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Taxation (Wales) Bill

[AS INTRODUCED]

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Taxation (Wales) Bill

[AS INTRODUCED]

An Act of Senedd Cymru to make provision about Welsh Revenue Authority (“WRA”) decision making and delegation, the disclosure of protected information acquired by WRA, the collection and management of taxes by WRA and application of the Tax Collection and Management Act 2016 (anaw 6) to the Crown; to provide an exemption from the higher rates of land transaction tax for collective rights transactions; to make provision about who counts as a buyer for the purposes of determining whether a transaction is subject to the higher rates of land transaction tax; to make provision about transactions by trustees of a bare trust for the purposes of land transaction tax; and to make provision about what counts as a taxable disposal for the purposes of landfill disposals tax.

Senedd Cymru, with the assent of His Majesty, enacts as follows:

Tax collection and management

1 Participation in Welsh Revenue Authority committees by persons who are not members of the authority

(1) The TCMA is amended as follows.

(2) In section 8 (committees and sub-committees) –

(a) in subsection (1), after “committees” insert “of WRA”;

(b) in subsection (2), for “its committees” substitute “committees of WRA”;

(c) in subsection (3), omit “, but those persons are not entitled to vote at meetings of the committee”;

(d) after subsection (3) insert –

“(3A) A member of a committee of WRA who is not a member of WRA is not entitled to vote at a meeting of the committee, unless the member of the committee is –

(a) a member of staff of WRA, and

(b) authorised by WRA to vote at meetings of the committee.”;

(e) in subsection (5), after “committee” insert “of WRA”;

(f) in subsection (6) –

(i) after “committee” insert “of WRA”;

(ii) omit “, but those persons are not entitled to vote at meetings of the sub-committee”;

(g) after subsection (6) insert –

“(6A) A member of a sub-committee of a committee of WRA who is not a member of WRA is not entitled to vote at a meeting of the sub-committee, unless the member of the sub-committee is –

(a) a member of staff of WRA, and

- (b) authorised by the committee of WRA to vote at meetings of the sub-committee.”;
- (h) in subsection (7), after “members of WRA” insert “or members of staff of WRA”;
- 5 (i) after subsection (7) insert—
- “(8) Nothing in subsections (1) to (7) affects any power of members of staff of WRA to—
- 10 (a) establish committees containing WRA staff, or sub-committees of such committees, for any purpose relating to functions of WRA that WRA staff are authorised to carry out,
- (b) determine the composition of such committees and sub-committees, or
- (c) appoint persons to such committees and sub-committees who are not WRA staff.
- 15 (9) Subsection (10) applies to a member of a committee established by members of staff of WRA for any purpose relating to functions of WRA that WRA staff are authorised to carry out or a member of a sub-committee of such a committee.
- 20 (10) If the member of the committee or sub-committee is not a member of staff of WRA, the member is not entitled to vote at a meeting of the committee or sub-committee unless—
- (a) the member is—
- (i) a member of WRA, or
- 25 (ii) a person to whom WRA functions have been delegated, and
- (b) the member is authorised by the chief executive of WRA to vote at meetings of the committee or a sub-committee of the committee.
- 30 (11) Authorisation under subsection (3A)(b), (6A)(b) or (10)(b) may relate to all matters considered by the committee or sub-committee or matters specified in the authorisation only.”
- (3) In section 10(1) (procedure), for “or sub-committee” substitute “of WRA or of a sub-committee of such a committee”.
- 35 (4) In section 11 (validity of proceedings and acts), for “or sub-committee” substitute “of WRA or of a sub-committee of such a committee”.
- (5) In section 17(2) (confidentiality of protected information), after paragraph (c) insert—
- “(ca) a member of a committee established by members of staff of WRA for any purpose relating to functions of WRA that WRA staff are authorised to carry out or a member of a sub-committee of such a committee,”.
- 40

- (6) In section 22(3) (evidence), after paragraph (e) insert—

“(ea) that at a specified time or for a specified purpose (or both) a specified committee established by WRA staff or a specified sub-committee of such a committee was authorised to exercise a function of WRA;”.

- (7) In section 192(2) (interpretation), in the appropriate place, insert—

““committee of WRA” (“*pwyllgor o ACC*”) means a committee containing one or more members of WRA established under section 8(1);”.

- (8) In section 193 (index of defined expressions), in the table, in the appropriate place, insert—

“committee of WRA (“ <i>pwyllgor o ACC</i> ”)	section 192(2)”.
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2 Delegation of Welsh Revenue Authority functions

- (1) The TCMA is amended as follows.

- (2) In section 13 (internal authorisation to carry out functions)—

(a) in subsection (1), after “extent” insert “and in any way specified in the authorisation”;

(b) omit subsection (2).

- (3) In section 14 (delegation of functions), after subsection (7) insert—

“(8) If a person prescribed under subsection (1) (“P”) is not a reserved authority and has the power to delegate P’s own functions, a WRA function delegated under that subsection to P is treated as a function of P for the purposes of that power, subject to any direction under subsection (2) or any provision made in regulations under subsection (9).

(9) The Welsh Ministers may by regulations prohibit or limit further delegation of WRA functions by a person prescribed under subsection (1) that is not a reserved authority and to whom WRA functions are delegated under this section.

(10) In subsections (8) and (9), “reserved authority” has the meaning given in paragraph 8(3) of Schedule 7B to the Government of Wales Act 2006 (c. 32).”

- (4) In section 192 (interpretation), after subsection (3) insert—

“(4) A reference in this Act to a person to whom WRA has delegated any of its functions includes a person to whom the functions have been further delegated under an enactment or a rule of law.”

3 Disclosure of protected information

- (1) The TCMA is amended as follows.

(2) In section 18(1) (permitted disclosures) –

(a) in paragraph (za), for “section 12(2)(a) and (e), and (3),” substitute “–

(i) section 12(2)(a) and (3), and

(ii) section 12(2)(e) (but see subsection (1A));”;

(b) after paragraph (k) insert –

“(l) it is made to a qualifying person in connection with a function of a principal council relating to the collection and management of council tax and non-domestic rates.”

(3) After section 18(1), insert –

“(1A) Despite subsection (1)(za)(ii), a disclosure of protected information is permitted by this section if it is made to a principal council for the purposes of WRA’s functions relating to the assessment and collection of the visitor levy.

(1B) In subsection (1)(l), “qualifying person” means –

(a) a principal council;

(b) a person authorised to exercise any function of such a council relating to the collection and management of council tax and non-domestic rates;

(c) a person providing services to such a council relating to the collection and management of council tax and non-domestic rates.”

(4) After section 20 (offence of wrongful disclosure of protected information) insert –

“20A Restrictions on further disclosure of protected information

(1) Protected information disclosed to –

(a) a principal council under section 18(1)(za) or 18(1A), or

(b) a qualifying person (within the meaning of section 18(1B)) under section 18(1)(l),

must not be further disclosed unless the disclosure is permitted by subsection (2).

(2) A disclosure of protected information is permitted by this section if –

(a) the disclosure is permitted by paragraphs (a), (c), (e), (f), (g), (h) and (l) of section 18(1), or

(b) WRA consents in writing to the disclosure (and that consent may be general or specific).

(3) A person who discloses information in contravention of subsection (1) commits an offence.

(4) It is a defence for a person charged with an offence under this section to prove that the person reasonably believed –

(a) that the disclosure was permitted by this section, or

(b) that the information had already lawfully been made available to the public.

- (5) A person who commits an offence under this section is liable –
- (a) on summary conviction, to imprisonment for a term not exceeding the general limit in a magistrates' court or a fine (or both);
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (6) This section does not affect the pursuit of any remedy or the taking of any action in relation to a contravention of subsection (1).
- (7) The Welsh Ministers may by regulations amend paragraph (a) of subsection (2).
- (8) In this section, "protected information" has the meaning given by section 17(3)."
- (5) In section 189(2) (regulations), after "18(2)," insert "20A(7),".

4 Power to withhold repayments of tax during Welsh Revenue Authority enquiry

- (1) The TCMA is amended as follows.
- (2) After section 44 (scope of enquiry) insert –

"Withholding repayments during enquiry

44A Power to withhold repayments of tax during enquiry into an amendment to a tax return

- (1) Subsection (2) applies if –
- (a) an amendment to a tax return is notified to WRA under section 41,
 - (b) the amendment would have the effect of requiring WRA to repay an amount in respect of WRA-collected tax,
 - (c) WRA has reason to believe there is a risk that the amendment to the tax return may not reflect the correct tax position of the taxpayer, and
 - (d) WRA issues a notice of enquiry into the return under section 43(1) after the amendment is notified.
- (2) WRA may withhold the repayment until a closure notice is issued for the enquiry under section 50.
- (3) WRA must notify the person who made the tax return of a decision under this section to withhold a repayment."
- (3) In section 172(2) (appealable decisions), after paragraph (c) insert –
- “(ca) a decision under section 44A to withhold a repayment arising from an amendment to a tax return;”.
- (4) The amendments made by this section do not apply in relation to amendments to a tax return made under section 41 of the TCMA that are notified to the Welsh Revenue Authority before this section comes into force.

5 Claims for relief for overpaid tax: repayment of late payment interest

- (1) The TCMA is amended as follows.
- (2) In section 73 (giving effect to claims and amendments)—
- (a) in subsection (1)(b), after “WRA-collected tax” insert “and any late payment interest related to that amount”;
- (b) after subsection (1) insert—
- “(1A) For the purposes of subsection (1)(b) and section 77(1)(b), late payment interest is related to an amount of WRA-collected tax to the extent that it—
- (a) is attributable to the amount, and
- (b) would not have been incurred had the amount of WRA-collected tax discharged or repaid never been chargeable or payable.”
- (3) In section 77 (giving effect to amendments under section 75), in subsection (1)(b), after “WRA-collected tax” insert “and any late payment interest related to that amount”.
- (4) In section 157(2) (late payment interest), for “Part” substitute “Act”.
- (5) In section 192(2) (interpretation), in the appropriate place, insert—
- ““late payment interest” (*“llog taliadau hwyr”*) has the meaning given by section 157(2);”.

6 Giving reasons for not giving effect to claims for relief in case of excessive assessment or overpaid tax

- (1) Section 73 of the TCMA (giving effect to claims and amendments) is amended as follows.
- (2) After subsection (1A) (as inserted by section 5) insert—
- “(1B) Where WRA decides not to give effect to a claim or amendment (whether in part or in full), the notice under subsection (1) must—
- (a) give reasons for reaching that conclusion, and
- (b) set out information about rights of review and appeal.
- (1C) Where WRA enquires into a claim or amendment, subsection (1)(a) does not apply (see sections 74 and 75 for provision about notices where WRA enquires into a claim or amendment).”
- (3) In subsection (2)—
- (a) for “Where” substitute “Also where”;
- (b) in paragraph (a), after “(1)” insert “(b)”.

7 Taxpayer notices following a tax return

- (1) Section 100 of the TCMA is amended as follows.
- (2) In subsection (3), for “or 2” substitute “, 2, 3 or 4”.

(3) After subsection (5) insert—

“(5A) Condition 3, as regards a transaction relieved to any extent from land transaction tax, is that the notice is given for the purpose of checking whether the relief is withdrawn to any extent under a provision mentioned in section 49 of the LTTA.

(5B) Where condition 3 is met (and not any of conditions 1, 2 or 4)—

(a) in respect of a relief subject to a control period, a taxpayer notice may not be given by virtue of this section after the end of the period of 12 months beginning with the end of the control period;

(b) in respect of relief under Schedule 14 to the LTTA (relief for certain acquisitions of dwellings), a taxpayer notice may not be given by virtue of this section after the end of the period of 4 years beginning with the effective date of the transaction.

(5C) In subsection (5B)—

“control period” (“*cyfnod rheoli*”) means—

(a) in relation to relief for a transaction under paragraph 13 of Schedule 11 to the LTTA, the period of 10 years beginning with the effective date of the transaction;

(b) in relation to relief for a transaction under paragraph 15 of Schedule 11 to the LTTA, the period of 10 years beginning with the effective date of the first transaction in respect of which the transaction is the second transaction (within the meaning of Schedule 11);

(c) in relation to relief for a transaction under—

(i) paragraph 2 of Schedule 16 to the LTTA (group relief),

(ii) paragraph 2 or 3 of Schedule 17 to the LTTA (reconstruction and acquisition relief),

(iii) paragraph 3 or 6 of Schedule 18 to the LTTA (charities relief), or

(iv) paragraph 6 or 7 of Schedule 21A to the LTTA (relief for special tax sites),

the period of 3 years beginning with the effective date of the transaction;

“relief subject to a control period” (“*rhyddhad sy’n ddarostyngedig i gyfnod rheoli*”) means relief under any of the following provisions—

(a) paragraph 13 or 15 of Schedule 11 to the LTTA (relief for alternative finance investment bonds);

(b) paragraph 2 of Schedule 16 to the LTTA;

(c) paragraph 2 or 3 of Schedule 17 to the LTTA;

(d) paragraph 3 or 6 of Schedule 18 to the LTTA;

(e) paragraph 6 or 7 of Schedule 21A to the LTTA.

(5D) Condition 4, as regards a transaction, is that—

(a) a refund of overpaid land transaction tax has been made following a claim under paragraph 23A(5) of Schedule 5 to the LTТА, and

(b) the notice is given for the purpose of checking whether the refund has become repayable.

(5E) Where condition 4 is met (and not any of conditions 1, 2 or 3), a taxpayer notice may not be given by virtue of this section after the end of the period of 12 months beginning with the end of the control period.

(5F) In subsection (5E), “control period” means the period of five years beginning with the effective date of the disposal transaction in respect of which the refund was made.

(5G) “Disposal transaction” has the same meaning for the purposes of subsection (5F) as for the purposes of paragraph 9A, 18A, 20A or 21A (as the case may be) of Schedule 5 to the LTТА.

(5H) “Effective date” has the same meaning for the purposes of this section as for the purposes of section 71 of the LTТА.”

(4) The amendments made by this section have effect whenever the land transaction return under section 44 of the LTТА was made.

8 Inspecting premises

(1) The TCMA is amended as follows.

(2) In section 103 (power to inspect business premises)—

(a) for subsection (2) substitute—

“(2) But WRA may only carry out such an inspection in accordance with subsections (3) and (3A).”;

(b) after subsection (3) insert—

“(3A) An inspection for the purpose of checking a person’s tax position in relation to landfill disposals tax may also be carried out without the agreement of the occupier and without the approval of the tribunal—

(a) at a reasonable time specified in a notice issued to the occupier at least 7 days before that time, or

(b) at any reasonable time if WRA has grounds for believing that notifying the occupier would seriously prejudice the assessment or collection of WRA-collected tax.”;

(c) in subsection (4), in paragraph (b), after “subsection (3)(b)(i)” insert “or (3A)(a)”.

(3) In section 103B (further power to inspect premises: taxable disposals made at places other than authorised landfill sites), in subsection (3)—

(a) omit “WRA has reason to believe that”;

(b) in paragraph (a), before “the disposal” insert “the premises are in Wales and WRA has reason to believe that”;

(c) in paragraph (b), before “the occupier” insert “the premises are in Wales or England and WRA has reason to believe that”.

(4) In section 105 (carrying out inspections: use of equipment and material) –

(a) in subsection (2), in paragraph (b)(i) after “section 103(3)(b)(i)” insert “or 103(3A)(a)”;

(b) in subsection (7) –

(i) after “section 103(3)(b)(i)” insert “or 103(3A)(a)”;

(ii) for “that provision” insert “those provisions”.

(5) In section 106 (power to inspect premises or property for valuation etc.), in subsection (1), after “premises”, the first time it appears, insert “in Wales”.

(6) In section 111 (interpretation of Chapter 4), in subsection (1), in the definition of “business premises” after “of premises)” insert “in Wales or England”.

9 Late payment interest on taxes collected by the Welsh Revenue Authority

In section 157 of the TCMA (late payment interest on WRA-collected taxes), after subsection (4) insert –

“(5) For the avoidance of doubt, where an amount of WRA-collected tax within subsection (1)(b) is not paid before the late payment interest start date, interest is carried on that amount and not the amount of WRA-collected tax stated in the tax return which is amended, corrected or assessed as described in subsection (1)(b).”

10 Application of the TCMA to the Crown for the purposes of land transaction tax

(1) Section 187A of the TCMA (Crown application for the purposes of land transaction tax) is amended as follows.

(2) In subsection (1)(e), for “172(1)(d) and (e), (3)(b) and (c), (4), (5) and (6), 182 and 183” substitute “172(2)(d) and 182”.

(3) In subsection (2), for “does not” substitute “and sections 172(2)(e), (3)(b) and (c), (4), (5) and (6) and 183 do not”.

Land transaction tax

11 Exception for collective rights transactions from higher rates of land transaction tax

(1) Schedule 5 to the LTTA (higher rates residential property transactions) is amended as follows.

(2) In paragraph 3(5) (higher rates residential property transactions) –

(a) in paragraph (b) omit “and”;

(b) in paragraph (c), for “exception).” substitute “exception), and”;

(c) after paragraph (c) insert—

“(d) paragraph 9B (collective rights).”

- (3) After paragraph 9A (subsequent disposal to local authorities exception: buyer is an individual in a single dwelling transaction) insert—

“Exception for persons exercising collective rights

9B A transaction is not a higher rates residential property transaction under paragraph 3 if relief applies to the transaction by virtue of paragraph 10 of Schedule 14 (relief for collective rights).”

- (4) In paragraph 11 (higher rates residential property transactions)—

(a) after sub-paragraph (1) insert—

“(1A) Sub-paragraph (1) applies subject to—

(a) sub-paragraph (5), and

(b) the exception in sub-paragraph (6).”;

(b) after sub-paragraph (5) insert—

“(6) A transaction is not a higher rates residential property transaction under sub-paragraph (1) if relief applies to the transaction by virtue of paragraph 10 of Schedule 14 (relief for collective rights).”

- (5) In paragraph 20 (transaction involving a dwelling)—

(a) in sub-paragraph (1A)—

(i) in paragraph (a) omit “and”;

(ii) after paragraph (a) insert—

“(aa) sub-paragraph (4), and”;

(b) after sub-paragraph (3) insert—

“(4) A transaction is not a higher rates residential property transaction under sub-paragraph (1) if relief applies to the transaction by virtue of paragraph 10 of Schedule 14 (relief for collective rights).”

- (6) In paragraph 21 (transaction involving multiple dwellings)—

(a) after sub-paragraph (1) insert—

“(1A) Sub-paragraph (1) applies subject to—

(a) sub-paragraph (5),

(b) sub-paragraph (6), and

(c) paragraph 21A (subsequent disposal to local authorities exception).”;

(b) after sub-paragraph (5) insert—

“(6) A transaction is not a higher rates residential property transaction under sub-paragraph (1) if relief applies to the transaction by virtue of paragraph 10 of Schedule 14 (relief for collective rights).”;

- (c) omit sub-paragraph (5A).

12 Higher rates of land transaction tax: persons who do not count as buyers

- (1) Schedule 5 to the LTTA (higher rates residential property transactions) is amended as follows.

- (2) After paragraph 6 (two or more buyers) insert—

“Individuals who do not count as buyers for certain purposes

- 6A(1) Sub-paragraph (2) applies where—

- (a) there are two or more buyers in a chargeable transaction, all of whom are individuals, and

- (b) at least one of the buyers in the transaction, but not all of them, is also the seller (“the existing owner”).

- (2) Any existing owner is not to be treated as a buyer for the purposes of paragraphs 3, 5, 6 and 8.”

- (3) After paragraph 15 (buyer has a major interest in other dwelling) insert—

“Individuals who do not count as buyers for certain purposes

- 15A(1) Sub-paragraph (2) applies where—

- (a) there are two or more buyers in a chargeable transaction, all of whom are individuals, and

- (b) at least one of the buyers in the transaction, but not all of them, is also the seller (“the existing owner”).

- (2) Any existing owner is not to be treated as a buyer for the purposes of paragraphs 11, 12, 13, 15 and 17.”

- (4) After paragraph 22 (two or more buyers) insert—

“Persons who do not count as buyers for certain purposes

- 22A(1) Sub-paragraph (2) applies where—

- (a) there are two or more buyers in a chargeable transaction,

- (b) at least one of the buyers in the transaction, but not all of them, is also the seller (“the existing owner”),

- (c) the existing owner is not an individual, and

- (d) all of the buyers in the transaction other than the existing owner are individuals.

- (2) Any existing owner is not to be treated as a buyer for the purposes of—

- (a) paragraphs 3, 5, 6 and 8 (individual buyers: single dwelling transactions);

- (b) paragraphs 11, 12, 13, 15 and 17 (individual buyers: multiple dwelling transactions);

- (c) paragraphs 20 and 21 (buyer not an individual).”

13 Transactions involving trustees of a bare trust

(1) The LTТА is amended as follows.

(2) In Schedule 6 (leases) –

(a) in paragraph 7 (rent for overlap period in case of grant of further lease), after sub-paragraph (3) insert –

“(4) Sub-paragraph (5) applies if the new lease is granted by a trustee of a bare trust (within the meaning given by paragraphs 2(1) and (2) of Schedule 8) acting on behalf of the beneficiary of the interest surrendered by the tenant under the old lease.

(5) The beneficiary of the bare trust (rather than the trustee) is to be treated as the landlord for the purposes of this paragraph.

(6) Paragraphs 3(3) and (4) of Schedule 8 (trustees to be treated as the buyer or seller) have effect subject to this paragraph.”;

(b) in paragraph 17 (surrender of existing lease in return for new lease), after sub-paragraph (2) insert –

“(3) Parties are not to be treated as different for the purposes of sub-paragraph (1) if –

(a) the parties with the beneficial rights and interests in the leases granted and surrendered are the same, and

(b) any difference between the parties arises from the involvement of a trustee of a bare trust (within the meaning given by paragraphs 2(1) and (2) of Schedule 8) in respect of which one of those parties is a beneficiary.

(4) Paragraphs 3(3) and (4) of Schedule 8 (trustees to be treated as the buyer or seller) have effect subject to sub-paragraph (3).”

(3) In Schedule 9 (sale and leaseback relief), after paragraph 3 (qualifying conditions) insert –

“Leaseback by a trustee of a bare trust

4 (1) This paragraph applies if the leaseback element of a sale and leaseback arrangement is granted by a trustee of a bare trust (within the meaning given by paragraphs 2(1) and (2) of Schedule 8) acting on behalf of the beneficiary of the interest transferred or granted in the sale.

(2) The beneficiary of the bare trust (rather than the trustee) is to be treated as B for the purposes of this Schedule.

(3) Paragraphs 3(3) and (4) of Schedule 8 (trustees to be treated as the buyer or seller) have effect subject to this paragraph.”

*Landfill disposals tax***14 Specified landfill site activities**

(1) The Landfill Disposals Tax (Wales) Act 2017 (anaw 3) is amended as follows.

(2) In section 8 (specified landfill site activities)—

(a) in subsection (3), after paragraph (f) insert—

“(fa) using material in a landfill cell, except—

(i) material that forms a layer immediately above the base of the cell and performs the function of drainage;

(ii) a pipe, pump or associated infrastructure inserted into the cell for the purposes of the extraction or control of surplus liquid or gas from or within that cell;”;

(b) in subsection (4), in the appropriate places, insert—

““impermeable layer” (“*haen anhydraidd*”) means the geological barrier, whether formed of a single mineral layer or such mineral layer combined with an artificial sealing liner or cap, located at the external facing perimeter of a landfill cell, that has the function of preventing the escape of liquids or gases from the landfill cell;”;

““landfill cell” (“*cell dirlenwi*”) means a unit or structure within an authorised landfill site formed of an impermeable layer at its base and sides and, save where the cell only contains inert material, at the top of the unit or structure;”.

*General***15 Interpretation**

In this Act—

“LTTA” (“*DTTT*”) means the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1);

“TCMA” (“*DCRhT*”) means the Tax Collection and Management (Wales) Act 2016 (anaw 6).

16 Coming into force

This Act comes into force at the end of the period of 2 months beginning with the day on which it receives Royal Assent.

17 Short title

This Act may be referred to as—

(a) the Taxation (Wales) Act 2027, or

(b) Deddf Trethiant (Cymru) 2027.