

**TAFLEN BENDERFYNIAD AELOD CABINET
CABINET MEMBER'S DECISION NOTICE**

PWNC / SUBJECT:

Ymgynghoriad Llywodraeth Cymru ar Eithriadau i bremiwm y Dreth Gyngor ar Gartrefi Gwag Hirdymor ac Ail Gartrefi yng Nghymru.

Welsh Government Consultation on Exemptions to the Council Tax Premium on Long-Term Empty Homes and Second Homes in Wales.

AELOD CABINET / CABINET MEMBER:

Y Cyngorydd Peredur Jenkins / *Councillor Peredur Jenkins*

Y Cyngorydd Ioan Thomas / *Councillor Ioan Thomas*

PENDERFYNIAD / DECISION:

Cyflwyno'r dogfennau yn yr Atodiad fel ymateb swyddogol y Cyngor i'r ymgynghoriad.

To present the documents contained in the Appendix as the Council's official response to the consultation.

RHESYMAU DROS Y PENDERFYNIAD / REASONS FOR THE DECISION:

Mae Deddf Tai (Cymru) 2014 wedi ychwanegu darpariaethau i Ddeddf Cyllid Llywodraeth Leol 1992 er mwyn rhoi'r hawl i Awdurdodau Lleol yng Nghymru godi lefel uwch o Dreth Cyngor, o hyd at 100% ychwanegol, ar:

- Eiddo sydd wedi bod yn wag am dymor hir (Adran 12A Deddf 1992)
- Eiddo ble mae rhywun yn trigo ynddo'n achlysurol yn unig (h.y. ail gartrefi) (Adran 12B Deddf 1992).

Mater i awdurdodau lleol unigol yw penderfynu os ydynt am fanteisio ar y pwerau hyn i godi premiwm o'r fath, a disgwylir iddynt fod â hawl i wneud hynny o Ebrill 2017 ymlaen. Nid yw Cyngor Gwynedd wedi penderfynu eto os yw am weithredu premiwm ar ail gartrefi a cartrefi gwag hirdymor – bydd angen penderfyniad ffurfiol gan y Cyngor llawn i wneud hynny.

Fodd bynnag, mae rhai amgylchiadau yn codi lle na fyddai'n briodol codi premiwm ar y mathau hyn o eiddo hyd yn oed os bydd awdurdod lleol yn penderfynu ar bolisi o godi premiwm. Pwrpas yr ymgynghoriad gyfredol yw gofyn am farn ar gynigion i Weinidogion Cymru eithrio rhai categorïau o anheddau rhag y Dreth Gyngor ychwanegol ar Gartrefi Gwag Hirdymor neu Ail Gartrefi yng Nghymru.

Mae'r ymgynghoriad cyfredol yn ddau ymgynghoriad ar wahân mewn gwirionedd – un ar eithriadau ar gyfer Ail Gartrefi a'r llall ar eithriadau ar gyfer Cartrefi Gwag Hirdymor – er fod nifer o'r cwestiynau yn gyffredin i'r ddau.

Wrth baratoi ymateb Cyngor Gwynedd i'r ddau ymgynghoriad, rydym wedi ystyried ffactorau lleol penodol i'r ardal Gwynedd, yn ogystal ag ymarferoldeb gweithredu

rhai o'r cynigion sydd gerbron.

The Housing Act (Wales) 2014 has added provisions to the Local Government Finance Act 1992 to give powers to local authorities in Wales to charge a higher level of Council Tax, of up to an additional 100%, on:

- *Long-term empty dwellings (Section 12A of the 1992 Act)*
- *Dwellings occupied periodically (i.e. second homes) (Section 12B of the 1992 Act).*

It is up to individual local authorities to decide if they want to take advantage of such powers to charge a premium, and are expected to be entitled to do so from April 2017 onwards. Gwynedd Council has not yet decided if it is to implement a premium on long-term empty homes and second homes – this will require a formal decision by the full Council.

However, there are some circumstances where it would not be appropriate to raise the premium on these types of property even if a local authority decides on a policy of raising a premium. The purpose of the current consultation is to seek views on proposals for Welsh Ministers to exempt certain categories of properties from the additional Council Tax for Long-Term Empty Homes or Second Homes in Wales.

The current consultation in actually two separate consultations – one on exemptions for Long-Term Empty Homes and the other on exemptions for Second Homes – although many of the questions are common to both.

In preparing Gwynedd Council's response to the two consultations, we have considered local factors specific to the Gwynedd area, as well as the practicality of implementing some of the proposals.

YSTYRIAETHAU PERTHNASOL / RELEVANT CONSIDERATIONS:

Nid ymgynghoriad ar gyflwyno premiwm Treth Cyngor yw hwn. Cynhaliwyd yr ymgynghoriad hwnnw yn ystod 2013, a cyflwynodd Cyngor Gwynedd dystiolaeth cynhwysfawr bryd hynny yn amlinellu'r effaith y mae ail gartrefi yn ei gael mewn cymunedau lleol, a sut y gallai caniatáu pwerau disgrisiwn i awdurdodau lleol i gynyddu'r Dreth Cyngor ein galluogi i warchod cymunedau a effeithir. Mae'r pwerau disgrisiwn hyn bellach ar eu ffordd yn sgil Deddf Tai (Cymru) 2014.

Ar ôl cyflwyno'r pwerau newydd hyn, mae Gweinidogion Cymru wedi adnabod fod rhai achosion penodol lle na fyddai'n briodol codi premiwm. Mae'r amgylchiadau penodol a amlinellir yn y dogfennau fel a ganlyn:

Yn yr ymgynghoriad ar Gartrefi Gwag Hirdymor:

Eiddo Gwag a heb ei Ddodrefnu i Raddau Helaeth

Eiddo Gwag sy'n destun Gwaith Atgyweirio Mawr

Eiddo sy'n wag yn sgil marwolaeth

Personél y Lluoedd Arfog sy'n Byw yn Llety'r Lluoedd Arfog

Anecsau Gwag

Eiddo sy'n cael ei farchnata i'w werthu neu ei osod.

Yn yr ymgynghoriad ar Ail Gartrefi:

Eiddo sy'n wag yn sgil marwolaeth

Anecs

Eiddo sy'n cael ei farchnata i'w werthu neu ei osod.

Anheddau cysylltiedig â gwaith

Carafanau a chychod

Cartrefi tymhorol

Mae hyn yn golygu na fydd eithriadau i'r premiwm yn destun disgrisiwn lleol, ond yn hytrach byddant wedi cael eu dynodi gan y Gweinidog.

Mae Llywodraeth Cymru wedi gosod cyfres o gwestiynau yn y dogfennau ymgynghori, ac mae'r dogfennau a ddarparwyd ganddynt er mwyn cyflwyno ymatebion wedi eu cynnwys fel atodiad i'r daflen yma. Lle'n bosib, mae'r atebion yn ymhelaethu ar y rhesymau y tu ôl iddynt yng nghyd-destun eu heffaith ar drigolion Gwynedd, y Strategaeth Dai a'r sylfaen drethiannol.

Yn y mwyafrif o achosion, rydym yn cytuno â'r hyn a gynigir gan Lywodraeth Cymru, ond gwelir ein bod yn anghytuno â'r bwriad o ganiatáu eithriad os bydd eiddo ar werth, gan ein bod o'r farn y byddai hyn yn cyflwyno ffordd o osgoi'r premiwm drwy gadw eiddo ar y farchnad am gyfnod estynedig, heb wir fwriad o'i waredu a'i ddychwelyd i'r stoc dai lleol.

This is not a consultation on the introduction of a Council Tax premium. That consultation took place during 2013 and Gwynedd Council submitted comprehensive evidence at that time outlining the impact that second homes are having on local communities, and how allowing local authorities' discretionary powers could allow us to increase the Council Tax to protect effected communities. These discretionary powers are now on their way as a result of the Housing (Wales) Act 2014.

After the introduction of these new powers, the Welsh Ministers have identified some specific cases where it would not be appropriate to raise the premium. The specific circumstances outlined in the documents are as follows:

In the consultation on Long-Term Empty Homes:

Empty and Substantially Unfurnished Properties

Empty Properties Undergoing Major Repair Work

Properties unoccupied following a death

Armed Forces Personnel living in Armed Forces Accommodation

Unoccupied Annexes

Property being marketed for sale or let

In the consultation on Second Homes:

Properties unoccupied following a death

Annexe

Property being marketed for sale or let

Job-related Dwellings

Caravans and boats

Seasonal homes

This means that exceptions to the premium would not be subject to local discretion, but rather an issue that will be prescribed by the Minister.

The Welsh Government has set out a series of questions in the consultation documents, and the documents that were provided for responding are included as an appendix to this notice. Where possible, the answers elaborate on the reasons behind them in the context of their impact on the people of Gwynedd, the Housing Strategy and the tax base.

In most cases, we agree with the Welsh Government's proposals, but we disagree with the intention to grant an exemption if the property is for sale, because we believe that this would provide a loophole for avoiding the premium by keeping property on the market for an extended period, without any real intention of disposing of it and returning it to the local housing stock.

BARN YR AELOD LLEOL / VIEW OF LOCAL MEMBER:

Nid yw hwn yn fater lleol.

This is not a local matter.

BARN Y SWYDDOGION STATUDOL / VIEWS OF STATUTORY OFFICERS:

1. Y Prif Weithredwr / Chief Executive:
Dim i'w ychwanegu / *Nothing to add.*
2. Swyddog Monitro / Monitoring Officer:
Dim sylwadau i'w hychwanegu o safbwynt priodoldeb / *Nothing to add from a propriety perspective.*
3. Prif Swyddog Cyllid / Chief Finance Officer:

Rwyf wedi cydweithio gyda'r Aelodau Cabinet i baratoi'r daflen yma ac rwy'n cadarnhau cywirdeb y cynnwys.

I have worked with the Cabinet Members in preparing this notice and can confirm the accuracy of its content.

LLOFNOD / SIGNED:

DYDDIAD / DATE:



14/05/15.

14/5/15.

Ymgynghoriad ynghylch Cynigion i Eithrio Rhai Categoriâu o Anheddau rhag Premiwm y Dreth Gyngor ar Gartrefi Gwag Hirdymor yng Nghymru

Ffurflen Ymateb i'r Ymgynghoriad

Eich enw: Cyngorydd Peredur Jenkins / Cyngorydd Ioan Thomas

Sefydliad (os yw'n berthnasol): Cyngor Gwynedd

e-bost/rhif ffôn: trethcyngor@gwynedd.gov.uk / 01766 771000

Eich cyfeiriad: Cyngor Gwynedd, Stryd y Jêl, Caernarfon. LL55 1SH

Mae'n bosibl y bydd ymatebion i ymgynghoriadau yn cael eu cyhoeddi, naill ai ar y rhyngwrwyd neu mewn adroddiad. Os byddai'n well gennych inni gadw'ch ymateb yn gyfrinachol, ticiwch yma:

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| C1 | <p>A ddylai'r cyfnod eithrio o 6 mis gael ei gadw ar gyfer anheddau sy'n wag a heb eu dodrefnu i raddau helaeth?</p> <p><i>Dylai o ran ymarferoldeb.</i></p> |
| C2 | <p>Ydych chi'n meddwl bod angen eithriad i'r premiwm ar gyfer eiddo sy'n destun gwaith atgyweirio mawr?</p> <p><i>Credwn fod angen yr eithriad er cysondeb â'r eithriad cyfredol a thegwch o ran gwarchod ymdrechion unigolyn i ddod a tŷ yn ôl i ddefnydd.</i></p> |
| C3 | <p>Os ydych, a yw 18 mis yn gyfnod rhesymol o amser i gwblhau gwaith atgyweirio mawr neu newid i'r adeiladwaith ac adfer defnydd yr eiddo?</p> <p><i>Credwn fod 18 mis o gyfnod yn gyfnod rhesymol o amser i gwblhau y gwaith.</i></p> |
| C4 | <p>A ddylai'r eiddo yma gael ei eithrio rhag y premiwm hyd at 12 mis ar ôl i brofiant neu lythyrau gweinyddu gael eu rhoi?</p> <p><i>Dylai. Credwn ei bod yn rhesymol darparu'r cyfnod ychwanegol yma o ystyried yr amgylchiadau sensitif ac anodd i deulu'r ymadawedig.</i></p> |
| C5 | <p>A ddylai personél y Lluoedd Arfog sy'n berchen eiddo sy'n wag a heb ei ddodrefnu i raddau helaeth gael eu heithrio rhag premiwm y Dreth Gyngor ar gartrefi gwag hirdymor?</p> <p><i>Dylai, gofyn amodau gwaith sy'n eu cadw o'r cartref a'r bwriad yn y pendraw yw dychwelyd.</i></p> |
| C6 | <p>A ddylai fod eithriad ychwanegol i bremiwm y Dreth Gyngor ar gyfer anecs sy'n wag a heb ei ddodrefnu i raddau helaeth ac sy'n cael ei drin fel rhan o'r brif annedd?</p> <p><i>Dylai, lle bu defnydd ohono gan aelodau'r teulu yn unig.</i></p> |

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| C7 | <p>Oes gennych chi unrhyw sylwadau ynghylch cymhwyso a gweinyddu eithriad o'r fath?</p> <p><i>Dylai bod cofnodion yn ddigonol i ganiatáu'r eithriad.</i></p> |
| C8 | <p>A ddylai perchnogion eiddo sy'n cael ei farchnata ar gyfer ei werthu neu ei osod gael eu heithrio rhag premiwm y Dreth Gyngor ar gartrefi gwag hirdymor?</p> <p><i>Na, byddai hyn yn gwbl afresymol.</i></p> <p><i>Er diben trafod petai'r amgylchiad yma wedi ei eithrio : O pa ddyddiad mae'r eithriad i gychwyn? Pa mor ymarferol yw gwirio datganiad a thystiolaeth gyflwynir i eiddo fod ar werth am gyfnod penodol?</i></p> <p><i>Pwy sydd i benderfynu beth yw pris rhesymol? Beth sy'n rhwystro perchennog rhag rhoi eiddo ar werth am bris afresymol?</i></p> |
| C9 | <p>Os felly, pa dystiolaeth y dylid gofyn i berchnogion ei dangos i brofi bod eu heiddo wrthi'n cael ei farchnata ar gyfer ei werthu neu ei osod?</p> <p><i>Credwn na ddylai fod eithriad o'r fath.</i></p> <p><i>Os fyddai eithriad buasai raid i dystiolaeth fod ar ffurf datganiad asiant i gynnwys: Ai'r cwmni oedd yr asiant cyntaf i geisio gwerthu? Pryd roddwyd yr eiddo ar y farchnad? Barn benodol yr asiant a sail i gefnogi'r pris ar y farchnad.</i></p> <p><i>Byddai angen cyfrifoldeb ffurfiol efallai cyfreithiol i'r asiant ddarparu gwybodaeth a hysbysu o newid mewn amgylchiad?</i></p> |
| C10 | <p>Ydych chi'n meddwl bod eithriad rhag y premiwm am 2 flynedd i eiddo sydd wrthi'n cael ei farchnata ar gyfer ei werthu neu ei osod yn gyfnod rhesymol i alluogi'r perchnogion i adfer defnydd yr eiddo?</p> <p><i>Credwn na ddylai fod eithriad o'r fath.</i></p> <p><i>Credwn bod gwir werth i pob eiddo ar y farchnad agored a bod rhai tai ar y farchnad am gyfnod hir oherwydd bod y pris ofynnir yn sylweddol uwch na phris y farchnad.</i></p> <p><i>Os yn ystyried gosod yna gellid dadlau bod 2 flynedd o gyfnod yn ormodol.</i></p> |
| C11 | <p>A fyddai'n fwy priodol rhoi arweiniad i Awdurdodau Lleol ynglŷn â chymhwyso'r eithriad hwn yn hytrach na gosod ei gymhwyso i mewn yn y ddeddfwriaeth?</p> <p><i>Tra yn nodi bydd disgrisiwn gan Awdurdod Lleol os am godi premiwm a'i peidio credwn dylai bod trefn eglur, cadarn a chyson lle gweithredir.</i></p> <p><i>Fodd bynnag, credir fod lle i ganllawiau a lle i Awdurdod Lleol sydd am weithredu premiwm fod â disgrisiwn i weithredu yn wahanol mewn rhan o'r diriogaeth os oes amgylchiadau arbennig sy'n dylanwadu ar y farchnad tai lleol.</i></p> |
| C12 | <p>Oes yna unrhyw eithriadau eraill y dylid eu hystyried i breimiwm y Dreth Gyngor ar gartrefi gwag hirdymor?</p> <p><i>Na</i></p> |
| C13 | <p>A ddylid adolygu unrhyw eithriadau presennol eraill i'r Dreth Gyngor yng ngoleuni cyflwyno'r premiwm?</p> <p><i>Credwn nad oes angen, ond dylid cyflawni adolygiad arbenigol cyfreithiol.</i></p> |
| C14 | <p>Oes gennych chi unrhyw sylwadau ynghylch gweinyddu'r cynigion arfaethedig?</p> <p><i>Byddai eithriad fel yr un gynigir dan C8 yn creu gweinyddiaeth trwm a diangen gan beryglu llwyddiant y drefn.</i></p> |

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| C15 | Ydych chi'n meddwl y dylai'r arweiniad ymdrin â'r meysydd hyn? <i>Na</i> |
| C16 | Oes yna unrhyw feysydd eraill ddylai gael eu cynnwys yn yr arweiniad i Awdurdodau Lleol? <i>Na</i> |

Ymgynghoriad ynghylch Cynigion i Eithrio Rhai Categoriâu o Anheddau rhag Premiwm y Dreth Gyngor ar Ail Gartrefi yng Nghymru

Ffurflen Ymateb i'r Ymgynghoriad

Eich enw: Cynghorydd Peredur Jenkins / Cynghorydd Ioan Thomas

Sefydliad (os yw'n berthnasol): Cyngor Gwynedd

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Eich cyfeiriad: Cyngor Gwynedd, Stryd y Jêl, Caernarfon. LL55 1SH

Mae'n bosibl y bydd ymatebion i ymgynghoriadau yn cael eu cyhoeddi, naill ai ar y rhyngwrwyd neu mewn adroddiad. Pe byddai'n well gennych inni gadw'ch ymateb yn gyfrinachol, ticiwch yma, os gwelwch yn dda:



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| C1 | <p>A ddylai eiddo Dosbarth F (eiddo sy'n ddi-ddeddiad oherwydd marwolaeth) gael ei eithrio rhag y premiwm am 12 mis ar ôl i brofiant neu lythyrau gweinyddu gael eu rhoi?</p> <p><i>Dylai. Credwn ei bod yn rhesymol darparu'r cyfnod ychwanegol yma o ystyried yr amgylchiadau sensitif ac anodd i deulu'r ymadawedig.</i></p> |
| C2 | <p>A ddylai Anecs (adeilad neu ran o adeilad sydd wedi ei addasu i'w ddefnyddio fel lle byw ar wahân) sydd wedi ei ddodrefnu ac sy'n cael ei drin fel rhan o'r brif annedd gael ei eithrio rhag premiwm y Dreth Gyngor ar ail gartrefi.</p> <p><i>Dylai, gan y disgwylir i'r defnydd ohono fod gan aelodau'r teulu yn unig. Mewn sefyllfa debyg ac oherwydd natur y defnydd ac nad oes dymuniad gosod,(a bod gosod a gwerthu yn aml yn annhebygol mewn sefyllfa anecs), credir y buasai codi premiwm yn annheg.</i></p> |
| C3 | <p>Ydych chi'n meddwl na ddylai anecs sy'n cael ei osod fel llety tymor byr gael ei eithrio rhag y premiwm?</p> <p><i>Lle mae tystiolaeth o'i osod ni ddylai gael ei eithrio.</i></p> |
| C4 | <p>Oes gennych chi unrhyw sylwadau ynghylch cymhwysu a gweinyddu eithriad (anecs) o'r fath?</p> <p><i>Tra y bydd tystiolaeth cymharol hawdd o osod tymor byr i gefnogi codi'r premiwm yn C3, bydd rhaid dibynnu ar air trethdalwr i gyfiawnhau darparu eithriad yn C2.</i></p> |
| C5 | <p>A ddylai perchnogion eiddo sydd wrthi'n cael ei farchnata ar gyfer ei werthu neu ei osod gael eu heithrio rhag premiwm y Dreth Gyngor ar ail gartrefi?</p> <p><i>Na, byddai hyn yn gwbl afresymol.</i></p> <p><i>Er diben trafod petai'r amgylchiad yma wedi ei eithrio : O pa ddyddiad mae'r eithriad i gychwyn? Pa mor ymarferol yw gwirio datganiad a thystiolaeth gyflwynir i eiddo fod ar werth am gyfnod penodol?</i></p> <p><i>Pwy sydd i benderfynu beth yw pris rhesymol? Beth sy'n rhwystro</i></p> |

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| | <i>perchennog rhag rhoi eiddo ar werth am bris afresymol?</i> |
| C6 | <p>Os felly, pa dystiolaeth y dylid gofyn i berchnogion ei dangos i brofi bod eu heiddo wrthi'n cael ei farchnata ar gyfer ei werthu neu ei osod?</p> <p><i>Credwn na ddylai fod eithriad o'r fath.</i></p> <p><i>Os fyddai eithriad buasai raid i dystiolaeth fod ar ffurf datganiad asiant i gynnwys: Ai'r cwmni oedd yr asiant cyntaf i geisio gwerthu? Pryd roddwyd yr eiddo ar y farchnad? Barn benodol yr asiant a sail i gefnogi'r pris ar y farchnad.</i></p> <p><i>Byddai angen cyfrifoldeb ffurfiol efallai cyfreithiol i'r asiant ddarparu gwybodaeth a hysbysu o newid mewn amgylchiad?</i></p> |
| C7 | <p>Ydych chi'n meddwl bod eithriad rhag y premiwm am 2 flynedd i eiddo sydd wrthi'n cael ei farchnata ar gyfer ei werthu neu ei osod yn gyfnod rhesymol i alluogi'r perchnogion i adfer defnydd yr eiddo?</p> <p><i>Credwn na ddylai fod eithriad o'r fath.</i></p> <p><i>Credwn bod gwir werth i pob eiddo ar y farchnad agored a bod rhai tai ar y farchnad am gyfnod hir oherwydd bod y pris ofynnir yn sylweddol uwch na phris y farchnad.</i></p> <p><i>Os yn ystyried gosod yna gellid dadlau bod 2 flynedd o gyfnod yn ormodol.</i></p> |
| C8 | <p>A fyddai'n fwy priodol rhoi arweiniad i Awdurdodau Lleol ynglŷn â chymhwyso'r eithriad hwn yn hytrach na gosod ei gymhwyso i mewn yn y ddeddfwriaeth?</p> <p><i>Tra yn nodi bydd disgrisiwn gan Awdurdod Lleol os am godi premiwm a'i peidio credwn dylai bod trefn eglur, cadarn a chyson lle gweithredir.</i></p> <p><i>Fodd bynnag, credir fod lle i ganllawiau a lle i Awdurdod Lleol sydd am weithredu premiwm fod â disgrisiwn i weithredu yn wahanol mewn rhan o'r diriogaeth os oes amgylchiadau arbennig sy'n dylanwadu ar y farchnad tai lleol.</i></p> |
| C9 | <p>A ddylai perchnogion ail gartrefi, y mae eu prif gartref yn annedd gysylltiedig â'u gwaith, gael eu heithrio rhag premiwm y Dreth Gyngor?</p> <p><i>Dylai, hyn yn gyson â'r hawl cyfreithiol i'w hepgor o'r pwerau cyfredol ar 2il gartrefi. Gofyn amodau gwaith sy'n eu cadw o'r cartref a'r bwriad yn y pendraw yw dychwelyd.</i></p> |
| C10 | <p>Pa dystiolaeth y dylai perchnogion ail gartrefi orfod ei darparu i brofi eu bod yn byw mewn anheddau cysylltiedig â'u gwaith?</p> <p><i>Cyflwyno dogfen contract ysgrifenedig yn mynnu iddynt fyw ar safle'r gweithle.</i></p> |
| C11 | <p>Ydych chi'n meddwl na ddylai'r eithriad gynnwys ond pobl yr ystyrir eu bod yn byw mewn llety cysylltiedig â'u gwaith?</p> <p><i>Ni ddylid ehangu'r eithriad tu hwnt i lety cysylltiedig a'u gwaith.</i></p> |
| C12 | <p>Ydych chi'n meddwl bod angen eithriad ychwanegol i sicrhau bod Gweinidogion yr Efengyl sy'n berchen ar ail gartref wedi eu heithrio rhag y premiwm?</p> <p><i>Dylid rhoi'r gallu i eithrio gweinidogion yr Efengyl sy'n gyson â'r eithriad yn C9.</i></p> |
| C13 | <p>Ydych chi'n meddwl bod angen eithriad ychwanegol i sicrhau bod personél sy'n preswyllo mewn llety a ddarperir gan y Lluedd Arfog ac sy'n berchen ail gartref, wedi</p> |

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| | <p>eu heithrio rhag y premiwm?</p> <p><i>Dylid rhoi'r gallu i eithrio fel C9 a C10.</i></p> |
| C14 | <p>Ydych chi'n meddwl y dylai'r eithriad rhag y premiwm ar gyfer anheddau sy'n gysylltiedig â swyddi fod yn gymwys ddim ond os yw'r annedd yn y DU?</p> <p><i>Na, credwn nad oes angen ymestyn i eithrio o'r premiwm tu hwnt i'r DU.</i></p> |
| C15 | <p>A ddylai lleiniau lle cedwir carafanau ac angorfeydd lle cedwir cychod gael eu heithrio rhag premiwm y Dreth Gyngor?</p> <p><i>Dylent. Yn barhad o'r rheoliadau presennol, gan iddynt gael eu hepgor o'r pwerau cyfredol ar 2il gartrefi.</i></p> |
| C16 | <p>Oes yna unrhyw fathau o gartrefi tymhorol (Dosbarth A) yr ydych chi'n credu y dylent gael eu heithrio rhag premiwm y Dreth Gyngor? Os felly, sut ydych chi'n meddwl y dylent gael eu henwi a'u diffinio mewn deddfwriaeth?</p> <p><i>Lle gwaherddir defnydd am gyfnod buasai'n resymegol i ganiatáu eithriad.</i></p> |
| C17 | <p>Oes yna unrhyw eithriadau eraill y dylid eu hystyried i breimiwm y Dreth Gyngor ar ail gartrefi?</p> <p><i>Na.</i></p> |
| C18 | <p>A ddylid adolygu unrhyw eithriadau presennol eraill i'r Dreth Gyngor yng ngoleuni cyflwyno'r premiwm?</p> <p><i>Credwn nad oes angen, ond dylid cyflawni adolygiad arbenigol cyfreithiol.</i></p> |
| C19 | <p>Oes gennych chi unrhyw sylwadau ynghylch gweinyddu'r cynigion arfaethedig?</p> <p><i>Byddai eithriad fel yr un gynigir dan C5 yn creu gweinyddiaeth trwm a diangen gan beryglu llwyddiant y drefn.</i></p> |
| C20 | <p>Ydych chi'n meddwl y dylai'r arweiniad ymdrin â'r meysydd hyn?</p> <p><i>Na</i></p> |
| C21 | <p>Oes yna unrhyw feysydd eraill y dylid ymdrin â hwy yn yr arweiniad i Awdurdodau Lleol?</p> <p><i>Cyn ystyried yr arweiniad credir y dylid ailymweld â Gorchymyn Ardrethu Annomestig (Diffiniad o Eiddo Domestig) (Cymru) 2010. Cyfeiriaf at y llythyr dilynol gan yr Aelod Cabinet am Adnoddau, y Cynghorydd Peredur Jenkins, dyddiedig 27 Mawrth 2015 sy'n manylu ar y mater.</i></p> |

Aelod Cabinet Adnoddau Cabinet Member Resources

Y Cynghorydd / Councillor Peredur Jenkins



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Ein Cyf / Our Ref: PJ/DLE/AJ
Eich Cyf / Your Ref:

Joanna Valentine
Pennaeth Polisi Trethiant Lleol
Is-adran Cyllid a Pherfformiad Llywodraeth Leol
Llywodraeth Cymru
Parc Cathays
Caerdydd
CF10 3NQ

27 Mawrth 2015

Annwyl Ms Valentine,

TRETH CYNGOR

Diolch am y ddogfen ymgynghorol "Eithriadau o Breimiwm Treth Cyngor ar Ail Gartrefi yng Nghymru". Byddwn yn darparu ymateb cynhwysfawr i'r ymgynghoriad hwnnw maes o law, cyn y dyddiad cau, ond hoffwn ddod ag un mater sylfaenol i'ch sylw cyn hynny.

Cefais fy synnu a'm siomi wrth ddarllen y ddogfen gan nad oes unrhyw gyfeiriad ynddo at gasgliadau'r ymgynghoriad blaenorol ar y meini prawf yng Ngorchymyn 2010 (*The Non Domestic Rating (Definition of Domestic Property) Wales Order 2010*) er mwyn penderfynu os mai Treth Cyngor neu treth busnes sy'n briodol i eiddo. Mae cysylltiad amlwg rhwng y diffiniad statudol sydd yn y Gorchymyn a gwarchod y dreth ychwanegol fydd yn cael ei godi trwy'r premiwm, ac mae unrhyw fudd a ddaw o gynyddu'r premiwm yn dibynnu i raddau helaeth ar gryfder a phendantwydd y Gorchymyn.

Mae'n rhesymol, felly, i ddisgwyl y byddai'r mater yma wedi derbyn sylw haeddiannol a phriodol yn yr ymgynghoriad cyfredol a byddwch yn ymwybodol i swyddogion ac aelodau'r Cyngor hwn fanteisio ar pob cyfle i dynnu sylw swyddogion a'r Gweinidog i'r mater yma dros gyfnod o amser. Rwy'n ymwybodol hefyd i swyddogion o'r Cyngor eich hysbysu o'r nifer parhaus o dai sy'n trosglwyddo o'r gyfundrefn Treth Cyngor i dreth busnes.

Roedd y Cyngor yn croesawu'r gofyn yng Ngorchymyn 2010 am 70 niwrnod o wir osod, ond rydym yn parhau o'r farn nad yw hynny yn ddigonol, a dymunwn weld cysondeb â maen prawf Cyllid a Thollau Ei Mawrhydi, sef 105 niwrnod. Yn ychwanegol, rydym wedi galw am addasu'r gyfraith cynllunio fel bod angen caniatâd cynllunio cyn symud eiddo o'r stoc tai lleol i faes busnes ers o leiaf Ebrill 2007. Buasem hefyd yn dymuno gweld adolygiad blynyddol o'r caniatâd hwnnw.

Yn hytrach na darparu copïau llawn o'r holl ohebiaeth sydd wedi eu hanfon atoch ar y mater, mewn ymateb i amrywiol ymgynghoriadau, amgaeaf fel atodiad ddyddiadau'r ohebiaeth a anfonwyd gan y Cyngor, gan ddyfynnu rhannau perthnasol. Hyderaf fod ein pryderon wedi derbyn ystyriaeth fanwl ar y pryd ac y byddant yn parhau i gael, ac y gwelwn ymateb ffafriol trwy dynhau ymhellach ar feini prawf Gorchymyn 2010 fel rhan annatod o'r pwerau newydd. Byddai hynny yn ein galluogi i gyflwyno a gweinyddu premiwm ar sylfaen gadarn, ac yn arf cryf i gynghorau wrth iddynt wireddu nod unrhyw bolisi arfaethedig.

Yn gywir,

A handwritten signature in black ink, appearing to read 'Peredur Jenkins', with a long horizontal stroke extending to the right.

PEREDUR JENKINS
AELOD CABINET ADNODDAU

Amg.

Atodiad 1

Ebrill 2007 - Ymgynghoriad Llywodraeth y Cynulliad parthed rhyddhad rhag trethi i fusnesau bychan ar gyfer unedau hunangynhaliol wedi'u gosod yn fasnachol

"... nad yw'r rheoliadau cyfredol o dan y Ddeddf Cynllunio yn ddigonol ar gyfer gwahaniaethu rhwng defnydd trigiannol a defnydd gwyliau a masnachol ... gan fod colli tai preswyl yn gostwng y nifer o dai ar gael ar y farchnad i'r bobl leol ac yn dwysau y mater fforddiadwy, yn enwedig mewn rhannau arfordirol a gwledig. Mae angen cydlynu'r strategaeth rhwng polisïau tai fforddiadwy, ac ni fuasai'n dderbyniol i hybu perchnogion / prynwyr tai preswyl i dynnu eiddo o'r fath o'r farchnad. Ymhellach, credir fod angen i berchnogion tai preswyl geisio a derbyn caniatad cynllunio cyn addasu defnydd eiddo i fusnes fel unedau hunan-gynhaliol."

30 Fehefin 2009 – Ymateb i Bapur Ymgynghorol: CYNIGION I DIWYGIO'R MEINI PRAWF I BENNU ATEBOLRWYDD ANNOMESTIG / Y DRETH CYNGOR AR EIDDO MASNACHOL AR OSOD

Fel man cychwyn, croesawir unrhyw gam i dynhau'r prawf, ond yn fwy penodol unrhyw gam i'w gysylltu â'r gwir ddefnydd. Mae'r symud i ystyried ffactorau dros 3 blynedd i'w groesawu, gan y buasai yn gorfodi rhywgymaint ar ymrwymiad unigolyn neu fusnes i'r fenter, yn hytrach na chiplun un flwyddyn.

Gwelir y ffactor bod rhaid gosod am o leiaf 70 diwrnod ((b) o fewn y papur) yn sicr fel gwelliant (cymerir yn ganiataol y bydd rhaid dangos tystiolaeth bendant o hynny i'r Asiantaeth Brisio). Fodd bynnag, ystyrir mai cyfnod byr ac amherthnasol o ddefnydd blwyddyn gyfan all cwta 2 fis fod yn flynyddol, felly rydym yn argymhell fod y rhan yma o'r prawf newydd yn 3 mis o leiaf (90 diwrnod).

Yn ymarferol, os mai bodloni ffactorau dros gyfnod o 3 blynedd fydd y prawf, sut ymdrinnir â'r dyddiad effeithiol? O ystyried y nod i gyflwyno biliau amserol, cynllun talu rhesymol, ayyb, buasai unrhyw ol-ddyddio treth yn wrthyn i hynny.

Byddwn awydd mynd ymhellach na'r meini prawf a gynigir, gan ofyn am benderfyniad gan yr awdurdod lleol (swyddog neu bwyllgor cynllunio) er mwyn caniatáu'r newid defnydd o breswylfa barhaus i fusnes.

9 Hydref 2012 – Ymateb i ymgynghoriad ar: "Y DRETH GYNGOR A CHARTREFI GWAG HIRDYMROR YNG NGHYMRU"

Ein prif bryder gyda'r ddeddfwriaeth arfaethedig yw ei fod ddim yn mynd digon pell er mwyn delio gydag ail gartrefi (lle byddai'r gyfradd safonol o dreth yn parhau'n daladwy) a thai gwyliau (lle mae lefel sylweddol is o dreth annomestig yn daladwy). Rydym wedi datgan sawl tro eisoes dylai Llywodraeth Cymru ddeddfu er mwyn lleihau'r amwyster a chreu diffiniadau addas ac yn rhoi'r grym i awdurdodau bilio (trwy drefniadau cynllunio a/neu drethiant lleol) gategoreiddio eiddo o'r fath (C4).

Mae ardrawiad ail gartrefi yn amrywio'n sylweddol rhwng ardaloedd y gwahanol awdurdodau lleol. Yn yr un modd, mae ffactorau sy'n effeithio'r gallu i werthu / osod eiddo gwag hefyd yn amrywio rhwng rhai ardaloedd o fewn ffiniau awdurdodau unigol (e.e. ardaloedd Abersoch a Blaenau Ffestiniog o fewn tiriogaeth Cyngor Gwynedd). Felly, byddwn yn cefnogi hyblygrwydd i awdurdodau lleol fedru amrywio'r dreth ychwanegol rhwng gwahanol ardaloedd daearyddol o'u hawdurdod (C7).

25 Chwefror 2013 - POLISI LLYWODRAETH CYMRU AR DRETH CYNGOR, AIL GARTREFI A THAI GWYLIAU

Rydym wedi datgan sawl tro eisoes dylai Llywodraeth Cymru ddeddfu er mwyn lleihau'r amwyster a chreu diffiniadau addas ac yn rhoi'r grym i awdurdodau bilio (trwy drefniadau cynllunio a/neu drethiant lleol) gategoreiddio eiddo o'r fath.

*Wrth gyflwyno rheoliadau i ganiatáu codi treth uwch ar gartrefi gwag heb gyfyngu'r hawl i gategoreiddio eiddo fel ail gartref, neu fel busnes (tŷ gwyliau), does dim i rwystro perchennog tŷ gwag yn medru rhoi dodrefn yn yr eiddo a dadlau nad yw'n wag!
Mae ardrawiad ail gartrefi yn amrywio'n sylweddol rhwng ardaloedd y gwahanol awdurdodau lleol, ac yng Ngwynedd mae prinder lleoedd i bobl fyw ynddynt, a'r defnydd o ail gartrefi yn gyrru'r prisiau i fyny."*

Rydych chi yn ymwybodol fod aelodau a swyddogion o Cyngor Gwynedd ac o Gymdeithas Llywodraeth Leol Cymru wedi codi'r mater hyn gyda Llywodraeth Cymru ar sawl achlysur.

19 Fawrth 2014 – ymateb i Ymgynghoriad ar Ganfyddiadau'r Adroddiad ar Effaith Gorchymyn Ardrethu Annomestig (Diffiniad o Eiddo Domestig) (Cymru) 2010 (Papur yr IRRV)

Siom sylweddol oedd canfod argymhellion / opsiynau gyda phob un o'r amrediad cul yma'n cynnig llacio'r prawf! Rhestraf isod yr opsiynau yn y drefn mae'r IRRV yn ffafrio fwyaf:

- (1) Opsiwn 4 - Darparu cyfle i'r drethdalwr i gyrraedd y 70 niwrnod tros gyfnod o 5 mlynedd (tebyg i argymhellion WASCO).
- (2) Opsiwn 1 - Caniatáu y flwyddyn orau o ran gosod a hynny o'r 3/5 mlynedd ddiwethaf.
- (3) Opsiwn 5 - Eu bod yn bodloni'r prawf ar unrhyw flwyddyn tros gyfnod rhestr brisio.
- (4) Opsiwn 3 - Caniatáu i drethdalwr ddewis unrhyw gyfnod o 12 mis tros y 5 mlynedd ddiwethaf.
- (5) Opsiwn 2 - Defnyddio cyfartaledd tros y 3/5 mlynedd ddiwethaf.

Nid oes yr un o'r opsiynau uchod yn agos i'r hyn fuasai'r Cyngor yn dymuno gweld. Mae pob un ohonynt yn llacio'r gofyn ac yn ymbellhau oddi wrth argymhellion blaenorol Cyngor Gwynedd.

Yn sylfaenol 'rydym o'r farn fod y maen prawf presennol, sy'n caniatáu trin eiddo fel busnes hyd yn oed pe bai heb ei osod am dros 9 mis o'r flwyddyn, yn llawer mwy hael na'r diffiniad synnwyr-cyffredin o "fusnes". Byddai unrhyw symudiad tuag at lacio'r rheol ymhellach yn dadwneud y gwelliannau wnaed i'r gyfundrefn mewn ymateb i bwysau gan Gyngor Gwynedd ac eraill dros nifer o flynyddoedd. **Byddai'r opsiynau gerbron yn annheg i drethdalwyr eraill sy'n gorfod talu'r dreth gyngor yn llawn, yn ogystal ag i "wir" fusnesau twristiaeth sy'n gwneud cyfraniad sylweddol i'r economi lleol ac felly yn teilyngu triniaeth treth fwy ffafriol.**

Yn wir, pe byddai'r gofynion yn cael eu llacio mae'n debyg y byddai yna gategori arall o eiddo fyddai wedyn yn methu cydymffurfio â'r maen prawf o drwch blewyn, gan arwain at bwysau i lacio'r gofynion ymhellach fyth i gynnwys rheiny hefyd, ac o ganlyniad perygl o golli rheolaeth ar y sefyllfa yn gyfan gwbl.

Yn hytrach na mynd ar y trywydd anghyfrifol yna, fel isafswm, credwn **dylid ymestyn y prawf o 70 diwrnod i 105 diwrnod o wir osod**. Buasai hynny yn cyd-fynd â gofynion busnesau mewn perthynas â threth yr HMRC; cangen o'r Adran honno o'r Llywodraeth yw'r Asiantaeth Brisio ac mae'r cyfle i gydweithio a chysoni gwybodaeth rhwng un uned a'r llall yn lled amlwg ac yn un y dylid manteisio arno.

Ymhellach, fel yn y gorffennol, pwysir unwaith yn rhagor am addasu rheolaeth cynllunio fel bod angen derbyn caniatâd i addasu defnydd eiddo i ail gartref neu eiddo gwyliau hunan-ddarpar, ac i greu cyswllt rhwng y gyfundrefn trethi a'r defnydd ganiateir yn y drefn cynllunio er mwyn cael gwell rheolaeth ar y maes yn ei gyfanrwydd.

13 Awst 2014 - RHESTRU EIDDO AR GYFER TRETH CYNGOR NEU TRETH ANNOMESTIG

Rwy'n bryderus (er ehangu'r prawf gan gyflwyno 70 niwrnod gosod yn 2010) nad yw'r prawf cyfredol yn ddigonol er mwyn osgoi amhriodoldeb sylweddol wrth ddsbarthu eiddo.

"Ein prif bryder gyda'r deddfwriaeth arfaethedig yw ei fod ddim yn mynd digon pell er mwyn delio gydag ail gartrefi (lle byddai'r gyfradd safonol o dreth yn parhau'n daladwy) a thai gwyliau (lle mae lefel sylweddol is o dreth annomestig yn daladwy). Rydym wedi datgan sawl tro eisoes dylai Llywodraeth Cymru deddfu er mwyn lleihau'r amwyster a chreu diffiniadau addas ac yn rhoi'r grym i awdurdodau bilio (trwy drefniadau cynllunio a/neu drethiant lleol) gategoreiddio eiddo o'r fath."

"Dylai'r pŵer i godi trethi cyngor uwch ar ail gartrefi gynnwys mesurau i wella a thynhau'r meini prawf yng nghyswllt trethiant llety gwyliau hunanarlwyo. Rydym yn fodlon iawn i gynorthwyo Llywodraeth Cymru i ddylunio pecyn o fesurau posib yn cynnwys, o bosib, tynhau'r amodau presennol a/neu gysylltu'r amodau a deddfwriaeth cynllunio.

"Yn seiliedig ar y dystiolaeth uchod, credwn yn gryf y byddai cyflwyno'r pwerau hyn ar y cyd â'r pwerau sydd eisoes wedi'u cynllunio yng nghyswllt eiddo gwag – yn rhoi cynghorau mewn gwell sefyllfa i weithredu mesurau lliniaru a allai gyfrannu'n bositif tuag at fudd cymunedau. Credwn hefyd eu bod yn mynd law yn llaw â nod Bil Cenedlaethau'r Dyfodol sef diogelu dyfodol cymunedau gan sicrhau eu bod yn cael eu gwarchod rhag y pwysau sy'n bygwth eu hyfywdra a'u goroesiad."

"... fel isafswm, credwn dylid ymestyn y prawf o 70 diwrnod i 105 diwrnod o wir osod. Buasai hynny yn cyd-fynd â gofynion busnesau mewn perthynas â threth yr HMRC; cangen o'r Adran honno o'r Llywodraeth yw'r Asiantaeth Brisio ac mae'r cyfle i gydweithio a chysoni gwybodaeth rhwng un uned a'r llall yn lled amlwg ac yn un y dylid manteisio arno.

Consultation on Proposals to Exempt Certain Categories of Dwellings from the Council Tax Premium on Long-term Empty Homes in Wales

Consultation Response Form

Your name: Councillor Peredur Jenkins / Councillor Ioan Thomas

Organisation (if applicable): Cyngor Gwynedd

Email/telephone number: trethcyngor@gwynedd.gov.uk / 01766 771000

Your address: Cyngor Gwynedd, Stryd y Jêl, Caernarfon. LL55 1SH

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

| | |
|----|---|
| Q1 | Should the six-month exemption period be retained for unoccupied and substantially unfurnished dwellings? <i>Yes, due to practicality.</i> |
| Q2 | Do you think an exemption to the premium for properties undergoing major repair work is required? <i>We believe that the exemption is necessary to allow consistency with the current exemption and fairness in terms of protecting the efforts of individuals to bring properties back to use.</i> |
| Q3 | If so, is 18 months a reasonable length of time for major repair or structural alteration to be completed and for the property to be brought back into use? <i>We believe that 18 months is a reasonable length of time to complete the work.</i> |
| Q4 | Should these properties be given an exemption from the premium until 12 months after probate or letters of administration have been granted? <i>Yes. We believe that it is reasonable to provide this additional period when considering the sensitive and difficult circumstances for the family of the deceased.</i> |
| Q5 | Should Armed Forces personnel who own a property which is unoccupied and unfurnished be exempt from the Council Tax premium on long-term empty homes? <i>Yes, as it is the requirements of conditions of work that are keeping them from their homes and the ultimate intention is to return.</i> |
| Q6 | Should there be an additional exemption from the Council Tax premium for unoccupied and substantially unfurnished annexes which are treated as part of the main dwelling? <i>Yes, where use has only been made by family members.</i> |
| Q7 | Do you have any comments in relation to the application and administration of such an exemption? <i>There should be sufficient records to support the exemption.</i> |

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| Q8 | <p>Should owners of properties actively being marketed for sale or let be exempt from the Council Tax premium on long-term empty homes?</p> <p><i>No, this would be totally unreasonable.</i></p> <p><i>For the purpose of this discussion, if exemption was allowed: From what date would the exemption begin? How feasible would it be to verify a statement and evidence submitted that a property has been for sale for a certain period?</i></p> <p><i>Who is to determine what is a reasonable price? What prevents the owner from putting property for sale at an unrealistic price?</i></p> |
| Q9 | <p>If so, what evidence should owners be required to show to prove their property is actively being marketed for sale or let?</p> <p><i>We believe that there should not be such an exemption.</i></p> <p><i>If there was an exemption the evidence would have to be in the form of a statement by the agent to include: Is the company the first agent to try to sell? When was the property placed on the market? The specific opinion of the agent and the basis to support the price on which the property is on the market.</i></p> <p><i>Would there need to be formal, perhaps legal, responsibility on the agent to provide information and notification of a change in circumstance?</i></p> |
| Q10 | <p>Do you think an exemption from the premium for two years for properties being marketed for sale or let is a reasonable period to enable the owners to bring them back into use?</p> <p><i>We believe that there should not be such an exemption.</i></p> <p><i>We believe that every property has an actual open market value and that some houses are on the market for an extended period because the asking price is significantly higher than the market value.</i></p> <p><i>If considering letting, it could be argued that a period of 2 years is excessive.</i></p> |
| Q11 | <p>Would it be more appropriate to provide guidance to Local Authorities on the application of this exemption rather than setting out its application in legislation?</p> <p><i>While noting that the Local Authority has discretion to raise a premium or not, there should be a clear, robust and consistent system where it is implemented.</i></p> <p><i>However, it is believed that there is a place for guidance and a place for a Local Authority that wants to implement a premium to have discretion to act differently in a part of the territory if there are special circumstances that influence the local housing market.</i></p> |
| Q12 | <p>Are there any other exemptions to the Council Tax premium on long-term empty homes which should be considered?</p> <p><i>No</i></p> |
| Q13 | <p>Should any other existing exemptions to Council Tax be reviewed in light of the introduction of the premium?</p> <p><i>We believe that there is no need, but a specialist legal review should be undertaken.</i></p> |
| Q14 | <p>Do you have any comments in relation to the administration of the proposed exemptions?</p> <p><i>An exemption such as the one suggested under Q8 would create burdensome and unnecessary administration that would endanger the success of the arrangements.</i></p> |
| Q15 | <p>Do you think guidance should cover these areas?</p> <p><i>No</i></p> |

Q16

Are there any other areas which should be covered in guidance for Local Authorities?

No

Consultation on Proposals to Exempt Certain Categories of Dwellings from the Council Tax Premium on Second Homes in Wales

Consultation Response Form

Your name: Councillor Peredur Jenkins / Councillor Ioan Thomas

Organisation (if applicable): Cyngor Gwynedd

Email/telephone number: trethcyngor@gwynedd.gov.uk / 01766 771000

Your address: Cyngor Gwynedd, Stryd y Jêl, Caernarfon. LL55 1SH

Responses to consultations are likely to be made public, on the internet or in a report.
If you would prefer your response to remain anonymous, please tick here:

| | |
|----|--|
| Q1 | <p>Should Class F properties be given an exemption from the premium until 12 months after probate or letters of administration have been granted?</p> <p><i>Yes. We believe that it is reasonable to provide this additional period when considering the sensitive and difficult circumstances for the family of the deceased.</i></p> |
| Q2 | <p>Should furnished Annexes which are treated as part of the main dwelling be exempt from the Council Tax premium on second homes?</p> <p><i>Yes, since it is expected that its use will be by family members only. In such a situation and because of the nature of use and there is no wish to let (and that sale or letting is unlikely for an annex), it is believed that charging a premium would be unfair.</i></p> |
| Q3 | <p>Do you think annexes which are let out as short-stay accommodation should not be exempt from the premium?</p> <p><i>Where there is evidence that it is being let, there should be no exemption.</i></p> |
| Q4 | <p>Do you have any comments in relation to the application and administration of such an exemption?</p> <p><i>Whilst it would be relatively easy to collect evidence for short term letting to support charging a premium in Q3, there would be a need to depend on the word of the taxpayer to justify providing a premium in Q2.</i></p> |
| Q5 | <p>Should owners of properties actively being marketed for sale or let be exempt from the Council Tax premium on second homes?</p> <p><i>No, this would be totally unreasonable.</i></p> <p><i>For the purpose of this discussion, if exemption was allowed: From what date would the exemption begin? How feasible would it be to verify a statement and evidence submitted that a property has been for sale for a certain period?</i></p> <p><i>Who is to determine what is a reasonable price? What prevents the owner from putting property for sale at an unrealistic price?</i></p> |
| Q6 | <p>If so, what evidence should owners be required to show to prove their property is actively being marketed for sale or let?</p> <p><i>We believe that there should not be such an exemption.</i></p> <p><i>If there was an exemption the evidence would have to be in the form of a statement by the agent to include: Is the company the first agent to try to sell? When was the property placed on the market? The specific opinion of the agent</i></p> |

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| | <p><i>and the basis to support the price on which the property is on the market.</i></p> <p><i>Would there need to be formal, perhaps legal, responsibility on the agent to provide information and notification of a change in circumstance?</i></p> |
| Q7 | <p>Do you think an exemption from the premium for two years for properties being marketed for sale or let is a reasonable period to enable the owners to bring them back into use?</p> <p><i>We believe that there should not be such an exemption.</i></p> <p><i>We believe that every property has an actual open market value and that some houses are on the market for an extended period because the asking price is significantly higher than the market value.</i></p> <p><i>If considering letting, it could be argued that a period of 2 years is excessive.</i></p> |
| Q8 | <p>Would it be more appropriate to provide guidance to Local Authorities on the application of this exemption rather than setting out its application in legislation?</p> <p><i>While noting that the Local Authority has discretion to raise a premium or not, there should be a clear, robust and consistent system where it is implemented.</i></p> <p><i>However, it is believed that there is a place for guidance and a place for a Local Authority that wants to implement a premium to have discretion to act differently in a part of the territory if there are special circumstances that influence the local housing market.</i></p> |
| Q9 | <p>Should owners of second homes whose main residence is a job-related dwelling be exempt from the Council Tax premium?</p> <p><i>Yes. This would be consistent with the current right to exempt them from the current powers on second homes. It is the requirements of conditions of work that are keeping them from their homes and the ultimate intention is to return.</i></p> |
| Q10 | <p>What evidence should owners of second homes have to provide to prove that they live in job-related dwellings?</p> <p><i>The presentation of a written contract document demanding that they live on site.</i></p> |
| Q11 | <p>Do you think the exemption should only cover people regarded as living in job-related accommodation?</p> <p><i>The exemption should not be extended beyond in job-related accommodation.</i></p> |
| Q12 | <p>Do you think an additional exemption is required to ensure that Ministers of Religion who own a second home are exempt from the premium?</p> <p><i>The ability to exempt Ministers of Religion should be given in accordance with the exemption in Q9.</i></p> |
| Q13 | <p>Do you think an additional exemption is required to ensure that personnel residing in accommodation provided by the Armed Forces and who own a second home are exempt from the premium?</p> <p><i>The ability to allow exemptions as in Q9 and Q10.</i></p> |
| Q14 | <p>Do you think that the exemption from the premium for job-related dwellings should only apply if the job-related dwelling is in the UK?</p> <p><i>We believe that there is no need to extend the exemptions from the premium beyond the UK.</i></p> |
| Q15 | <p>Should pitches occupied by caravans and moorings occupied by boats be exempt from the Council Tax premium?</p> <p><i>Yes. A continuation of the present regulations, as they are exempt from the current powers on second homes.</i></p> |

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| Q16 | <p>Are there any types of seasonal homes (Class A) which you believe should be exempt from the Council Tax premium? If so how do you think they should be identified and defined in legislation?</p> <p><i>Where use is prohibited for a period it would be reasonable to allow an exemption.</i></p> |
| Q17 | <p>Are there any other exemptions to the Council Tax premium on second homes which should be considered?</p> <p><i>No</i></p> |
| Q18 | <p>Should any other existing exemptions to Council Tax be reviewed in light of the introduction of the premium?</p> <p><i>We believe that there is no need, but a specialist legal review should be undertaken.</i></p> |
| Q19 | <p>Do you have any comments in relation to the administration of the proposed exemptions?</p> <p><i>An exemption such as the one suggested under Q8 would create burdensome and unnecessary administration that would endanger the success of the arrangements.</i></p> |
| Q20 | <p>Do you think guidance should cover these areas?</p> <p><i>No</i></p> |
| Q21 | <p>Are there any other areas which should be covered in guidance for Local Authorities?</p> <p><i>Before considering guidance, The Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2010 should be revisited. I refer to the following letter by the Cabinet Member for Resources, Councillor Peredur Jenkins, dated 27 March 2015 detailing the issue.</i></p> |

Aelod Cabinet Adnoddau Cabinet Member Resources

Y Cynghorydd / Councillor Peredur Jenkins



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Joanna Valentine
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Local Government Finance and Performance Division
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CF10 3NQ

27 March 2015

Dear Ms Valentine,

COUNCIL TAX

Thank you for the consultation document “Exemptions to the Council Tax Premium on Long-Term Empty Homes in Wales”. We will be providing a comprehensive response to that consultation in due course, before the closing date, but I would like to draw your attention to a fundamental issue before then.

On reading the document, I was surprised and disappointed to find no reference whatsoever within to the findings of a previous consultation on the criteria in the 2010 Order (The Non Domestic Rating (Definition of Domestic Property) Wales Order 2010) and used to determine whether a property is subject to council tax or business rates. There is clear association between the statutory definition within the Order and the safeguarding of the additional tax raised by the premium, and to a large degree benefit derived from implementing the premium depends on the robustness and decisiveness of the Order.

It is reasonable therefore to expect that this matter would have received deserving and appropriate attention within the current consultation and you will be aware that officers and members have taken advantage of every opportunity to draw the attention of your own officers and Minister to this matter over a length of time. I'm aware also that Council officers have advised you of the continuous number of dwellings that transfer from the council tax to business rates systems.

The Council welcomed the 70 day actual let requirement within the 2010 Order but we remain of the opinion that in itself is insufficient and we wish to see consistency with the 105 day criteria used by the HMRC. In addition, we have since at least April 2007 called for change to planning law so that there is requirement for planning permission before a property is moved from the local housing stock to business rates. We would also wish for annual review of that permission.

Rather than providing full copies of all the correspondence sent to you in respect of the matter and in response to various consultations, I enclose as an attachment the dates of correspondence sent by the Council, extracting the relevant sections. I trust that our concerns received detailed attention at the time and will continue to receive attention, and that we will see a favourable response by further tightening of the 2010 Order's criteria as an integral part of the new powers. This would enable us to present and administer a premium on a solid foundation, and a powerful weapon for councils as they realise the goal of any proposed policy.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Peredur Jenkins', with a long horizontal stroke extending to the right.

PEREDUR JENKINS
CABINET MEMBER RESOURCES

Enc.

Appendix 1

April 2007 - Assembly Government consultation on small business rate relief for commercially let self-catering businesses

“ ... current regulations under the Planning Act are insufficient in order to differentiate between residential use and commercial / holiday use of property ... as the loss of such residential housing reduces the number of houses on the market for local people and intensifies the affordability issue, particularly in coastal and rural areas. There needs to be strategic coherence between policies with regard to affordable housing, and it would not be acceptable to encourage owners / buyers of residential housing to take such property out of the market. Furthermore, we consider that owners of residential housing should seek / receive planning consent prior to changing their properties to business use as self-catering holiday units.”

30 June 2009 – response to consultation Paper: PROPOSALS TO AMEND THE CRITERIA FOR DETERMINING THE NON-DOMESTIC RATING / COUNCIL TAX LIABILITY FOR COMMERCIALY LET PROPERTIES

As a starting point, any move to tighten up the current criteria is welcomed, but even more so if that move specifically links to the premises' real use. The considering and satisfying of factors over 3 years is welcomed as it would enforce commitment by individuals or businesses to the venture, rather than a single year's snapshot.

Including having to let for a minimum of 70 days within the criteria ((b) within the paper) is certainly an improvement (it is taken for granted that evidence of this would have to be shown to the Valuation Office). However, it is considered that use for a mere 2 month period annually as a test of use is insufficient and suggest that the new criteria should be at least 3 months (90 days).

Practically, if the criteria hinges on factors over the 3-year period, which effective date is to be used? There is a fundamental need to produce timely bills, a reasonable payment plan, etc, any backdating would be detrimental to this objective.

I would be eager to go further than the criteria proposed, by seeking local authority permission (officer or planning committee) for change of use from residential to business use.

9 October 2012 – response to consultation on: “COUNCIL TAX AND LONG-TERM EMPTY HOMES IN WALES”

Our major worry with the planned legislation is that it does not go far enough in order to deal with second homes (where the standard rate of tax would remain payable) and holiday lets (where a significantly lower level of NNDR is payable). We have already stated on several occasions that the Welsh Government should legislate to reduce the ambiguity and create appropriate definitions and giving billing authorities powers (via planning or local taxation arrangements) to categorize such properties (Q4).

The impact of second homes varies significantly between the different local authorities' areas. Similarly, factors affecting the ability to sell / let empty properties also varies between some areas within individual authority boundaries (e.g. the Abersoch and Blaenau Ffestiniog areas within Gwynedd Council's territory). Therefore, we would support flexibility for local authorities to be able to vary the additional tax levy between different geographical areas of their authority (Q7).

25 February 2013 - THE WELSH GOVERNMENT'S POLICY REGARDING COUNCIL TAX, SECOND HOMES AND HOLIDAY LETS

We have already stated on several occasions that the Welsh Government should legislate to reduce the ambiguity and create appropriate definitions and giving billing authorities powers (via planning or local taxation arrangements) to categorize such properties.

If regulations are effected to allow the tax on empty homes to be increased without limiting the right to categorise property as a second home, or as a business (holiday let), there would be nothing to prevent the owner of an empty house from putting furniture in their property and arguing that it is not empty!

The impact of second homes varies significantly between the different local authorities' areas, and in Gwynedd there is scarcity of places for people to live, while the use of second homes forces prices upwards."

You'll be aware that members and officers from Gwynedd Council and the Welsh Local Government Association have raised this matter with the Welsh Government on several occasions.

19 March 2014 – Response to the consultation on the Findings of the Report on the Impact and Effect of the Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2010 (IRRV's Paper)

It was a real disappointment to discover the recommendations / options with every one of this narrow range proposing to relax the test! Below, I list the options in the order favoured by the IRRV:

- (1) Option 4 – Provide an opportunity for the taxpayer to reach the 70 days over a five year period (similar to WASCO recommendations).
- (2) Option 1 – Approve the best year for letting over the last 3/5 years.
- (3) Option 5 – That they satisfy the test for any year during the valuation list period.
- (4) Option 3 – Allow the taxpayer to select any 12 month period over the last five years.
- (5) Option 2 – Use the average for the last 3/5 years.

None of these options come close to what the Council would wish to see. Each of them means relaxing the requirement and moves further from recommendations previously submitted by Gwynedd Council.

Basically, we believe that the existing criterion, which enables a property to be treated as a business even if it has not been let for nine months of the year, is much more generous than the common sense definition of a "business". Any movement towards relaxing the rule any further would undo the improvements made to the system in response to pressure from Gwynedd Council and others over a number of years. **The proposed options would be unfair for other taxpayers who have to pay council tax in full, in addition to the 'true' tourism businesses that make a significant contribution to the local economy and therefore merit more favourable tax treatment.**

In fact, should the requirements be relaxed, it is likely that there would be another property category that would then fail to comply with the criterion by a small margin, leading to pressure to relax the requirements even further to include those also, and consequently there is a danger of losing control of the whole regime.

Rather than going down this irresponsible route, at the very least, we believe that **the criteria of 70 days of actual letting should be increased to 105 days.** This would be consistent with business requirements in relation to HMRC's taxes; the Valuation Office Agency is a branch of that Government Department and the

opportunity to collaborate and reconcile information between each unit is patently obvious and should be utilised.

Furthermore, as in the past, we once again press for the amending of planning control so that permission needs to be granted in order to change the use of a property to a second home or self-catering holiday property, and to create a link between the tax system and the uses permitted under the planning system in order to have better control of the field in general.

13 August 2014 - LISTING OF PROPERTIES FOR COUNCIL TAX OR NON-DOMESTIC RATES

I'm concerned that the current criteria used (although amended by the introduction of the 70 day actual let in 2010) is insufficient to avoid significant impropriety in allocation of properties.

“Our major worry with the planned legislation is that it does not go far enough in order to deal with second homes (where the standard rate of tax would remain payable) and holiday lets (where a significantly lower level of NNDR is payable). We have already stated on several occasions that the Welsh Government should legislate to reduce the ambiguity and create appropriate definitions and giving billing authorities powers (via planning or local taxation arrangements) to categorize such properties.”

“The power to charge higher council taxes on second homes should be accompanied with measures to improve and tighten the criteria in relation to the taxation of self-catering holiday accommodation. We are very willing to assist the Welsh Government to design a package of possible measures, including possibly tightening the existing conditions and / or linking the conditions with planning legislation.

“Based on the above evidence we strongly believe that introducing these powers – alongside the powers already planned in relation to empty properties – would place councils in a stronger position to implement mitigating measures which could contribute positively to the well-being of communities. We also believe it complements the aim of the Future Generations Bill which is to future proof communities, ensuring they are protected from pressures that threaten their viability and survival.”

“... at the very least, we believe that the criteria of 70 days of actual letting should be increased to 105 days. This would be consistent with business requirements in relation to HMRC's taxes; the Valuation Office Agency is a branch of that Government Department and the opportunity to collaborate and reconcile information between each unit is patently obvious and should be utilised.”