



Llywodraeth Cymru  
Welsh Government

PUBLICATION, DOCUMENT

# Welsh Government consultation: summary of responses

Summary report on the public consultation on the proposal to extend the land transaction tax higher residential rates 3-year exception and refund periods, in specified circumstances.

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# 1. Overview

## Introduction

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This report summarises the responses to the Welsh Government consultation on proposals to extend the land transaction tax higher residential rates 3-year exception and refund periods in specified circumstances, and the Welsh Government's response.

## Next steps

The draft statutory instrument which was the subject of this consultation will be laid before the Senedd on 18 June 2024.

## Action required

This document is for information only.

## Further information and related documents

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

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## Contact details

For further information:

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Rydym yn croesawu gohebiaeth yn Gymraeg / We welcome correspondence in Welsh.

## Additional copies

This summary of response and copies of all the consultation documentation are published in electronic form only and can be accessed on the Welsh Government's website.

## 2. The purpose of the consultation

2.1 This report summarises the responses to the Welsh Government consultation on proposals to extend the land transaction tax (LTT) higher

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residential rates 3-year exception and refund periods in specified circumstances. It also includes the Welsh Government's response. The proposals are to extend the LTT 3-year refund and exception periods for taxpayers, where relevant transactions are prevented and therefore delayed owing to emergency restrictions, and/or impeded and therefore delayed due to issues related to fire safety defects.

2.2 The consultation was open between 19 December 2023 to 17 March 2024. The consultation documents can be found here:

**[Land Transaction Tax Higher Residential Rates: proposals to amend the refund and exception rules](#)**

### **3. Consultation process**

3.1 There was no specific statutory duty to consult on the matters described in this consultation. The Welsh Government chose to consult the public on their views of the potential benefits and impacts of the proposed new rules. The Welsh Government's tax principles set out the approach to developing and delivering devolved tax, stating that 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, and contribute directly to the Well Being of Future Generations Act goal of creating a more equal Wales.

3.2 The consultation was published in Welsh and English on the Welsh Government's consultation web page. Respondents were able to submit their views and comments in Welsh or English, by post (hard copy), by email or through an online response form. Discussions were held with key stakeholders during the consultation period.

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3.3 The consultation document included draft versions of the statutory instrument and an Explanatory Memorandum which the Welsh Government proposed to lay before the Senedd in due course.

3.4 The consultation posed 15 questions under the following 7 headings:

1. Overview of what the new rules will do
2. The different treatment for transactions according to the impediment encountered
3. Different extension criteria in sale before purchase (SBP) and purchase before sale (PBS) scenarios in the proposed new rules
4. Benefits and Costs
5. Effects of the new legislation on the Welsh language
6. Could the new legislation be formulated differently or changed, with particular regard to the Welsh language
7. Other comments

3.5 The Welsh Government invited answers to these specific questions in particular, and also welcomed all other comment regarding the proposals. For that purpose, space was provided in the response forms for respondents to make additional comments, and at consultation question seven, respondents were invited to raise any related issues not specifically addressed elsewhere, and to comment on the draft statutory instrument.

## 4. Summary of consultation responses

4.1 The consultation received 15 responses, 11 from individuals, 3 from organisations (including one joint response from 2 organisations) and one not indicating whether it was an individual or an organisational response.

4.2 This report summarises the answers to the consultation questions and the

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points raised by respondents in the additional comments sections of the response form and elsewhere. (Please note, in consideration of the numerical analysis of answers set out below, some questions were not answered by all respondents.)

### 4.3 Section 1 questions: overview of what the new rules will do

Consultation Question 1.1 “Do you agree that, in general terms, the law should be changed to offer additional assistance to eligible taxpayers?”

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#### Individual\* responses

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Strongly agree	11
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---

Agree	1
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\* the term ‘individual’ here, and in similar tables in this section of the summary report, indicates the category which includes both responses from individuals and the single response received which was not identified as being from an individual or an organisation.

Consultation Question 1.2 “Do you think this measure will in general terms have, or potentially will have, positive, negative or no impact on you, or on those you advise?”

---

#### Individual responses

---

Positive impact	11
-----------------	----

---

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## Individual responses

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No impact

1

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Responses from individual respondents to questions 1.1 and 1.2, both in terms of tick-box replies and additional comments, demonstrated support for the proposal.

The representative organisations which replied also thought the new rules would be beneficial and would have positive impact. One response made valuable points regarding the importance of clarifying that rules relating to restrictions imposed on the housing market would apply only once those new rules came into force.

The Welsh Government's commitment to post-implementation review was welcomed.

### 4.3.1 Welsh Government response

The Welsh Government intends to review the new measures at least annually, and will report findings in the Welsh Tax Policy Report which is published at the Draft Budget.

The Welsh Government will aim, where possible, to report on the uptake and usefulness of the new rules. Publication of information related to tax and taxpayers is guided in part by confidentiality considerations. This is particularly relevant in consideration of small numbers of related transactions, such as those which may benefit from the extensions to the refund and exception periods, because, being relatively small in number, they may potentially be more easily identifiable.

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The Welsh Government recognises its approach of closely defining eligibility criteria in the new rules, while providing the benefit of clarity to taxpayers, may also potentially be viewed as inflexible, in comparison to the Stamp Duty Land Tax (SDLT) 'exceptional circumstances' rule in use in England. The Welsh Government takes the view that, in the event that future situations are identified which the Welsh Government considers merit special rules, further amendment will be considered.

## 4.4 Section 2 questions: the different treatment in the new rules for transactions according to the specific impediment encountered

Consultation Question 2.1 "Do you agree that transactions impeded by fire safety defects should be treated in this way?"

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### Individual responses

---

Strongly agree	11
Agree	1
Neither agree nor disagree	1

---

The representative organisations which responded agreed with this aspect of the proposal.

Consultation Question 2.2 "Do you agree that transactions prevented by emergency restrictions should be treated in this way?"

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### Individual responses

---

Strongly agree	11
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---

Agree	1
-------	---

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Of the 4 representative organisations which responded, three agreed with the Welsh Government proposal and one disagreed. Some individual respondents, and one of the organisations, which responded thought that the refund and extension periods should be extended to also support taxpayers affected by restrictions imposed on the housing market during the Covid-19 pandemic.

Consultation Question 2.3 “Do you think this aspect of the new legislation will have, or potentially will have, positive impact, negative impact or no impact on you, or on those you advise?”

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### Individual responses

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Positive impact	9
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No impact	2
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Comments reflected some differences of opinion regarding the proposed treatment of transactions affected by Covid-19 restrictions but, in general, that the proposal would have a positive impact.

#### 4.4.1 Welsh Government response

The Welsh Government has decided not to make changes to the proposals to

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provide exception and refund rules in relation to emergency restrictions which were in place in the past, including the Covid-19 lockdown periods. The Welsh Government believes this is the most proportionate response.

LTT, including the higher residential rates refund and exception rules, came into force in Wales on 1 April 2018. The housing market in Wales was fully or partially closed due to Covid-19 restrictions between 23 March and 27 July 2020. Therefore, a period of eligibility of almost 2 years (1 April 2018 to 23 March 2020) before the markets were closed, and 8 months or more (from 27 July 2020) following their reopening, was available for taxpayers seeking to benefit from the higher residential rates refund and/or exception rules. The Welsh Government believes that, although the period of eligibility was interrupted in some taxpayers' cases, it was nevertheless a sufficient period.

Legislating to increase that period for those affected by the interruption would introduce complexity which would be out of proportion to the anticipated benefit.

One consultation response gave the view that, in cases relating to fire safety defects, the extension should be capped at 5 years. The Welsh Government takes the view that, while 5 years may ultimately emerge as a sufficient period in many cases, uncertainty regarding remedial work, and the likelihood that remediation will be made according to varying timetables, indicate that the more flexible approach of not having a time-limited cap is preferable. An unlimited period provides additional flexibility should related issues arise in future.

## **4.5 Section 3 questions: different extension criteria in sale before purchase (SBP) and purchase before sale (PBS) scenarios**

Consultation Question 3.1 “Do you agree that the new legislation should make this distinction between SBP and PBS scenarios?”

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### Individual responses

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Strongly agree	7
Agree	2
Neither agree nor disagree	2
Strongly disagree	1

---

Consultation Question 3.2 “Do you think this aspect of the new legislation will have, or potentially will have, positive, negative or no impact on you, or on those you advise?”

---

### Individual responses

---

Positive impact	7
No impact	3

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Responses to consultation questions 3.1 and 3.2 were mostly supportive, however one individual respondent and 1 of the 4 representative organisations commented that they thought a distinction between SBP and PBS was not required.

## 4.5.1 Welsh Government response

The Welsh Government takes the view that the new rules should make a distinction between SBP and PBS transactions.

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As set out in the consultation, there is a key distinction between PBS and SBP. In PBS transactions, taxpayers acquire a new only or main residence before they dispose of a former only or main residence. Therefore in PBS situations, the sale of a former only or main residence (which is necessary for a successful higher residential rates refund claim) can be impacted by fire safety defects and/or by (future) emergency restrictions.

However, in a SBP scenario, a taxpayer seeking to buy a new only or main residence is not obliged to buy a property impacted by fire safety defects in order to find a new only or main residence within 3 years of selling a former only or main residence. However, it is conceivable that a taxpayer in a SBP situation may find themselves in a contract to purchase a residence and find emergency restrictions may delay the transaction before their 3-year period expires.

## 4.6 Section 4 questions: benefits and costs

Consultation Question 4.1 “Do you agree that the new regulations will provide benefit to taxpayers?”

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### Individual responses

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Strongly agree	10
Neither agree nor disagree	2

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Consultation Question 4.2 “Do you agree that the new regulations will increase the cost to you?”

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### Individual responses

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Neither agree nor disagree	2
Disagree	5
Strongly disagree	5

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Consultation Question 4.3 “Do you agree that the new regulations will justify the cost to you”

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### Individual responses

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Strongly agree	6
Agree	2
Neither agree nor disagree	3

---

Respondents generally thought the measures proposed would be beneficial, and that the benefit would justify the cost. However, 1 of the 4 representative organisations which responded commented that, in some cases the new regulations could slow down housing transactions and could subsequently incur additional costs as transactions could take longer to complete.

## 4.6.1 Welsh Government response

The Welsh Government notes the concern expressed by one representative organisation that some transactions may become more costly and slower due to

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the new rules. The WRA will consider how the changes can be implemented in a manner to enable costs and timeliness to at least not be increased by the new rules.

## 4.7 Questions in sections 5 and 6: impact on the Welsh Language

Consultation Question 5 “What, in your opinion, would be the likely effects of the new legislation on the Welsh language?”

Consultation Question 5.1 “Do you think that there are opportunities to promote any positive effects?”

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### Individual responses

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Yes	5
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No	7
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Consultation Question 5.2 “Do you think that there are opportunities to mitigate any adverse effects?”

---

### Individual responses

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Yes	7
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No	5
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Consultation Question 6.1 “In your opinion, could the new legislation be

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formulated or changed so as to have positive effects or more positive effects on using the Welsh language and on not treating the Welsh language less favourably than English?”

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**Individual responses**

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Yes	1
No	11

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Consultation Question 6.2 “In your opinion, could the new legislation be formulated or changed so as to or to mitigate any negative effects on using the Welsh language and on not treating the Welsh language less favourably than English?”

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**Individual responses**

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Yes	2
No	10

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Alongside the tick-box responses, additional comments made by individual respondents, and the responses of organisations, reflected the views that the proposals would not negatively impact on the Welsh language, and that there were no particular opportunities for the proposals to promote the Welsh language.



## Welsh Government response

The Welsh Government fully supports and encourages the use of the Welsh language. Bilingual legislation and supporting documents are provided in relation to these changes to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017. The Welsh Revenue Authority provides bilingual guidance and taxpayers may discuss and correspond on their tax affairs in either Welsh or English.

### 4.8 Section 7 question: other comments

Consultation Question 7. “We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use the space below to report them, including any specific comment on the draft statutory instrument.”

Responses to this question included emphasis on the importance of easily accessible and authoritative guidance for both professionals and taxpayers, and that guidance should refer to the definitions used in the new rules, and explain how claims should be made. Responses also included suggestions as to how the statutory instrument might be improved.

## Welsh Government response

The Welsh Government is grateful to respondents for the many important and useful points which were made, in response to this question and the others posed in the consultation. The Welsh Government has carefully considered all the responses.

Updated WRA guidance will be available from the point the new rules come into

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force.

Having considered suggestions for improving the statutory instrument, along with all the responses to all the questions posed in the consultation, including the significant support expressed, the Welsh Government has come to the view that the draft statutory instrument (SI) published at the time of public consultation (19 December 2023 to 17 March 2024) is appropriate for laying without significant revision.

The draft SI which was published for the consultation was subject to minor post-consultation amendment, to address typographical and other drafting errors.

The draft Regulations and Explanatory Memorandum which have been laid in the Senedd are available here:

**[The Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(Amendments to Schedule 5\) Regulations 2024](#)**

**[Explanatory Memorandum to The Land Transaction Tax and Anti-Avoidance of Devolved Taxes \(Wales\) Act 2017 \(Amendments to Schedule 5\) Regulations 2024](#)**

The Integrated Impact Assessment, produced following the consultation, is available here:

**[The Land Transaction Tax and Anti-Avoidance of Devolved Taxes \(Wales\) Act 2017 \(Amendments to Schedule 5\) Regulations 2024: integrated impact assessment](#)**

## 5. Next steps

5.1 The draft statutory instrument which was the subject of this consultation will

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be laid before the Senedd on 18 June 2024.

5.2 The Senedd will then have an opportunity to debate the draft statutory instrument in plenary session, following which they will be asked to approve its making.

## 6. Details of respondents to the consultation

The following table sets out numbers of responses by category, according to the categories offered on the consultation response form.

Category of respondent	Number of respondents
Professional Body / Interest Group	3
<ul style="list-style-type: none"><li>Chartered Institute of Taxation, and Stamp Taxes Practitioners Group (joint response)</li><li>Association of Taxation Technicians</li><li>Propertymark</li></ul>	
Individuals - Responding in a private capacity	11
No information provided	1

The consultation document can be found here:

**[Land Transaction Tax Higher Residential Rates: proposals to amend the refund and exception rules](https://www.gov.wales/land-transaction-tax-higher-residential-rates-proposals-to-amend-the-refund-and-exception-rules-summary-of-responses-html)**

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