

Agenda – Pwyllgor yr Economi, Seilwaith a Sgiliau

Lleoliad: I gael rhagor o wybodaeth cysylltwch a:
Ystafell Bwyllgora 1 – y Senedd Gareth Price
Dyddiad: Dydd Mercher, 5 Hydref 2016 Clerc y Pwyllgor
Amser: 08.30 0300 200 6565
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Brecwast busnes (World of Boats) (08.30 – 09.30)

Rhag-gyfarfod preifat (09.45 – 10.00)

1 Cyflwyniad, ymddiheuriadau, dirprwyon a datgan buddiannau

2 Ardrethi Busnes yng Nghymru – Panel arbenigol

(10.00–11.15)

(Tudalennau 1 – 33)

David Magor, Prif Weithredwr, y Sefydliad Ardrethu a Phrisio Refeniw
Andrew West, Sefydliad Brenhinol y Syrfewyr Siartredig Cymru
Matthew Williams, Cyngorydd Polisi, Ffederasiwn Busnesau Bach Cymru

Dogfennau atodol:

Y Briff Ymchwil

EIS(5)–05–16 (p1) Y Sefydliad Ardrethu a Phrisio Refeniw (Saesneg yn unig)

EIS(5)–05–16 (p2) Sefydliad Brenhinol y Syrfewyr Siartredig Cymru (Saesneg yn unig)

EIS(5)–05–16 (p3) Ffederasiwn Busnesau Bach Cymru (Saesneg yn unig)

3 Ardrethi Busnes yng Nghymru – Craffu ar waith y Gweinidog

(11.15–12.15)

(Tudalennau 34 – 37)

Dr Mark Drakeford, Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol
Debra Carter, Dirprwy Gyfarwyddwr, Polisi Cyllid Llywodraeth Leol, Lywodraeth Cymru

Joanna Valentine, Pennaeth Polisi Trethi Lleol, Lywodraeth Cymru

Dogfennau atodol:

EIS(5)–05–16 (p4) Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol



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4 Papur(au) i'w nodi

4.1 Llythyr gan Gadeirydd Pwyllgor yr Economi, Seilwaith a Sgiliau at Ysgrifennydd Gwladol Cymru ynghylch Bil Cymru

(Tudalennau 38 – 47)

Dogfennau atodol:

EIS(5)-05-16 (p5) Llythyr gan Gadeirydd Pwyllgor yr Economi, Seilwaith a Sgiliau at Ysgrifennydd Gwladol Cymru ynghylch Bil Cymru

4.2 Llythyr gan Gadeirydd Pwyllgor yr Economi, Seilwaith a Sgiliau at Ysgrifennydd y Cabinet dros yr Economi a'r Seilwaith ynghylch y fasnachfrait rheilffyrdd ac amserlen y metro

(Tudalennau 48 – 49)

Dogfennau atodol:

EIS(5)-05-16 (p6) Llythyr gan Gadeirydd Pwyllgor yr Economi, Seilwaith a Sgiliau at Ysgrifennydd y Cabinet dros yr Economi a'r Seilwaith ynghylch y fasnachfrait rheilffyrdd ac amserlen y metro

5 Cynnig o dan Reol Sefydlog 17.42 i benderfynu gwahardd y cyhoedd o weddill y cyfarfod ac o eitem 1 y cyfarfod ar 13 Hydref

Ôl-drafodaeth breifat (12:15 – 12:30)

Eitem 2

Mae cyfyngiadau ar y ddogfen hon

Business Rates Policy in Wales

**An Outline of the Institute of Revenues, Rating and Valuation's (IRRV) Evidence to the Economy, Infrastructure and Skills Committee of the National Assembly for Wales
5th October 2016 from 10.00 – 11.15am**

Business Rate Policy in Wales

Introduction

The IRRV is the professional body concerned with all aspects of local taxation, valuation, appeals, financial management and local benefits administration in the United Kingdom. It has members within both the public and private sectors, including ratepayers and their agents. Institute members are engaged in local taxation collection, property valuation, the appeals process, advising and representing ratepayers and financial management within local government.

We are an Institute that represents the professional interests of members who work within a broad church. The Institute is the only professional body in the United Kingdom which specialises in the law and practice of local authority revenues and local taxation, together with the valuations, appeals, reliefs and benefits which support these processes.

The approach taken to modelling the costs and economic benefits of business rates policy options

The Institute often models the impact of government policy and in recent months has looked critically at the government's proposals for 100% rate retention in England. This modelling approach takes account of the impact of rate liability and its effect on both the ratepayer and local economic conditions. This approach is partially helpful when dealing with issues such as; local discretions, particularly those related to stimulation of the tax base, regeneration and local economic activity.

What should the Welsh Government's priorities for business rates policy be for the Fifth Assembly

The Assembly should move forward on a retention scheme designed specifically for Wales. Whilst the English model can be used as a guide there are some aspects that can be improved particularly the level of discretion and the scheme of equalisation. The Institute supports a number of the recommendations of the Task and Finish Group and these should be given priority particularly

In the 2012 report

Recommendation 2: There is a piece of work needed to be completed in conjunction with the Climate Change Commission, the Welsh Government and Business regarding the issues and needs surrounding sustainability and its impact on NDR.

Recommendation 3: A thorough review of the use of hardship funds by Local Authorities. Currently, the vast majority of Local Authorities do not admit to having a hardship fund, and those who do admit that the chance of receiving a hardship fund is very slim.

Recommendation 4: A thorough review of rates holidays and what the business community needs. Should business rates relief be targeted?

Recommendation 8: Is there a need for a central database for NDR statistics? Is this possible? Research during this report and throughout the Task and Finish Group has highlighted the clear lack of statistics available. This is worrying in terms of policy development and has hindered the Task and Finish group's work in some aspects. Asking each individual Billing Authority in Wales for statistics

appears to be a cumbersome task. A central database could provide the data needed on which to base NDR policy, its impacts and then have the intelligence to target relief/multipliers.

Recommendation 11: Review of the multiplier and its possibilities. Should the multiplier be increased for all businesses, and could this fund a more generous rates relief package? Is this possible or desirable with regards to the devolution settlement? Should the annual link with the RPI change? Data is not currently freely available to research this subject.

In the 2013 report

Recommendation 1: The Task and Finish group reiterates previous recommendations that planning authorities should consider incentives, such as targeted grant funding in preference to NDR relief, in those town centre areas that have suffered significant decline as retail centres. However, in other areas of the town centre, carefully managed NDR relief packages may be created particularly for empty, refurbished and newly built property.

Recommendation 2: The Task and Finish group recommends that local planning authorities should be encouraged to be flexible in the way that 'change of use' consent is granted, to enable and encourage alternative use of vacant and surplus retail space, including temporary 'meanwhile use'.

Recommendation 5: To assist in raising awareness of the role that the Hardship Relief scheme can perform, the Group recommends that clear and consistent guidance notes should be drawn up that reminds local authorities of the criteria by which they may judge an application for relief (based on the points enumerated in paragraph 34 below), and highlights best practice in publicising the relief.

Recommendation 6: The Task and Finish Group has, in previous reports, noted the negative impact that the reduction in EPR relief, introduced in 2008, has had and the avoidance practices that have arisen in its wake. The Group, therefore, recommends consideration should be given to reviewing the existing 100% charge on longer term empty premises.

Using our experience from England, it is important that business ratepayers are given a reasonable lead time in order to take into account of any adjustments in their outgoings. This is particularly important with rate liability because it is regarded by business as the most significant outgoing after all the costs of employment. We would therefore suggest that a lead in time of at least 12 months is essential to give business the opportunity to make these adjustments.

How should the recommendations made by the Business Rates Task and Finish Group and the Business Rates Panel in the last Assembly be prioritised and taken forward

The Institute was actively involved in giving evidence to the Task and Finish Group. We support a number of the recommendations as above

How can business rates be used to drive economic growth, and how should performance be measured against this;

We believe the application of differential tax rates for rate liability would give local authorities and the Welsh Assembly Government the opportunity to introduce innovative approaches to encourage businesses to relocate in Wales. This will be particularly important if it were to be considered alongside any potential changes in the levels of Corporation Tax. This will also give a possible incentive for dealing with the porous nature of the border between England and Wales.

The introduction of retail incentive schemes is an approach that has been used to reverse the decline in high street retail activity. The Institute is not convinced that this approach works and is exploring other options particularly the introduction of internet sales levies and more innovative schemes of State Aid which should be part of the Brexit provisions.

The potential implications of recent changes in English business rates policy for Welsh businesses and the Welsh economy, such as planned changes affecting small businesses such as reliefs and multipliers; more frequent revaluations; proposals for 100% local retention of business rates and for local authorities to be able to set their own business rates multiplier;

The Institute has taken a positive stance on the introduction of business rates retention schemes. There is no doubt in our mind that it has encouraged billing authorities to take a more active role in the administration of the tax which has led to an increase in yield. The localisation mechanism and the potential to retain income have also begun to yield results particularly in relation to the funds available to improve the infrastructure in areas of economic decline such as the traditional high street. The move to 100% retention will generate more activity in the rate tax base however care must be taken to fairly equalise the financial resources.

One of the disadvantages of five yearly revaluations is that where there is a large swing in rental or capital values inter-quinquennium, this is not reflected until the following revaluation. Where rents and costs are increasing, the ratepayer is unlikely to be upset; however, where these values fall, dissatisfaction can arise (notwithstanding provisions relating to material change which may assist in these cases).

We contend that shorter periods between revaluations would be preferred by the majority of ratepayers as this would help to even out some of the changes in levels of value which can occur within the revaluation cycle.

The revaluation cycle has traditionally lent itself to a five-year valuation cycle, due in part to the timescale required to handle large volumes of appeals between revaluations.

It may assist ratepayers to move towards a three-yearly revaluation cycle; possibly as a stepping stone to annual or two-yearly revaluations. We accept however that these changes would probably only be achieved if all leases are supplied as a matter of course to the VOA (direct or via Land Registry). Such a move to more frequent revaluation would generally reduce the number of appeals, keep rateable values more aligned to passing rents and could negate any need for transitional relief schemes.

More frequent revaluations would generally result in a more acceptable change to rate poundage levels; thereby giving rateable occupiers a greater degree of certainty. Three-yearly revaluations could level out the appeal workload for rating surveyors, minimise increases / reductions in revaluation assessments for occupiers and allow the Government and billing authorities a greater degree of certainty of income level.

In the context of non domestic rates the introduction of variable local multipliers in Wales could influence the relocation of business activity from England to Wales. If this is the case it raises the potential for increased revenue as the tax relationship between Wales and the Treasury matures

Your views on taking forward localisation/regionalisation of business rates policy in Wales, particularly in the context of the Cardiff Capital Region City Deal and the proposed deals for Swansea Bay and North Wales;

As previously stated the Institute has taken a positive stance on the introduction of business rates retention schemes. The localisation mechanism has the potential to stimulate growth. The creation of City Deals and Combined Authorities will enable the creation of unique locally based regeneration schemes and could improve the deliver of local services. There is also early evidence of retained income beginning to yield results particularly in relation to the funds available to improve the infrastructure in areas of economic decline such as the traditional high street. However these arrangements must not be at the expense of other local authorities who rely upon the equalisation process to balance the resources generally available to local government.

The potential impact of the revaluation of rateable values currently being conducted by the Valuation Office Agency (VOA) for the Welsh Government.

It is early days. There have been broad indications from the VOA of the movement in value over the various classes of property. My Institute will be carrying out an authority by authority comparative analysis for English local government. This will enable them to adjust provisions for the Retention Scheme and check the Governments adjustment of baselines.

The revaluation also will undoubtedly shift the incidence of liability in Wales. This shift will benefit some and penalise others. Those who see a shift upwards need to be protected. This protection traditionally takes the form of transitional schemes that are either financed by Government or by phasing the gains.

Any other issues you think are particularly relevant.

The condition of the Rating List for Wales

We have carried out a study of the quality of rating lists in England and Scotland which has revealed a significant incidence of missing rateable value. This situation has been fuelled by the “nationalisation” of the non domestic rate in 1990 which led to billing authorities reducing the administrative effort in relation to the maintenance of the rating lists. We believe there is significant missing value in Wales.

The introduction of an incentive scheme to Billing Authorities in England was probably the most significant change to the non domestic rate since its inception in 1990. It introduced two major challenges to Billing Authorities (BAs), firstly it demanded improved budgetary forecasting in an area generally unfamiliar to finance managers, but it also gave financial encouragement to BAs to improve resource commitment to the rating team. In England this incentive has already realised over £50m of missing value

Rates Avoidance

The Institute fully supports the premise that clarification and/or change is required regarding aspects of empty business rating, both in terms of its application and its administration. The Institute also fully supports the Government commitment to “continue to support law abiding ratepayers who are genuinely entitled to the reliefs and exemptions”. This support should apply to all who work by legal means to minimise business rates liability; and by extension it should not include those who adopt practices by which they seek to evade tax liability.

Tax avoidance is, of course, a strategy which involves exploiting legal means of reducing taxes with the goal of minimizing tax liability. Avoidance is a perfectly legal approach to handling taxes. There is a point at which practices of a minority stray into the realm of being abusive; and thereby cross the line into tax evasion. It is important to emphasise however that there is nothing illegal in seeking to minimise that tax liability, either for oneself or on the behalf of others. To state that avoidance places an unfair burden on the “honest majority” could be seen to portray those who seek to minimise liability legitimately as ‘dishonest’ and this is not the case.

It is felt that avoidance is “undermining confidence in the rates system”. It could well be argued that the interaction of the empty property rating system as introduced from 2008, with the now high level of business rates multiplier are also contributory factors to any perceived undermining of confidence in the system.

BRIEFING PAPER FOR THE NATIONAL ASSEMBLY FOR WALES ECONOMY, INFRASTRUCTURE AND SKILLS COMMITTEE, PREPARED BY ANDREW WEST MRICS, IRRV (HONS), RICS WALES

1. What should the Welsh Government's priority for Business Rates Policy be for the Fifth Assembly?

- **Stability; certainty; transparency**
- Where possible reducing the fiscal impact of business rates to the small business community (See Question 2)
- Simplifying existing over complex system of reliefs and exemptions

2. How should the recommendations made by the Business Rates Task and Finish Group and the Business Rates Panel in the last Assembly be prioritised and taken forward?

- Commit to more regular revaluations (3 yearly) in order to reflect businesses ability to pay during periods of economic volatility, and avoid extended periods of hardship.
- Abate annual increases in rate bills by linking the multiplier to CPI, not RPI, and consider a freeze on increases during downturns and recessions.
- Permanently exempt small businesses from business rates using enhanced RV thresholds.
- Exemption of plant and machinery from valuations particularly poignant and effective in Welsh industrial heartlands.

3. How can business rates be used to drive economic growth, and how should performance be measured against this?

- See response to Question 2 above.
- Targeted reliefs and exemptions, eg extension of the Wales Retail Relief Scheme and the New Developments Scheme.
- Creation of jobs and occupation of vacant units are crude but measurable to identify success.

4. The potential implications of recent changes in English business rate policy for Welsh Businesses and the Welsh economy, such as planned changes affecting small businesses like reliefs and multipliers; more frequent revaluations; proposals for 100% local retention of business rates and for local authorities to be able to set their own business rates multiplier?

- If the existing system of 5 yearly revaluations, multiplier linked to RPI and small business relief up to £12,000 RV continues England will enjoy a business friendly reputation and a competitive and marketing advantage which could be material to marginal investment decisions.

- 100% local retention of business rates – pluses and minuses: could cause significant problems for Council's reliant on income from one or two large assessments, eg Tata, Port Talbot!
- Any rate retention scheme should protect and target income for economic growth.
- The multiplier should remain consistent throughout Wales to give business consistency and stability
- Local rates retention should be linked directly to economic development activities.

5. Your views on taking forward localisation/regionalisation of business rates policy in Wales, particularly in the context of the Cardiff Capital Region City Deal and proposed deals for Swansea Bay and North Wales?

- Regionalisation linked to development of city regions which could weaken development initiatives for individual councils but should target income to areas of most need. Regionalisation should encourage a wider, strategic approach.
- Winners and losers
- NB Impact of local government reorganisation?

6. The potential impact of the revaluation of rateable values currently being conducted by the Valuation Office Agency for the Welsh Government?

- The broad impact of the 2017 revaluation should be measurable by this meeting. However, external analysis will be in its early stages.
- It is likely that the Welsh rate pool will fall leading to an increase in the tax rate from 0.486 to 0.500+, a psychological barrier. The increase in the tax rate to 50p+ should come with increased transparency to understand the valuation basis for the assessments behind the tax.
- Transparency is seen as key to the continued creditability and acceptance of a property tax which has been used with us for 400 years.
- Dealing with resultant appeals in a timely fashion has been and should be deliverable in Wales compared with appeal volumes and time lags present in England.

7. Any other issues you think are particularly relevant?

CHECK, CHALLENGE, APPEAL

- Substantial changes to the appeals system in England from 2017 dividing the appeal into 3 distinct phases:

- **Check** – largely administrative confirmation of facts with financial penalties for provision of incorrect information.
- **Challenge** – the substantive phase where the ratepayer will be required to produce a detailed document specifying grounds for appeal and a reasoned justified valuation. If the VOA considers the information provided inadequate the challenge will be returned.
- **Appeal** – to the Valuation Tribunal Service, upon payment of a charge up to £300 with a proposal that the Tribunal will only give a decision if a valuation is outside the bounds of “reasonable professional judgement”.
- It could take 2 years, 10 months to reach the appeal stage.
- It is suggested this system will reduce transparency and increase frustration in the system due to substantial procedural and administrative barriers, penalties and increased time lags: it could take almost 3 years to arrive at the appeal stage.
- Historically, Wales has adopted subtle but distinct differences from England: one multiplier; no transition; no burden of Statement of Case production to the Valuation Tribunal. The system in Wales is generally accepted by stakeholders as an exemplar of good practice for business rates in the UK: annual liability is a simple, understandable calculation with no barriers to communication with the Valuation Office Agency. The result is a much more stable, generally accepted system of local government taxation.
- If we wish to continue as a beacon of good practice for business rates it is strongly recommended that the Welsh Government do not adopt the draconian English Check, Challenge, Appeal proposals which are the subject of concern from many stakeholders including, critically, ratepayer organisations.
- This criticism will increase as we approach the implementation of the new scheme from 1st April 2017.
- In order to maintain a stable tax based and reduce the impact of appeals, the production by the VOA of background information upon which an assessment is based would substantially reduce the need to appeal.
- This could be done through a discreet electronic portal in order to address potential disclosure and confidentiality issues. We suggest a working party is assembled to develop this process which would address many of the concerns which have caused criticism of a system which remains a consistent stable source of income for local government and should continue to do so with these suggested improvements.



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FSB response to Economy, Innovation and Skills Committee Inquiry on Business Rates

21 September 2016

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FSB Wales welcomes the opportunity to present its views to Economy, Innovation and Skills Committee. FSB Wales is the authoritative voice of businesses in Wales. With 10,000 members, a Welsh Policy Unit, two regional committees and twelve branch committees; FSB Wales is in constant contact with business at a grassroots level. It undertakes regular online surveys of its members as well as a biennial membership survey on a wide range of issues and concerns facing small business.

Non Domestic Rates have long been a key concern of FSB members, and we have worked closely with some of Wales' leading academics to examine many of the issues raised in this call for evidence. Of particular interest are seminar papers produced for FSB Wales' seminar series by Professor Calvin Jones (on the future role of Local Government)¹ and Professor Gerald Holtham (on Non Domestic Rates)². These papers have informed FSB Wales' thinking, but do not constitute our policy view, which is contained within this submission.

We must also note, that revaluation is currently in progress, with the draft lists due to be published during the course of this inquiry. Key questions regarding the accuracy of revaluation, any particular geographical or regional issues in rating, and the need for transitional relief from April 2017 cannot be answered in absence of the revalued list.

Key Points

FSB Wales has called for a number of changes to the system of business rates in Wales in our manifesto for the incoming 2016 Welsh Government³. Most significantly for the proceedings of this committee we have called for the Welsh Government to do the following:

- Agree a position on the local retention of Business Rates within 100 days.
- Undertake more regular revaluations, to ensure that rates bills are more reflective of economic circumstance and rents. The Welsh Government should look to do this within its first three years.
- Instruct the Valuation Office Agency to value land and property separately. This will allow a more meaningful evaluation of the impact of moving towards a system of Land Value Taxation. This should also be undertaken within the first three years.

¹ Jones, Calvin (2015) [Public Services and Economic Development in Wales](#), FSB Wales Seminar Series

² Holtham, Gerald (2015) [Non-Domestic Rates in Wales](#), FSB Wales Seminar Series

³ Available at: [http://www.fsb.org.uk/policy/rpu/wales/images/the_fsb_wales_business_manifesto_for_the_2016-21_welsh_government%20\(1\).pdf%20final.pdf](http://www.fsb.org.uk/policy/rpu/wales/images/the_fsb_wales_business_manifesto_for_the_2016-21_welsh_government%20(1).pdf%20final.pdf)



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- Take forward the recommendations in 'The Devolution of Business Rates to Wales' Report (February 2015)⁴ and undertake a full assessment of alternative options for business rates.
- Split the uniform business rate multiplier in line with the split between small and large multipliers operating in England

FSB Wales has general concerns about the levels of data available for modelling the impacts of business rates in Wales. It has therefore been difficult for us to fully assess the impact of business rates policy changes on our members and the wider economy. Welsh Government and local Government should do more to ensure that good quality data relating to business rates is available to policymakers. In this light, we find it difficult to comment as fully as we would like on potential reforms to Business Rates in Wales. It is our view that the costs and benefits of business rates policy are not fully explored.

It will be essential that any changes to business rates are clearly communicated to Welsh businesses, and that any changes to the system of Business Rates in Wales are phased in clearly and with adequate warning. Whilst some changes, such as local retention could be made relatively quickly (i.e. those which are not 'customer facing'), others may take more time and preparation. Such changes should be consulted on fully, and subject to a full and proper impact assessment, as FSB Wales has outlined in our report "Better Regulation for Wales"⁵.

Non-Domestic Rates are a source of c£1bn a year in revenue for the Welsh Government (and subsequently Local Authorities) and FSB Wales recognises the need to protect this revenue stream, and to grow it in line with economic growth. Indeed business rates' relatively "static" pot, whilst not reflecting business conditions, is a virtue from the point of view of the Government as it provides a predictable and secure stream of revenue.

However, it is our view that the tax currently falls disproportionately on those small businesses with premises, something implicitly recognised by the now year-on-year retention of the Small Business Rates Relief scheme, which should be extended and made permanent.

It is also clear that some Local Authorities substantially benefit from the current "shared pot" whilst other, normally more prosperous Local Authorities effectively lose out. There

⁴ Available at: <http://gov.wales/docs/det/publications/150202-devolution-of-business-rates-en.pdf>

⁵ Available at: <http://www.fsb.org.uk/policy/rpu/wales/images/better%20regulation%20wales.pdf>



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is however, a clear need for some element of redistribution to be preserved in order that Welsh Local Authorities are able to deliver their statutory (and non-statutory) services.

Wales is facing a rapidly ageing population, with high levels of deprivation and poor health, this means the pressures on the social care sector in particular will be high – especially in rural areas. Local Authorities will have to find innovative ways to cope with these pressures in times of tightening budgets, or look to grow their revenue streams. It is particularly important that the role of economic development in delivering healthy and prosperous communities is not forgotten – evidence conclusively shows that more prosperous and economically resilient communities face lower levels of ill health and are better equipped to care for the elderly and infirm.

FSB Wales believes that any local retention of business rates should therefore be accompanied by devolution of some responsibility for economic development. Currently, the lack of a meaningful link between Non-Domestic Rates receipts and the Local Government grant means Local Authorities have little incentive to pursue policies which support local business growth.

FSB Wales called in its manifesto for the 2016 Elections in Wales for Local Authorities to be given a statutory responsibility for Economic Development in Wales, and crucially that funding and staffing for these functions should be devolved from Welsh Government to Local Authorities. We believe this will have a transformational effect in regional regeneration and economic development, and give Local Authorities a greater stake in the economic success of their communities.

On 5th October 2015 the UK Chancellor, George Osborne MP, announced that Local Authorities in England will retain 100% of their business rates, alongside the abolition of the Uniform Multiplier. These announcements will have significant impacts in England and are likely to have cross border implications for the business environment in England and Wales and those businesses which operate on both sides of the border. We await further detail with interest, but it is now even more pressing for Welsh Government to agree a position on the retention (or not) of Business Rates in Wales, and to move ahead with examination of alternative models of taxation.

It appears that Wales and England are on divergent paths with regards to Business Rates, and comments relating to a “long and porous border” are less relevant than they may have been in the past. However, it has historically been true that Wales and England have divergent rates regimes, with England splitting a large and small business rates multiplier where Wales has not.



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The multiplier has also been set at differing levels on either side of the border – in part to reflect differing levels of prosperity. In general, despite a “long and porous border”, Wales and England have rarely, if ever, since 1999 had aligned Business Rates regimes. In this light, over the medium term, the Government should look to examine best practice elsewhere in the UK and globally in order to devise a system of business taxation that works for Wales and its political and social aspirations.

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Eitem 3 Pwyllgor yr Economi, Seilwaith a Sgiliau, 5 Hydref 2016

Papur Tystiolaeth Ysgrifenedig ar Ardrethi Annomestig gan Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol

1. Cyflwyniad

- 1.1 Diben y papur hwn yw cynorthwyo Pwyllgor yr Economi, Seilwaith a Sgiliau gyda'i sesiwn graffu ar Ardrethi Annomestig.
- 1.2 Er bod y papur hwn yn ceisio mynd i'r afael â'r meysydd a nodwyd gan y pwyllgor fel rhai sydd o ddiddordeb arbennig ar gyfer y sesiwn graffu hon, mae'r amseriadau'n amharu ar hyn yn anffodus gan na fydd Rhestr Ardrethu Drafft 2017 yn cael ei chyhoeddi gan Asiantaeth y Swyddfa Brisió tan 30 Medi 2016. Hefyd, bydd Llywodraeth y DU yn aml yn defnyddio Datganiad yr Hydref i gyhoeddi polisiâu ynghylch Ardrethi Annomestig, sydd â goblygiadau i Gymru yn aml. Felly, teimlwn y byddai'n ddefnyddiol i mi nodi fy mlaenoriaethau ar gyfer gwelliannau byrdymor a'm huchelgeisiau ar gyfer diwygiadau yn y tymor hwy.

2. Cefndir

- 2.1 Mewn tystiolaeth i'r Pwyllgor Cydraddoldeb a Llywodraeth Leol cyn toriad yr haf, dywedais yn glir y bydd angen i'r system gyllid ar gyfer llywodraeth leol newid er mwyn cefnogi'r diwygiadau ehangach i lywodraeth leol a gwneud cynghorau yn fwy cynaliadwy a hunangynhaliol.
- 2.2 Mae gennyf hefyd uchelgeisiau i wella system gyllid llywodraeth leol, gan gynnwys trethiant lleol. Ceir cyfleoedd i wneud yr atebolrwydd treth lleol ar fusnesau, trethdalwyr eraill a chartrefi, yn decach. Hefyd, mae camau y gellid eu cymryd i symleiddio'r system o ariannu llywodraeth leol er mwyn i bobl allu deall sut a ble y caiff penderfyniadau eu gwneud ynghylch cyllido a darparu gwasanaethau lleol, ac ymgysylltu â hynny.
- 2.3 Un agwedd ar system gyllid llywodraeth leol yw ardrethi annomestig, ond maent yn rhan annatod ohoni, sy'n codi cyfanswm amcangyfrifedig o £1.06bn tuag at ariannu llywodraeth leol a gwasanaethau'r heddlu yn 2016-17. Caiff yr holl arian a godir drwy ardrethi annomestig yng Nghymru ei ailddosbarthu i ariannu'r gwasanaethau hyn. Rhaid i unrhyw ddiwygiadau geisio cynnal y ffrwd ariannu hon ac adeiladu ar yr agweddau cadarnhaol ar y system ardrethi annomestig, fel y gyfradd gasglu, sef 97.5%, sy'n un o'r uchaf o blith holl drethi'r DU.
- 2.4 Mae nifer o gyhoeddiadau amrywiol ac awdurdodol wedi nodi barn rhanddeiliaid, gwaith dadansoddi academaidd ac argymhellion polisi mewn perthynas â diwygio ardrethi annomestig. Ymhlith y rhain mae adroddiad y Comisiwn Annibynnol ar Gyllid Llywodraeth Leol Cymru, Adroddiad y Panel Ardrethi Busnes, y Grŵp Gorchwyl a Gorffen Ardrethi Busnes a'r adolygiad o dystiolaeth ar systemau cyllid llywodraeth leol a gyhoeddwyd gan Lywodraeth Cymru yn gynharach eleni.
- 2.5 Argymhellodd y Comisiwn Annibynnol ar Gyllid Llywodraeth Leol Cymru y dylai awdurdodau lleol gadw incwm o ardrethi annomestig yn llawn. Roedd Adroddiad y Panel Ardrethi Busnes yn cynnwys nifer o argymhellion ynglŷn â chynllun y

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system a gwelliannau gweinyddol. Roedd yn pwysleisio'r angen am sefydlogrwydd yn y byrdymor yn dilyn datganoli ardrethi annomestig i Gymru, gan ystyried gwelliannau a dulliau gweithredu newydd yn y tymor canolig i'r hirdymor. Roedd adolygiad o dystiolaeth Llywodraeth Cymru yn edrych yn fwy eang ar egwyddorion cynllunio a damcaniaeth trethiant gan awgrymu systemau mwy amrywiol, gan gynnwys cyfuniad o drethi a ffynonellau incwm. Awgryma hyn y dylai llywodraethau ystyried ffurf a chyfansoddiad cyffredinol systemau cyllid yn hytrach na chanolbwyntio ar unrhyw ran unigol.

- 2.6 Rwy'n awyddus i sicrhau ein bod yn archwilio effaith gwirioneddol syniadau o'r fath er mwyn pennu'r cydbwysedd rhwng costau a buddiannau dulliau gweithredu amgen o'r fath i economi Cymru, trethdalwyr a gwasanaethau lleol. Caiff y gwaith hwn ei wneud gyda chyingor ymarferol gan arbenigwyr drwy'r Gweithgor Diwygio Cyllid Llywodraeth Leol.

3. Blaenoriaethau byrdymor i dymor canolig

- 3.1 Mae busnesau a threthdalwyr eraill o bosibl yn teimlo'n bryderus ynglŷn â'r gwaith sydd ar droed i ailbriso ardrethi annomestig, a gaiff ei gyhoeddi ar 30 Medi ac a fydd yn dod i rym ym mis Ebrill 2017. Mae'r ffaith bod proses ailbriso 2015 wedi cael ei gohirio yn golygu bod eiddo yn dal wedi'i brisio yn unol â gwerthoedd 2008. Byddaf yn gwneud datganiad maes o law ynglŷn â chymorth Llywodraeth Cymru i fusnesau bach y mae proses ailbriso Asiantaeth y Swyddfa Briso yn effeithio'n negyddol arnynt.
- 3.2 Yn y cyd-destun hwn, fy mlaenoriaeth uniongyrchol yw rhoi sicrwydd a diogelwch i fusnesau bach er mwyn eu galluogi i gynllunio'n hyderus ar gyfer y dyfodol. Ar 15 Medi 2016, cyhoeddais gynlluniau i ymestyn y cynllun Rhyddhad Ardrethi Busnesau Bach presennol i 2016-18. Bydd hyn yn rhoi 100% o ryddhad i fusnesau sydd â gwerth ardrethol o hyd at £6,000 a rhyddhad wedi'i dapro i'r rhai sydd â gwerth ardrethol rhwng £6,001 a £12,000.
- 3.3 Bydd mwy na 70% o safleoedd busnes yng Nghymru yn cael cymorth gan y cynllun rhyddhad ardrethi busnesau bach – ac ni fydd dros eu hanner yn talu unrhyw ardrethi o gwbl.
- 3.4 Mae ymestyn y trefniadau Rhyddhad Ardrethi Busnesau Bach i 2017-18 yn caniatáu blwyddyn i allu archwilio'n drylwyr pa mor effeithiol yw'r cynllun ac ystyried y ffordd orau o dargedu mwy na £98m o gyllid Llywodraeth Cymru er mwyn sicrhau bod y busnesau bach hynny sydd â'r angen mwyaf yn cael eu cefnogi'n briodol.
- 3.5 O 2018 ymlaen, byddaf yn rhoi cynllun parhaol newydd ar waith gyda'r nod o gefnogi busnesau bach amrywiol a chynaliadwy, gan fod hyn yn cyfrannu at lesiant ein cymunedau lleol. Gan fod ardrethi annomestig, mewn rhai achosion, yn gallu cyfrif am gyfran uwch o gostau rhedeg busnesau bach o gymharu â busnesau mwy, mae'r rhyddhad hwn yn golygu y bydd gan y busnesau hyn fwy o arian i fuddsoddi mewn staff a chynnyrch, a mwy o gynhyrchiant er mwyn helpu i dyfu eu busnes.

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- 3.6 Ochr yn ochr â'r gwaith hwn, byddaf yn ystyried cynigion er mwyn helpu i leihau osgoi talu o fewn y system er mwyn sicrhau bod pob trethdalwr yn cyfrannu ei gyfran deg tuag at ariannu gwasanaethau lleol. Er efallai mai dim ond lleiafrif bach o drethdalwyr sy'n gwneud hyn, mae hwn yn fater penodol y tynnodd rhanddeiliaid sylw ato mewn ymatebion i'r ymgynghoriad ynghylch y Bil Llywodraeth Leol drafft, gan nodi anghysondebau rhwng cynlluniau rhyddhad ac anawsterau wrth geisio cael gwybodaeth y mae modd ei gwirio.
- 3.7 Rwy'n awyddus i fwrw ymlaen â newidiadau gweinyddol y gellir eu rhoi ar waith i wella effeithlonrwydd y system a lleihau'r effaith ar drethdalwyr lle y bo modd. Bydd y mesurau hyn yn cynnwys rhoi trefniadau mwy cynhwysfawr ar waith ar gyfer rhannu data rhwng awdurdodau lleol ac Asiantaeth y Swyddfa Brisio, sy'n bosibl drwy bwerau Gweinidogion Cymru o dan Ddeddf Menter 2016. Hefyd, byddwn yn ystyried y cyfleoedd a geir yn sgil sefydlu Awdurdod Cyllid Cymru a darpariaethau sy'n cael eu datblygu ym Mil Economi Ddigidol y DU i alluogi gwahanol adrannau'r llywodraeth a chyrrff cyhoeddus eraill i rannu data at y dibenion a ganiateir gan y Bil.
- 3.8 Bydd gwella prosesau rhannu data o fewn y system ardrethi annomestig yn lleihau'r baich gweinyddol ar drethdalwyr y mae'n rhaid iddynt roi gwybodaeth debyg i wahanol sefydliadau ac yn cynorthwyo gweithgareddau Awdurdodau Lleol o ran ymchwilio i dwyll, casglu a gorfodi.
- 3.9 Gellir gwneud gwelliannau i'r system apelio hefyd. Er bod system ar gyfer herio a gwneud iawn yn rhan annatod o unrhyw system drethi, o dan y system bresennol nid yw mwy na dwy ran o dair o'r heriau a wneir yn erbyn atebolrwydd ardrethi annomestig yn arwain at unrhyw newid yng ngwerth ardrethol eiddo a dim ond 15% o'r holl apeliadau a restrir gan Dribiwnlys Prisio Cymru sy'n cael eu setlo gan y tribiwnlys mewn gwirionedd. Ni all hyn fod yn ffordd effeithiol o ddefnyddio adnoddau cyhoeddus prin ac mae'r straen a roddir gan hyn ar y system yn golygu y gall trethdalwyr fod ynghlwm wrth y broses am fwy na blwyddyn, ar gyfartaledd, cyn i'w hachos gael ei ddatrys. Golyga hyn y gall apeliadau arwain at newidiadau sylweddol wedi'u hól-ddyddio mewn atebolrwydd, sy'n creu ansicrwydd ariannol i fusnesau ac awdurdodau lleol. Rwy'n ystyried cynigion ar gyfer diwygio'r system apelio a byddaf yn ymgynghori ynghylch diwygiadau yn nes ymlaen eleni.

4. Ystyriaethau tymor hwy

- 4.1 Gellir cyflawni pob un o'r cynigion uchod yn ystod y tymor Cynulliad hwn. Er mwyn gwneud newidiadau mwy sylfaenol i'r system ardrethi annomestig, mae angen deddfwriaeth sylfaenol ac felly dim ond yn y tymor hwy y gellid eu cyflawni.
- 4.2 Mae rhai mewn llywodraeth leol ac yn y sector busnes yn galw am gadw ardrethi. Er fy mod yn cydnabod y gall fod o fudd i'r ardaloedd hynny sydd ag economïau lleol cryf, rhaid inni hefyd fod yn ymwybodol mai dim ond ychydig o awdurdodau lleol yng Nghymru sy'n codi mwy mewn ardrethi annomestig na'r hyn y maent yn ei gael o'r gronfa. Rwyf wedi ymrwymo i ystyried dichonoldeb

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cadw ardrethi a mathau eraill o hyblygrwydd mewn perthynas ag ardrethi annomestig.

- 4.3 Byddaf hefyd yn comisiynu gwaith i ystyried dulliau trethu amgen, gan gynnwys systemau megis treth gwerth tir, i'w cyflwyno yn y tymor hwy o bosibl yn lle trethiant annomestig yng Nghymru. Bydd y gwaith hwn yn archwilio effaith gwirioneddol y syniadau sydd wedi cael cryn sylw mewn llenyddiaeth academiaidd er mwyn pennu'r cydbwysedd rhwng costau a buddiannau dulliau gweithredu amgen o'r fath i economi Cymru, trethdalwyr a gwasanaethau lleol. Caiff y gwaith hwn ei wneud gyda chynghor ymarferol gan arbenigwyr drwy'r Gweithgor Diwygio Cyllid Llywodraeth Leol.
- 4.4 Byddai hyn yn newid sylfaenol i'n dull trethu lleol a byddai angen is-ddeddfwriaeth newydd i'w weithredu. Fy nod yw bod mewn sefyllfa, cyn diwedd y tymor Cynulliad hwn, lle y gallaf gyflwyno cynigion sy'n datblygu ar gyfer diwygiadau yn y tymor hwy i'w trafod yn ehangach.
- 4.5 Mae'r dull gweithredu presennol yn Lloegr yn gymhleth iawn, gydag ardrethi wedi'u lleoleiddio'n rhannol a chynlluniau rhyddhad dan fandad cenedlaethol a systemau cymhleth o dariffau a rhwydi diogelwch yn cael eu hymgorffori er mwyn cefnogi'r awdurdodau hynny sydd â llai o allu i gynyddu eu refeniw o ardrethi annomestig. Yn hanfodol, mae'n gysylltiedig â'r broses o leihau'r grant cynnal refeniw yn raddol. Gan mai dim ond yn ddiweddar y cafodd ei gyflwyno, ychydig iawn o ddata sydd ar gael o ran p'un a yw wedi ysgogi twf economaidd lleol yn effeithiol. Byddai angen i unrhyw beth a wnawn yng Nghymru fod yn symlach, yn seiliedig ar dystiolaeth glir ac wedi'i ymgorffori yn ein dull o ariannu llywodraeth leol.

5. Casgliad

- 5.1 Mae gwelliannau i'r system ardrethi annomestig yn y byrdymor, y tymor canolig a'r hirdymor yn rhan o'm cynlluniau ar gyfer diwygio system gyllid llywodraeth leol yn ehangach ac mewn modd integredig er mwyn sicrhau ei bod yn cefnogi mwy o gydnerthedd a ffyrdd newydd o weithio ymhlith awdurdodau lleol.
- 5.2 Mae llywodraeth leol yn bartner hollbwysig sy'n darparu gwasanaethau cyhoeddus i ddegau o filoedd o bobl bob dydd. Rhaid i ni barhau i gefnogi'r sector hwn a'i alluogi i wynebu heriau'r dyfodol. Yn gyfnewid am hyn, rhaid i llywodraeth leol ystyried ei chymunedau a'i busnesau fel asedau.

Item 4.1

Ysgrifennydd Gwladol Cymru
Swyddfa Cymru
Tŷ Gwydyr
Whitehall

23 Medi 2016

Annwyl Alun,

Bil Cymru – Cylch Gwaith Pwyllgor yr Economi, Seilwaith a Sgiliau

Yn ei gyfarfod ar 21 Medi 2016, bu Pwyllgor yr Economi, Seilwaith a Sgiliau yn trafod Bil Cymru.

Byddwn yn ddiolchgar pe byddech yn egluro'r rhannau hynny o'r Bil y tynnir sylw atynt yn yr Atodiad i'r llythyr hwn. Yn benodol, lle'r ydym wedi nodi meysydd lle'r ydym yn pryderu fod gan y Cynulliad lai o gymhwysedd, byddwn yn ddiolchgar pe gallech gadarnhau'r asesiad hwnnw a rhoi eglurhad ynghylch sut y penderfynwyd ar y cymalau cadw. Yn wir, gallai fod yn ddefnyddiol gosod cymal yn y Bil yn cadarnhau nad bwriad y setliad newydd yw lleihau ystod neu gwmpas y pwerau sydd wedi'u datganoli i Gymru.

Byddwn yn gwerthfawrogi ymateb er mwyn cyfrannu at drafodaethau Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol y Cynulliad.

Yn gywir



Russell George AC,
Cadeirydd



Atodiad

Ym mis Tachwedd 2015, gofynnodd cyn Bwyllgor Menter a Busnes Cynulliad Cenedlaethol Cymru am eglurhad am y cymalau cadw a'r meysydd penodol hynny o'r Bil Cymru drafft a oedd yn gymwys i'r pynciau yng nghylch gwaith y Pwyllgor.

Fel cyn Bwyllgor y Pedwerydd Cynulliad, mae'r Pwyllgor hwn hefyd yn croesawu'r cynnydd yn y pwerau ar gyfer trafndiaeth, o ran gallu'r Cynulliad i ddeddfu yn ogystal â'r cynnydd yn mhwerau gweithredol Gweinidogion Cymru mewn meysydd penodol. Hefyd, y cymalau cadw a restrwyd yn y Bil Cymru drafft sydd wedi'u dileu o'r Bil presennol, fel y'i gosodwyd, ac sy'n ymwneud â'r canlynol:

- hysbysebu, yn enwedig rheoliadau o ran tybaco a chynnyrch tybaco
- arwyddion traffig yn gyffredinol
- cludiant ar y môr ac ar ddyfrffyrdd

Hefyd, bod eithriad wedi'i ychwanegu i gymal cadw (hynny yw, maes y caiff y Cynulliad ddeddfu ynddo), o ran pwnc Deddf Gwasanaethau Tân ac Achub 2004, sy'n adlewyrchu'r cymhwysedd yn y setliad presennol.

Fodd bynnag, i raddau helaeth, mae'r un materion y nodwyd eu bod yn peri pryder yn y cymalau cadw yn y Bil Cymru drafft, ac a nodir isod yng ngwaith y Pwyllgor hwn, yn dal i fod yn berthnasol ym Mil Cymru fel y'i cyflwynwyd. Felly, mae Pwyllgor yr Economi, Seilwaith a Sgiliau yn parhau i gymeradwyo'n llwyr bryderon y cyn Bwyllgor Menter a Busnes am y cymalau cadw canlynol yn y Bil sy'n dod o fewn cylch gwaith y Pwyllgor hwn ac a allai effeithio ar gymhwysedd y Cynulliad pe byddai'r Bil yn dod i rym, fel y'i drafftiwyd ar hyn o bryd.

Mae'r cyfeiriadau isod at *'Atodlen 7 i Ddeddf Llywodraeth Cymru'* yn cyfeirio at y setliad presennol o dan Atodlen 7 i Ddeddf Llywodraeth Cymru 2006.

Mae'r cyfeiriadau at *'setliad newydd'* yn cyfeirio at Atodlen 7A i Ddeddf Llywodraeth Cymru 2006 ym Mil Cymru.

1.0Gweler isod farn y Pwyllgor ynghylch materion penodol a gedwir yn ôl o dan **Atodlen 7A – Pennawd C – Masnach a Diwydiant.**



1.1 Adran C6 Diogelu defnyddwyr

- 1.2 Mae'r eithriad presennol yn Atodlen 7 o Ddeddf Llywodraeth Cymru yn rhwystro'r Cynulliad rhag deddfu ynghylch *'consumer protection, including the sale and supply of goods to consumers, consumer guarantees, hire purchase, trade descriptions, advertising and price indication....'*
- 1.3 Mae'r setliad newydd yn cynnwys disgrifiad manylach o'r hyn y mae'r cymal cadw 'diogelu defnyddwyr' yn ei gynnwys. Er enghraifft, **ym mater a gedwir yn ôl 70** mae'r geiriau ychwanegol 'supply of services to consumers' i'w gweld yn y setliad newydd. Nid yw'r rhain yn rhan o'r eithriad presennol ar gyfer diogelu defnyddwyr yn Atodlen 7 i Ddeddf Llywodraeth Cymru. Felly, mae geiriad y mater hwn a gedwir yn ôl yn gulach.

Mae'n dal i fod yn destun pryder i'r Pwyllgor nad yw'n glir a yw cyflenwi gwasanaethau i ddefnyddwyr yn gymwys yng nghyd-destun Deddf Gwerthu Nwyddau 1979 yn unig ynteu a fwriedir iddo fod yn gymwys yn ehangach ar draws gwahanol fathau o wasanaethau i ddefnyddwyr yn fwy cyffredinol, e.e. gwasanaethau bws ac ati.

- 1.4 Yn ogystal, mae'r setliad newydd yn cynnwys y geiriad *'safety of, and liability for, services supplied to consumers'* ym mater a gedwir yn ôl 71. Nid yw'r geiriau hyn ychwaith i'w cael ar hyn o bryd yn Atodlen 7 i Ddeddf Llywodraeth Cymru, ac felly maent yn lleihau cymhwysedd y Cynulliad.

Mae'r Pwyllgor yn pryderu fod cymhwysedd y Cynulliad yn gulach o ran mater a gedwir yn ôl 71.

- 1.5 O ran mater 72 a'r cyfeiriad at 'estate agents', caiff y Cynulliad ar hyn o bryd ddeddfu ar hyrwyddo busnes a chystadleurwydd ac nid oes cyfeiriad penodol at werthwyr tai fel eithriad yn Atodlen 7. Gallai'r mater hwn, felly, **gulhau** cymhwysedd y Cynulliad mewn perthynas â gwerthwyr tai.

Mae'r Pwyllgor yn gwerthfawrogi'r eglurder yn y Nodiadau Esboniadol sy'n cadarnhau bod asiantau gosod yn gyfrifoldeb sydd wedi'i ddatganoli, ond mae'n



pryderu y gallai'r ffaith fod mater 72 yn cynnwys rheoleiddio gwerthwyr tai leihau cymhwysedd y Cynulliad.

- 1.6 Nid yw'r geiriau canlynol ym mater 76 yn eglur ac nid oes rhagor o fanylion yn y Nodiadau Esboniadol i'r Bil – *'the national accreditation body and the accreditation of bodies which certify or assess conformity to technical standards in relation to products or environmental management systems.'*

Barn y Pwyllgor yw ei bod yn aneglur a yw mater 76 yn lleihau cymhwysedd y Cynulliad.

2.0 Adran C12 Ardaloedd a gynorthwyr a chyfyngiadau ar gymorth ariannol i ddiwydiant

- 2.1 Mae mater a gedwir yn ôl 87 yn cyfyngu cymhwysedd y Cynulliad o ran:

Adran 1 ac Adran 8(5)(7) o Ddeddf Datblygiadau Diwydiannol 1982 ('Deddf 1982')

- 2.2 Mae Adran 1 yn caniatáu i'r Ysgrifennydd Gwladol, drwy Orchymyn, bennu unrhyw ardal o Brydain yn ardal ddatblygu neu'n ardal ganolradd. Yn ogystal, mae Adran 8 yn caniatáu i Weinidogion Cymru ddarparu cymorth ariannol ar gyfer diwydiant. Yn ôl paragraff 195 o'r Nodiadau Esboniadol, 'O ganlyniad i gadw'r mater sy'n ymwneud â'r terfynau ariannol, ni all cymorth ariannol a roddir i ddiwydiant o dan adran 8 o Ddeddf Datblygu Diwydiannol 1982 gan Weinidogion Cymru, Gweinidogion yr Alban a Gweinidogion y DU fod yn fwy gyda'i gilydd na throthwyon ar gyfer cyfanswm gwariant sy'n cael eu gosod gan Weinidogion y DU'.

- 2.3 Er bod pwerau gweithredol yn cael eu cadw ar gyfer Gweinidogion Cymru o dan Adran 8 o Ddeddf 1982, fe allai'r ffaith bod pwnc Deddf 1982 wedi ei gynnwys gulhau gallu'r Cynulliad i ddeddfu o dan eiriad presennol Atodlen 7 i Ddeddf Llywodraeth Cymru a'r pennawd cyffredinol 'economic regeneration and development'.

Mae'r Pwyllgor yn pryderu fod cymhwysedd y Cynulliad yn gulach oherwydd cadw mater 87.



3.0 Gweler isod farn y Pwyllgor ynghylch materion penodol a gedwir yn ôl o dan Atodlen 7A – Pennawd E – Trafnidiaeth yn y Bil.

3.1 Adran E1 Trafnidiaeth ffyrdd

3.2 Mae mater 104 yn ymwneud â thrwyddedu gyrwyr ac mae'n cynnwys hyfforddiant, profi ac ardystio. O dan Atodlen 7 o Ddeddf Llywodraeth Cymru 2006, ar y llaw arall, cyfeirir ato fel 'trwyddedu gyrwyr' yn unig.

3.3 Mae'r geiriad, felly, yn gulach o dan y setliad newydd, a gallai'r ffaith bod y gair 'training' wedi'i gynnwys effeithio ar allu'r Cynulliad i ddeddfu mewn perthynas â hyrwyddo diogelwch ar y ffyrdd.

Mae'r Pwyllgor yn pryderu fod cadw mater 104 yn achosi lleihad yng nghymhwysedd y Cynulliad o ystyried y caiff y Cynulliad, o dan y setliad presennol, ddeddfu ar hybu diogelwch ar y ffordd.

4.0 Adran E2 Trafnidiaeth ar reilffyrdd

4.1 Mae'r eithriad presennol o dan Atodlen 7 i Ddeddf Llywodraeth Cymru, yn cyfeirio at 'provision and regulation of railway services'. O dan y setliad newydd, mae mater 123 yn cyfeirio at '*railway services*' yn unig.

4.2 Mae'r ddarpariaeth ddehongli o dan E2 yn diffinio 'railway services' yn fwy penodol drwy gyfeirio at adran 82 o Deddf Rheilffyrdd 1993. Mae hyn yn cynnwys:

- *services in relation to the carriage of passengers, luggage, parcels mail and goods and services in relation to stations,*
- *maintenance facilities and*
- *the provision and operation of the rail network itself*

Mae'r diffiniad o 'railway services' yn gulach na'r hyn sydd yn y setliad presennol, ac mae'r Pwyllgor yn pryderu am y lleihad posibl mewn cymhwysedd a allai ddeillio o gadw mater 115.

4.3 Adran E6: materion eraill



4.4 Mae'r eithriad presennol yn Atodlen 7 yn cyfeirio at fanyleb dechnegol ar gyfer tanwydd i'w ddefnyddio mewn peiriannau mewndanio, ac mae'r setliad newydd o dan fater 126 yn cyfeirio at yr un peth, fel a ganlyn:

'technical specifications for fuel or other energy sources or processes for use in road, rail, marine waterway or air transport'

4.5 Mae geiriad y setliad newydd yn fwy cyfyng ac yn cynnwys ffurfiau ehangach eraill o deithio, ac yn cyfeirio at yriant heblaw peiriannau mewndanio, felly mae yma **leihad** o ran cymhwysedd.

Mae'r Pwyllgor yn pryderu fod cymhwysedd y Cynulliad yn gulach oherwydd cadw mater 126.

5.0 Rheoleiddio bysiau

Roedd rheoleiddio bysiau yng Nghymru yn faes yr oedd y Pwyllgor blaenorol a Llywodraeth Cymru yn awyddus i gael rhagor o bwerau ar ei gyfer. Rhoddwyd yr enghraifft ganlynol i'r Pwyllgor hwn hefyd i ddangos sut y gellid ystyried Rheoleiddio Bysiau o ran cymhwysedd y Cynulliad yn y setliad newydd.

5.1 Enghraifft: *O dan y setliad newydd, mae modd i'r Cynulliad ddeddfu ynghylch cofrestru bysiau lleol. At hynny, dywedodd yr Adran Drafnidiaeth wrth y Pwyllgor Menter a Busnes ym mis Medi 2015 ei bod yn credu bod gan y Cynulliad/Gweinidogion Cymru bwerau i reoleiddio bysiau eisoes.*

5.2 *Yn y ddeddfwriaeth bresennol, mae pwerau gweithredol cyfyngedig fel y gall Gweinidogion Cymru/awdurdodau lleol gydgysylltu gweithrediadau bysiau. Ceir y pwerau hynny yn y Ddeddf Trafnidiaeth a Deddf Trafnidiaeth Leol 2008, ac maent yn cynnwys Partneriaethau Gwirfoddol a Statudol a Chontractau Ansawdd Statudol.*

5.3 *Mewn theori, dylai'r ddau ddull uchod ganiatáu ar gyfer rheoleiddio bysiau yng Nghymru. Fodd bynnag, mae cafeat i hyn. Y rheswm am hyn yw bod rhai o'r manteision posibl sy'n gysylltiedig â rheoleiddio yn cynnwys y*



posibilrwydd y gellid capio a rheoleiddio prisiau tocynnau a thocynnau integredig. Nid yw'n glir a fyddai meysydd fel hyn yn rhan o'r cymalau cadw canlynol:

C3: Cystadleuaeth: mater 67 'Regulation of anti-competitive practices and agreements; abuse of dominant position; monopolies and mergers'.

C6: Diogelu defnyddwyr: mater 70 'Regulation of the sale and supply of... services to consumers'

Mae'r Pwyllgor yn pryderu y byddai prisiau a thocynnau integredig ac ati yn dod yn rhan o'r cymalau cadw uchod pe byddai Cymru'n arfer opsiwn o'r fath.

6.0 Gweler isod farn y Pwyllgor ynghylch materion penodol a gedwir yn ôl o dan Atodlen 7A – Pennawd H – Cyflogaeth yn y Bil.

6.1 Adran H1 – Cyflogaeth a chysylltiadau diwydiannol

6.2 Ar hyn o bryd, caiff y Cynulliad ddeddfu ar 'bynciau tawel' (pynciau nad ydynt wedi'u datganoli, nac yn eithriadau o dan Atodlen 7) ar yr amod eu bod yn ymwneud â phynciau y rhoddwyd pŵer i ddeddfu yn eu cylch o dan Atodlen 7 i Ddeddf Llywodraeth Cymru a'r setliad presennol.

6.3 Cadarnhawyd hyn gan benderfyniad y Goruchaf Lys yn achos Deddf Sector Amaethyddol (Cymru) 2014 lle dyfarnwyd bod y Ddeddf o fewn cymhwysedd er ei bod yn ymwneud ag 'amaethyddiaeth', sy'n bwnc datganoledig a 'chyflogaeth', sy'n bwnc tawel.

6.4 Yn y setliad newydd mae pwnc tawel 'cyflogaeth' wedi dod yn fater penodol a gedwir yn ôl o dan Bennawd H '*Employment rights and duties and industrial relations including the subject of...*' [yna cyfeirir at restr o ddeddfwriaeth benodol ynghylch cyflogaeth].

6.5 At hynny, mae eithriad penodol wedi'i wneud i'r cymal cadw hwn sy'n eithrio '*the subject-matter of the Agricultural Sector (Wales) Act 2014*' ac yn gwarchod pwnc y Ddeddf hon.



6.6 Trwy gynnwys 'cyflogaeth' yn fater a gedwir yn ôl yn y setliad presennol ar y cyd â'r profion deddfwriaethol newydd, mae cymhwysedd y Cynulliad yng nghyd-destun cyflogaeth wedi'i leihau'n sylweddol.

6.7 Mae Pennawd arall hefyd yn y setliad newydd, sef 'Y Proffesiynau', sy'n cynnwys gweithwyr iechedd proffesiynol fel mater na cheir deddfu yn ei gylch. I bob golwg, mae hwn yn gymal cadw ehangach na'r eithriad presennol yn Atodlen 7 i Ddeddf Llywodraeth Cymru.

6.8 Rhoddwyd yr enghraifft ganlynol i'r Pwyllgor i ddangos sut y gallai Bil arfaethedig gael ei ystyried o dan y setliad newydd:

- *Gallai Bil Cynulliad geisio deddfu ar gyflogau, amodau a hyfforddiant yn y sector gofal cymdeithasol mewn modd tebyg i Ddeddf Sector Amaethyddol (Cymru) 2014.*
- *O dan y setliad presennol, ac yng ngoleuni dyfarniad y Goruchaf Lys ar Ddeddf 2014, byddai Bil sy'n ymwneud â'r sector gofal cymdeithasol o fewn cymhwysedd.*
- *Yn yr Atodlen 7A arfaethedig, o dan Bennawd H, Adran H1, mae hawliau a dyletswyddau cyflogaeth a chysylltiadau diwydiannol yn faterion a gedwir yn ôl. Golyga hynny y gallai'r Bil fod y tu allan i gymhwysedd.*
- *Mae'r unig eithriad i bwnc Deddf 2014 yn gwneud hyn yn fwy tebygol, gan awgrymu, er bod cyflogau amaethyddol, gwyliau a hyfforddiant o fewn cymhwysedd, y bydd y rhain yn faterion a gedwir yn ôl mewn sectorau eraill.*

Mae'r Pwyllgor yn pryderu'n fawr ac yn dymuno deall pam mae'r cymhwysedd hwn yn cael ei leihau o ran deddfu ar 'bynciau tawel', megis cyflogaeth, ar yr amod eu bod 'yn ymwneud â' phynciau y rhoddwyd pŵer i ddeddfu yn eu cylch o dan Atodlen 7 i Ddeddf Llywodraeth Cymru.

7.0 Adran H3 – Chwilio am swyddi a chymorth

7.1 Gallai mater a gedwir yn ôl 141: 'Arrangements for assisting persons to select, train for, obtain and retain employment and to obtain suitable employees', gulhau cymhwysedd y Cynulliad ar ddatblygu economaidd o dan Atodlen 7 i Ddeddf Llywodraeth Cymru. Mae nodiadau esboniadol y Bil yn egluro mai'r 'bwriad wrth gadw'r mater hwn yw cadw cymhwysedd deddfwriaethol mewn perthynas â'r holl raglenni



cysylltiedig â gwaith ar gyfer pobl anabl'. Er gwaethaf yr esboniad, mae'r geiriad o bosibl yn culhau cymhwysedd y Cynulliad o dan 'adfywio a datblygu economaidd' yn Atodlen 7 i Ddeddf Llywodraeth Cymru.

Mae'r Pwyllgor yn pryderu am y lleihad posibl mewn cymhwysedd wrth gadw mater 141.

8.0 Meysydd penodol o ansicrwydd mewn perthynas â phwerau gweithredol Gweinidogion Cymru

8.1 Yn y Bil, nid ymdrinnir â datganoli Masnachfaint Cymru a'r Gororau nac â throsglwyddo swyddogaethau gweithredol Gweinidogion Cymru.

8.2 Yn ôl cyhoeddiad Dydd Gŵyl Dewi a pharagraff 2.5.10 o'r ddogfen Pwerau at Bwrpas:

8.3 *'Mae Llywodraeth y Deyrnas Unedig yn datganoli swyddogaethau masnachfreinio i Lywodraeth Cymru i'w galluogi i arwain gwaith caffael a rheoli masnachfaint nesaf Cymru a'r Gororau.'*

8.4 Mewn datganiad ysgrifenedig ar 12 Gorffennaf 2016, cyhoeddodd Ysgrifennydd y Cabinet, fel a ganlyn: 'from early 2017, responsibility for rail franchising will be transferred from the Secretary of State to the Welsh Ministers'.

Byddai'r Pwyllgor hefyd yn falch o gael eglurhad gan Lywodraeth y DU am yr amserlen sydd ganddi dan sylw wrth ddatganoli swyddogaethau gweithredol i Weinidogion Cymru mewn perthynas â Masnachfaint Cymru a'r Gororau, o ystyried nad oes darpariaeth yn y Bil ar gyfer hyn.

8.5 Hefyd, mae Llywodraeth Cymru wedi gofyn yn y gorffennol am newid Deddf Rheilffyrdd 1993 mewn ffordd a fyddai'n caniatáu i gyrff yn y sector cyhoeddus gynnig am gontractau masnachfaint. Byddai hyn yn adlewyrchu'r sefyllfa yn yr Alban lle darperir ar gyfer masnachfaint yng



nghymal 49 o Fil yr Alban 'Rail: franchising of passenger services'. Nid oes darpariaeth debyg wedi'i gwneud yn y Bil.

- 8.6 Wrth drafod goblygiadau Comisiwn Smith i Gymru, dywedodd cyhoeddiad Dydd Gŵyl Dewi y byddai dadansoddiad yn cael ei wneud o argymhellion perthnasol Comisiwn Smith yng nghyd-destun Cymru fel y gellir gwneud penderfyniadau yn fuan yn y Senedd nesaf ynghylch pa argymhellion i'w rhoi ar waith yng Nghymru.
- 8.7 Dywedodd swyddogion yr Adran Drafnidiaeth wrth y cyn Bwyllgor Menter a Busnes ym mis Medi 2015 fod y mater yn cael ei drafod: *"the UK Government agreed to consider which non-fiscal parts of the Smith Commission agreement, including that commitment, might be implemented for Wales. That consideration is on-going, and further discussions with the Welsh Government will take place shortly in the context of preparing the Wales Bill"*.

Mewn perthynas â chyhoeddiad Dydd Gŵyl Dewi a goblygiadau Comisiwn Smith i Gymru, yn enwedig mewn perthynas â diwygio Deddf Rheilffyrdd 1993 (a fyddai'n caniatáu i gyrff y sector cyhoeddus gynnig am gontractau masnachfaint), mae'r Pwyllgor yn pryderu nad yw hyn yn rhan o Fil Cymru.



Ken Skates AC

Ysgrifennydd y Cabinet dros yr Economi a'r Seilwaith

26 Medi 2016

Annwyl Ken

Amserlen o ran y rheilffyrdd

Wrth ddatblygu ein blaenraglen waith, mae Pwyllgor yr Economi, Seilwaith a Sgiliau y Cynulliad yn bwriadu cynnal ymchwiliad i gynlluniau Llywodraeth Cymru ar gyfer Masnachfaint Rheilffordd newydd Cymru a'r Gororau ac ar gyfer y Metro.

Er mwyn ein helpu i gynllunio'n gwaith ar y pwnc hwn, byddwn yn ddiolchgar iawn pe gallech ysgrifennu ataf yn nodi'r amserlen ar gyfer caffael a chyflenwi'r fasnachfaint a'r Metro, gan dynnu sylw at gerrig milltir allweddol, yn enwedig trefniadau ar gyfer ymgynghori â'r cyhoedd, ac amlinelliad o'r ffordd yr ydych yn bwriadu mynd ati i weithredu. Bydd hyn yn ein galluogi i nodi'r amser gorau i wneud y gwaith ar y materion hyn a sicrhau ei fod yn gyfraniad adeiladol at y drafodaeth gyhoeddus.

Yn benodol, rwy'n nodi o'ch datganiad ar 12 Gorffennaf eich bod yn bwriadu cynnal ymgynghoriad cyhoeddus ar set glir o gynigion yn gynnar yn 2017.

Byddwn yn ddiolchgar pe gallech roi manylion pellach am yr ymgynghoriad hwn, yn enwedig pwnc yr ymgynghoriad, yr amserlen a'r gallu i wneud newidiadau i'ch cynlluniau yn sgil canlyniadau'r ymgynghoriad.



Edrychaf ymlaen at gael eich ymateb.

Cofion cynnes

A handwritten signature in black ink that reads "Russell George". The signature is written in a cursive style with a large initial 'R' and a long horizontal flourish underneath.

Russell George AC

Cadeirydd Pwyllgor yr Economi, Seilwaith a Sgiliau

