

Mark Drakeford AM
Cabinet Secretary for Finance and Local Government

21 October 2016

Dear Mark

Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Bill

Thank you for attending the Committee's meeting on [Monday 3 October 2016](#) to aid our scrutiny of the [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Bill](#). I also acknowledge receipt of your letter of 18 October 2016.

During the meeting you stated that the powers to make subordinate legislation within the Bill corresponded with both the *Stamp Duty Land Tax Act 2015* and the *Land and Buildings Transaction Tax (Scotland) Act 2013*. We would welcome further clarification on how the 33 regulation and order making powers within the Bill compare with the legislation in place at Westminster and the Scottish Parliament. Should the powers differ between legislatures, we would be grateful to receive an explanation as to why you have chosen a different procedure.

We also questioned you about the use of either the negative or affirmative procedure under section 76(1), depending on the circumstances. The Explanatory Memorandum states that where the Welsh Ministers form the opinion that the effect of the regulations may lead to the imposition or an increase in an individual's liability to tax, the affirmative procedure is prescribed. We remain unclear how this opinion will be formed. What evidence or modelling will be used to judge whether the regulations have the effect of imposing or increasing a tax liability?



Finally, the purpose of section 76(2) of the Bill is to permit the amendment of primary legislation by regulations. It is a long standing principle that regulations that amend primary legislation are subject to the affirmative procedure. I would be grateful if you could explain why it is proposed that the affirmative procedure will not be used for regulations made under section 76(2).

It would be helpful to receive a response to this letter by 3 November 2016.

I am copying this letter to Simon Thomas AM, Chair of Finance Committee.

Yours sincerely

Huw Irranca-Davies

Chair

