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Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol  
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Llywodraeth Cymru  
Welsh Government

Huw Irranca-Davies AM  
Chair  
Constitutional and Legislative Affairs Committee  
National Assembly for Wales  
Cardiff Bay  
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Dear Huw

Following the Constitutional and Legislative Affairs Committee's evidence session on 3 October in relation to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Bill ("the Bill"), I thought it might be helpful to provide you with some further information to aid your scrutiny of the Bill.

*1. Paragraph 2(3) of Schedule 14 – power to prescribe a person as a relevant public body for right to buy transactions*

In response to Lord Elis-Thomas's question about the procedure adopted for regulations made under paragraph 2 of Schedule 14, I explained that the relief concerned transactions where the buyer and seller are both public bodies.

The relief for right to buy transactions will inevitably involve cases where the seller is a relevant public body, and the buyer is a resident of that dwelling, rather than a public body. The purpose of the regulation-making power is to enable the Welsh Ministers to add to the list of public sector bodies who can dispose of a dwelling in a right to buy transaction.

In line with the general approach I have taken throughout the Bill, I remain satisfied that the negative procedure is appropriate. This is because the effect of the regulations – if made – would be to extend the scope of the relief to a greater number of transactions, reducing tax liability.

For completeness, it is worth also noting that the relief for right to buy operates in a slightly different way to most other reliefs in this Bill as it provides partial relief from tax, rather than the full relief offered in most other cases. Where this relief is claimed, the calculation of the amount of tax payable ignores the possibility that the 'discount' available to the buyer as a result of exercising their right to buy might be clawed-back under existing right to buy legislation.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

*2. Section 34(6) – power to provide that a scheme of a particular description is to be treated as not being a unit trust scheme*

Section 34 of the Bill provides a general rule that the Bill and the Tax Collection and Management (Wales) Act 2016 will apply to unit trust schemes in a similar way as it does to companies, except in a small number of specified cases. In practice, this means that the trustees of a unit trust scheme will be treated as though they are a company, while the rights of unit holders in the scheme will be treated as though they are shares in that company.

The power conferred by subsection (6) enables the Welsh Ministers to disapply this general rule in relation to schemes of a particular description, if it becomes inappropriate for these rules to apply. This might be exercised in the future if it becomes apparent that the rules are being exploited by avoidance schemes, or as a result of the creation of a new type of unit trust scheme for which the unit trust rules are not appropriate.

In my evidence to the Committee (at paragraph 38-39), I noted that regulations made under this section could only have the effect of reducing tax liability. I think it is important to clarify that the regulations made under this section could nevertheless have the effect of changing the person who is liable for that tax. While the quantum of tax taken will not be increased, liability for individuals and companies could alter as they would be liable for the tax rather than the trustees of the unit trust.

*3. Paragraph 2 of Schedule 10 – power to make further provision about the relief for alternative finance investment bonds*

As highlighted by my official during your scrutiny session (at paragraph 75 of the transcript), the power conferred by this paragraph would be exercised by the Welsh Ministers in response to changes to Sharia financing. I would like to confirm that I consider these changes to be technical or administrative in nature, and therefore appropriate for such regulations to be subject to the negative procedure.

I hope your Committee finds this information useful.



**Mark Drakeford AM/AC**

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