

## Consultation on proposals for a discretionary visitor levy for local authorities

### Response by the Chartered Institute of Taxation

#### 1 Executive Summary

- 1.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 19,000 members, and extensive volunteer network, in providing our response.
- 1.2 This consultation considers the design of a visitor levy chargeable by local authorities in Wales at their discretion on visitors who stay overnight in accommodation in their areas.
- 1.3 We think transparency both in terms of the impact of the proposed levy and how revenues raised are spent should underpin the aims of the levy to ensure accountability and promote acceptance. We also suggest the final proposals for the levy should be formally evaluated against the Welsh government's core tax principles – perhaps as part of the final impact assessment - in the interests of transparency.
- 1.4 We suggest that further technical consultation, once the proposals are finalised, on the draft legislation, particularly in relation to scope and exemptions, will be essential for effective implementation.
- 1.5 The extent to which a local authority area may be expected to benefit from introducing the levy will depend upon identifying the nature and extent of the visitor costs that are intended to be more evenly shared. Almost all areas will incur some costs, such as road use, public transport, from visitors even those passing through to a destination in another area raising the potential for consideration of a transfer mechanism for revenue raised between local authorities.
- 1.6 The consultation references 90 million visits to Wales in 2019 of which a relatively small proportion (10 million) were overnight stays. Raising a levy on accommodation providers alone would be taxing one part only of the tourism industry which could be seen as inequitable (or even as a perverse incentive not to stay overnight) if the arguments made in favour of a tourism levy apply to a wider set of visitors and service providers. Costs relating to traffic congestion, public transport and parking, for example, would apply to both

day and overnight visitors. We recognise that collecting a levy on day visitors presents significant practical challenges. However, charging a higher (seasonal) rate for existing paid-for services, such as parking (with discounts for residents), in areas with high visitor numbers might be an option to explore recognising that brings its own significant complexities. In making these points, we recognise that the amount of the levy might not be sizeable enough for these concerns to materialise. However, if a modest initial levy is seen to be a modest success, then these issues should be revisited, rather than simply assuming that the levy can be increased to more substantial levels with no change in the mix of pros and cons. There are a range of possible incentive effects from overnight levies and/or parking charges, and the overall objective of reducing or at least defraying the congestion and other costs, while presumably not unduly disadvantaging Welsh hotels, guesthouses and other service providers, needs to be kept in mind, basing incremental decisions as much as possible on evidence of how the effects pan out.

- 1.7 Our preference is for a clear national framework for the levy in order to ensure consistency and coherence with the Welsh government's core tax principles and consistency. Lack of consistency increases administrative burdens and adds complexity for business particularly for those operating across local authorities. Those affected by the levy are less likely to trust it if it varies substantially and provides no discernible benefit to the visitor. A consistent national model is more likely to be accepted and will be easier for politicians to explain. However local authorities having the option to set the level of the rate could have advantages because the rate can reflect local circumstances and needs without compromising the wider benefits offered by a national framework.
- 1.8 Assessing the visitor accommodation provider based on overnight stays is a more practical approach than levying it directly on the visitor. However, we are concerned about the additional administrative costs of collection and reporting for businesses and suggest due weight is given to exploring options that might reduce those burdens and potentially simplify the process.

## **2 About us**

- 2.1 The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.
- 2.2 The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.
- 2.3 The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.
- 2.4 Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

### 3 Introduction

3.1 The introduction of a discretionary power for the 22 local authorities in Wales to apply a visitor levy is part of the Welsh government's Programme for Government 2021-2026<sup>1</sup>. It is also one of the areas referenced in the Co-operation Agreement with Plaid Cymru.

3.2 This consultation considers the design of a visitor levy following earlier consultative engagement with stakeholders such as local authorities, tourism forums, visitor accommodation providers and the third sector.

3.3 A discretionary visitor levy for Wales has the following aims:

- Ensure a more even share of costs to fund local services and infrastructure that benefit visitors between resident populations and visitors; a levy would provide a mechanism to ensure a contribution from visitors towards local services and infrastructure provided in the area which they benefit from and rely on as part of their visit.
- Provide local authorities with the ability to generate additional revenue that can be invested back into local services and infrastructure that can support tourism
- Support the Welsh government's ambitions for sustainable tourism.

We think transparency both in terms of the impact of the proposed levy and how revenues raised are spent should underpin the aims to ensure accountability and promote acceptance.

3.4 The Welsh government's core tax principles:

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.
- contribute directly to the Well-Being of Future Generations Act 2015 goal of creating a more equal Wales.

We suggest the final proposals should be formally evaluated against the principles – perhaps as part of the final impact assessment in the interests of transparency.

3.5 We are supportive of this wide-ranging first stage formal consultation to consider possible design options for the levy to align with the Welsh government's core tax principles. We suggest that further technical consultation, once the proposals are finalised, on the draft legislation particularly in relation to scope and exemptions will be essential for effective implementation.

3.6 Our stated objectives for the tax system include:

- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.

<sup>1</sup> <https://gov.wales/programme-for-government-update> The commitment is under the heading: ***Push forward towards a million Welsh speakers, and enable our tourism, sports and arts industries to thrive***

- Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
- Greater certainty, so businesses and individuals can plan ahead with confidence.
- A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
- Responsive and competent tax administration, with a minimum of bureaucracy.

Not all of the questions are within our remit; questions 27-28 relate to accommodation providers and are therefore not answered, questions 43 and 44 in relation to the Welsh language are also not addressed.

#### 4 Tax purpose and scope

**Question 1. Do you agree or disagree that local authorities should have discretionary visitor levy powers to enable a more equitable basis for the funding of local services and infrastructure between residents and visitors?**

We note the discretionary nature of the levy, that is, it will be for local authorities to decide whether to introduce it. The rationale for its discretionary nature is set out in the consultation as follows:

*We recognise that the benefits and costs of hosting visitors will vary across Wales. Some areas of Wales experience large volumes of visitors at peak times (ie, during the summer period) which strain local services and infrastructure. It is those areas which stand to benefit the most from a levy. Therefore, this levy would be discretionary in nature, enabling the 22 principal authorities (county and county borough councils) in Wales to exercise their own judgement about whether to apply it. We are looking to empower local authorities to make decisions in line with needs of their communities. This is in line with the wider policy approach which the Welsh Government takes on local taxes.*

We note the extent to which a local authority area can be expected to benefit from the levy will depend upon identifying the nature and extent of the costs that are intended to be more evenly shared. Almost all areas will incur some costs, such as road use, public transport, from visitors even those passing through to a destination in another area raising the potential for consideration of a transfer mechanism for revenue raised between local authorities.

Costs may vary within a local authority area and therefore the flexibility to apply the levy to zones within the local authority may need to be considered.

A possible unintended consequence of the discretionary nature of the levy might be that the decision not to charge the levy is used to promote the advantages of staying in one area over another area where the levy is charged potentially creating economic distortions between local authority areas (and, potentially with accommodation providers in England, close to the border). Similarly, transit points may bear the cost of facilitating access to tourist destination sites again creating some economic distortion. Clearly the extent to which the levy generates or increases such distortions will depend in practice on the size of the levy.

It is proposed that business visitors as well as tourists will be in scope of the levy – they too create congestion and other costs and in practice it would be hard to distinguish them anyway, without opening up scope for avoidance or evasion. But presumably there is no intention to create an impression that Wales (or local areas

within it) are not 'open for business'. In practice any adverse impact may be negligible at modest levels of the levy but again it is a factor to consider if it is seen to be successful and consideration is given to increasing it. This issue is addressed more generally by question 8 below.

**4.1 Question 2. Do you have any views on whether a levy should apply to any other type of activity in addition to overnight visitors (eg day visitors) and if so, what activity do you think it should apply to and how do you think this would work in a Welsh context?**

The stated objective is to ensure a more even share of costs between resident populations and visitors. Therefore it will be important to transparently identify the nature and amount of the costs that are intended to be shared and the extent to which those costs are attributable to visitors.

The consultation references 90 million visits to Wales in 2019 of which a relatively small proportion (10 million) were overnight stays. Therefore, overnight visitors represent a fairly small proportion of visitors which may limit the ability to achieve the first objective of a more even share of costs and potentially the second objective of generating additional revenue, depending on the level of the levy and the costs of managing and collecting the levy. Raising a levy on accommodation providers alone would only be taxing one part of the tourism industry which could be seen as inequitable if the arguments made in favour of a tourism levy apply to a wider set of visitors and service providers. Costs relating to traffic congestion and parking would apply to day and overnight visitors. We recognise that collecting a levy on day visitors presents significant practical challenges; these include

- potential double-counting of the levy for overnight visitors ,
- a venue based levy would be payable by local residents and business visitors as well as 'tourists', and
- the practical downside of a high administrative burden for venues in processing large numbers of people in a week.

However, charging a higher (seasonal) rate for existing paid-for services, such as parking, in areas with high visitor numbers might be an option to explore together with any unintended consequences such as an increase in short-term and illicit roadside parking (or increased enforcement costs in preventing it).

The city of Geneva charges an overnight levy but guests to whom it applies are given public transport vouchers for the duration of their stay. This sort of quid pro quo may be a way of 'sugaring the pill' of the levy, and triggering a better mix of incentives (at least where overcrowded public transport is not itself the main congestion in point).

If parking, rather than visiting, bore some of the cost of the policy, the balance of incentives may shift from 'staying away' to 'travelling by public transport', not only once having arrived at the location, but in terms of getting to it in the first place, potentially having a better effect on 'passing through' locations. However this depends on the practical availability of public transport alternatives and of course, on the size of the levy.

**5 Question 3. It is our view that the tax framework (legislation) which sets out how the levy would be applied and operated should ensure consistency of application across local authorities. However, there are some aspects such as setting rates and exemptions and determining use of revenues which may benefit from local autonomy. Do you agree or disagree with this position?**

5.1 We agree a national framework would provide the best approach in terms of consistency of operation and will make it easier for politicians to explain and for visitors to understand. It should ensure that businesses

operating in more than one local authority area will be able to use the same software, report the same information and meet the same reporting and payment deadlines.

5.2 A national framework will also ensure a level of transparency that builds acceptance and trust that is vital for support for a levy. In general we are sceptical about the value of local autonomy over exemptions (see next question).

5.3 **Question 4. Are there any other aspects of the tax framework which would benefit from greater local autonomy? For example:**

- **Exemptions or reliefs**
- **Type of rate**
- **Level(s) of the rate**
- **Use of revenues**
- **Reporting requirements**

Exemptions and reliefs create distortions and can have unexpected consequences. The rationale for any exemptions should be clear and the number of exemptions kept to a minimum.

Experience with the application of reliefs for business rates indicates that businesses find it difficult to determine eligibility for reliefs as local authority guidance on reliefs can vary between billing authorities. This lack of transparency and consistency increases administrative burdens and adds complexity for business particularly for those operating across local authorities (thinking here of hotel and similar businesses who would have to operate the levy in practice). Similarly, individuals facing different rules and different eligibility criteria in different locations will be confused and this risks creating negative 'talking points' even if the amount of the levy at stake is modest.

5.4 Our preference is for a clear national approach to reliefs and exemptions for the levy as part of the national framework in order to ensure compliance with the Equalities Act; coherence with the Welsh government's tax principles; an evidence basis for the design against the objectives of the levy; and consistency. This would also provide a base for the provision of transfer payments if this was considered necessary.

5.5 We suggest it would be preferable to have one return specified in the framework that will be used by all local authorities opting to apply the levy. Differing returns among local authorities seems more bureaucratic, burdensome and less efficient.

5.6 While we think the type of levy should be part of the national framework, local authorities having the option to set the level of the rate could have advantages because the rate can reflect local circumstances (such as competition concerns due to proximity to the English border) and needs, without compromising the wider benefits offered by a national framework. One concern is whether local authorities have access to sufficient data or relevant expertise to ensure the appropriate rate can be properly evaluated and justified.

Options to explore might include the ability for local authorities with similar tourism characteristics to band together and impose the same rate or, there could be a national default rate that local authorities may choose to vary within defined parameters as those affected by the levy may be less likely to trust it if it varies substantially between areas.

## 6 Questions 5 – 7. Tax design and liability

### 6.1 Question 5 We propose that the levy would be a self-assessed tax for visitor accommodation providers (based on number of overnight stays) who must charge and collect the levy from visitors for an overnight stay and then remit this to the tax authority. Do you agree or disagree with this?

The three objectives of the discretionary levy are (as stated above at 3.3):

- To ensure a more even share of costs to fund local services and infrastructure that benefit visitors between resident populations and visitors;
- To provide local authorities with the ability to generate additional revenue that can be invested back into local services and infrastructure that can support tourism;
- To support the Welsh government's ambitions for sustainable tourism.

The stated intent in the consultation is for visitors to pay the levy via a direct charge. We agree that self-assessment on the visitor accommodation provider based on overnight stays is a more practical approach than levying it directly on the visitor. If the levy is collected by a third party booking agent the intention would be that the booking platform or agent remits it to the accommodation provider with the payment; the liability would remain with the accommodation provider. However, we are concerned about both the additional administrative costs of collection and reporting for business and complexity, therefore we consider some options that might reduce those burdens and potentially simplify the process.

- We understand that some municipal tax authorities in France have begun to make use of large platform providers to facilitate the automated collection of occupancy taxes at the point of booking which is remitted directly to the municipal authority by the platform although it appears that liability remains with the accommodation provider. This arrangement has the advantage of removing some (but not all) of the administrative burden from the accommodation provider in terms of collecting and remitting the levy. However the platform may not be able to verify or take account of exemptions so a process would be required to allow visitors with exemptions to claim back the levy from the authority. Assuming liability remains with the accommodation provider, returns will still be required.
- An alternative approach might be for the local authority to charge a visitor levy directly on the accommodation provider (based on say, on prior year visitor occupancy with an annual return to adjust the charge to actual number of visitors for the year). The provider would choose whether to pass it on directly to the visitor and incur the administrative costs of so doing. To the extent the business chooses not to do so, and saves the related administrative costs, the direct link to the visitor would be undermined but the additional revenue objective would be met.
- Collection of the levy from accommodation providers as part of a statutory licensing scheme would reduce or eliminate the administrative costs for business by removing the need for collection, payment and returns but it also removes the direct charge to the visitor. It would however meet the second objective of generating additional revenue.
- Exploring whether the reporting requirements for the levy could be combined with any other reporting to reduce the number of returns for business owners. (There may be scope in the future

with the introduction of the single customer account for direct reporting via that account but that functionality is unlikely to be available in the short or medium term.)

Other forms of alternative indirect visitor charges such as charging a higher (seasonal) rate for existing paid-for services, such as parking, entertainment venues or catering in areas with high visitor numbers might be evaluated against the objectives.

**6.2 Question 6. When should the levy be collected as part of the booking process?**

The most appropriate collection point in practical terms is likely to be the point of payment. Depending on the point at which liability to the tax arises on the accommodation provider, where payment is in advance, accommodation providers would need to be empowered to refund the levy along with any other refundable payment if the accommodation is not actually taken up?

**6.3 Question 7. Do you agree or disagree that ultimate responsibility be on the visitor accommodation providers for collection and payment of the levy to the tax authority?**

Given the stated intent is for a direct charge on the visitor, we agree this is a practical approach for the reasons above at 6.1 but, as we note also, it is important to consider ways of structuring the levy to minimise administrative burdens on business as far as possible.

**7 Question 8 Do you agree or disagree that all visitor stays within commercially let visitor accommodation should be considered within scope of the levy (unless otherwise exempted)?**

7.1 Including within scope all visitor stays – including for example business trips - (subject to the exemptions considered below) appears consistent with the objective to ensure a more even share of costs to fund local services between resident populations and visitors if it is the case that the costs that are sought to be shared do not vary significantly depending on the reason for visiting (eg business or tourism). In addition, as the consultation notes, deciding liability on the basis of the reason for a visit would add significant complexity and enforcement issues. However, there may be some behavioural effect depending on the level at which the levy is set for example, a visitor may choose instead to stay with friends or family who will not be subject to the levy or perhaps attend meetings ‘virtually’. In general, for any given level of target revenue, one can expect fewer distortionary effects, and perhaps also arguments around fairness, with a ‘broad base, low rate’ levy than one with a narrow base (because of exemptions) and correspondingly higher rates: this may be a decisive consideration in considering exemptions based on the purpose of visits.

**8 Exemptions Questions 9 -12**

**Question 9. Do you agree or disagree with the following proposed exemptions:**

**a. Stays within Roma and Gypsy Traveller sites (where transient stays are inherent to the culture)**

**b. Stays organised by local authorities undertaking their statutory functions (such as duties undertaken as part of The Housing (Wales) Act 2014)(eg provision of temporary accommodation for those who are homeless).**



**c. Stays organised through the Home Office in undertaking their statutory functions relating to asylum claims and temporary housing of refugees**

**d. Stays within accommodation provided by charities and non-profit organisations on a non-commercial basis (eg for the purposes of shelter, respite or refuge- homeless shelters and refuges)**

**10. Are there any other exemptions that we should consider? Please select all that you think should apply:**

- **Children and young people**
- **Overnight stays where the purpose of the visit is for medical treatment**
- **Disabled people**

**Other exemption**

**11. Do you agree or disagree that any exemptions should be established within a mandatory framework set out in legislation?**

**12. As set out in the consultation we believe that where exemptions are applied, they should be done so across all local authorities in a consistent manner. However, there may be circumstances we are not aware of where discretionary exemption powers for a local authority may be required. Should local authorities have discretionary exemption powers?**

- 8.1 Are the proposed exemptions at question 9 a)-d) exemptions or outside the scope of the proposed levy because they are not 'commercially' let or the sites are simply not within scope? This will depend upon the definition of the scope that is adopted. 'Commercially' is defined in the consultation as '*Advertised and made available in exchange for consideration as a part of a visitor accommodation business*'. It is not clear that a)-d) are 'advertised' in a normal commercial sense. However clarifying that these categories are outside the scope or exempt within the national framework is helpful in any case.
- 8.2 In considering any exemption, consideration needs to be given to the practicalities as accommodation providers will have to gather data they do not currently collect. Exemptions inevitably add complexity and so must be easily and objectively identified (and not open to manipulation) and evidenced. Consideration is required of the nature of the supporting evidence, how can this be produced without placing onerous burdens on accommodation providers nor intruding unnecessarily on the privacy of individuals, how data can be collected (subject to compliance with GDPR) and processed for the purposes of determining liability, auditing and post implementation routine evaluation, also how to deal with disputes in relation to application or otherwise.
- 8.3 Whether an exemption is appropriate may depend on the basis of the charge, for example exemptions that apply to a 'type' of person may work better under a 'per person' levy rather than a 'per room' levy.
- 8.4 We agree that any exemptions should be established within a mandatory national framework and set out in primary legislation.
- 8.5 As the example of the city of Geneva's provision of public transport vouchers to levy-payers (see above) suggests, it may be easier to 'sugar the pill' of the levy or vary its overall impact against its objectives by other actions such as fine-tuning what the money raised is spent on, than by introducing exemptions which complicate the operation of the revenue raising activity and affect the perceptions of those who pay it in sometimes unintended ways, as well as potentially being very expensive in terms of revenue foregone. For

example, not all young people are financially needy, yet all would benefit from an exemption for the young generally. Some people with disabilities might be more concerned about issues around access and adaptability of the accommodation than an exemption that might represent a very modest part of their travel costs.

- 8.6 We could see more of a case for exemptions for 'deserving' groups such as school trips - that might assist cash-strapped schools for example - which would only click in where there were significant numbers so the aggregate amount of the levy was more material, but such targeted exemptions would not appear to be relevant to the vast majority of bookings. It would be essential to publicise such exemptions in the communities to which they relate.

## 9 Accommodation in scope

**Question 13. To ensure fairness, it is proposed that all commercially let visitor accommodation is considered within scope of this levy. Do you agree or disagree with this?**

**Question 14. Should there be any commercially let visitor accommodation that is exempt from charging and collecting a visitor levy?**

- 9.1 The definition of visitor accommodation adopted in the consultation is:

*'A room, group of rooms or building, plot of land for siting of temporary accommodation (caravan, motorhome, tent or other temporary structure), houseboat (narrow boat), where someone might stay on a temporary basis and is not their fixed address.'*

*'Commercially' is defined as 'Advertised and made available in exchange for consideration as a part of a visitor accommodation business'.*

- 9.2 A grey area where compliance may be challenging is second/holiday homes/static caravans that are let out when not used by their owners. Informal lets may not be advertised commercially, owners may receive some financial compensation from family or friends that use the accommodation as a result of informal networks or via personal social media accounts. We note the research<sup>2</sup> from Bangor University: *Comparative Analysis of the Tax Systems Faced by the Visitor Economies in Selected Countries* indicating that Wales has the highest proportion of bed-places in campsites or caravan sites relative to its European counterparts.
- 9.3 Other categories to consider are timeshare properties, temporary stays in marinas, colleges and schools used for holiday/leisure accommodation and cruise ships docking overnight.
- 9.4 The use of existing definitions adds clarity and helps to achieve a simpler tax system. Creating multiple definitions leads to misunderstandings. We therefore suggest drawing upon existing tax definitions as far as possible such as those used for the purposes of commercial letting of furnished holiday accommodation (Chapter 6 ITTOIA 2005 section 322 et seq) or for council tax. Some of the categories of definitions of residential property for Land Transaction Tax may also be useful.
- 9.5 The £1,000 property and trading allowances<sup>3</sup> limit might provide a basis to decide what is classed as 'commercial.'

<sup>2</sup> <https://gov.wales/comparative-analysis-tax-systems-faced-visitor-economies-selected-countries>

<sup>3</sup> ITTOIA 2005 sections 783AD, 783B - S783BQ

- 9.6 Hotels used for large conferences may have specific issues due to room block bookings. Details of guests may not be available at time of booking.
- 9.7 Despite our scepticism about exemptions generally, as we note above, we can see the merit of exemptions for categories of accommodation would likely generally fall outside scope of the definition in any event, in which case the exemption is largely a helpful clarification and removes uncertainty which potentially large numbers of people might face, at little revenue cost.

## 10 Statutory licensing

**Question 15. Should there be a comprehensive list of visitor accommodation providers available to the tax authority to support the administration of a levy, rather than there being no registration requirements in place?**

**16. Would utilising the proposed statutory licensing scheme (as opposed to creating a bespoke tax registration scheme) provide an appropriate means by which a local authority could ensure that it has a comprehensive list of visitor accommodation providers in its area and that this information would support the operation of a visitor levy?**

- 10.1 Ensuring consistent compliance is clearly an important component. This will necessitate a balanced consideration of the cost imposed on both the ‘taxpayer’ and the administering authority. Poor compliance means inequity between compliant and non-compliant businesses, produces distortions in the market, potential loss of revenues for the local authorities and governance reputational damage. Therefore we agree there should be a comprehensive list of visitor accommodation providers available to the tax authority to support the administration of a levy. One area of focus is likely to be second homes let full-time or let occasionally via a platform provider.
- 10.2 Linking a statutory licensing scheme to the administration of the levy such that those who must obtain a licence are the same persons who are liable for charging and collection of the levy has clear administrative and potentially wider tax compliance benefits. That might include a form of conditionality in that in order to obtain and retain a licence the accommodation provider would have to commit to compliance with the levy subject to there being adequate safeguards to ensure that financial livelihoods are not put at risk. We recognise that current data held for business rates may not be comprehensive because there is no obligation to notify. However, as part of the move to more frequent valuations for business rates and to provide accurate rating lists, the Welsh government’s consultation on reforming non-domestic rates<sup>4</sup> in Wales proposes a new legal duty on ratepayers (including those eligible for full business rates relief) to supply certain types of information to the Valuation Office Agency (VOA). The obligation, if introduced, will be supported by a compliance regime. The extent to which this new obligation might assist in providing a comprehensive list of visitor accommodation for local authorities and the administrative burdens involved in any overlap should be evaluated.
- 10.3 That said, if compulsory registration is adopted as part of the means of enforcing the levy, it is essential that the registration process be as straightforward as possible, and not, for example, dependent on waiting for some kind of ‘approval’ – otherwise the risk is that those who find difficulty in registering will in effect be encouraged into wider and wider non-compliance.

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<sup>4</sup> <https://gov.wales/reforming-non-domestic-rates-wales>

## 11 Rate type

**Question 17. Which of the following do you think would be the most appropriate type of rate for this levy?**

- a. A per night, per room/accommodation**
- b. A per person, per night**
- c. A percentage of the accommodation charge**
- d. A blended model of the above**

11.1 We agree that neither the flat rate per room nor the flat rate per person per night is very progressive (though, it should be said, a flat rate per room is on balance probably more progressive than a flat rate per person). However, we think progressivity should sensibly apply to the tax system as whole; since principles can conflict not every principle can be carried through totally to every tax. On the basis that the design of a visitor levy is such that it is borne, in the main, by people from outside Wales and will, in any event, constitute a small charge applied to discretionary expenditure, it should not materially adversely affect income distribution in Wales. There is a question as to whether the aim is to seek a contribution from any actual visitor or whether there is also a desire to encourage optimum use of available accommodation. If the latter then the levy would need to take into account expected occupancy with the charge potentially on capacity rather than actual occupation. The wider point is that the policy underpinning the levy needs to be clearly articulated.

11.2 **Flat rate per room:** In terms of the practical aspects, a flat rate charge per room is easy to understand for accommodation users, although in terms of self-catering accommodation whether a room where a sofa that can convert into bed should be included may complicate matters. There would be fewer record-keeping requirements for accommodation providers and local authorities would probably find it easy to check bedroom numbers although there would be no means of easily checking whether a room containing a sofa - bed was being used as a bedroom.

**Flat rate per person per night** – for accommodation users, this would probably also be easy to understand, although provision of evidence for children's ages might be problematic in some cases, if there was some sort of exemption for children. Accommodation providers will have to ensure that they have mechanisms for recording and obtaining evidence to prove (for compliance purposes) how many people have stayed in the accommodation each night. Although this raises clear practical issues with self-catering accommodation, where the provider may be entirely reliant on self-declaration by the user(s), there are also likely to be issues with hotels, particularly where rooms are booked on a price per room basis, rather than number of guests. Moreover, if there was an exemption for children up to a certain age, evidence of children's ages would be required. Local authorities would have to ensure they have the ability to receive and process data provided by accommodation providers, match this with revenues and means of verifying the data provided.

A flat rate per person has the advantage of making it easier to include as part of the cost of booking on a booking platform although cancellations and voids would need to be considered.

**A percentage of total accommodation charge** – for accommodation users, provided there is transparency about the levy (displayed separately on receipts, price lists, online booking platforms in a similar manner to VAT) and how the percentage is calculated, we think this should be fairly simple to understand and would take

into account seasonal variation. However, single occupancies could be seen as more heavily penalised. There may be a risk of manipulation in terms of splitting invoices between different components.

Accommodation providers will need to be clear as to what part of their price the percentage has to be applied (accommodation only / meals / other services etc. – this is an issue which they do not generally have for VAT, which typically applies to all such costs), and, if they are a VAT-registered business, how VAT applies to the levy. Local authorities will need to understand these same points in relation to accommodation providers in their areas.

Charging pro rata to accommodation costs obviously offers a way of obtaining more revenue from those staying in higher-cost accommodation. This may be at the cost of some complexity (notably around the issue of what is included and what excluded from the price for the purposes of calculating the levy); and slightly complicating the message that the purpose of the levy is to defray costs such as those of congestion, which may not noticeably vary with the price of accommodation.

**Blended model** – we agree that a blended model, while offering flexibility, is the most complex and less easy to understand for visitors and providers.

**11.3 Question 18. We propose that the same type of rate would apply across all local authorities that use a visitor levy rather than this being locally determined.**

**Do you agree or disagree with this approach?**

**Question 19. Are there any additional impacts we should consider based on the type of rate chosen (for example, impacts regarding: resourcing and staff time, financial costs, other administrative costs, time and costs required to update any digital systems, seasonal price changes, and any other impacts we should consider)?**

11.4 As noted above, for consistency, transparency and ease of operation, we think it would be best if the framework of the levy was set at a national level. We think that this should include the basis of the charge. As a wider point, it is important that any tax commands the respect and trust of taxpayers in order to get their support. Those affected by a tax are less likely to trust it if it varies substantially and provides no discernible benefit to the visitor. A consistent national model is more likely to be accepted, and additionally, will be easier for politicians to explain.

## **12 Chargeable rate**

**Question 20. When setting a rate, what factors and evidence should be considered to ensure the levy rate is appropriate? This could include for example price and income elasticities, seasonal demand (and therefore price changes) and wider economic circumstances.**

**Question 21. When determining what rate (or rates) to set, should a rate proportional to accommodation cost (or type/quality) be considered?**

**Question 22. What is the appropriate number of consecutive nights after which the levy would not apply to any subsequent nights?**

**a. 5 nights**

**b. 7 nights****c. 14 nights****d. Other number**

We do not normally comment on the setting of rates of taxes. Factors relevant to the choice of maximum number of consecutive nights to which the levy would apply include how common such stays are; and what the reason for them is – we do not have much evidence on either of those points.

We note though that discussions are underway with the UK government about the proposed VAT treatment of the levy subject to finalised proposals. We observe that if VAT will apply to the levy it may be perceived as undermining what is intended to be a local tax for Wales as VAT revenues flow to the UK government. It would also lead to an undesirable result of a ‘tax on tax’, a feature already present for Land Transaction Tax (LTT) as any VAT chargeable on an LTT transaction constitutes chargeable consideration. We recognise that the VAT consequences are not within the control of the Welsh Government, however it may affect how the levy is viewed and levels of acceptance.

**23. Should the same rate or rates apply in each local authority area rather than this being locally determined?****24. If rate setting were to be determined locally should the same rate apply regardless of location within the local authority area?****25. If rate setting were to be determined locally, should there be a cap or bandwidth set for the level that a rate can be charged?**

See 5.6 above: Local authorities having the option to set the level of the rate could have advantages because the rate can reflect local circumstances and needs without compromising the wider benefits offered by a national framework. National level guidance could assist local authorities in providing parameters to determine the best rate. One concern is whether local authorities have access to sufficient data or expertise to ensure the appropriate rate can be properly evaluated and justified. Options to explore might include the ability for local authorities with similar tourism characteristics to band together and impose the same rate or, there could be a national default rate that local authorities may choose to vary within defined parameters as those affected by the levy are less likely to trust it if it varies substantially.

**26. How often should any proposed visitor levy rate be reviewed?****a. Annually****b. Every 2 years****c. Every 3 years****d. Every 5 years****e. Other**

We are strongly in favour of post implementation evaluation for not only the rate but also in terms of how much the levy has raised and cost, and whether it has achieved its aims. Both wider evaluation and a review

of the rate (whether set centrally or locally) will depend to a large extent on there being sufficient data for proper evaluation.

### **13 Record keeping and submitting returns**

**Question 27. We have outlined under Table 1 the potential record keeping requirements for businesses based on different rate types. To help us understand in more detail potential record keeping requirements for businesses, please could you outline what information you think would be required to be collected and retained by visitor accommodation providers for:**

- a. A per night per room/accommodation levy**
- b. A per person, per night levy**
- c. A percentage of the accommodation charge levy**

**Question 28. We wish to understand the impact of collecting and recording the information identified under Table 1 (and any other information you identified in response to the previous question) to help make a self-assessment of the tax liability.**

**What would be the resource impacts of collecting this information (staff time and costs involved in making changes to any processes and systems)?**

**a. How could this data be collected (is there an existing process or system that could be used as part of the booking process)?**

**29. How frequently should visitor accommodation providers be required to submit self-assessed tax returns for a visitor levy, noting that it may be possible to allow more frequent submission if that suited the business?**

- a. Monthly**
- b. Quarterly**
- c. Bi-Annually**
- d. Annually**

13.1 Although accommodation providers will produce annual accounts, an annual basis may run the risk of accommodation providers losing records or the money collected. There is a balance to be achieved between compliance obligations and effectiveness of the process. Quarterly digital returns might provide a sensible balance, for both businesses and local authorities although we recognise that the seasonal nature of visitor accommodation. However, this would align with other separate reporting obligations that operate, or will operate, on a quarterly basis, such as VAT and MTD for income tax where the business is a landlord, and might make reporting less of a burden where there are significant numbers of stays to report. For larger businesses, a monthly option might be preferable.

13.2 There will be a need to provide a paper alternative for businesses who are unable to access the service online<sup>5</sup>.

## 14 Enforcement and compliance

**Question 30. To ensure compliance with the levy, it is likely the following enforcement powers would be required for the tax authority. Do you agree or disagree with the powers listed?**

**a. Civil information and inspection powers, including those to enquire into tax returns, audit records retained by visitor accommodation providers, and inspect premises**

**b. Civil powers to charge interest and penalties, and to recover unpaid tax, where a visitor accommodation provider fails to undertake their statutory obligations relating to the visitor levy**

**c. Discretionary debt relief powers, for example the ability to reduce a debt to nil or to not issue a penalty in certain circumstances**

14.1 We agree these powers seem appropriate. However in considering the detailed framework it is important to strike the right balance between a system of proportionate and flexible sanctions, and one that helps accommodation providers to meet their obligations particularly when the system is first introduced. A robust awareness-raising campaign will need to include the possibility of penalties for non-compliance and their level.

In Appendix One we set out the CIOT's 10 principles against which any proposed powers, sanctions and safeguards can be compared. These principles apply equally in relation to a levy administered by local authorities or potentially by the Welsh Revenue Authority providing a service to local authorities should that option be pursued.

It is important that there is effective oversight of the exercise of compliance powers to ensure consistency and thereby build and maintain trust.

14.2 Operational capability, capacity and related funding will be needed to manage these powers otherwise the levy will be brought into disrepute. Local authorities are likely to need extra resource and training of staff, as well as IT systems to ensure they can enforce the visitor levy effectively and consistently. There needs to be clarity about the funding and where it comes from.

## 15 Use of revenues

**Question 31. How should revenues raised by a visitor levy be spent?**

**Question 32. Should the revenues raised by a visitor levy be hypothecated (ring-fenced)?**

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<sup>5</sup> See *LH Bishop Electrical Co Ltd and Others v HMRC Commissioners* [2013] UKFTT 522 (TC)

Three of the appellants ran their own small businesses. Two of the appellants experienced disabilities which made it excessively difficult or impossible for them to use a computer, and a third lived in a remote area of the country where broadband access was absent or unreliable. All three were of an age which made learning how to use a computer particularly difficult and they would have had to incur the cost of instructing an agent. The judge held that the regulations which required online filing of VAT returns without providing exemptions for older people, those with disabilities or who lived in parts of the country which were too remote for broadband access, were in breach of the appellants' human rights and were unlawful under the EU Treaty.



- 15.1 These questions are directed at both the revenues generated by the visitor levy itself and any revenue generated from the associated penalty regime. In relation to the latter, we think it is important that the level of penalties reflects the purpose of deterring non-compliance, rather than serving as a revenue-raising tool.
- 15.2 We agree that the optimum outcome for directing revenues will vary by destination/area. Therefore we think it would be advisable not to constrain decisions about how revenues are spent. We recognise that politically a levy may be better received and accepted if revenues raised are set aside (hypothecated) to support the tourism sector. It may also have benefits in terms of compliance and behaviour. There could be therefore a minimum proportion to be spent on tourism. However, this needs to be considered in the context of the aims of the levy including to ensure a more even share of costs to fund local services and infrastructure. Tourism costs arise in relation to peripheral infrastructure such as roads so defining how any hypothecated money can be used will be complex. An over-prescriptive approach could cause issues in years when the levy generates either unexpectedly low revenues or unexpectedly high amounts.

## 16 Transparency and engagement

**33. What local engagement should take place when deciding how revenues are allocated?**

**34. Should there be a separate annual report detailing the revenues collected and benefits of a visitor levy at a local level?**

**35. We propose that reporting arrangements for local authorities would be set out within the tax framework to ensure consistency in approach across local authorities. Do you agree with this approach?**

**36. What information should be available for visitors regarding the levy?**

- 16.1 We agree that the reporting arrangements should be set within the national framework for consistency and transparency. Information about the levy should be available at the time of payment and separately itemised on pricing lists perhaps with a link to the local authority website with the rationale for imposing the levy and its benefits.

## 17 Implementation timescales

**Question 37. We propose that local authorities would be able to decide by way of local governance processes whether to implement a visitor levy. Do you agree or disagree with this approach?**

- **Should local consultation take place prior to the introduction of a visitor levy?**

- 17.1 It is important that there is local consultation beforehand, to ensure buy-in from local stakeholders. As the earlier informal consultation has demonstrated, the idea of a visitor levy can generate strong views both in favour and against it. Consultation would allow for setting out the evidence base, establish whether there is local support and allow local businesses and residents a voice in the introduction of the levy in their area.

- 17.2 **Question 38. What transitional arrangements should apply for accommodation that has been booked in advance of a local authority implementing a visitor levy?**

- **How could any transitional arrangements be designed to avoid deliberate tax avoidance or evasion?**

One option would be that, in order to fall within the charge, the date of the stay would have to be on or after the date of introduction of (or change to in the case of a rate change) the visitor levy, but in addition, the accommodation must have been booked and paid for on or after a transitional date, say one year beforehand. So, for example, if a local authority planned to introduce a visitor levy on 1 April 2026, this would apply to any overnight stays in commercially let accommodation on or after 1 April 2026, provided they had been booked and paid for on or after 1 April 2025. A date of one year might be appropriate, to take into account the need for consultation around the levy and the use of advance booking in the case of conferences etc.

One consideration in this context might be the treatment of block bookings of rooms by tour / holiday operators, as they may book (and pay for) accommodation more than one year in advance, but there may not be a named holiday-maker / tourist until much closer to the date of stay. So, careful consideration might need to be given as to what constitutes 'booking and payment' for the purposes of transitional arrangements.

Consideration will also have to be given as to how to treat visitors who have booked but not paid in advance and those who have booked and paid only a deposit, rather than in full, in advance.

In order to ensure consistency and certainty, transitional arrangements should be set out in a national framework.

Consideration might be given to extending the current devolved taxes general anti-avoidance rule<sup>6</sup> to the visitor levy to counteract avoidance.

## **18 Operational delivery models**

### **Question 39. How best can the proposed visitor levy be implemented and administered?**

#### **a. Fully local implementation and administration**

#### **b. Fully centralised implementation and administration**

#### **c. Mixture of local and central implementation and administration**

The benefits and disbenefits are comprehensively explored in the consultation. On balance our preference leans towards option c, that is, a mixture of local and central implementation and administration that combines a national framework for consistency and cost-effective centralised IT systems and support with the opportunity for partnership working (both centrally and locally and between local authorities) and the benefits of local delivery reflecting local knowledge to promote better engagement.

It would be helpful to explore the benefits of a central compliance facility provided to local authorities implementing the levy, perhaps by the Welsh Revenue Authority or by a designated council.

Centralised data collection would facilitate effective post-implementation evaluation.

## **19 Question 45 We have asked a number of specific questions through this consultation. If you have any related issues which have not been specifically addressed, please use this space to report them**

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<sup>6</sup> Tax Collection and Management (Wales) Act 2016 Part 3A

- 19.1 The consultation indicates that following the consultation, *'the careful process of developing and implementing any proposals for a visitor levy would take some years'* and that next steps will be communicated following full consideration of the consultation responses. A time line for implementation of final proposals will be needed for businesses in due course to provide certainty.
- 19.2 We note the [Evidence review of elasticities relevant to a visitor levy in Wales](#) carried out by Bangor University points to a lack of evidence on the price elasticity of supply. Is the intention to carry out further evidential studies - including perhaps qualitative evidence from individuals in terms of how a levy might affect their decisions on whether to holiday in Wales or choose alternative destinations across the border?

## **20 Acknowledgement of submission**

- 20.1 We would be grateful if you could acknowledge safe receipt of this submission, and ensure that the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the consultation is published.

The Chartered Institute of Taxation

11 December 2022

## HMRC POWERS & SAFEGUARDS

### **The CIOT's 10 principles against which HMRC's use of its powers<sup>1</sup> and safeguards and any proposed powers and safeguards can be compared**

1. Consistent – powers and safeguards should be applied consistently across HMRC, taxes and taxpayers.
2. Fair – powers should help build trust in the tax system and achieve a fair balance between the powers of the tax authority and the rights of taxpayers<sup>2</sup>, whilst being effective in identifying and dealing with non-compliance.
3. Proportionate – powers should be proportionate to the mischief they are introduced to tackle, used in a fair and even-handed way and are not abused.
4. Evidence based – decisions about when and how to use a power or operate a safeguard must be based on the available facts and evidence.
5. Be targeted appropriately and used for the purpose they were introduced for - the policy rationale for the power or safeguard should be clearly articulated at the outset and later deviations only considered exceptionally and after consultation.
6. Certain – there should be certainty about when and how a power or safeguards will and can be used; it should be set out in statute, with easily accessible and understandable guidance to supplement it.
7. Simple - so the rules can be more easily understood by taxpayers, agents and HMRC officers.
8. Transparent and communicated effectively – so taxpayers, agents and HMRC officers can understand and are aware of what taxpayers need to do to comply with their obligations or to challenge HMRC decisions.
9. Regularly reviewed – powers and safeguards should be reviewed regularly to ensure they are up to date and being used appropriately.
10. Access to justice – powers and safeguards should be subject to appropriate oversight, including the right for taxpayers to challenge HMRC decisions via statutory review, tribunal appeal etc.

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<sup>1</sup> HMRC's powers are wide-ranging and cover the ability to undertake compliance checks, obtain information and documents, make decisions, raise assessments, resolve tax disputes and apply interest and penalties. As well as civil powers, HMRC have powers to prosecute taxpayers where criminal behaviour is suspected but criminal law powers are outside the scope of this document.

<sup>2</sup> Fairness includes being inclusive. Taxpayers' rights include their rights to challenge HMRC decisions (e.g. via statutory review, tribunal appeal etc).