

Clerk to the Finance Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

Dear Ms Davies,

Please find below RICS responses to Welsh Government Consultations on property taxation that we would like to submit for consideration in advance of the oral evidence giving session. If you have any queries in respect of this response please do not hesitate to contact me.

Yours sincerely,

**David Morgan**  
**RICS Policy Manager in Wales**

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Cathays Park,  
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Dear Sir,

### **Tax devolution in Wales - Consultation on a Land Transaction Tax**

Thank you for the opportunity to respond to the consultation

RICS Wales is the principal body representing professionals employed in the land, property and construction sector and represents some 4000 members divided into 17 professional groups. As part of our Royal Charter we have a commitment to provide advice to the Government of the day and in doing so we have an obligation to bear in mind the public interest as well as the interest of our members

In response to the Consultation we would like to make the following replies:

**Q1: Do you think the current residential Stamp Duty Land Tax (SDLT) rates and bands are suitable for Wales? If you think the current rates are suitable, please provide reasons why. If you think the current rates are not suitable, please provide reasons why and, where appropriate, provide suggestions for alternative rates and bands. :**

No. RICS feels the property market spread is at generally lower values.

**Q2: Do you think that the 15% slab rate for certain transactions by non-natural persons should continue to operate in Wales following the introduction of Land Transaction Tax (LTT)? Please explain the reason for your answer. :**

RICS opposes the SLAB approach to property taxation in principle.

**Q3: What would the key impacts be on the residential market in Wales of having a different transaction tax regime from England?**

Provided it is made simpler in Wales, it could make the tax demonstrably fairer. In addition if the tax is set at lower rates, it could encourage more housebuilding in Wales.

**Q4: Do you think the Welsh Government should have the ability to change or introduce new rates and bands in LTT with immediate effect? Do you think there are other areas of LTT where it would be appropriate for the Welsh Government to make changes with immediate effect? Please specify. :**

Yes. On the one hand, there is an argument for people and business needing certainty and the ability to plan. The problem with that is that part of the planning will be avoidance, so transactions tend to bunch up or be rushed, depending upon the timing of changes. The ability to change rates at short notice should avoid some market distortions.

**Q5: Do you think the definition used in SDLT defines residential property adequately for the operation of the taxes? Please give details of practical problems with the definition and how you think the definition can be improved (either by statute or guidance). :**

Possibly not. RICS feels the definition could be made clearer

**Chapter 3: Non-residential property transactions**

**Q6: How important is it to have consistency between the tax regimes in Wales and England for non-residential property transactions? Please provide practical examples to support your answers. If consistency is important, what key elements need to be consistent, e.g. tax structure (marginal or slab, rates and bands, how transactions are taxed)? :**

If businesses see another system in Wales that is hard to understand, then it could deter investment. But if the system is simple and seen to be fair, most businesses should be able to cope.

**Q7: Does a slab structure create distortions in the non-residential property market? Please provide practical examples to support your answers. If so, would a marginal rate be an improvement on this? Please give details. :**

It must, if it does in the residential market, as different non-residential properties will also have different values and, since business will always seek to minimise tax costs, will lead to distortion.

**Q8: What would be the key impacts on the non-residential market in Wales of having a different transaction tax regime from England? :**

Again as with residential if it is made simpler in Wales, it could make the tax demonstrably fairer. Further again if taxed at lower rates, it could encourage more non-residential transactions in Wales.

#### **Chapter 4: Partnerships, Trusts, and Companies**

**Q9: Do you think the SDLT provisions for partnerships, trusts and companies should be replicated within LTT? If appropriate, please state specific areas in which it should be altered and what the potential implications of this might be for Wales and LTT. :**

We feel this could potentially introduce complexity. We would therefore urge a full review of the definition of these classes of organisation to see if they are still justified and relevant.

#### **Chapter 5: Leases**

**Q10: Do you think the rent element of residential leases in Wales should be taxed under LTT? What effects do you think will occur if tax on the rent element was not replicated? :**

RICS feels it is not particularly relevant. Almost all residential leases will have rents of a few hundred pounds a year, so it is not worth the effort. If the standard form of lease changes significantly so that more of the value is taken in higher rents, rather than in premiums that would be the time to consider potential changes

**Q11: Do you think that a system of taxing leases in Wales would be improved by requiring a regular return? If so, how frequent do you think these should be? :**

RICS feels this risks an unnecessary burden (see answer to Q10). Using an old Stamp Duty measure to ensure a contract (transfer on sale or a lease) would mean it cannot be enforced if the correct LLT is not paid, so placing the burden on the buyer to get it right, and enabling any taxes to be caught at that point.

**Q12: Do you think that licences and tenancies at will should be taxed in the same way as leasehold agreements? :**

Only if there are significant licence fees (“rents”), otherwise set a *de minimus* figure. But if a purported licence is actually a lease they should be taxed as leases.

**Q13: Do you think any other element of the current SDLT regime on leases for either residential or non-residential arrangements should be changed? If so, why? :**

Not at present

## **Chapter 6: Reliefs and exemptions**

**Q14: Do you think that any of the current reliefs or exemptions in SDLT should be retained, removed or modified? Please state which you think should be retained, altered or removed and why. :**

We feel this question should be addressed in a separate consultation.

**Q15: Do you agree that LTT should adopt the SDLT form of sub-sale relief? If so, why? :**

Yes we feel it should make matters simpler

**Q16: Do you think there are any suitable cases for introducing new reliefs? Please explain why. :**

Yes. For example local authority purchases or other strategic site assembly organisations, to help enable assembly of land banks for building.

## **Chapter 7: Compliance, avoidance, disputes and penalties**

**Q17: How do you think the rate of online filing could be increased compared to SDLT? :**

By concentrating on making the form swifter to complete online.

**Q18: What arrangements should there be for those who cannot file online? :**

Some paper filing should be retained as an option but gradually phased out.

**Q19: How do you think the rate of online payment could be increased compared to SDLT? :**

By requiring that LTT must be paid at the same time as the return is submitted.

**Q20: Would requiring payment of the tax at the same time as submitting the return cause any problems? Please explain why. :**

RICS feels this is unlikely.

**Q21: Do you think that LTT should have a pre-clearance facility? If so, what do you think the benefits and key features of a pre-clearance system in Wales would and should be? :**

Yes, we feel it should be similar to that for SDLT.

**Q22: Do you think that penalties should be levied on the late filing of returns similar to those imposed by HM Revenue and Customs (HMRC)? Do you think that penalties similar to those imposed by HMRC should be used in LTT for errors in returns? Please explain your answers.**

Yes, provided research is done first to ensure proportionality

**Q23: Should LTT impose penalties for late payment of tax similar to those available to HMRC to encourage prompt payment of tax? :**

Yes but again provided that they are proportionate to each case individually.

**Q24: With regards to appeals, are there any improvements or simplifications that could be made to the existing approach to postponement of payment pending an appeal? :**

RICS agrees with the present approach.

**Q25: Should the Welsh Government replicate the existing Section 75A Finance Act 2003 legislation, or if it is to be replicated are there improvements that could be made? Are there any further anti-avoidance provisions that you would support? Please describe and explain.**

RICS would like to observe that in principle the simpler a tax is, and the more burden for getting it right is put on the taxpayer (as with Stamp Duty, where contracts such as transfers on sale or leases could not be enforced if the correct LLT was not paid), the less avoidance should be a problem.

#### **Other questions**

**Q26: Do you have any comments on the initial impact assessment :**

We would like Welsh Government to carry out more modelling.

**Q27: Do you think the move to LTT could or should have implications for other areas of taxation in Wales? Please provide an explanation specifying the areas of taxation and what the implications could or should be. :**

RICS feels this unlikely

**Q28: Do you have any other comments on the Welsh Government's plans to implement a land transaction tax in Wales? :**

That a separate Welsh Revenue Authority should only be looked at once some time has been allowed after devolution of the tax, to allow it to be observed in action and any issues addressed before looking at changing the collecting organisation. To make a change at the same time as devolution is we feel an unnecessary risk given the importance of ensuring the devolution of the tax is smooth.

If you have any queries in respect of this response please do not hesitate to contact me.

Yours sincerely,

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Dear Sir,

### **Collection and management of devolved taxes in Wales**

Thank you for the opportunity to respond to the consultation

RICS Wales is the principal body representing professionals employed in the land, property and construction sector and represents some 4000 members divided into 17 professional groups. As part of our Royal Charter we have a commitment to provide advice to the Government of the day and in doing so we have an obligation to bear in mind the public interest as well as the interest of our members

In response to the Consultation we would like to make the following replies:

**Question 1: Do you agree with the proposal to establish the Welsh Revenue Authority as a Non-Ministerial Department, which is accountable to the Assembly?**

RICS feels it might be easier to keep the current system at least for an interim period after the devolution of new powers in the next few years. As is said

*“HMRC’s processes and procedures are commonly understood by taxpayers and their agents and Welsh taxpayers will continue to pay tax to HMRC for non-devolved taxes.”*



Local authorities could continue to collect NNDR. For the replacement taxes (TTiL and WLfT), there could be a specialist unit (or one each) to assess and administer TTiL and WLfT, then HMRC could be asked to act as collection agent for the small sums assessed to be paid.

**Question 2. What are your views on the proposed core set of duties for the Welsh Revenue Authority?**

We would only say that high standards must be maintained

**Question 4: What are your views on proposals to establish a Taxpayers' Charter?**

The introduction of an alternative charter may be a benefit/disadvantage to some tax payer's potentially leading to moving tax base locations in order to take advantage of alternative charters. We recommend a Task and Finish group be established to look at this issue directly.

**Question 5: What in your view are the most important considerations in determining the approach to collecting and managing devolved Welsh taxes, and why? (In answering please consider the factors shown in paragraph 2.37, but also draw attention to any other factors that are not included, which you consider to be important).**

Firstly simplicity and retaining well established services that are already understood  
If implemented, clearly one of the main considerations will be the effective and economic management and collection of taxes. Initially at least we feel continuity in the agency of tax collector will be important.

**Question 6. In light of your response to question 5, which organisation(s) do you consider should collect and manage devolved Welsh taxes, and why?**

We would suggest that a steering group be employed to look at the benefits of negotiating alternative revenues and levels of taxation collected in Wales by HMRC and the means of redistribution of this tax revenue directly back to the Welsh Government.

**Question 8: Do you agree with our proposed approach to invest powers in the Welsh Revenue Authority to enable it to collect taxpayers' information**

Only so far as it is necessary to the assessment and proper administration of TTiL and WLfT. Simplicity and fairness are essential.

**Question 10:** What are your views on other actions that the Welsh Revenue Authority should take to promote and encourage compliance?

Compliance with the Welsh Language commission guidelines

**Question 11:** Do you agree that the Welsh Revenue Authority should be provided with the powers to levy penalties

Yes provided they are proportionate and allow flexibility for individual circumstances

**Question 14:** Should Wales establish a specific tax disclosure regime for devolved taxes?

We feel this to be unnecessary at this point although it should be kept under review.

**Question 17:** Is there a need for a Welsh General Anti-Abuse Rule or Welsh General Anti-Avoidance Rule (GAAR) for devolved taxes?

No. The UK GAAR can already cover SDLT when devolved so, if it needs widening the UK Government could be asked to make any necessary amendments avoiding potential delays.

**Question 21:** Do you agree with our approach to avoiding tax disputes and achieving early resolution?

This looks appropriate, but periodic reviews to determine if this is still the case in response to any changing conditions is something we would recommend.

**Question 26:** Do you have any related issues which we have not specifically addressed or other comments that you would like to make?

Just to comment that we hope the principle of the removal of the SLAB element to SDLT will be maintained when the tax is devolved to Wales.

If you have any queries in respect of this response please do not hesitate to contact me.

Yours sincerely,

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