

REGULATORY APPRAISAL

COUNCIL TAX, WALES

THE LOCAL AUTHORITIES (CALCULATION OF COUNCIL TAX BASE) AND COUNCIL TAX (PRESCRIBED CLASSES OF DWELLINGS) (WALES) (AMENDMENT) REGULATIONS 2004

Purpose and intended effect of the measure

Amendments to the Local Authorities (Calculation of Council Tax Base) (Wales) Regulations 1995 (SI 1995/2561) concerning calculation of the tax base

1. Welsh billing authorities must calculate their tax base in accordance with the provisions of the Local Authorities (Calculation of Council Tax Base) (Wales) Regulations 1995. In calculating their tax base authorities must take into consideration the reduction on council tax due to certain discounts.
2. Section 75 of the Local Government Act 2003 substituted a new section 12 into the Local Government Finance Act 1992. Section 12 now allows a billing authority to change the level of council tax discount for classes of dwellings defined through Regulations made by the National Assembly for Wales under section 12(1) (namely, the Council Tax (Prescribed Classes of Dwellings) (Wales) Regulations 1998 (as amended)). For instance, a billing authority may reduce or remove the discount on long term empty homes (Class C dwellings as prescribed in regulation 3(2) of the 1998 Regulations). Also, that billing authority may determine to change such discount in all or part of its area.
3. The treatment of discounts for second homes in Wales is also legislated for under Section 12 of the Local Government Finance Act 1992. Welsh billing authorities had been able to decide whether to apply a 50% discount, a 25% discount or no discount to second homes in Wales. The substitution of section 12 of the Local Government Finance Act 1992 (and particularly the effect of section 75(3)-(5) of the Local Government Act 2003) has altered the position such that local authorities may apply a range of discounts, with 50% being the highest.
4. The fewer council tax discounts applied by a Welsh billing authority, the higher the authority's tax base, and thus the lower the share of Revenue Support Grant (RSG) received by that authority. Any reductions in council tax discount applied to long term empty properties and second homes will need to be taken into account by billing authorities in their tax base calculations. This means the way in which the RSG allocations are currently calculated with respect of discounts on second homes does not alter.
5. Section 75 of the Local Government Act 2003 was commenced on 27 November 2003 and amending regulations made under that section 12 came into force on 25 February 2004 (see SI 2004/452, The Council Tax (Prescribed Classes of Dwellings) (Wales) (Amendment) Regulations 2004). The timing of the introduction of these provisions meant that it was not possible for the changes to be taken into account in the tax base calculations for the 2004-05 Welsh Local

Government Settlement, as these had to be submitted to the Assembly in November 2003.

6. It is therefore proposed that the amending legislation be brought forward in time for the 2005-06 Local Government Settlement calculations. This will allow billing authorities sufficient time to make the appropriate calculations.

Amendments to the Local Authorities (Calculation of Council Tax Base) (Wales) Regulations 1995 (SI 1995/2561) concerning valuation lists

7. In addition to the above, the Local Government Act 2003 inserted a new section 22B into the Local Government Act 1992. The new section 22B requires new council tax valuation lists to be compiled by listing officers of billing authorities in Wales on 1 April 2005. Currently, regulation 1(3) of the Local Authorities (Calculation of Council Tax Base) (Wales) Regulations 1995 (SI 1995/2561) defines "the authority's list" as the list deposited by the authority under section 22(8) or 22A(10) of the 1992 Act. It is proposed to amend this definition so as to include valuation lists compiled and maintained under section 22B of the 1992 Act.

Amendments to the Council Tax (Prescribed Classes of Dwellings) (Wales) Regulations 1998 (SI 1998/105)

8. The Council Tax (Prescribed Classes of Dwellings) (Wales) (Amendment) Regulations 2004 (SI 2004/452), which came into force on 25 February 2004, introduced a new class C dwelling (long term empty properties) into SI 1998/105. The intention of the regulations was to allow local authorities to reduce or end the 50% council tax discount for chargeable dwellings which are unoccupied and substantially unfurnished.
9. It has been brought to our attention that regulation 3(2), which has been inserted into SI 1998/105 by SI 2004/452, requires amendment, as class C dwellings as referred to in regulation 3(2) of SI 1998/105, are not expressly prescribed, as they should be, for the purposes of section (4) of section 12 of the Local Government Finance Act 1992.

Risk assessment

10. This draft order amends the Local Authorities (Calculation of Council Tax Base) (Wales) Regulations 1995. These amendments are required as the Local Government Act 2003 has brought about some changes to the discounts which may be applied to by local authorities in respect of council tax and which require consequential changes in the council tax base regulations.
11. If the order were not approved local authorities would not be able to calculate the council tax base in accordance with the amendments made by the Local Government Act 2003 and this would effect the accuracy of funding through the revenue support grant calculations.
12. In addition, the Council Tax (Prescribed Classes of Dwellings) (Wales) (Amendment) Regulations 2004 (SI 2004/ 452) would not be corrected.

Options

13. The development of options was considered during the drawing up of the Local Government Act 2003 and the changes were consulted on at that time.
14. Local Government Finance Division wrote on 8 October 2003 to all billing authorities in Wales to explain the provisions of Section 75. The legislation has been discussed at the local taxation-working group and Council Tax Update letters have been issued communicating the changes in legislation.
15. In accordance with statutory requirements, Assembly officials consulted with the Welsh Local Government Association and all 22 local authorities in Wales. The consultation period ended on 17 September 2004 and the responses received are detailed below in paragraph 20.

Benefits

16. The main benefits are that the Local Authorities (Calculation of Council Tax Base) (Wales) Regulations 1995 will be updated to reflect the changes in the discounts resulting from the provisions introduced by the Local Government Act 2003.

Costs

17. Local authorities have to calculate their council tax base in accordance with the Local Authorities (Calculation of Council Tax Base) (Wales) Regulations 1995. This order simply amends these regulations to reflect changes to the discounts which are already part of the calculations, therefore there are no extra financial implications for local government arising out of the introduction of this particular order. There are potentially additional financial implications for local taxpayers in cases where Authorities decide to reduce or remove altogether the discount in respect of a property or classes of property to which a discount had been applied previously. This is a matter for each individual local authority, and we have no way of quantifying the financial impact.

Competition Assessment

18. The introduction of this order will not have any impact on other sectors and no competition filter is necessary.

Consultation

19. There is a statutory requirement to consult local government over changes in legislation that effect them. Assembly officials have accordingly consulted with the WLGA and local government chief financial officers and chief legal officers. This consultation ended on 17 September.
20. Six responses were received. The respondents were mainly concerned about the following:
 - i. the references to the relevant day and the dates for finalising the calculations in draft Regulation 4;

- ii. the reference to 24 November 2004 in Regulations 3 and 4 and the effect this date has on the tax base calculations as to whether authorities should delay any calculations until after this date;
- iii. the moderating scheme ('transitional relief') proposed for the revaluation of council tax and its impact on taxbase calculations;
- iv. that banding appeals are not taken into account in taxbase calculations; and
- v. that the increased revenue realised by reducing the discounts for second homes is not able to be retained by councils.

21. The following provides detailed advice on the comments above:

- i. Consideration of the dates has taken place with OCG following the consultation exercise. Regulation 4 of the draft regulations will amend the text of regulation 6 of the *Local Authorities (Calculation of Council Tax Base) (Wales) Regulations 1995* ("the 1995 Regulations"). Regulation 6 of the 1995 Regulations concerns the calculation by a billing authority of the council tax base for a part of its area. For the purposes of financial year 05/06 the date to be adopted by a billing authority in making that calculation will differ from subsequent financial years because the coming into force date of these regulations means that authorities will be making their calculations slightly later this year. For financial years 06/07 onwards, it is proposed to amend the draft regulations such that the period and date used for the calculation of the council tax base for part of an authority's area will return to the period and date currently used in the 1995 Regulations. As such, the period and date shown in new regulation 5A(11)(b) and the new regulation 6(2)(d)(ii)(aa) (to be inserted into the 1995 Regulations by regulation 4 of the draft regulations) should be amended to such that where an authority determines the council tax base for part of its area during the period 1 November - 31 December in the preceding financial year, the relevant calculation date is 31 October in that preceding financial year.
- ii. The date of 24 November in Regulations 3 and 4 (which respectively insert a new regulation 5A into the 1995 Regulations and amend regulation 6 of the 1995 Regulations) will be used for financial year 05/06 only in calculating council tax base figures. The 24 November is the date that the draft Regulations come into force. OCG has advised that the date used in those calculations should not precede the coming into force of the Regulations. Therefore, the date of 24 November should not be changed. However, as above, the calculation date in new regulation 5A(11)(b) for financial years 06/07 onwards may mirror that currently prescribed in the 1995 Regulations and therefore it is proposed that the date of 1 November in new regulation 5A(11)(b) (to be inserted by regulation 3 of the draft regulations) should be amended to read 31 October.
- iii. The moderating scheme will not impact on taxbase calculations. The transitional relief scheme will ensure that council tax liability for all eligible households will not increase beyond a one-band increase in each of the three

years of the scheme, commencing 1 April 2005. The scheme funding will be outside of the revenue support grant arrangements and councils will be reimbursed for income forgone. LGF colleagues will be discussing details of the proposed relief scheme with local authorities and consulting on the proposals before bringing forward legislation.

- iv. It is our view that it would be extremely difficult to forecast accurately any banding appeals, however, this was outside the remit of this consultation exercise and indeed the relevant enabling powers for the proposed draft regulations.
- v. The issue on discounts was notified to councils in October last year during the consultation on the Local Government Act 2003.

22. In England, where second home legislation has only applied since 1 April 2004, there is the intention that where a billing authority chooses to reduce the second homes discount, both the billing authority and major precepting authorities should benefit from an increase in the tax base used in their council tax setting decisions. Because the tax base used in the calculations of RSG payable to those authorities will not be increased, both billing and major precepting authorities will benefit financially from the billing authority's decision. Where the billing authority reduces or removes the discount for long term empty homes, this will be taken into account in calculating the tax base for council tax setting purposes. However, because it will also be taken into account in the tax base used in RSG calculations, the authorities will not receive the same financial benefits.

23. In Wales, second home legislation has applied since the introduction of the council tax in 1993. The legislation and equalisation of discounts across Wales through the RSG formula has worked well for over ten years and it was not considered appropriate to disturb the present arrangements. This remains the view of Assembly officials.

24. Following discussions with OCG it was confirmed that regulation 8 of the 1995 Regulations should be amended to reflect the prescribed dates for 2005-06 only in the new draft Regulations.

Significant Costs

25. The administrative costs of the consultation and preparation of the Order are containable within existing Assembly budgets.

Review

26. Local Government Finance Division will continue to review the efficacy of council tax regulations and supporting mechanisms with local authorities through monitoring and joint working groups.

Summary

27. The costs of the Order and the consultation will be borne by the Assembly. The aim of this Order is to introduce changes to the current regulations governing the calculation of the council tax base. These changes are a consequence of the

introduction of new discount provisions in the Local Government Act 2003 and does not have any further financial implications for local authorities.