] Non-domestic rates stakeholder update: February 2022

[13] More empty shops as Wales records second highest vacancy rates in the UK

[14] High Streets: One in six Welsh shops are now empty, data shows