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Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol
Cabinet Secretary for Finance and Local Government



Llywodraeth Cymru
Welsh Government

Simon Thomas AM
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Cardiff Bay
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15 February 2017

Arwygl Simon,

LAND TRANSACTION TAX AND ANTI-AVOIDANCE OF DEVOLVED TAXES (WALES) BILL

I hope you found the 2 February technical briefing helpful on the Stage 2 amendment on the higher rates residential property transactions (*the LTT surcharge*). I welcome your interest in the practical application of the Bill, which I recognise is complex in places, and I am very keen to help and support the Committee and stakeholders in any way possible.

I am writing to make you aware of my intention to bring forward an amendment at Stage 3 which seeks to modify the effect of the LTT surcharge on the acquisition and ownership of a dwelling that is acquired and held by a deputy on behalf of a minor who lacks mental capacity in accordance with the Mental Capacity Act 2005 (MCA 2005).

The current default position under SDLT (as replicated in the LTT surcharge amendment), is that where a child holds, acquires or disposes of an interest in a property, it is the child's parents (rather than the child) who is treated as holding, acquiring or disposing of that interest. This is an important mechanism to ensure that the LTT surcharge is not avoided simply by purchasing property for the benefit of children.

However, through engagement with technical experts, we have identified an anomaly in relation to incapacitated children, who hold property through a court appointed deputy acting in accordance with the Mental Capacity Act 2005. To deal with this anomaly, the amendment I intend to introduce will disapply the default provision in respect of children's interests. The objective of the amendment is to ensure that incapacitated minors and their parents are not disadvantaged as a result of the LTT surcharge.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

I have consistently maintained that we will not make changes for change's sake but will seek to add clarity and make improvements to the legislation where there are opportunities to do so. I have already made what I consider to be some improvements to the LTT higher rates rules. If opportunities arise to provide further clarification or make additional improvements to the Bill for Stage 3, I will bring these forward.

I hope that you find this information helpful, I am keen to assist the Committee if there is anything further that they may find helpful to support this work.

Yours sincerely

A handwritten signature in black ink that reads "Mark". The letters are cursive and fluid, with a large initial 'M'.

Mark Drakeford AM/AC

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