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WELSH STATUTORY INSTRUMENTS

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**2016 No. 969 (W. 238)**

**COUNCIL TAX, WALES**

**The Local Authorities (Calculation of Council Tax Base) (Wales) (Amendment) Regulations 2016**

<i>Made</i>	- - - -	<i>5 October 2016</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>7 October 2016</i>
<i>Coming into force</i>	- -	<i>28 October 2016</i>

The Welsh Ministers make the following Regulations in exercise of the powers conferred upon the Secretary of State by sections 33(5) and (6), 34(4), 44(5), 45(4) and 48(5) of the Local Government Finance Act 1992<sup>(1)</sup> and now vested in them<sup>(2)</sup>.

**Title, commencement and application**

1.—(1) The title of these Regulations is the Local Authorities (Calculation of Council Tax Base) (Wales) (Amendment) Regulations 2016 and they come into force on 28 October 2016.

(2) These Regulations apply in relation to the calculation of a council tax base for a financial year beginning on or after 1 April 2017.

**Amendment of Regulations**

2. The Local Authorities (Calculation of Council Tax Base) (Wales) Regulations 1995<sup>(3)</sup> are amended as follows.

**Interpretation**

3. In regulation 1(3)—
- (a) in the appropriate place insert—

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(1) 1992 c. 14. Relevant amendments were made to the Local Government Finance Act 1992 by section 139 of the Housing (Wales) Act 2014 (anaw 7).

(2) Functions of the Secretary of State, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1. Those functions were subsequently transferred to the Welsh Ministers by virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(3) S.I. 1995/2561; as amended by S.I. 1999/2935 and S.I. 2004/3094 (W. 268).

““premium” means an increase in the amount of council tax payable in respect of a dwelling due to a determination made by a billing authority under section 12A or 12B;”;

- (b) in the definition of “relevant percentage”(4) after “12” insert “or increased due to the application of a premium”.

#### Calculation of relevant amounts

4. After regulation 5A(5) insert—

##### **“Calculation of the relevant amounts for a financial year beginning on or after 1 April 2017**

**5B.**—(1) For the purposes of regulation 3, the relevant amount for a financial year beginning on or after 1 April 2017 (“the year”) for a valuation band (“the band”) is the amount found by applying the formula—

$$(H - Q + E + J) \times (F \text{ divided by } G)$$

where—

H is the number of chargeable dwellings in the area of the billing authority listed in the band on the relevant day calculated by the authority in accordance with paragraph (2);

Q is a factor to take account of the discounts to which the amount of council tax payable was subject on the relevant day calculated in accordance with paragraph (4);

E is a factor to take account of a premium, if any, to which the amount of council tax payable was subject on the relevant day calculated in accordance with paragraph (5);

J is the amount of any adjustment in respect of changes in the number of chargeable dwellings, discounts or premiums calculated by the authority in accordance with paragraph (7);

F is the number which, in the proportion set out in section 5(1), is applicable as regards the year to dwellings listed in the band;

G is the number which, in that proportion, is applicable as regards the year to dwellings listed in valuation band D.

(2) The authority must calculate the number of chargeable dwellings for the purposes of item H in paragraph (1) by deducting from the number of dwellings listed in the band on the relevant day its estimate of the number of such dwellings which were exempt on that day.

(3) For the purposes of paragraph (2), the authority must ascertain the number of dwellings listed in any valuation band by reference to—

(a) the state on the relevant day of the authority’s list, including any alterations of the list which were shown as having effect on that day; and

(b) any alterations of the valuation list maintained by the listing officer for that authority which were not shown on the authority’s list but of which the authority had been informed by the listing officer and which had effect on that day.

(4) Q is the aggregate of amounts found by multiplying, for each different relevant percentage, R by S, where—

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(4) The definition of “relevant percentage” was inserted by S.I. 2004/3094 (W. 268), regulation 2(d).

(5) Regulation 5A was inserted by regulation 3 of S.I. 2004/3094 in respect of a financial year beginning on or after 1 April 2005.

R is the number of dwellings taken into account for the purposes of item H in paragraph (1), for which the amount of council tax payable for the relevant day was reduced by that relevant percentage, estimated by the authority in accordance with paragraph (6);

S is that relevant percentage.

(5) E is the aggregate of amounts found by multiplying, for each different relevant percentage, R1 by S1, where—

R1 is the number of dwellings taken into account for the purposes of item H in paragraph (1), for which the amount of council tax payable for the relevant day was increased by that relevant percentage, estimated by the authority in accordance with paragraph (6);

S1 is that relevant percentage.

(6) The authority must make the estimates required for the purpose of paragraph (4) and (5) on the basis of all the information available to the authority on the relevant day.

(7) The authority must calculate the amount of any adjustment for the purposes of item J in paragraph (1) as equal to the amount by which the number that the authority calculates in accordance with paragraph (8) exceeds the number that the authority calculates in accordance with paragraph (9); and if there is no such excess, the adjustment is nil or, as the case may be, a negative amount.

(8) Subject to paragraph (11), the authority must calculate the aggregate of—

- (a) the authority's estimate of the number of chargeable dwellings which are not ascertained for the purposes of paragraph (2) as listed in the band on the relevant day but which will be listed in the band for the whole or part of the year; and
- (b) the aggregate of amounts found by multiplying, for each different relevant percentage, U by V, where—

U is the authority's estimate of the number of dwellings in respect of which the amount of council tax payable for the relevant day was reduced by that relevant percentage and which were taken into account for the purposes of item R in paragraph (4), but in respect of which the amount of council tax payable for the whole or part of the year will not be reduced by that relevant percentage;

V is that relevant percentage; and

- (c) the aggregate of amounts found by multiplying, for each different relevant percentage, U1 by V1, where—

U1 is the number of dwellings, taken into account for the purposes of item H in paragraph (1) or falling within paragraph (8)(a), in respect of which the amount of council tax payable for the whole or part of the year will be increased by that relevant percentage, and which were not taken into account for the purposes of item R1 in paragraph (1), estimated by the authority in accordance with paragraph (5);

V1 is that relevant percentage.

(9) Subject to paragraph (11), the authority must calculate the aggregate of—

- (a) the authority's estimate of the number of chargeable dwellings which are ascertained for the purposes of paragraph (2) as listed in the band on the relevant day but which—
  - (i) will not be listed in the band for the whole or part of the year; or

- (ii) will be exempt at any time in the year or that part of the year for which they will be listed; and
- (b) the aggregate of amounts found by multiplying, for each different relevant percentage, W by X, where—
  - W is the number of dwellings, taken into account for the purposes of item H in paragraph (1) or falling within paragraph (8)(a), in respect of which the amount of council tax payable for the whole or part of the year will be reduced by that relevant percentage, and which were not taken into account for the purposes of item R in paragraph (1), estimated by the authority in accordance with paragraph (4);
  - X is that relevant percentage; and
- (c) the aggregate of amounts found by multiplying, for each relevant percentage, W by X, where—
  - W1 is the authority's estimate of the number of dwellings in respect of which the amount of council tax payable for the relevant day was increased by that relevant percentage and which were taken into account for the purposes of item R1 in paragraph (5), but in respect of which the amount of council tax payable for the whole or part of the year will not be increased by that relevant percentage;
  - X1 is that relevant percentage.
- (10) Regulation 4(3) applies for the purposes of making any of the calculations or estimates referred to in paragraphs (2), (8) and (9) as it applies for the purposes of regulation 4(2).
- (11) Where it appears to the authority likely that—
  - (a) a dwelling will be listed in a band in the authority's list, or will not be so listed, for part of the year;
  - (b) a dwelling will be exempt for part of the year during a period for which it will be listed in a band in the authority's list; or
  - (c) the amount of council tax payable in respect of a dwelling will be subject to a discount of a relevant percentage for part of the year;
  - (d) the amount of council tax payable in respect of a dwelling will be subject to a premium of a relevant percentage for part of the year;

the authority must, for the purposes of making any of the estimates referred to in paragraphs (8) or (9), treat such a dwelling, discount or premium as a fraction produced by dividing the number of days in that part of the year by the number of days in the year.
- (12) For the purposes of this regulation, the relevant day is 31 October in the financial year preceding that for which the relevant amount is calculated."

#### **Calculation of billing authority's council tax base for part of its area**

- 5. In regulation 6(2)—
  - (a) for "5 to 5A" substitute "5, 5A or 5B";
  - (b) after paragraph (d) insert—
    - "(e) in regulation 5B, the relevant day in respect of the year is—
      - (i) where the authority determines the amount for item TP in section 34(3) in the period beginning on 1 November and ending on 31 December in the preceding financial year, 31 October in the preceding year; and

- (ii) in any other case, the day on which the authority calculates the relevant amount for the year for the purposes of item TP in section 34(3).”

**Calculation of council tax base for the purposes of a major precepting authority**

- 6. In regulation 7—
  - (a) in paragraph (1)—
    - (i) for “5 or 5A” substitute “5, 5A or 5B”;
    - (ii) after “regulation 5A”, insert “or items H, Q, E and J in regulation 5B as the case may be,”;
  - (b) in paragraph (2) after “regulation 5A”, insert “or items H, Q, E and J in regulation 5B, as the case may be,”.

**Determination of billing authority’s council tax base**

- 7. In regulation 9(2) for “5 or 5A” substitute “5, 5A or 5B”.

5 October 2016

*Mark Drakeford*  
Cabinet Secretary for Finance and Local  
Government, one of the Welsh Ministers

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Local Authorities (Calculation of Council Tax Base) (Wales) Regulations 1995 (“the 1995 Regulations”) in respect of a financial year beginning on or after 1 April 2017.

The 1995 Regulations provide for the calculation by billing authorities (county and county borough councils) and major precepting authorities in Wales of their council tax bases. The council tax base is an amount required by the Local Government Finance Act 1992 (“the 1992 Act”) to be used in the calculation of council tax by billing authorities and major precepting authorities and in the calculation of the amount of a precept payable by each billing authority to a major precepting authority.

The amendments in these Regulations are made as a consequence of amendments to the 1992 Act by section 139 of the Housing (Wales) Act 2014. Those amendments enable billing authorities in Wales to apply a higher amount of council tax (“a premium”) in respect of long-term empty dwellings and dwellings that are occupied periodically.

The council tax base for the whole of a billing authority’s area (item T in section 33(1) of the 1992 Act) is found by adding together the relevant amounts for each council tax band and multiplying the total by the authority’s estimate of its collection rate (see regulation 3 of the 1995 Regulations).

Regulation 4 inserts new regulation 5B into the 1995 Regulations. When calculating the tax base for financial years beginning on or after 1 April 2017, the formula in new regulation 5B requires billing authorities to take account of any premium applied under section 12A or 12B of the 1992 Act (if the authority has determined to charge a premium in respect of that year). The new formula includes item “E” which is a factor to take account of a premium to which the council tax may be subject. The calculation for item E requires a billing authority to multiply, for each relevant percentage, an estimate of the number of dwellings in respect of which a premium applies with the relevant percentage. In this context the “relevant percentage” is the percentage by which council tax is increased due to the application of a premium (see the amendment to the meaning of “relevant percentage” in regulation 1(3) of the 1995 Regulations made by regulation 3 of these Regulations).

Billing authorities are required to make their calculations on the basis of the council tax list on the day prescribed by regulations. This day, the “relevant day”, for a financial year beginning on or after 1 April 2017 is 31 October in the year preceding the financial year for which the calculations are made.

Paragraph (7) of new regulation 5B requires billing authorities to take account of a premium in the calculation of item J in the formula. Item J is the amount of any adjustment in respect of changes in the number of chargeable dwellings or discounts calculated by the authority during the period from the relevant day to the end of the financial year. The calculation of item J in new regulation 5B includes an element to take account of any adjustments to the application of a premium.

Regulation 6 of the 1995 Regulations provides for the calculation of the tax base for a part of a billing authority’s area (item “TP” in the 1992 Act). Regulation 5 of these Regulations inserts references to the new regulation 5B into regulation 6 of the 1995 Regulations. The calculation for the tax base for part of an area therefore takes account of the application of a premium.

Regulation 7 of the 1995 Regulations provides for the calculation of the tax base for the purposes of a major precepting authority. Regulation 6 of these Regulations inserts references to the new

regulation 5A and to items in the calculations in the new regulation 5A into regulation 7 of the 1995 Regulations. This ensures that the calculation of the tax base includes the application of a premium.

Regulation 9 of the 1995 Regulations provides for the determination by a major precepting authority of a billing authority's tax base where the billing authority has failed to notify its tax base to the major precepting authority within the prescribed period. Regulation 7 of these Regulations amends regulation 9 to insert reference to the new regulation 5A.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Local Government Finance Policy Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.