



# **Cynulliad Cenedlaethol Cymru** **The National Assembly for Wales**

## **Y Pwyllgor Cyllid** **The Finance Committee**

**Dydd Mercher, 29 Ebrill 2015**  
**Wednesday, 29 April 2015**

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Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

The proceedings are reported in the language in which they were spoken in the committee. In

addition, a transcription of the simultaneous interpretation is included.

**Aelodau'r pwyllgor yn bresennol**  
**Committee members in attendance**

Peter Black	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Christine Chapman	Llafur Labour
Jocelyn Davies	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)
Mike Hedges	Llafur Labour
Ann Jones	Llafur Labour
Julie Morgan	Llafur Labour
Nick Ramsay	Ceidwadwyr Cymreig Welsh Conservatives

**Eraill yn bresennol**  
**Others in attendance**

Stephanie Criddle	Cyllid yr Alban Revenue Scotland
Eleanor Emberson	Prif Weithredwr, Cyllid yr Alban Chief Executive, Revenue Scotland
Mark Evans	Cyfarwyddwr, Allington Hughes Director, Allington Hughes
Gerald Holtham	
Kay Powell	Cynghorwr Polisi, Cymdeithas y Cyfreithwyr Policy Adviser, The Law Society

**Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol**  
**National Assembly for Wales officials in attendance**

Dr Richard Bettley	Gwasanaeth Ymchwil Research Service
Bethan Davies	Clerc Clerk
Tanwen Summers	Dirprwy Glerc Deputy Clerk
Joanest Varney-Jackson	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser

*Dechreuodd rhan gyhoeddus y cyfarfod am 09:02.*  
*The public part of the meeting began at 09:02.*

**Cyflwyniad, Ymddiheuriadau a Dirprwyon**  
**Introductions, Apologies and Substitutions**

[1] **Jocelyn Davies:** Welcome, everybody to a meeting of the Finance Committee. Can I just remind you, if you've got mobile devices, that perhaps you should put them on 'silent'? We're not expecting a fire alarm, so if you hear one, please follow the instructions of the

ushers. We've had one apology, from Alun Ffred Jones.

09:03

### **Papurau i'w Nodi Papers to Note**

[2] **Jocelyn Davies:** Before we go to our first substantive item, we've got a number of papers to note. Are Members happy with that? Right, thank you.

### **Casglu a Rheoli Trethi Datganoledig yng Nghymru: Sesiwn Dystiolaeth 3 Collection and Management of Devolved Taxes in Wales: Evidence Session 3**

[3] **Jocelyn Davies:** So, we'll go to our first substantive item, which is the collection and management of devolved taxes in Wales. This is our third evidence session, and I'm very glad that we're being joined by Revenue Scotland. I hope you can hear us there in Scotland. Thank you very much. If it's okay with you, we'll go straight to questions. I wonder if you'd like to introduce yourself for the record and perhaps then briefly summarise how Revenue Scotland was established and lay out the key functions.

[4] **Ms Emberson:** Certainly. Good morning. My name's Eleanor Emberson. I'm the chief executive of Revenue Scotland now, and I joined, initially, Scottish Government in October of 2012 as head of Revenue Scotland. I did that job along with the director of financial strategy job in Scottish Government until October of last year. I'm joined by my colleague Stephanie Criddle from Revenue Scotland, who's just keeping notes and keeping me right. Unfortunately, Dr Keith Nicholson, who is the chair of Revenue Scotland, who had intended to be with us this morning, has been called away. He had an unplanned medical procedure, so he sends his apologies. He's sent a very short statement of things that he thought were important, which I can forward to you afterwards, but I may read out a part of that if we get to that place in the questioning.

[5] Revenue Scotland, as you'll know, was established as a statutory body in the Revenue Scotland and Tax Powers Act 2014. That Act establishes Revenue Scotland's function for the collection and management of taxes and puts certain duties and responsibilities on Revenue Scotland, and gives it quite a wide-ranging set of powers to collect taxes and ensure compliance. We work towards that. The order of the legislation in Scotland meant that the two Acts establishing the two individual devolved taxes were passed first, and then the overarching Act, the Revenue Scotland and Tax Powers Act, was the third one that was brought to the Parliament, and that was passed last summer. So, we were on a long journey—two and a half years—but certain key pieces of the legislation slotted into place over that timetable and the final part of that, for us, came into place last summer, and Revenue Scotland itself became an independent body on 1 January, just ahead of starting the collection of the taxes on 1 April.

[6] **Jocelyn Davies:** Thank you for that. Would you mind laying out for us what your biggest challenges have been in implementing your new tax collection system?

[7] **Ms Emberson:** Surely. The single biggest challenge we had was that there wasn't much tax expertise within devolved Scottish Government to start with, but we approached that in a number of ways. We made very good use of the expertise of local authority colleagues in tax collection, and indeed a finance director from a local authority, Inverclyde Council in Scotland, joined our programme board at a very early stage and helped us all the way through as a challenger and a supporter on our programme board. We drew heavily on expertise from HMRC, as you might imagine, and I have a number of staff in Revenue

Scotland who came across from HMRC, and some joined us on secondment to help with the set-up. We made good links with other tax authorities. We've had particular help from Irish Revenue and Customs, and from New Zealand, who have given us time and input at various stages. We've had a visit to Ireland, and they've been over to see us. We've had visits from New Zealand, but I'm sorry to say that we haven't managed to get out to see them yet. We've had a lot of input.

[8] The single biggest thing, though—and this is the point that our chair wanted to draw out in his statement—is that we tried to make the very best use of the expertise of the tax professional community within Scotland. We've had a lot of help from the Law Society of Scotland, the Institute of Chartered Accountants of Scotland, the Chartered Institute of Taxation—indeed, the Institute of Chartered Accountants of England and Wales, as well, which has a substantial membership in Scotland, and a range of other bodies and individuals and firms. We set up a thing called the devolved tax collaborative, which has met a couple of times a year all the way through and has had the odd special meeting on individual issues. For that, we invite a wide selection of people to come along, and we've used that and other ad hoc meetings to gather views, to get input and to make sure that the people who are going to be the users and operators of our systems think that they are going to be fit for purpose—everything from our IT to our technical guidance, training, and all the things that we've had to do with our communications. The biggest challenge was probably lack of expertise, but in many ways it's been a positive for us, because we've been able to draw very heavily on a lot of other sources of expertise.

[9] **Jocelyn Davies:** Thank you. I was going to ask you how you incorporated the view of stakeholders in implementation, but you've been able to do that because you built your system alongside them.

[10] **Ms Emberson:** Indeed.

[11] **Jocelyn Davies:** Thank you. Chris, shall we come to your questions?

[12] **Christine Chapman:** Could I ask you: what safeguards are in place to ensure that the revenue collection function is actually independent from Government?

[13] **Ms Emberson:** I'm sorry, I missed the beginning of that. How did we guarantee that it's independent?

[14] **Christine Chapman:** Yes. I just wonder what safeguards are in place to ensure that there's this independence from Government.

[15] **Ms Emberson:** So, it's specified in our legislation. We're an independent body within the Scottish administration, if you're interested in the constitutional niceties, which means that our staff are civil servants and our board members, collectively, are an independent office bearer within what is called the Scottish administration, but quite distinct from Scottish Ministers. So, they're not subject to ministerial direction. The legislation very carefully does not give Ministers any power of direction over Revenue Scotland, but it does require that Revenue Scotland—which is the Revenue Scotland board—agree a corporate plan every three years with Ministers. So, there is a requirement to agree a strategic plan with Ministers. Ministers can issue guidance, and we must have regard to it, but that's not binding and it's not directive. Equally, Revenue Scotland can provide advice to Ministers from time to time on issues. So, it's attempting to set up an appropriate relationship where there's some strategic overview but there's absolutely no day-to-day control.

[16] **Christine Chapman:** Right, okay. Thank you. I just wonder, as well: do you have any responsibility for overseeing the collection methods of other taxes, such as council tax

and business rates?

[17] **Ms Emberson:** We don't. Those are matters for local authorities and they remain so. Those arrangements are well-established and have been going for a long time, so we haven't sought to interfere in that in any way.

[18] **Christine Chapman:** And do you have any role in forecasting taxes in Scotland?

[19] **Ms Emberson:** We will be providing the data. That's really going to be our main role. I mean, now that we actually are collecting tax, we will be publishing figures on a monthly basis and then some more detailed figures annually. The data that we provide will, therefore, inform forecasts in future, but we don't have any in-house economic expertise for producing forecasts. We have a statistician to help prepare the figures, but we don't have the economic expertise to produce forecasts for ourselves; Scottish Government will do that.

[20] **Christine Chapman:** Right, okay. Thank you.

[21] **Jocelyn Davies:** Nick.

[22] **Nick Ramsay:** Thanks, Chair. Good morning.

[23] **Ms Emberson:** Good morning.

[24] **Nick Ramsay:** How did you develop your original forecasts for the implementation and running costs of the new tax system, and how accurate were they?

[25] **Ms Emberson:** Well, they were done very early on. In fact, the first forecasts, or the first estimates, were made before I ever joined. I joined in October 2012, and there were estimates in existence by then. The estimates have been accurate, based on the assumptions that were in force at the time. So, the very first estimates made could only be made on the basis of implementing exactly like-for-like equivalents of the UK taxes—so, if we had simply replicated stamp duty land tax and exactly replicated UK landfill tax—and, obviously, over time, that changed. In Scotland, we have, as you know, land and buildings transaction tax and a Scottish landfill tax, which, while they have many things in common with the UK taxes, are not identical. Some of the elements introduced—for instance, the taxation of illegal dumping: Scottish landfill tax allows tax to be recovered on illegal dumping—they introduced some additional administrative cost, and that obviously couldn't be built into early estimates. Also, in the original work that was done, it was very clear when the estimates were published that they were based on the idea that our colleagues in Registers of Scotland, which is the Scottish land registry, and in the Scottish Environment Protection Agency, SEPA, would actually set up the IT systems and do the direct collection for the two taxes. As we worked with ROS and SEPA, and we all worked through the business processes, we arrived at a place where it was clear that, to ensure that we had the best records and the most effective compliance, that wasn't going to be the best approach, so we had to then re-estimate what the costs were going to be for developing a central system and managing that differently.

[26] So, when you make a very early estimate, you can do it on the basis of what you know at the time, and I think one of the things that was difficult for us was that people found it hard to recognise that the scope changed and the expectations changed alongside the cost estimates, so I think it's important to be very careful and very cautious, and not to rush to estimate costs and assume that that will be the final word. Because until Parliament has put in place the legislation and we were clear what was required, those estimates can only be very tentative. There was also one element, as I've reported to the Scottish Parliament committees, where it simply cost a bit more to do some of the implementation work than had been estimated early on. So, although our costs changed quite significantly, about £1.7 million of

that was underestimating the staff required to do the implementation. The rest of it was really scope changes.

09:15

[27] **Nick Ramsay:** Okay, thanks. As Her Majesty's Revenue and Customs was already collecting the taxes in Scotland, I believe they provided a quote to continue collecting those taxes, which was rejected. Why was it believed that HMRC would not be as cost-effective?

[28] **Ms Emberson:** Again, these things happened before I joined, but HMRC, again, at that point, were quoting for like-for-like implementation of exact equivalents of the UK taxes in Scotland, and the estimates that were made in Scotland showed that we could set it up ourselves and collect for five years, and do that more cheaply. There were obviously a range of other factors. Cost was one factor, but there are other potential issues about flexibility and having a body within Scotland that can respond directly to what the Scottish Parliament and the Scottish Government are looking for, building up expertise in this area in Scotland to make sure that, if there were future devolution of tax, we had the capability. So, I think a range of factors influenced that decision, but that decision was taken before I joined.

[29] **Nick Ramsay:** Thank you. Probably, again, a decision taken before you joined, but nonetheless, I'll ask you. Was there potential for Revenue Scotland to collect the taxes directly, and why was that ruled out?

[30] **Ms Emberson:** To collect them directly, do you mean not via Registers of Scotland and SEPA?

[31] **Nick Ramsay:** Not to use the other bodies, but simply to say 'Right, we're here; we're running this tax show now'. Could there have been benefits for you in that you are the body given that charge by the Scottish Parliament to oversee this? Could you simply have done it in-house yourself?

[32] **Ms Emberson:** Well, what we've done is worked with ROS and with SEPA. We deliberately did not carve up the responsibilities at the beginning, and I'm glad we didn't because, if we had, we would either have had to change it, or we would've come out with something that wouldn't have been so good at the end. We've worked together to get the expertise that ROS already had in land registration and ensuring that the tax collection for LBTT fitted well with that process, and we worked with SEPA to make sure that the collection of landfill tax worked really well alongside the registration and monitoring of landfill sites. So, what we've wound up with is a system where, in fact, the direct tax collection is being done and will be done by Revenue Scotland, but we're using the expertise of the other bodies. So, ROS are helping us with the processing of any paper tax returns and helping us with intelligence around all of the housing market issues, and SEPA are working with us on compliance, because they have officers who are going out regularly to landfill sites, and they have the expertise in that industry and that area. So, we developed roles that make sense, exploiting the expertise of each body, and I think we would have been wasting money and wasting expertise if we hadn't drawn on all those skills and capacity that already exist within Scotland.

[33] **Nick Ramsay:** Thank you. Last question from me, really just to bring all this together; this has been really helpful. We're obviously looking here, in going through some of the steps that you have over the last few years, to learn some of those lessons. I'm getting the message from you that you're saying that whatever system you set up at the outset, that should be futureproof, for want of a better word, so that, as the years do go by, and new taxes are formed or old taxes changed slightly, that the system can cope. The system you've got now is not exactly the system that was envisaged five years ago, but nonetheless, the system

was able to cope. I think that's the nub of what I'm trying to put to you.

[34] **Ms Emberson:** That's correct. What was originally envisaged was that ROS, our land registration body, would develop the system for the collection of the land and buildings transaction tax—the IT system, that is—and that SEPA would develop the collection system for the landfill tax, but as we worked through that, that didn't seem to be the right way of going about this to make us, as you say, futureproof and to ensure that we had all the right compliance procedures and secure storage of taxpayer data for the long run. So, what we have now is a model with a central IT system in Revenue Scotland, which is accessed by our colleagues in ROS and SEPA for the tasks that they need to carry out. They report that they're content with that and that it works well, and that will give us the basis on which we could add further tax later.

[35] **Nick Ramsay:** That's great. Thank you.

[36] **Jocelyn Davies:** Okay. Ann, shall we come to your questions?

[37] **Ann Jones:** Was the option of using Scottish local authorities to collect any devolved taxes considered at all?

[38] **Ms Emberson:** I'm not sure if that was given formal consideration before I arrived. Obviously, by the time I arrived, the decision had been taken that we would establish Revenue Scotland. As I said at the beginning, we did try to bring in the expertise that our local government colleagues have, and the finance director of Inverclyde Council, as I mentioned, sat on our programme board, and that was really useful. It was very useful in two ways: partly because of the experience he brought of having set up and run systems in local government, but also because it helped us understand the way in which our systems are different to the local government systems.

[39] The taxes that we're collecting, the land and buildings transaction tax and the landfill tax, are transactional taxes and they rely on the taxpayer making a self-assessment. So, you make your self-assessment of your property transaction and you submit your return, largely because you can't register title until you've done that. If you're a registered landfill operator, you're required to submit a return quarterly about disposals to landfill and the tax due on that. But you volunteer the data to Revenue Scotland, and then we look at that and, wherever we think we might need to, we have powers to open inquiries or do follow-up work, or whatever we think is appropriate. Obviously, we can, if we believe that returns have not been submitted in circumstances where we would expect a return, we have powers to do things about that. That's materially different from the taxes that our local authority colleagues in Scotland collect—non-domestic rates and council tax—where they have assessed values and they issue bills, and it is then about the taxpayer paying the bill that's been issued. So, it's all, conceptually, tax collection, but the sorts of processes you have to put in place and the sorts of key performance indicators are slightly different, because it's quite a different approach to taxation.

[40] **Ann Jones:** Okay, thank you. Wales doesn't have the pre-existing organisations that exist in Scotland to collect devolved taxes, although Welsh local authorities do have some experience in collecting certain taxes. What factors do you think we should be considering when deciding whether the Welsh revenue authority should delegate the collection of taxes to other organisations, such as local authorities?

[41] **Ms Emberson:** I don't think I would presume to advise Wales on what it should do. All I can say is that we found it really helpful to work very closely with everyone who has expertise in this area and patiently work through what was feasible, what looked like it would work best, and not try to jump to an answer too quickly, until we'd actually done the

groundwork with the bodies that we, in the end, worked with.

[42] **Ann Jones:** Okay, thank you.

[43] **Jocelyn Davies:** Thank you, Eleanor. I wonder if you could tell us anything about incentivising the improvement of collection rates for yourselves, there, in Scotland. How are you doing that?

[44] **Ms Emberson:** I mentioned, on the landfill side, there are particular moves to try to ensure that, at least legally, there is a route to recover tax on illegal dumping, because there was a perception that, if people were caught disposing of waste illegally, well, obviously, they could be prosecuted under environmental legislation, and there could be fines or other sanctions, but they were never liable for the tax and that can, in some cases, be quite substantial. So, we wanted to make sure that that route to tax evasion was closed off for landfill tax.

[45] On the land and buildings transaction tax, as I said, the single biggest requirement there is that you can't register your property transaction until you've submitted a return and made payment of tax. Therefore, for a very wide range of transactions, where you would need to register, then that's a strong incentive. There are some transactions that would be caught by tax where you wouldn't necessarily need to register. We're still working through how we will do on all of that, but we have been working really hard with all the professional bodies to make sure people understand and to make our systems as easy as possible. So, we're trying to ensure that all the correct information is out there, that people know what their obligations are, and that they understand what the penalties might be if they don't pay, but we're obviously at relatively early days on that part of the process.

[46] **Jocelyn Davies:** Thank you. Julie, shall we come to your questions?

[47] **Julie Morgan:** Yes. Thank you very much and good morning. I think you've already partially covered this in your responses to Nick Ramsay, but how do you ensure that a new tax system is stable and that it won't require significant changes in the future?

[48] **Ms Emberson:** Well, of course, I'm not in charge of the tax policy, nor is the Revenue Scotland board, so we implement what Parliament has legislated for and we would continue to do that. So, should the Parliament decide it wanted a significant change, or if there were to be extra powers and Revenue Scotland were asked to collect any further taxes, we would simply have to deal with that. But we've now built up some expertise in how one might go about implementing change and implementing new taxes, so we feel that we're off to a reasonable start on that. Our IT system is as futureproofed as we can sensibly make it, but, of course, we all know that things like IT and communications technologies are rapidly changing, so we know we will need to continue to adapt over the years ahead.

[49] **Julie Morgan:** Thank you. Welsh Government has said that operational tax arrangements in Wales should replicate those in the UK, unless there is a policy reason to act differently. Has that been the approach in Scotland?

[50] **Ms Emberson:** Yes, I think so. I mean, very substantial parts of the tax legislation are similar to the UK tax legislation. I think those who read our legislation who are already familiar with the UK equivalents will recognise a lot of it, but bits have been changed where Scottish Government and Scottish Parliament were clear that something different would be more appropriate for Scotland. So, I think it's very similar.

[51] **Julie Morgan:** But the assumption has been the same. Thank you.

[52] **Jocelyn Davies:** Peter.

[53] **Peter Black:** Thank you, Chair. How have cross-border issues been considered in Scotland, such as the need for taxpayers to have a degree of consistency?

[54] **Ms Emberson:** Well, we've worked with our devolved tax collaborative and all our many stakeholders on this, and there have always been divisions of opinion on given issues. I can think of many different individual points, but on any given issue, there would be some people who would say that consistency was more important, and others who might argue that this was our opportunity to change it and make it better. As far as the legislation has gone, I think our Parliament took all of that into account in considering the evidence on the legislation and the legislative changes. When it's come to implementation, we've worked with our stakeholders and, really, just done it issue by issue and tried to take a view on where there are things where there's some significant unhappiness or inefficiency that perhaps we could try to improve. There are many issues where we have followed, largely, what HMRC do because they have many years of experience and they have arrangements that broadly work. So, we've tried very hard not to reinvent things for the sake of it and to keep consistency where that makes sense, but we have taken the opportunity to change certain things when we've had the opportunity.

09:30

[55] **Peter Black:** Have you identified any other cross-border issues that we may need to be aware of?

[56] **Ms Emberson:** Well, we had to work very closely with HMRC on the transition, as you would imagine. We have been represented on HMRC project boards for their project to switch off the UK taxes in Scotland—stamp duty land tax and UK landfill tax. HMRC sat on our project and programme boards for the establishment of the taxes to make sure that we were properly joined up, because, obviously, in communications to taxpayers and to tax professionals, it was really important that we were sending consistent messages and that they were planned at the right time. With things like our technical guidance for the introduction of new taxes and HMRC's technical guidance for the switch off of the UK taxes, we read each other's guidance and made sure that they all made sense together. So, there was a lot of practical liaison to make sure that things didn't fall down gaps or lead to confusion.

[57] **Peter Black:** Okay. What reasons were given for redesigning stamp duty and landfill tax in Scotland differently to those in the UK?

[58] **Ms Emberson:** I think you're really in policy territory here. I've explained my understanding of why certain changes were made, for example, the extension of landfill tax to illegal dumping. We moved, as you will know, to the progressive structure of the property tax, so land and buildings transaction tax legislation was in place before the Chancellor changed stamp duty land tax structures in the autumn statement last year. We'd already moved away from the slab structure and towards a progressive structure. We, in fact, have that for commercial property transactions as well as residential. The UK have made the change only for residential so far. That was a policy choice, I think driven by fairness—a desire to avoid the distortions that can happen when you have these slab structures. So, those are two of the most significant changes, but, on policy decisions, I think that what John Swinney has said to Parliament and publicly are probably your best source for why those were made.

[59] **Peter Black:** Okay. Were any weaknesses identified in the UK tax system that you sought to improve in Scotland?

[60] **Ms Emberson:** I'm sorry, I didn't quite catch the beginning of that.

[61] **Peter Black:** Did you identify any weaknesses in the UK tax system that you needed to improve when you came to apply them in Scotland?

[62] **Ms Emberson:** I think 'weaknesses' is probably a slightly emotive term. As I've said, there are a few things that have been changed. One of the things in the Revenue Scotland and Tax Powers Act 2014 that did attract a bit of attention was the Scottish approach to a general anti-avoidance rule. We have a general anti-avoidance rule or a GAAR. The UK have a GAAR, but theirs is a general anti-abuse rule. Ours is intended to be wider and to catch more artificial transactions, so the bar is not quite so high—the test of artificiality is not quite so extreme as the UK version. So, again, there were some policy choices there about the UK approach and the Scottish approach, and, obviously, our GAAR is yet to be tested in practice. That is now on the statute books, and it will be for Revenue Scotland to use that if and when that becomes appropriate, and no doubt, if we do use it, we can expect that to be tested through the tribunals and the courts.

[63] **Peter Black:** Okay. Thank you.

[64] **Jocelyn Davies:** Okay. Thank you. Mike, shall we come to your questions?

[65] **Mike Hedges:** Thank you, Chair. Can I first of all thank you for what you have told us this morning? It's been very helpful and, in at least one area, it's changed my view. I've got three questions. The first one is: if a new tax was considered—. I mean, I'm a great fan of land value tax, but if such a tax was brought in in Scotland, would you be providing advice to help the Government formulate a new tax?

[66] **Ms Emberson:** If a new tax were being considered, yes, I think we would be asked for our advice about appropriate ways to administer it. So, it wouldn't really be for us to advise on whether or not it's appropriate to introduce the new tax or what the economic impact of that might be, or the behavioural impacts, but we would certainly be there to advise on implementation and whether proposals look like they would be sensibly workable, maybe, to help improve them in that kind of way. We would expect to work with Scottish Government colleagues from the very beginning on that sort of thing.

[67] **Mike Hedges:** Thank you. Are you able to work with opposition parties in the run-up to an election to help them in developing their tax policies and to actually work out whether they would work or not? We have had an example given to us. I think it was Holland, where they actually give advice to any political party. They run through what they think the tax take would be so that there are no surprises the day after election day.

[68] **Ms Emberson:** That sounds like a very interesting idea. Because we don't have any sort of forecasting capability in-house, and because we're not responsible for the policy, we probably wouldn't be able to help in the way that it sounds as though the Dutch tax authority can. If we were asked—. I appear in front of the Scottish parliamentary committees fairly regularly and I would answer any questions from any Member of the Scottish Parliament about tax administration. I'm sure we would be able to answer questions about administration and what the implications of that might be, but not explicitly tax policy because it's not one of our functions.

[69] **Mike Hedges:** Would it be helpful—and I'm going to have to ask you in a Scottish context because I'm really asking whether it would be helpful in Wales—for the policy area that you've just described to actually be carried out by an organisation, such as yourselves, so that they could actually predict as well as collect?

[70] **Ms Emberson:** I think the difficulty that we would run into, if we were to try that, is the separation of powers that we were talking about early on, and the safeguards. So, it's very important for everyone to demonstrate that the collection of tax operates completely independently of politicians, and that Ministers cannot interfere in anyone's individual tax affairs. So, Revenue Scotland has all these boundaries carefully drawn around it to make sure that its relationship with Ministers is carefully defined. If we were to try to take on a policy advice function for a Minister, it would be much harder to maintain that separation. I think the reason we've gone with the split, as we have, where the tax policy remains in the Scottish Government finance function, and the tax administration is in the independent Revenue Scotland, is to try to ensure that we don't muddy those lines of accountability.

[71] **Mike Hedges:** You probably may not want to answer this question, but it follows on from that: would there be a benefit to having a Scottish office of budget responsibility?

[72] **Ms Emberson:** You're probably aware of the Scottish Fiscal Commission, which has been set up. Have you—

[73] **Mike Hedges:** Yes.

[74] **Ms Emberson:** Yes. So, the Scottish Fiscal Commission is a step in that direction, if you might say, and the consultation, as you'll be aware, is under way about putting that on a statutory footing.

[75] **Mike Hedges:** Okay. Thank you.

[76] **Jocelyn Davies:** Okay. Thank you. We've run out of questions for you. I think that's been a very helpful session. I don't know if we covered everything that was in Dr Nicholson's note, or if there's anything that you'd like to add, or you may just want to send that to us, but we will be sending you a transcript to check that we've recorded everything that you've said accurately before we publish it. So, was there anything in Dr Nicholson's note that you'd like to mention to us now?

[77] **Ms Emberson:** The key thing that he wanted to highlight was the value that we'd had from working with stakeholders and building up those relationships, but I think that I've tried to draw that point out for you. But I will send you his note as well for the record.

[78] **Jocelyn Davies:** Yes. Thank you. I think you've made that very clear—the benefit that there's been all around for that. So, I thank you and Stephanie, again, for being very patient with us this morning.

[79] **Ms Emberson:** Not at all. Thank you very much.

[80] **Ms Criddle:** Thank you.

[81] **Jocelyn Davies:** Shall we break now, just for quarter of an hour? Then, our next set of witnesses will be here. Okay. So, if we can come back—. Shall we say—

[82] **Christine Chapman:** Were you going to discuss—[*Inaudible.*]

[83] **Jocelyn Davies:** Well, we'll go into private session after the next slot.

*Gohiriwyd y cyfarfod rhwng 09:39 a 09:45.  
The meeting adjourned between 09:39 and 09:45.*

**Casglu a Rheoli Trethi Datganoledig yng Nghymru: Sesiwn Dystiolaeth 4**  
**Collection and Management of Devolved Taxes in Wales: Evidence Session 4**

[84] **Jocelyn Davies:** Welcome back everybody to the meeting of the Finance Committee. We're on agenda item 5, which is the collection and management of devolved taxes in Wales. This is evidence session 4 for us in this inquiry. I'm delighted to have representatives from the Law Society here. We've had a paper and thank you for that. Would you like to introduce yourselves for the record and then we'll go straight to questions. Shall we start with you?

[85] **Ms Powell:** I'm Kay Powell and I'm the Law Society's Wales policy adviser.

[86] **Mr Evans:** I'm Mark Evans; I'm a solicitor from north Wales, with offices in Chester, Wrexham and Llanrwst.

[87] **Jocelyn Davies:** Lovely; thank you. Would you like to summarise for us the Law Society's experience in influencing UK tax legislation?

[88] **Ms Powell:** In terms of the way that we're established internally, we have specialist law committees: we have a tax law committee and also, in relation to stamp duty land tax, there's a conveyancing land law committee. So, we engage through our specialist committees, through policy advisers and, obviously, through our office holders.

[89] With regard to influencing tax legislation at a UK level, there is, in fact, a stamp duty land tax working together stakeholder group. Members will be aware that the stamp duty land tax has come into effect from 2003. So, over the course of this period, there's been some bedding in and in order to ensure that the right people were engaged with that process, the stakeholder group was established. It cuts across the board, so there are other professional bodies, tax specialists and so on, as well as internal agencies, obviously HMRC and Government representatives. So, at that high level, I think everyone's able to discuss not particular issues or cases, but, really, concerns around operation and that's been something that's been really useful for us all moving forward, in what was for everyone a fairly new regime and also in terms of online and so on—that was all being developed at the same time.

[90] **Jocelyn Davies:** Okay, thank you. So, in relation to stamp duty and devolved taxes, are there any weaknesses that you've identified in the UK tax system and HMRC culture in general, which should be avoided in Wales?

[91] **Ms Powell:** There aren't any specific concerns in relation to the culture and attitude. In terms of being the collector of taxation then, of course, what we really want to see is an efficient body and a body with sufficient authority to inform the taxpayer. It's really important that everyone is aware of their duties, especially as we're moving forward with new taxes. We want to be sure and be clear that the taxpayer and adviser have the tools to hand and that they're informative and accessible, and also that it's possible to engage where issues and concerns do arise, and that there is a set and accepted route for that engagement to take place.

[92] **Jocelyn Davies:** Did you have something to add to that, Mark?

[93] **Mr Evans:** Only to say that, from a practitioner level, most practitioners now file returns online, but still people submit paper returns and that causes problems in the filing of those paper returns: if there's a problem, it gets rejected and then it can incur penalties, whereas the online system seems to be working quite well because it won't allow you to go through the system unless it's checking the return as you go through.

[94] **Jocelyn Davies:** I see. So, if you've left something out or whatever, you can't complete it whereas, of course, if you're doing it on paper—. I wish I'd come to you before I did my return last year, Mark; that's just a joke. So, how should the role of the Welsh revenue authority differ from that of HMRC to ensure that it's more appropriate to the needs of Wales?

[95] **Ms Powell:** Obviously, the intention is that there will be a Welsh revenue authority. So, that body is actually going to be charged with undertaking this whole role of collecting, managing, and advising and they would be the interface with the taxpayer. In order to deliver that, of course, there are suggestions that there will be an agent to the revenue. So, we would see that it's very important that everyone is clear on what the roles are. If the revenue authority itself is set up as a non-ministerial body, it's obviously separate from Government, but it's then about accountability in terms of direction and also delivery. Looking at the engagement with the Assembly, we would want to see a robust system put in place to ensure that that revenue authority is truly answerable—that there isn't just the usual process of laying an annual report and coming to questions, and so on, and that there would be a particular system to deal with that, either within Standing Orders of the National Assembly or in some other way, so that there's a formal process, because of the—. Well, it's serious, but it's also because of the impact that the revenue will have in terms of everyone's lives with the two taxes that are coming, but also ensuring, moving into the future, that we've got the right system in place now.

[96] So, looking at that agency role then, moving into someone undertaking those roles, again, we'd want to see that the systems and processes in place are very clear and clear to the taxpayer as well, and not just something that is happening internally—with an outward-looking face, really.

[97] **Jocelyn Davies:** So, rather than just duplicate things that we've done in the past in terms of annual reports, as you've mentioned, you think there should be direct accountability through a committee or something like that, where this new body would be expected to account for the way that it's operated in a more transparent way.

[98] Okay. What about flexibility, because we've heard that it's going to need to be flexible to futureproof it, and so on? Could that develop flexibility in its policies, whilst still applying the tax legislation consistently?

[99] **Mr Evans:** I think, from a practitioner's point of view, obviously simplicity is the key as the legal jurisdiction is England and Wales. So, even though you may have a separate Welsh tax from England, you will have a lot of practitioners in England dealing with Welsh transactions, and, vice versa, a lot of Welsh practitioners dealing with English transactions. So, I think, from the perspective of a practitioner, if you went on, for example, HMRC's website to go online or to file a return, if there was to be a specific return for Welsh transactions, then you need to have that link there, even if the HMRC isn't going to be the body dealing with that tax. There has to be, so that the practitioner can see at the coalface which avenue to go down, and how to complete the returns.

[100] **Jocelyn Davies:** Yes, because, for yourself, you'll have clients this side and that side of the border, and many people in Wales will be using advisers from England, and you need to have a simple system that would eliminate mistakes.

[101] **Mr Evans:** I think it's not so much just a simple system—you can have a different system; you can have different tax rates and different—. But the format needs to be similar. Using stamp duty land tax as an example, obviously the filing of those returns—the vast majority—is done through lawyers filing it on behalf of their clients. They've now got used to filing those returns, and the recent changes in tax rates were easily absorbed and solicitors and

practitioners were able to comply with that. What you would want is not to have a completely different set of questions or procedures for a transaction on either side of the border.

[102] **Jocelyn Davies:** Okay. Peter, shall we come to your questions?

[103] **Peter Black:** Yes. I was just going to say: do you think there's going to be confusion, because I know that some solicitors, say, in London, won't deal with Welsh properties when they come to register land or in terms of transactions? Will there be confusion if we have different rates in Wales than in England? How are we going to get that information across to people over the border who are dealing with these issues?

[104] **Mr Evans:** I don't think there will be confusion, but obviously you do need to communicate and publicise what rates there are. From my perspective, I'm a cross-border lawyer, so I can be dealing with a client in Wales in the one appointment and then the next appointment is with somebody from across the border. But you just have to adapt and you do that already, for example, with devolution: it is there already with the health service, with social care and with education, so lawyers already have to know there's a different social regime for care in England and Wales. It's just the communication that needs to go through. A lot of the filing on taxes is—you know, the guidance normally is on the form as to what the rates will be. You then just have to make sure that you're applying the right rates to the right jurisdiction.

[105] **Jocelyn Davies:** Okay. Chris, did you want to come in on this point?

[106] **Christine Chapman:** It is just slightly going back to something that Kay said. You mentioned the word 'authority'. I think there were some sort of concerns, maybe, that people wouldn't perceive that the Welsh Government would have the same authority as the HMRC. Can you explain that? We were talking about accountability as well. I was just wondering whether you could say a little bit more about that.

[107] **Ms Powell:** It wasn't 'authority' with a small 'a'; it was 'Authority' with a capital 'A'. It's being sure that the Welsh revenue authority is acknowledged. So, to pick up the point in terms of, 'Will our practitioners who are in England know what's going on, know it's different, apply the different rates, and so on?', it's ensuring that the Welsh revenue authority has an identity and is made known to the public, so that, when you do have an agent as well, it is very clear that there is a separate revenue authority and there is a body acting as agent for it. So, it's just being clear, really, about that outward-facing aspect of the delivery of the collection and management regime.

[108] **Christine Chapman:** Okay. That's fine.

[109] **Jocelyn Davies:** Okay. Peter, back to you.

[110] **Peter Black:** Thanks. The Welsh Government are consulting on the collection arrangements before specific legislation on stamp duty and landfill tax. Could you just give us a summary of the steps the solicitors take in collecting stamp duty and paying this to HMRC?

[111] **Mr Evans:** Okay. I'll start from the beginning. Obviously, when you have a client who is either purchasing or leasing property, there are different issues to consider—one, if it's residential, two, if it's a commercial property, and then you have the hybrid of a mixed property, and that can cause complications as to that definition as to what forms a mixed property. But, having gone through a transaction, the process at the moment is that, on the date of completion, you must file, obviously within 28 days, a return, a stamp duty land tax return, to the Revenue. Now, many practitioners, as I say, file that online. The system at the moment is that, obviously, once you submit it, you're allocated a specific reference number,

which you can then utilise to lodge your application at the Land Registry for a transaction to be registered. That unique tax reference number, obviously, is linked then to the Revenue and, when you're making a payment, you must quote that reference number to lodge with the payment that's being made.

[112] At the moment, obviously, the onus is on, once you file the return, that you must make the payment simultaneously, at that same time. There are a few practitioners who are concerned that they're under obligations from different parties—mortgage lenders and third parties—that they have to file certain documents within certain timescales, irrespective of whether the client has put them in funds. So, it can be, on occasion, the solicitor has to actually submit the return and then fund and pay for, out of office, the tax and recover that from the client. There isn't an obligation, really, for the solicitor to, at the moment, file the return and then for the invoice to be paid by the client. In effect, the solicitor is being put in the position of having to fund it as well as file it.

[113] **Peter Black:** But you do that for other fees like Land Registry and searches anyway.

[114] **Mr Evans:** You do, indeed.

[115] **Peter Black:** Are the deeds still physically stamped?

[116] **Mr Evans:** No.

[117] **Peter Black:** They don't do that anymore. So, it's difficult for the Land Registry to actually see whether that actually happened just by looking at the deed.

[118] **Mr Evans:** When you lodge an application at the Land Registry, you lodge the document that triggers the registration, whether it be a lease or a transfer, but you lodge a document—it's an SDLT5 certificate—which is a tax certificate to say, 'This return has been filed at the Revenue and accepted.' So, the Land Registry shouldn't register the transaction without that certificate being lodged. But there are exceptions. Obviously, you don't need to lodge an SDLT5 certificate if the valuation, or the value of consideration, is below £40,000, and also depending on other leasehold transactions.

[119] The complication on the filing of returns also is slightly more complicated when it looks at specific leasehold transactions, because the Land Registry have a rule to say that you can only register a lease if it's six years or more, whereas, with SDLT5, the lease could be a short lease, but you still have to file a return. There is a doubt, sometimes, whether those returns are being filed.

10:00

[120] **Peter Black:** So, there's no way to check that—the short term.

[121] **Mr Evans:** No.

[122] **Peter Black:** Things have changed significantly since I worked in the Land Registry 16 years ago. *[Laughter.]*

[123] **Jocelyn Davies:** I think you've adequately updated him, though, it seems, this morning.

[124] **Peter Black:** If I lose my seat next year, I could go back and work there. How time-consuming is this for solicitors, in terms of this system of collecting stamp duty?

[125] **Mr Evans:** Time-consuming—it used to be. When the system first came out and it was a paper return, well, then, a lot of solicitors did find it a more time-consuming approach. Now it has become online and most practitioners are fully familiar with all the questions that are asked, so they can get that information from their client at the outset of the transaction, it's a lot easier to fill in, but, obviously, we're assuming, in property transactions, that everyone is legally represented, because, you know, as in other areas of law now, such as family and crime, and with cuts and that, you can still buy a house, but be unrepresented and deal with the Land Registry yourself, so—

[126] **Jocelyn Davies:** Because you did mention that the vast majority of people use a solicitor or an adviser like yourself, but not everybody does. So, what sort of percentage of people—

[127] **Peter Black:** It's a very small percentage. I did my own conveyancing, but it's a very small percentage.

[128] **Jocelyn Davies:** Kay, can you tell us?

[129] **Ms Powell:** I don't have any figures, I'm afraid, but we can follow it up and let you know.

[130] **Jocelyn Davies:** Okay, but we are talking tiny numbers or is this a growing—

[131] **Peter Black:** My experience in the Land Registry is it's a very small percentage.

[132] **Jocelyn Davies:** A very small percentage. Back to you, Mark, sorry.

[133] **Mr Evans:** So, I think, from the filing of the returns, it is a simple process to follow, but you do need to—. The return—from a practitioner's point of view, with a single jurisdiction of England and Wales, a solicitor in Doncaster needs to know what he needs to file for a Welsh transaction and vice versa. Somebody in Llangefni needs to know, if he's dealing in Doncaster, what he needs to file. So, I think the information needs to be the same. How it's set out on a form can be slightly different, but that would certainly assist practitioners.

[134] **Peter Black:** I mean, all this, again, came in since I left the Land Registry, but the Land Registry does online registration as well for solicitors. Does that reduce the level of checking involved, in terms of the Land Registry checking, if you do it online?

[135] **Mr Evans:** The Land Registry are developing now, quite quickly, a portal system, where you can electronically scan documents through, but there is more onus and responsibility on solicitors, obviously, to file returns and to file documents, but also they have to now certify identity checks because of fraud and everything else. It is becoming an increasing burden on, shall we say, those who are filing the returns and paying the tax, but we're in a very competitive market, where cost is, unfortunately, not comparable. That's where there are difficulties from practitioners' points of view: burdens from filing tax returns or increased regulation, unfortunately, are falling on them, rather than being passed on to the client.

[136] **Peter Black:** Are there any other typical problems encountered by solicitors when collecting stamp duty that we haven't gone into?

[137] **Mr Evans:** I think the stamp duty issues that—. On the rates, everyone now knows what they are. There is, you know, the difficulty when you've got a multi-use property, shall we say, so you've got a farmhouse and land, and how that's defined and the rates that are

applicable. I think the biggest thing that practitioners find hard to deal with, and also clients, is the rates for lease transactions, because the amount of information you've got to put in to calculate what, quite often, can be quite a small revenue income generator, is quite significant—

[138] **Peter Black:** You've got to take account of the rent as well as the consideration, haven't you?

[139] **Mr Evans:** Yes. You know, you have to put in five years' figures—the rent for the first five years, even on, let's say, a very short lease. So, lease transactions are more problematic than the standard freehold or long-lease transactions.

[140] **Peter Black:** Thank you.

[141] **Jocelyn Davies:** Julie, shall we come to your questions?

[142] **Julie Morgan:** Yes, thank you. The legal ombudsman has noted that there's a potentially alarming trend regarding lawyers failing to pay stamp duty land tax. How can that be addressed?

[143] **Jocelyn Davies:** Are you aware of this? I assume that you've heard of cases.

[144] **Mr Evans:** I'm not aware of any statistics.

[145] **Ms Powell:** I don't have the figures, I'm afraid, but, again, I could pick those up for you. As you're aware, solicitors are under undertakings. In a conveyancing transaction, there is the slightly unusual point of acting both for the lender and for the purchaser, or the lessee, and so there are a number of factors involved, but the bottom line being that the solicitors are under undertakings. So, there would be specific need for them to complete those payments. I'm aware that there is the separation between the actual filing and the payment. I'm not aware, in terms of the figures, whether those failures to pay mean that they're then put into a penalty section and they are actually paid, not that they're actually being withheld. So, I'd need to look at that and come back to you with the detail, really, of what the issues are around that. I know we were discussing beforehand regarding filing and then making payment, and having cleared funds and having those funds actually cleared on payment as well. There are a few banking factors that come into play, and some members are finding that they're falling into the penalty zone because funds aren't cleared although payments are being made in the usual course.

[146] **Julie Morgan:** I see. Okay. Were you aware of this alarming trend referred to?

[147] **Ms Powell:** I wasn't personally aware, but I shall investigate and come back to the committee.

[148] **Mr Evans:** All I would add, really, to Kay is, obviously, solicitors are regulated by the Solicitors Regulation Authority, and they have to have professional indemnity insurance. Part of that insurance, obviously, is to make sure that they are filing and complying with the law and jurisdiction, and filing things on time. Otherwise they are putting themselves at risk, obviously, from their insurers and their regulator if they're not complying with the rules and regulations. I think that there are certain transactions where you have to go through the Land Registry. You cannot avoid submitting a tax return for a property transaction and getting that certificate to lodge. The ambiguity might be where it isn't registrable at the Land Registry, and not every transaction is. That may not be through a deliberate avoidance. It could be, for example, that some transactions have literally extended by time. So, you may have, for example, a three-year lease but that lease is rolling over on year-by-year basis. Well,

technically, that could become a 10-year lease by default if a return hasn't been filed. So, there may be anomalies where tax hasn't been collected because things have rolled over, or whatever, with the flux of time.

[149] **Jocelyn Davies:** Okay. Thank you.

[150] **Julie Morgan:** I mean, as I understand it, even if the solicitor fails to carry this out, the liability is still with the customer. That's correct, is it?

[151] **Mr Evans:** Yes.

[152] **Julie Morgan:** Do you think there ought to be any change with that—that lawyers should be held accountable for non-payment of stamp duty?

[153] **Ms Evans:** I don't think so. It is a transaction tax and, obviously, it is an individual company that is entering into that transaction. There should be some reporting mechanism for it to be notified that that transaction has taken place. I don't think, though, that the lawyer or solicitor should be held accountable, unless of course they are negligent or they've avoided something. The onus should always be on the taxpayer to submit the return and to pay the tax. There can be occasions where there can be disputes, but I think that the revenue should be collected at the first source, from the person—the taxpayer—entering into the transaction.

[154] **Julie Morgan:** Thank you. Have you had much consultation and discussion with your members generally about how they would need to adapt to tax devolution?

[155] **Ms Powell:** In terms of our discourse, we have engaged individually in groups and through seminars. In terms of adaptation, as Mark said, matters change over time, of course, and so the profession is adaptable. It's just important really in terms of our ability to ensure that members across both England and Wales are aware of the extent of devolution and also the impact of devolution. That, obviously, is assisted where we have clear messages coming from Government, from the Assembly, and there are resources put to that as well, so that it's possible then for our practitioners, on both sides of the border, to deliver for Wales as well as for what's an ongoing matter in England.

[156] **Julie Morgan:** Do your English members recognise this, increasingly?

[157] **Mr Evans:** I'm involved with a local law society, which is a Cheshire and north Wales law society and, obviously, cross-border issues are an important factor. I think members are adapting, not just through the tax devolution but to devolution, as I said, across the board, whether it be in health, social, education, family. Law is changing constantly now. The difficulty with some of the changes that have been taking place is publicity and access to those changes. The law society represents 160,000 solicitors, of which there are 3,800 practising in Wales. If you were a publisher, the legislation is likely to focus heavily on the English law as the default position, and therefore there needs to be quite accessible information to show what those changes are insofar as they affect Wales, because a practitioner in England isn't likely to buy that specific textbook on Welsh devolution or Welsh issues. So, there does have to be that—

[158] **Julie Morgan:** There's quite a task there.

[159] **Mr Evans:** It's quite a task.

[160] **Ms Powell:** What we see as well, in terms of areas of devolution, for example, is that there's been a lot of development in Cardiff bay and a number of advisors on those developments have been from outside of Wales. In terms of planning law, where practitioners

have an interest, they will come on board and, obviously, are aware of the existing law, the guidance and so on. The issue with stamp duty is that it cuts across most practitioners as opposed to specialists. In terms of getting that message out, we're starting early, along with Welsh Government, to begin to bring that flow of information. As we also said, it's important that, when it comes into play, there is a simple process of working between both applications of stamp duty.

[161] **Jocelyn Davies:** Mike, did you have—

[162] **Mike Hedges:** Yes. Very much on this point, as you were talking about textbooks, CIPFA, for example, which cover local authority finance, when they produce text books now, or guidance books, they actually cover England and then they have a bit at the end, 'And the differences in Wales are:'. Surely, other law books would cover stamp duty in exactly the same way.

[163] **Mr Evans:** You would hope so. The issue with looking up and researching changes is things are changing so fast it now has to be more through electronic—the computer changes, rather than a hard text book. There has to be accessibility through the internet to those changes. Rules and regulations on both sides of the border may be changing and you need quick and instant access to it, rather than waiting for a text book to be updated.

[164] **Mike Hedges:** So, whoever's responsible, should be—for both England—. If it's to be the English version, they should then have a link saying, 'In Wales, this is what you do'. And, if it's the Welsh version, it should have a link, 'For England, this is where you go'. So, even if people end up in the wrong area, they have a link to send them.

10:15

[165] **Mr Evans:** Yes.

[166] **Ms Powell:** Increasingly, we're hearing, actually, in terms of, as you say, texts and commercial texts, that previously there would have been a provision for Wales. So, there might be coverage in terms of housing and it might say, 'In Wales, these are the relevant regulations' and so on. But we're starting to see some of the commercial providers not deal with Wales at all, which is a concern. At the same time, we're aware that the new Welsh Government portal is almost ready for launch, in terms of access to Welsh legislation, and that's somewhere that's going to provide us with access to primary legislation but not necessarily all the underlying regulations, circulars, guidance and so on, with easy access to that. So, we would like to see better access now across the board, but also in terms, especially, of the new taxation legislation that comes along, and the importance of the guidance in that situation being available, and available in the right place as well.

[167] **Jocelyn Davies:** When you have bulletins, updates and so on, does it usually say, 'This change happened but there was no change in Wales'? Obviously, there are sometimes changes the other side of the border, but if we haven't changed anything, ours is still the old system, so therefore we have a divergence that is opening up if you don't make a change. We know that the Law Commission is undertaking a project on accessibility of laws in Wales, and your members will probably be aware of that.

[168] **Ms Powell:** We've already held a focus group, actually, in order to work with the Law Commission before they issued their consultation paper.

[169] **Jocelyn Davis:** I see.

[170] **Ms Powell:** So, we're on board already with that, and it's something that we've been

working on for a number of years. We've seen slow progress, partly because of Welsh Government activity in the area. The Welsh Government have seen themselves as having a role in terms of making that access available to the public. The UK legislation website currently isn't up to date, so we don't even have primary legislation updated. So, if we then add under that regulations and, as I say, circulars, guidance and so on, not necessarily easily accessible to the public through the Welsh Government website, there is an existing concern regarding access to all legislation.

[171] **Jocelyn Davies:** So, for you, Mark, it's the simplicity of being able to access it.

[172] **Mr Evans:** It's accessibility, whether it be an English jurisdiction or a Welsh jurisdiction. I think, going back to the issue as to publication, some publishers take a very simplistic approach on statistics, but, you know, most Welsh or English practitioners are doing work both sides of the border, and those statistics aren't really accurate, to base recommendations on.

[173] **Jocelyn Davies:** Okay. Chris, did you want to come in on this point? Then we'll go back to Julie.

[174] **Christine Chapman:** We have started to look at some of these issues. It seems to me this morning that there is still a lot—well, there's obviously a lot—of complexity and there could be some confusion as well. We know that this is a moving feast in any case, so it is quite difficult. Do you think Welsh Government has just got it right at the moment, or do you think it needs to improve on its communication about the potential changes? In view of the way things are developing, do you think it's about right, or should it improve on the communication? Obviously, as a law society, you've got members and we know it's always difficult, isn't it—communication? So I just wondered whether you feel they've got it right or whether there should be some improvement, to try to avoid some of the pitfalls later down the line.

[175] **Ms Powell:** In terms of the timetabling—

[176] **Christine Chapman:** Yes, and the communication about these potential changes.

[177] **Ms Powell:** As you say, we engage our members in different ways, but, of course, if there's a public message as well, that always helps all professional bodies to engage with their members, because it becomes a topic of conversation. In terms of timing for the devolution of taxation, of course, 2018 is quite a long way off, but we know, in terms of law making and bedding in, that it's the sooner you can get on board and get working towards the process, the better it is for everyone.

[178] In terms of the politics of it, as well, having the general election now and then another election here at the Assembly next year, that will also bring a slight hiatus. I'm hoping that, following the general election, there'll be more discussion again in terms of the constitution of Wales. At the same time, taxation is an issue—it's a huge issue. Establishing a Welsh revenue authority is a historic event, and people should be on board with it. It shouldn't just be a matter for committees and for Government to look at. You know, it's a historic moment in terms of our nation-building and in terms of building institutions for Wales. It's really important that we get it right now and that we don't actually put in place anything that will need tweaking, as you say. Have we got it all right? Probably, we've got all the areas that we need to concern ourselves with right at the moment, but it maybe needs some further work to be sure that the right people have actually had their say on it, because it's a co-operative event in a way, setting up these institutions for the nation. We need to get it right, regardless of who got involved where, when and at what level. We need to get it right so it's something that will see us through for decades and not something that will need to be varied in the short term.

[179] **Christine Chapman:** I'm just thinking in terms of the person out there who has to get involved in this. They may not be political. It's just that I'm slightly concerned. We know that there could be confusion further down the line, and I just wonder if there's anything that the Welsh Government could be doing now to make sure that we try to address some of these things.

[180] **Mr Evans:** I think, from a practitioner's point of view, if stamp duty land tax is to be the first tax, really, together with landfill, as the way forward, that's quite a good tax to start with, because, if you follow the procedures that are already in place—even if there are different rates or whatever—it should be a relatively straightforward transition for practitioners to be able to complete and start the ball moving in that direction. Simplicity is the key, and publicity. I went to a seminar at the Conwy Business Centre where there was a forum of different practitioners and groups, and I think they were referring to the stamp duty land tax in Wales as WTIL or it was quite a long name that they were proposing to give to it. And somebody just said, 'Why don't you just call it 'Welsh land tax'?' Cut out all the extra letters—

[181] **Nick Ramsay:** WTIL?

[182] **Mr Evans:** Welsh transaction interest in land or something. It was a huge big abbreviation. And somebody said, 'Well, why don't you just call it 'Welsh land tax'?' For the general public, and for practitioners, they'll then simply know that it is what it says rather than this long abbreviation.

[183] **Jocelyn Davies:** Okay. Nick, did you want come in on this before we go back to Julie? On this point.

[184] **Nick Ramsay:** Yes, just on this point about tweaking—about not needing to tweak anything and getting it right from the start. Wasn't what you said there in slight contradiction to the evidence we heard from Revenue Scotland earlier, which said that, actually, over five years, they do think that tweaking is a good thing—over the last five years—and that that's helped them to modify the system as they've gone along. We're not going to get it all right from the start, are we?

[185] **Ms Powell:** Well, it's in terms of law-making, really. So, it's ensuring that your legislation provides for a clear principle and a way ahead and then ensuring that the subordinate legislation that is made under it is really only dealing with the tweaks and the day-to-day issues that arise. So, you'd want to do something in your primary legislation that actually set the boundaries for an agency-like approach but then didn't obviously demarcate who that agent would be or the term of it or anything like that. So, it's about getting the balance right, really. In terms of sort of moving forward, it isn't helpful when the legislation comes in and, very soon afterwards, there are changes and there are changes—

[186] **Nick Ramsay:** Does that happen? [*Laughter.*]

[187] **Jocelyn Davies:** I'm sure that we could cite examples. [*Laughter.*] I think your evidence there actually does sit comfortably with what other people have told us. Julie, did you have anything further?

[188] **Julie Morgan:** Just a final question. Do you believe that it would be more effective for the Welsh revenue agency to collect the taxes itself or to delegate it to other organisations, such as local authorities or HMRC?

[189] **Mr Evans:** At the moment—I can only refer, really, to stamp duty land tax—

obviously, it is done through HMRC. You file a return and you make your payment. If you were to use that as an agent for the collection or the processing of it, then that would obviously be a simplistic way to do it. But, if you weren't to use that as an agent, then there needs to be a clear link on their website for practitioners across England and Wales to what the Welsh site is, so that you can click on that button and transfer over to that jurisdiction.

[190] As far as payments are concerned, obviously most practitioners will have in place the standard bank details and sort code of the Revenue, or wherever you're to send it to, but each transaction is unique, because, of course, it will have its unique reference number. So, when you're making the payment to that organisation, you'll be quoting the reference number that that agent or revenue has given you. So, I don't think it matters, from a practitioner's point of view, whether we send it to Bootle or whether we send it to Cardiff, as long as you get the reference number that it's been received and that that tax has been paid.

[191] **Julie Morgan:** Thank you.

[192] **Jocelyn Davies:** Okay. Nick, shall we come to your questions?

[193] **Nick Ramsay:** Thanks, Chair. You mentioned the default position earlier in reference to border issues. The Welsh Government have stated that operational tax arrangements in Wales should replicate those in the UK unless there's a reason to act differently. Given what you've said about border issues, I assume that you'd agree with the Welsh Government's approach.

[194] **Mr Evans:** Yes.

[195] **Nick Ramsay:** That was a bit of a closed question, really.

[196] **Mr Evans:** I think 'yes' is the answer. From a legal aspect, the legal jurisdiction is England and Wales; therefore, there has to be a close association with that. Obviously, there are separate legal jurisdictions in Scotland and in Northern Ireland. That's not to say that you can't follow or implement procedures that they have put in place, but on a practical level, the systems between England and Wales have to be similar.

[197] **Ms Powell:** Scotland, of course, are now living in the new tax regime, from the beginning of this month. The legislation in Scotland has replicated much of what stamp duty land tax is currently for England and Wales. It simplifies matters. It brings a consistency in terms of terminology as well. So, there isn't devolution of property law. The basis of the taxation is going to stay the same. It does work in a more consistent way that we follow the legislation currently in terms of what that tax applies to—again, as we said, leases and so on, and all the sub-sale reliefs and exemptions and so on. Not necessarily the same ones, but using the same terminology will bring that consistency, which will mean less of an impact on all the taxpayers.

[198] **Jocelyn Davies:** Can I ask you about the—? Obviously, that's happened in Scotland; so, would your members in Wales be aware of the—? Because they might be dealing with Scottish clients. Or doesn't that happen?

[199] **Ms Powell:** They should be—

[200] **Mr Evans:** No.

[201] **Ms Powell:** The property system is different in Scotland, so, on the whole, practitioners would instruct over the border. There are dual qualified practitioners in England and Wales and in Scotland that can deal with property, but the tendency is that you would put

instructions across the border. The property system is very different and, as we're aware, the agent for taxation in Scotland is actually their land registry, which is something that's not really being pursued for England and Wales, probably because of the difference of approach.

[202] **Mr Evans:** I was just going to repeat that, nearly. That's fine.

[203] **Jocelyn Davies:** Okay. Nick, are you happy?

[204] **Nick Ramsay:** I think you've probably just answered this, but what factors need to be considered when developing any future taxes to ensure they are tailored to Wales? I suppose that would include factors to be considered in terms of the joining up—not the joining up but the compatibility—of the legislation across the border as well.

[205] **Ms Powell:** Yes.

[206] **Nick Ramsay:** That's a very broad question, I know.

[207] **Jocelyn Davies:** Yes. I think that you've probably covered that.

[208] **Nick Ramsay:** Yes.

[209] **Jocelyn Davies:** Mike, shall we come to your question?

[210] **Mike Hedges:** Yes. How can the Welsh revenue authority help promote compliance in the collection of stamp duty? What happens—? I'd hate to say something about solicitors et cetera, but maybe one of your colleagues may post a Welsh one to England, or vice versa. What should actually happen then? They could well be late paying it to where it was meant to go. Surely, the fact it's gone to England rather than Wales means that it would be counted when it arrives in England, and there'd be some reciprocal arrangement, which I am sure there will be, to transfer it across to the right place.

[211] **Jocelyn Davies:** Would it be possible to make that mistake?

10:30

[212] **Mr Evans:** It depends. If you've got a separate—. If you're using the same filing form, then there's the potential that you may make an error as to where you're sending the funds. If there is a separate form for each jurisdiction, albeit an identical form, potentially, then you shouldn't really make the error. The question would be, though, that, at the moment, the form doesn't have a question on it to say, 'Is this a cross-border property?', because, obviously, there may not be many—I think around 80 or 90—properties that are defined as cross-border, but you may be in that scenario where you've filed it in one jurisdiction and then subsequently found that it should have been in the other. The default position with the Revenue, historically, was: if you're late, you get a penalty.

[213] **Jocelyn Davies:** I see.

[214] **Mr Evans:** You know, there's no error. It's 28 days—if you haven't filed it and submitted your payment, then it triggers a penalty. So, there is an obligation at the outset, I suppose, to look at specific cross-border issues that may arise, but—

[215] **Jocelyn Davies:** And the promotion of compliance?

[216] **Mr Evans:** The promotion of compliance is, really, I think, to stress and publicise that, when you're dealing with land or transactions, you do have to file that return. I think,

again, I go back to the point that it isn't just lawyers or solicitors who are dealing with property transactions. There are licensed conveyancers and there are unregulated bodies, therefore it isn't just purely in the legal domain.

[217] **Jocelyn Davies:** Nick, is it on this point?

[218] **Nick Ramsay:** Yes. You've mentioned this point a few times now about the fact it's other people's responsibility to file these tax affairs. Do you think there's a real danger this isn't going to happen?

[219] **Mr Evans:** That people won't file their tax returns?

[220] **Nick Ramsay:** Yes. Do you think that the devolution of these taxes to Wales and the obligation will not be recognised in the same way it has been with the taxes being done on a UK basis?

[221] **Mr Evans:** I don't share that concern. I think, you know, if somebody has bought or acquired a property, they'll want that property to be registered in their name at the earliest opportunity. If the only way you can register that property is by filing a tax certificate to say that something has been lodged, whether it be through the Welsh jurisdiction or the English jurisdiction, then you will do it.

[222] **Nick Ramsay:** But it's not just people in Wales who have to be aware of these changes, is it—

[223] **Mr Evans:** Absolutely not.

[224] **Nick Ramsay:** —but people across the UK dealing with the Welsh system?

[225] **Mr Evans:** And this is the key thing. I'm a solicitor who's qualified to practise in England and Wales; I can't deal with Scottish property transactions, or Northern Ireland. Until things move—in years to come, they possibly may—you've got to address all of the English practitioners and all of the Welsh practitioners, so that they're aware of those changes.

[226] **Jocelyn Davies:** Mike, back to you.

[227] **Mike Hedges:** Just finishing off this point: just to clarify, you would like separate forms for England and Wales, even if they were collecting exactly the same tax, in order to avoid confusion over where to post them?

[228] **Mr Evans:** Personally, yes.

[229] **Jocelyn Davies:** Okay. Ann, shall we come to your questions?

[230] **Ann Jones:** Thanks. How often do tax disputes arise in relation to stamp duty land tax?

[231] **Mr Evans:** Tax disputes—. Originally, in 2013, when the system first came into being and it was a paper system, a lot of disputes seemed to revolve around the filing of that return—either that it was deemed to be a late arrival, and therefore a penalty was issued, or the fact that you would submit a paper return, but if there was an error, it was then rejected, and by the time, then, you sent the new form in, you were late and then into an appeal process. So, the paper method of filing a return can lead to a dispute, potentially, as to when it is received and whether or not the information there is complete.

[232] The online provision now has transformed the situation, because it allows you to check the return as you are going through before it is submitted. Where there are some, I think, grey areas is on these exemptions and reliefs as to where people can claim that stamp duty isn't payable or that they're exempt from stamp duty, and there is a wide selection of, shall we say, reliefs and exemptions that may or may not be claimed. Most practitioners, if a transaction is taking place, will file a return and pay the stamp duty, but there are schemes out there that, I think, the Revenue has been looking at and investigating, in particular, the exemptions and reliefs section, and then that can lead to a dispute.

[233] **Ann Jones:** So, roughly, how many? How often do you have a tax dispute? Is it one in every six transactions? One in every 20 transactions?

[234] **Mr Evans:** I can speak on behalf of our own firm and we deal with a lot of property transactions: it is now very few.

[235] **Ann Jones:** Very few.

[236] **Mr Evans:** Very few. I mean, we're looking at single figures and dealing with a very large volume of conveyancing transactions.

[237] **Ann Jones:** And, you put that down to the fact that everything is done online. So, that doesn't help the older person then, who wants to continue to file under paper.

[238] **Mr Evans:** I think there are practitioners who still file on paper and I think there has to be the facility to file on paper. But it's not just in the stamp duty land tax scenario: my father-in-law is a sheep farmer just outside Llandovery and he's now filing his VAT return online and he's 76, having never used a computer before. So, you know, there's a recognition now, I think, that things are beginning to go down that route.

[239] **Ann Jones:** All right, yes.

[240] **Jocelyn Davies:** Chris, shall we come to you then?

[241] **Christine Chapman:** Yes. I just want to know what principles the Welsh revenue authority should adopt to ensure that disputes are managed flexibly. Any principles on that?

[242] **Ms Powell:** In terms of delivering that duty, we would want to see something that's possibly coming to the legislation to deal with matters efficiently. Disputes arise at different times and at different levels and some of them could escalate, so we'd want to see a very careful process so that, where matters are in dispute, we could quickly find out whether it was a matter that could not be dealt with at a, sort of, caseworker level. That's where in terms of subordinate legislation, the guidance and so on is very important, and that the authority would be agile enough, where some of the same disputes were coming along, there would quickly be guidance in terms of those types of disputes to ensure the efficiency in the process.

[243] **Christine Chapman:** Okay, that's fine.

[244] **Jocelyn Davies:** You would hope that the revenue authority would want to avoid disputes, as well as yourselves, so systems would be put in place, so that if disputes started to arise, it was a problem that was addressed, rather than having lots of disputes. Okay. I think we've run out of questions for you. Thank you very much. That's been very useful. Kay, I think you agreed to send us one or two pieces of information following that.

[245] **Ms Powell:** I did.

[246] **Jocelyn Davies:** We would be grateful for that. We'll send you a transcript. If you would check that to make sure it's accurate, we'll then be able to publish it, so thank you very much.

[247] **Mr Evans:** Thank you.

[248] **Jocelyn Davies:** Okay. Members, I think we'll move straight to the next item as we have our witness here, if that's okay. We'll just give people an opportunity to get up from the table.

10:38

### **Casglu a Rheoli Trethi Datganoledig yng Nghymru: Sesiwn Dystiolaeth 5 Collection and Management of Devolved Taxes in Wales: Evidence Session 5**

[249] **Jocelyn Davies:** If we move to the last item on our public agenda today, which is our collection and management of devolved taxes. We've got Gerry Holtham with us. You've sent us a paper—very helpful. Would it be okay with you if we go straight to questions and then, if there is anything that we've missed that you want to add at the end, we'll have time for that?

[250] **Professor Holtham:** Certainly, Chair.

[251] **Jocelyn Davies:** So, just as background, can you describe how you have assisted the Welsh Government in the consideration of the new tax system?

[252] **Professor Holtham:** Well, I haven't been involved formally in that. Mrs Hutt has got an advisory panel on taxation and I'm not on that. So, I have had conversations with Ministers on a sort of ad hoc and informal basis, but I don't have a formal role.

[253] **Jocelyn Davies:** Okay. Mike, shall we come to your questions there?

[254] **Mike Hedges:** Yes. You sent us a paper on taxation in Wales, which I found informative, and it recommends that Welsh taxes are managed in an integrated system. What would that actually entail?

[255] **Professor Holtham:** Well, I think I should say first of all that I'm here under false pretences, because I know a bit about the economics of taxation, but I'm not an expert on the legality of it, or on the administrative detail. I've never worked as a tax officer. My understanding is that it's legally necessary to have a corporate body to be responsible for tax collection, but I think if you have that body, they can act as the integrating element, if you like, and there's then no necessity that individual taxes need be collected by the same body. That could be done on an ad hoc basis—whatever seems to be the most economical way of doing it.

[256] **Mike Hedges:** Thank you. As you know, within the current system as proposed, most aspects of the tax system rest with the Minister for Finance and Government Business, but business rates and council tax sit under different Ministers. I'm assuming council tax will continue to be run and looked after by local authorities. Business rates are the other big tax. Should business tax actually be part of the new Welsh Treasury, or should it continue to be separate?

[257] **Professor Holtham:** I certainly think that tax policy should be the undivided

responsibility of the finance Minister. I don't think it's appropriate to scatter tax policy responsibilities across the Government. You've got spending ministries and you've got a finance Minister, and I think you're supposed to sort that out.

[258] As far as council tax is concerned, the present system is one in which the local authorities have the right to set a rate, but the structure of the tax, the tax bands, and things like that, are determined by the Welsh Government. I think that's a workable system. I certainly think that the local authorities should retain that degree of discretion, but there's no reason why the overall structure shouldn't be determined at the centre, and I think there are very sensible reforms that could be undertaken, which I've written a paper about, which some of you may have seen.

[259] As far as the business taxes are concerned, I think, there, you're in a situation where the local authorities collect it, but it goes into a central pot and is then redistributed, as you know, on some sort of needs-based formula. They don't have any discretion. I've had a look at that, and if you allow them to retain some of the taxes, it would give them more incentive to permit or allow or encourage business development in their area. But it would, of course, have a distributional consequence, so there is a trade-off to be achieved. I prefer to operate at the margin and say, 'Look, for current tax collection, it is what it is; it goes in the pot, but we could have a scheme whereby, if you do something specific—you change a planning rule, or do something to encourage a particular act of investment in your area—then there's some ability to retain some of the taxes from that additional element'. So, you kind of give them an incentive at the margin while retaining the redistribution across the bulk of the tax. There have been various such schemes in the past that have been abolished, but I think probably we need to revisit that, because at the moment, if a business sets up in an area, it lands on the local authority all sorts of liabilities to provide these services, but the local authority sees no additional revenue as a consequence. So, that isn't ideal.

[260] **Mike Hedges:** Can I just put the converse point to you, that approximately 20 per cent of all business rates in Wales come from Cardiff, and over the last 10 years, 25 per cent of the growth has been in Cardiff, approximately? Those are approximate figures. You've seen a number of local authorities that have obviously had much smaller growth than that, so isn't there a danger that what you produce is a formula that is incredibly good for Cardiff, but not good for the rest of Wales?

[261] **Professor Holtham:** Actually, Cardiff produces more than 20 per cent—it's getting on for 25 per cent. But actually, the growth has not been particularly quick. The growth of business tax revenue in Cardiff is average for Wales. The fastest growing areas since the last revaluation in 2007 have been Pembrokeshire, by a mile—Pembrokeshire's the area with the fastest growing business tax receipts—and then places like Gwynedd have grown quite quickly as well. So Cardiff is the giant in the room, no question, and produces a big slug, but it's not growing particularly quickly.

10:45

[262] I take your point, absolutely. I'm not suggesting that we abolish the redistribution scheme whatever. I think we can retain that, but it's at the margin that you want to give the incentive. So, you say, look if it's new—. And even then, you're not keeping all of incremental tax, but you keep some proportion of it for new development.

[263] **Mike Hedges:** Okay, that's me done.

[264] **Jocelyn Davies:** Okay, thank you. Peter, shall we come to your questions?

[265] **Peter Black:** Yes, thank you. I am just wondering whether 'incentive' is the right

word, in the sense that, if you are allowed to keep part of the income, it would be more like empowering them to use that money to actually promote growth, and I don't think local authorities need to be incentivised to actually promote growth in their area. But, having additional money that they can use to fund that growth or to put seedcorn funding in might be one way of doing it.

[266] **Professor Holtham:** Well, I don't know. Obviously, there are lots of different circumstances in different places. There's always a Nimby element. Some people won't like development in their area, and the local council has to balance these various political factors in play, and if it knows it's going to be spending more and not getting any more revenue, I think that does distort the incentive. So, I think there is an incentive issue. How it spends the money—I'm a believer in local democracy, which isn't universal in Wales, I must say. [*Laughter.*] But I think they spend the money the way they want to spend the money.

[267] **Jocelyn Davies:** Before Peter moves on, do you think that the areas that you've mentioned, where we've seen the better growth, has been down to anything that the local authority has done, or is it because of some other factor?

[268] **Professor Holtham:** I don't really know; that's the truth. Obviously, in Pembrokeshire, it's presumably down to developments with the very heavy industry and to do with liquid natural gas and things like that. So, I don't know how far the councils can take any credit for that.

[269] **Jocelyn Davies:** Yes, so even though the council, perhaps, is not responsible for the fact that this industry is here because of a natural phenomenon, or whatever, you're saying that, well, if you have a lot of development, there are costs that fall on the local authority and there should be some recompense for that. So, it's not just incentives, but recompense as well for having to provide infrastructure, and so on.

[270] **Professor Holtham:** Yes.

[271] **Jocelyn Davies:** Peter, shall we come back to you?

[272] **Peter Black:** Yes, thanks. The other issue is in terms of changes to the existing system for council tax and business rates. Do you foresee how that might develop, how we might develop those taxes to make them more equitable and to improve them at all?

[273] **Professor Holtham:** Yes. I have, I'm afraid, rather fixed views on council tax. I think it certainly should be reformed, and it can be reformed fairly simply without being very radical. If you wanted to be more radical, there's scope for that, too. I'll say a bit more in detail, but I think on business tax, it is more complicated. I do have views, but they're not quite as rooted, let's say. I'm still open to discussion.

[274] On council tax, it is a highly regressive tax in terms of property values, never mind income. If you own a £50,000 house up in the Valleys, you're going to be paying—and I know this, from personal experience—nearly 2 per cent, or certainly over 1.5 per cent, of the capital value of that property in council tax every year. You'll pay £1,000 on a £50,000 house. If you've got a house that's worth £500,000 in Cyncoed, or somewhere, you'll pay £2,000. So, you'll pay 0.5 per cent. So, there's no equity, if you like, in the way the tax is levied. Even with the existing bands, it would be possible to say, 'Okay, look, there's a certain element of this tax that is a fixed charge for local authority services'—this is the thinking behind the dreaded community charge—so, let's take that and then let's give an allowance so that you don't pay any tax on the first £20,000, or whatever—£35,000, I think it was; that's what I worked out—of a property, but after that, the property tax element of this is strictly proportional. You pay 0.9 per cent or 1 per cent, whatever it is, to get revenue

neutrality on the value of the house up to some ceiling, and the ceiling could be higher than it is at the moment. Because, right now, you pay the same on a house worth £2 million as you do on a house worth £400,000. Now, if you did that, you would halve the tax on that Valleys house, which would save the Government £20 million a year, because they're paying the council tax of people who are on benefits and, on the whole, people on benefits don't live in £400,000 houses, they live in £50,000 houses. So, the Government would save itself money, those people would pay half as much council tax and you'd pay twice as much at the top end, which sounds horrible, but if you'd kept the old domestic rates that were abolished in the early 1980s, they'd be paying that anyway. So, how outrageous is it? So, I think you could make that reform.

[275] It's a political matter as to how many bands you want to put on top, but a point I would make there is I would be getting stuck into the British Government—well, the Labour Party, in particular—in a big way about this mansion tax. 'This is our tax base—you've devolved this tax base. If you start putting the mansion tax on Welsh houses, you're foreclosing the ability of the Welsh Government to reform council tax and raise higher tax itself on those houses. This is a devolved tax. You can levy it in England, but you're not going to levy it here; we're going to levy it here'. That's an argument I would certainly make. Then, you could reform council tax and you would have the higher—. It seems to me it makes much more sense to reform council tax and have an integrated property tax system on residential properties, rather than bring in ad hoc taxes at the top with a totally separate collection mechanism. If the British Government wants to do that to fund the national health service, all it's got to do is let the councils collect the tax and then reduce the revenue support grant and deflect that off to the health service. I don't understand why they're proposing a mansion tax, rather than just reforming council tax, but we in Wales should reform council tax. That's my opinion.

[276] **Peter Black:** As I understand the mansion tax, you can count on the fingers of one hand the number of properties in Wales that would be affected by the proposal.

[277] **Professor Holtham:** Well, that's true, but it's the principle of the thing.

[278] **Jocelyn Davies:** It's the principle, yes. Exactly. We might get more mansions in the future, anyway. We don't know. Peter, back to you.

[279] **Peter Black:** On the specifics of that proposal, at what point do you actually value the property? Is it going to be a continuous revaluation, or will you actually have council tax at a specific point at which you value and then revalue?

[280] **Professor Holtham:** Very good point. At the moment, we have revaluations when political courage reaches a certain point, and these tend to be every 20 years or so. So, what that means is that the council has to keep putting up the rate every year just to keep pace with inflation. So, they're getting hammered in the press: 'Oh, they're putting up council tax again'. No, they're not. They're just trying to keep pace with inflation because the base is being frozen, because it's very difficult to organise these revaluations. I don't understand why we just don't index the base. That is what they do in the United States, for example, with local property taxes. You've only got to go on Zoopla and they'll tell what house prices have done in any area, right down to street level. So, it's an open question of how tight or how local you want the index to be, but you can have an index of house prices, which could be at an all-Wales level or you could get it down to the street level. You make a decision as to what the right unit is, and just index the base. You boil the frog slowly. You don't have these revaluations every 20 years where you chuck him in boiling water. People don't even notice it if you index it.

[281] **Jocelyn Davies:** What have you got against frogs? [*Laughter.*] But, no, I see your

point, because the last time we re-banded here in Wales—

[282] **Professor Holtham:** It created a completely unnecessary political scrap, just to keep the base.

[283] **Jocelyn Davies:** And then the market would decide what those rates were, because then it's based entirely on—

[284] **Peter Black:** And if the housing market collapses, the base would drop—

[285] **Professor Holtham:** That's a very good point as well. You would have to smooth this, because house prices can jump 20% a year—or at least, they can in London—and you don't want to be hitting people with a 20% increase in taxes. What you can do is you can say, 'Okay, we'll take the average rise in house prices over 20 years, and we'll take the rise in the price last year', and technically you just take a weighted average, so it's 80% of the average rise over 20 years, and 20% of last year's price rise. You just smooth it. You have to smooth it out, because the house market can be volatile, and you don't want to be hitting people with big swings in their tax liability, but you can smooth it in that way.

[286] **Peter Black:** Okay, thanks.

[287] **Jocelyn Davies:** Okay, are you happy, Peter? Ann, shall we come to your questions?

[288] **Ann Jones:** I won't bother about the council tax. You've gone into that in great detail. Could I ask you why you support the use of land value taxes—I suppose you've said that, to a degree, as well—and the difficulties that may be faced if that were what the Government was going to do?

[289] **Professor Holtham:** This is where my views are not quite as firm, if you like, but I do think there's a very, very strong case for moving the basis of business taxation from the property value to the value of the land that the property occupies. It's known in the trade as 'site value rating' rather than 'property value rating'. What is the advantage of that? Well, if you think about it, the Government gives incentives to firms to invest, so if I come along and I say, 'I want to invest', they will let me write off a high proportion of that investment against tax. Then, they'll come along and say 'Oh, you've gone and improved your shop or your offices or your factory or whatever it is, so we're going to tax you'. So, they're incentivising me with one hand and taxing me with the other, which, on the whole, doesn't make much sense. So, the present tax you can see it as two taxes in one: it's a tax on the value of the building and it's a tax on the value of the land the building sits on. The tax on the value of the land is a harmless tax, which doesn't do any damage. The tax on the building is a disincentive to investment that offsets the investment incentives you're giving. You don't want to do that, so why not just tax the land?

[290] What are the difficulties of it? This isn't a new tax. All you're doing is saying 'Well, we're taking business rates and we're shifting the valuation basis onto land not the building as a whole'. Site value rating. You're not introducing a land value tax on residential property or agricultural property. You could do, but those are big, big changes that we need to think about a lot. I think if you wanted to move to land taxes, the business bit's the place to start, because you just switch the basis of rates.

[291] What are the difficulties? The main difficulty is that all your surveyors get the heebie-jeebies because they will do an evaluation for business rates purposes just by looking at transactions. So, they can say, 'Okay, we've had several transactions in this area. This property sold for this. Therefore, we know the capital value of your property and we can assess the rates.' With land, there are not that many transactions in unoccupied land. In the

middle of Cardiff, people are not selling acres of land, so if I'm trying to assess the land value in central Cardiff, I can't look at too many transactions, so that's what worries the surveyors.

[292] Now, the standard approach, which is used in other countries—and don't forget that Australia, New Zealand and certain municipalities in the United States all use site value rating, so this isn't a theoretical thing; it's being done—is that there are two ways to do it. One is the so-called 'residual value approach'. You say 'Okay, well, this is how I've assessed the property from looking at those transactions. What would it cost to build this building on this site. I take that away from the assessed value and what's left is land.'

[293] One of the consequences of doing that—and this comes right back to your point, Mr Hedges, about Cardiff—is you would, in some parts of Wales, find there was nothing left. If you took the value of the building away on land that's zoned for commercial purposes in certain parts of Blaenau Gwent, you'd find that the land wasn't worth anything. So what? So what? I mean, that's the case, so they don't pay any tax.

[294] That would mean that the tax collection would be more biased, if you like. So, Cardiff would probably pay even more than 20 per cent. But here's the point—and this is quite complicated and it's difficult to get one's head around: that wouldn't be bad for Cardiff because, if you tax land, they're not making it anymore; the supply of land is fixed. Okay, you can change the supply for certain purposes by changing zoning regulations, but for a given set of zoning regulations, the land price is fixed. What that means is—and you can either take my word for it, or we'll go into detail as to why it's true—the tax isn't passed on; it is borne by the landowner. So, if you stick a land value tax, or a site value rate, the effect will be to reduce land prices, over time. It won't happen overnight, but over a couple of years, you'd bring land prices down. So, there's no disincentive to development, because if I'm a developer and I decide I want to come into Cardiff and build another mall or something, yes, I'll be paying tax on the land, but I will pay less money for that land, because the tax will be capitalised in the land price. There's no disincentive at all then to building on it. In fact, I'm going to pay the tax whether I build on it or not, so I'd better build on it. It provides a positive incentive to development rather than a negative one.

[295] **Jocelyn Davies:** And you can't get away with not paying your business rates, as we heard from local authorities, with the difficulties they have with chasing businesses. Mike, did you have a question on this point? Are you going to challenge Gerry Holtham now on this theory that he's got?

[296] **Mike Hedges:** No, actually. It's a theory that I've actually espoused on other occasions—

[297] **Peter Black:** Mike and I agree on this.

[298] **Mike Hedges:** —on the neutrality of these changes.

11:00

[299] I said that, on other taxes, all you do is you have the total full amount going out, and all that happens is that prices go up and down accordingly. The question I was going to ask you is: this land value tax is going to be levied where there are buildings, but should it be levied where people have got planning permission for development and haven't developed? There's an awful lot of, 'They're going to be supermarket sites', which they may or may not be in the future, which are being held as development sites for long periods of time at no cost to the people who own them.

[300] **Professor Holtham:** Absolutely. It's a land tax. You defeat the object if you start

giving exemptions because they haven't put a building on it. It's a land tax, so if you've got the land and it's zoned for commercial use, you pay the rates set for that particular piece of land. Now, it's true, of course, that there may be industrial estates in Torfaen or somewhere that have been scheduled for development and nobody wants to go there, so there'd be a big pressure then to have these rezoned for residential or agricultural use or something, because nobody wants to go there and nobody wants to pay the tax. Either they are rezoned or they pay the tax. It's as simple as that. I don't think there's any argument for—

[301] **Jocelyn Davies:** There is the possibility of rezoning, so redesignating the use of that land for something else if there was no possibility of being able to—

[302] **Professor Holtham:** Yes, but that would presumably be up to the local planning authority or the local council to say, 'Well, no, we want to keep this for commercial development; we believe there is a prospect', or to say, 'No, it's a lost cause; okay, we'll rezone it.' All these taxes will have to work in conjunction with the planning system. One of the consequences of a site value rating is that people really want to overdevelop any expensive land. This is a very good way to get 16 or 25-storey skyscrapers in the middle of Cardiff. If you don't want that, the planning system has to come in and say, 'Okay we've encouraged intensive development, but up to this point.' There are still planning regulations to be managed. So, you never will get away from that. That's a consequence.

[303] **Mike Hedges:** I will say two things in a question back to you. One is surely that if those factory sites are unsaleable and have been for some time, the land value may well be approaching zero anyway. Really, if you've got these sites, which are held almost in perpetuity as development sites when no-one wants to develop them, isn't it going to be a sensible use of zoning to actually say, 'No-one wants to build here, so we might as well reuse it for something else'?

[304] **Professor Holtham:** I think so, and I think, in that sense, the tax would encourage the optimal or efficient use of land because, where you've zoned it for commercial property, the owner was going frantic because they couldn't do anything with it and they were having to pay this tax, and would be putting pressure on the planning authority to reschedule. They have a choice to make then, but at least there's a pressure to use the land for the most appropriate kind of use. If somebody's sitting on empty land in Dumballs Road or somewhere in the middle of Cardiff, well, they should develop it. In that sense, again, it's a pressure for efficient use of land.

[305] **Jocelyn Davies:** I mean, we've said a lot about Cardiff and given Cardiff as an example, and of course, the rest of Wales is different, but this would still work for the rest of Wales and not just for problems that we might be experiencing in Cardiff.

[306] **Professor Holtham:** Yes. Here's the point: you'd set the tax at a level that was revenue neutral with the current business rates. I think, as I say, that would mean probably a more lopsided payment. You probably wouldn't be paying very much tax in certain other parts of Wales because commercial land has a very low value, so, therefore, you'd be paying relatively little tax, which argues for maintaining some kind of a pool and a redistribution system, certainly, but, everywhere, it would be a pressure for efficient use of land.

[307] **Jocelyn Davies:** Okay. Nick, shall we come to your questions? Had you finished, Mike? Yes, I know Ann had.

[308] **Mike Hedges:** Yes.

[309] **Nick Ramsay:** Good morning. Going back briefly to council tax and business rates, imagine an alternative universe where you are First Minister at the moment, and you are

considering a reorganisation of local government on the one hand and council tax changes on the other. Is there merit in those two going hand in hand, or would you simply get on with the reform of council tax that you proposed in advance of any local government reorganisation?

[310] **Professor Holtham:** I think the council tax is something that you could certainly pursue in parallel with local government organisation, because the structure of it is determined centrally anyway. You're not proposing to reduce the discretion of local authorities, but you are looking to reform that structure within which they operate, and that structure, as far as I can see, doesn't need to change depending on whether you've got 10 local authorities, or eight or 22. So, I think that can go in parallel.

[311] I think we're a bit further away from a solid and practical scheme of business tax reform. I think the outline is there, but there's a lot of work that needs to be done. So, for example, you're going to get a lot of resistance from landowners, because they're going to take a capital loss—if you put this tax on and land prices do fall and I'm a large landowner, you know, I'm taking a hit, and I think it's pretty predictable I'm not going to like it. So, you may want to phase it in anyway. One possibility, as I was saying earlier, is you could view the present tax as a tax on land and a tax on property, and at the moment, you could say, 'Well, they're levied at the same rate; what we'll do over 20 years, or whatever, is slowly run down the tax on property and have a compensating increase in the tax on land'. So, you phase the thing in over a long period of time, and then, if people who are large landowners can see what's coming 10 years down the road, they can make the dispensations as best they can, because you will get a lot of political resistance.

[312] **Nick Ramsay:** So, you'd have to have some kind of transitional arrangement.

[313] **Professor Holtham:** Yes, my expectation is that you'd have a transitional system like that, which, if you say to the valuation office—at the moment, it's giving you valuations for all the properties—'Well, look, we want you to break that up', they won't like it, by the way, but they'll do it. If you say, 'We want you to tell us how much the land is worth as a component of that overall rate', and then you have a system that slides you into a land basis over a period of time, I think that might be the way to do it.

[314] The other thing, I would say, is the Mirrlees report back in 2011, organised by the Institute for Fiscal Studies—Mirrlees is, you know, a Nobel Prize winner—recommended that the British Government looked to reform of business rates in this way. It suggested this might be the way to go. So, I would ask the British Government to lean on the valuation office to do this for Wales at no cost, because, if it then works in Wales, it's a pilot that could be adopted in the rest of the UK. If, for some reason that we haven't foreseen, it doesn't work or it doesn't work very well, we've saved them from error. So, in a sense, Wales could volunteer to be the pilot for a UK reform in return for a bit of help with transitions costs.

[315] **Nick Ramsay:** I know that income tax devolution is dependent on a referendum some years off, but you've done some work, I think I'm right in saying, on potentially looking at transferring some of the burden of income tax, particularly for higher rate taxpayers, to council tax, to property tax.

[316] **Professor Holtham:** Ah, no, not really, but what the work we did in the commission tended to conclude was that the ability to raise revenue in Wales by raising higher rates of tax is—to call it 'limited' is understating the case—probably going to cost you money. And this is not for any sort of clever-clever, Laffer curve-type argument; I'm not talking about that. The fact is that people move, on average, once every 10 years. Well, there are 13 million or 14 million people living within 50 miles of the Welsh border on the other side, and nearly half of the Welsh population lives within 25 miles of the English border, and they're moving once every 10 years. So, if you have a big difference in the higher rate of income tax—. You know,

if income tax is higher in Wales, there are no millionaires living in Abergavenny when they can live in Ross on Wye. It wouldn't happen immediately, but, over time, you would erode your own top tax base. There's only a couple of thousand people in Wales who are mega wealthy and paying quite a big slug of income tax. Move a few hundred of those and you're losing out. And it's worse than that—most people in that bracket have got two homes anyway. They've got a house in Wales and a house somewhere else.

[317] **Nick Ramsay:** So, they can decide—

[318] **Professor Holtham:** They will just elect where they pay the tax, and if you think the Inland Revenue is going to police that very tightly without being paid a lot of money by the Welsh Government to do it, you're being very hopeful. I think the trouble is, if you raise the top rate of tax in Wales higher than in England, over four or five years, it's going to cost you money, not make you money. That's sad, but it's true. If you cut the tax, it's a beggar-my-neighbour policy. You can question it morally, but if you cut the top rate of tax, you're probably going to make money over five years because people will start declaring Wales as the place where they're paying the slightly lower tax. If you wanted to have a policy in Wales that was reasonably fair but you hoped would raise more revenue, the way to do it would be, yes, you bring in your own mansion tax. You say, 'Okay we're going to really sock people at the top end on the property tax, and we'll cut the top rate of income tax', because that will pull people over the border and we'll catch them on the house, but we won't hit the income. We'll get more revenue. It's a political choice. But if I were being told, 'Raise revenue for Wales', how would you do it? I think that's how I'd— It's up to you whether you think that's morally acceptable and all the rest of it. But if you just want to raise money, that's the way to do it.

[319] **Jocelyn Davies:** To attempt to become a tax haven for mega rich people from England to come and live here.

[320] **Professor Holtham:** Well, yes. Of course, if they bring their businesses with them, it's even better. But, even if they don't, you're getting the money. The point is, in all countries, all studies have found that the way you help poor people is through public expenditure. It is very few countries that manage to sustain a genuinely progressive tax system. There are too many tax accountants and too many ways to dodge it. So, most tax systems are, at best, proportionate. Very few succeed in being genuinely progressive. You help the poor through public expenditure. So, my view—I take a very hard-nosed view—is I don't care. If I get more money, I can help—I can help the people.

[321] **Jocelyn Davies:** Yes. Moving doesn't come free, though. It's quite expensive to move. But I suppose you are talking about individuals who are more able to move around than poorer people.

[322] **Professor Holtham:** That's why you wouldn't get such an effect if you raised the basic rate. If you raised the basic rate—if you put 1p on the basic rate, nobody is going to save more than a few hundred pounds a year. Nobody's going anywhere for a few hundred pounds a year because of the cost of moving. It wouldn't pay the removal van. So, that doesn't work. But if some guy is a successful businessman or a successful lawyer and he's on £0.5 million, that 1p is making him £50,000—is it? I can't work it out; costing him £5,000—and, over 10 years, he's paid you £50,000. You're going to think about it then.

[323] **Jocelyn Davies:** Mike, did you want to come in on this one?

[324] **Mike Hedges:** Yes. But surely the situation is—I understand the same thing has happened with corporation tax—everybody just keeps on making their way down. If Wales cut the highest rate of tax by 5p, wouldn't England immediately follow and wouldn't you

have the situation at the end that everybody's worse off? It's like the double Irish in terms of corporation tax, isn't it? Everybody loses in the end.

[325] **Professor Holtham:** As I say, it is a beggar-my-neighbour policy and there is a moral element you may not like. But I don't think there's much risk of retaliation, because England doesn't have a border like our border. If England put tax up by 5p, you're not going to get wholesale immigration to France. You're not. It's a very different situation. Moving from Hawarden to Chester, or Lydney to Chepstow, it's just a different order of magnitude. Wales is sufficiently small that this is not going to trigger a third world war or a big change in taxation in England. So, I think we could get away with it. We would be getting away with it.

11:15

[326] As I say, there is a moral issue, which, you know, I'm glad I don't have to decide. But, in terms of the hard practicalities, I don't think there'd be any retaliation. They can't afford it. Are they going to cut taxes? They're complaining about too many people coming in now. They don't want more immigration. It is not going to—. No, I don't think it would make any difference.

[327] **Mike Hedges:** A lot of wealthier people in England already use non-domiciled status in order to reduce their tax burdens, don't they?

[328] **Professor Holtham:** Some do. It's not many, is it?

[329] **Mike Hedges:** There are a number of people in Wales who do it as well.

[330] **Jocelyn Davies:** We're probably straying. I don't think we're going to be having that, not until after a referendum. Nick, shall we come back to your questions or have you finished?

[331] **Nick Ramsay:** I'm finished.

[332] **Jocelyn Davies:** You're finished. Chris, what about yours?

[333] **Christine Chapman:** Yes. Okay. I just want to ask you some questions about how we would establish the Welsh revenue authority and some of the practicalities. First of all, what role should be played by the Welsh revenue authority in managing the whole tax system?

[334] **Professor Holtham:** Well, I think that is its central role. Tax law is determined by the Assembly and by the Government, and it then has the overall responsibility for administering the entire system. As I say, as far as I can see, taxes are going to be collected by different agencies, but somebody has to have overall oversight of that system and make sure it works. If it's got contracts with HMRC, for example, to collect stamp duty, it's got to manage that contract. Also, somebody's got to negotiate the contract. I think you've got to be careful here, because if HMRC—actually, stamp duty land tax, as your previous witnesses were saying, isn't a great problem—there's not a great problem with evasion there. But with some other taxes—if you ever get on to income tax, there's going to be a large voluntary element in this tax, and you really want HMRC to be on the case. So, the Welsh revenue authority would have to be monitoring the performance of HMRC to make very sure that they were doing a good job. In fact, I would actually argue for some sort of payment by results. I'd ask them what their fee was and then say, 'Well, I tell you what, I'll give you half that and then a proportion of any tax you collect'. I know it sounds like eighteenth-century tax farming, but you've really got to give them an incentive. If somebody says, 'Okay, I've moved my primary residence to London' or to Cardiff or whichever it may be, HMRC need to be doing the odd

audit to make sure that people are on the straight and narrow. So, I think the revenue authority has an important monitoring and oversight role over the agencies collecting taxes.

[335] **Christine Chapman:** But you don't think it should necessarily—. I'm not sure really how far they have moved on this, but you're not saying that they should do the collection themselves? It should be delegated to others, like local authorities and HMRC et cetera?

[336] **Professor Holtham:** Well, as I say, I'm not an expert in the details of tax administration, so this is just an opinion, and you may well have more expert advice, but it seems to me that, you know, we're actually talking about relatively small sums of money. Especially with the reform of stamp duty now that the UK Government has brought in, you're not looking at more than £100 million to £150 million a year. So, you really don't want to be eating into that by setting up a whole new agency if you can do it through the existing agencies. So, I think that, just on the basis of economy, I would look at just the economy of it. I wouldn't make this a piece of nation-building. There are lots of ways to build a nation without having your own tax collection.

[337] **Christine Chapman:** But obviously making sure that there is a strong monitoring role.

[338] **Professor Holtham:** Yes.

[339] **Christine Chapman:** Yes. Okay. What about futureproofing it then—the authority? How should we be designing it or how should it be designed so that it's flexible enough to adapt to future requirements?

[340] **Professor Holtham:** I think that is really a case of personnel. With that decentralised structure, with it being, initially anyway, a monitoring and contract-managing system, you've got the flexibility to change the contract, change the supplier or, indeed, bring it in-house, if you want to. So, I think that flexibility is built into a decentralised system. It's a question of getting the right people, as ever, to actually run it.

[341] **Christine Chapman:** Right. Okay. Thanks.

[342] **Jocelyn Davies:** You've covered some of the points that I was going to ask you about, but what about weaknesses that you perceive now, or are aware of, in the UK tax system? How can we avoid that now that we're starting something new? Perhaps you don't like the word 'weaknesses', but sort of—

[343] **Professor Holtham:** Yes. Well, tax systems tend to grow in a haphazard way because something becomes politically salient—you know, some event happens and there's something that's concerning people—and there's then a tendency to give a tax break or bring a tax in in response to these ad hoc developments—and that's probably inevitable—but it does mean that, over time, the tax system can become extremely complicated. You know, the 10 commandments occupy one page, and the British tax system thousands and thousands of pages. So, I know that it's hard to do, but 'keep it simple' is a good piece of advice. To the extent you can keep the system simple, it makes compliance easier, it makes monitoring it easier, and you probably don't collect any less money at the end of the day, either.

[344] **Jocelyn Davies:** So, avoid having those reacting to a sort of political situation, and then offering incentives—little incentives—as has been the temptation in the past.

[345] **Professor Holtham:** Yes. For example, take council tax. There is an exemption, a total exemption, for student occupation. Now, who pockets that? Is it the student or is it the landlord? Has anybody actually analysed that? Is 100 per cent the right deduction, or should

they just get a 50 per cent deduction? There's a 25 per cent reduction if you live on your own. So, we're financing you to be anti-social. Why is that? I mean, what is the justification for a 25 per cent deduction for people living on their own? Should you have that? You always get these little accretions that are there, and, after a while, nobody can remember why they're there or whether they're justified.

[346] **Jocelyn Davies:** It does seem a bit odd, doesn't it, that you can have a deduction on your council tax if you live on your own, but if you were, let's say, in social housing, you'd probably be hit with the bedroom tax? So, you're trying to say, on one hand, 'We're trying to discourage people under-occupying', and, on the other hand—

[347] **Professor Holtham:** You're subsidising.

[348] **Jocelyn Davies:** —you get a deduction.

[349] **Professor Holtham:** Well, indeed.

[350] **Jocelyn Davies:** It seems a bit strange.

[351] **Professor Holtham:** All practical tax systems start to accrue that kind of anomaly. So, one answer is, you know, if you're thinking of giving a tax break, think twice. Maybe you have to, but think twice, and always try to keep the system as simple as possible.

[352] **Jocelyn Davies:** Okay. Obviously, after these elections are out of the way, there are going to be further changes, possibly, to the settlement. So, what potential changes can you see coming that could perhaps impact on the Welsh tax system that we ought to be thinking about now?

[353] **Professor Holtham:** The state of the devolution settlement in the UK now is in such a state of confusion that, you know, it really surpasses all understanding, as somebody said. I don't know how the interaction of tax and grant is going to happen, going forward. Actually, thinking about it, you know, even in the case of council tax, the British Government sets the Welsh Government a departmental expenditure limit, subtracts from that your own tax resources, which largely, at the moment, are the two business rates and—. Well, business rates now, because they've devolved them; before, that was dealt with differently. But council tax is the main one, so, it's bringing in £1 billion and a bit, so HMG takes £1 billion and a bit off the departmental limit and the rest, what's left, is the block grant. Now, it's a principle of a system like that that what they deduct should depend on that tax as if it's being levied at a standard rate, which, in practice, means the rate in England. If you don't do that, you haven't devolved the tax. If you put your tax rate up, and they say, 'Oh, whoops, you've got even more tax now, so we'll reduce the block grant', you can't raise the tax; it just comes out of the block grant. So, they have to levy that, they have to make the deduction, at a standard rate. Now, how are they going to do that for council tax? If we reform the system and start collecting a lot more tax, for example—or less—how are they going to—? They can't just come along and say, 'Well—'. But, at the moment, council tax is an exception, because there is no standard rate. In fact, one of the things we argued in the commission that would push the block grant up was that, if you take the value of houses as the tax base, Wales pays a higher rate of council tax than England. If you adjusted for that, we'd get another 1 per cent on the block grant. So, that's one thing, but, with all of the tax devolution to Scotland, I think the whole way they treat the block grant, and how they treat deductions from it for your own tax resources, is just right up in the air. There's a complete absence of detail in what's been said.

[354] **Jocelyn Davies:** And not much logic attached to it from what you—

[355] **Professor Holtham:** No. Absolutely not. Absolutely not. Of course, this is being

reflected in lots of ways. For example, the Government is concerned that Scottish MPs shouldn't be voting on changes to English income tax. But, just going back to what I've said, if that English income tax defines the standard rate, it will define the deduction from the Scots' block grant. So, how can they not vote? Now, if they want them not to vote, they've got to change the system to insulate the block grant from those decisions and, as it's operated at the moment, it's not insulated. I read the newspapers and, to be quite honest with you, I can't make head nor tail of it. It makes absolutely no sense whatsoever. People are throwing out individual statements that just don't cohere into a coherent whole. It's just—it's no way to run a railway. *[Laughter.]*

[356] **Jocelyn Davies:** Julie, shall we come to your questions?

[357] **Julie Morgan:** When you gave evidence to us last year, you proposed that local government should collect devolved taxes. Do you believe that HMRC or local authorities would be best placed to collect the devolved taxes? I know there's an issue about reorganisation and all that, but—

[358] **Professor Holtham:** Well, I think that is the point. I'm less—. I suppose I've changed my mind a bit on that. I'm certainly less confident, simply because we are in a state of flux. I think, if the local government reform is completed, and we see what is decided about tax collection by local authorities, then we'd be in a position to judge whether or not things that we are contracting to the HMRC could, instead, be contracted to local authorities. But I think we probably need to go through that transition before you can make a call.

[359] People have argued to me that, while it might be possible, for example, to get the local authorities to collect stamp duty on residential properties, there are complexities involved in commercial property that would make it very difficult for them to do so. So, in that case, you'd have to split it and residential would be collected by the local authority and the commercial maybe by HMRC. Well, do you want to do that, or is it easier to leave it all with HMRC? So, at this stage, I would—. Contrary, yes; I've changed my mind, I'm afraid. But I think, at this stage, I'd stick with HMRC. I certainly would be interested in giving the local authorities a bigger role in due course. If there were a smaller number of local authority tax collection agencies, and they'd settled down, I think then it would be legitimate to say, 'Isn't this a resource that we can use?' But, I think, at the moment, it's probably safer to stick with HMRC.

[360] **Julie Morgan:** And you've changed your mind because of looking more at the complexities that might arise, rather than the local government reorganisation.

[361] **Professor Holtham:** Well, yes, both. There is the local government reorganisation, and you have to let that settle first, but then there is the issue that there may be more complexities, not around the residential stamp duty, but the commercial stamp duty, than I had really taken account of.

[362] **Julie Morgan:** But do you think there could be efficiencies there if you did use local authorities?

[363] **Professor Holtham:** Well, the thing is that you do have people who are used to administering a tax system—you're not creating something from scratch, and I think that's always a potential source of efficiency.

[364] **Julie Morgan:** The Welsh revenue authority—if it does delegate its collection to HMRC or to local authorities, would that provide less clarity than if it collected it itself?

11:30

[365] **Julie Morgan continues:** would that provide less clarity

[366] **Professor Holtham:** I don't think so. I mean, clarity for the person paying the tax or—. The person paying the tax would know what the tax—. Probably, they haven't even heard of the Welsh revenue authority, actually. [*Laughter.*] So, no, I don't think it necessarily obscures anything.

[367] I suppose there is always a question of branding in these cases, you know, so people know who's responsible for the tax policy. I think there is a point there. If everything came out with a red dragon on it and 'Welsh tax authority', people would know who was responsible for the tax decisions that underlie this tax claim. But you can probably get around that. There's probably a way to brand the tax demand so that people know who's levying this tax, whoever is collecting it. But I do take your point that it may be important that people are clear, when they pay a tax, to whom they're ultimately paying it and who's made the decision about how much it is. I think that is important. That would be an argument for having some sort of grand central thing, but I think there must be a cheaper way to get around that—you know, you can easily put the red dragon on the letterhead and whatever.

[368] **Julie Morgan:** Thank you.

[369] **Jocelyn Davies:** Okay. Any other—. Right, we've run out of questions. Was there anything you wanted to add?

[370] **Professor Holtham:** There was one thing. You know, the idea of moving business rates to a site value basis is something that requires more work before you can produce a concrete proposal. I can't do that work, because it requires data that are held by the Valuation Office Agency and the Land Registry, but they would be available to the Welsh Government, I think. So, I think there's a strong case for doing some research. Rather than rejecting the idea out of hand, or going for it with great enthusiasm, I think the Welsh Government should maybe ask the Public Policy Institute for Wales or somebody to undertake a programme of research on the effects of doing this—you know, just this question of what the valuations would look like, where would the taxes be being paid, what might happen to land values, things like that—to make an informed decision as to whether to make what would be a big step, you know, in changing the basis of the tax, and would be a pioneering step. But I think there is research that you should do first. So, I think the Welsh Government should—. Because they can obtain those data and make them available, with certain safeguards for privacy and that sort of thing, to researchers who could undertake it, and I think that would be well worth doing, before you jump.

[371] **Jocelyn Davies:** Okay, thank you. Well, as you know, we'll send you a transcript. If you'd check that for factual accuracy, we'd be very grateful, before we publish it. I'd like to thank you on behalf of the committee for a very interesting session with you, I think.

[372] **Professor Holtham:** Not at all; it's a privilege.

[373] **Jocelyn Davies:** Thank you. Thanks very much.

11:33

**Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd o'r  
Cyfarfod**  
**Motion under Standing Order 17.42 to Resolve to Exclude the Public from the  
Meeting**

*Cynnig:*

*bod y pwyllgor yn penderfynu gwahardd y cyhoedd o weddill y cyfarfod yn unol â Rheol Sefydlog 17.42(vi).*

*Motion:*

*that the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order 17.42(vi).*

*Cynigiwyd y cynnig.  
Motion moved.*

[374] **Jocelyn Davies:** I now propose we move into private session. Anybody object? Okay, thank you.

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 11:33.  
The public part of the meeting ended at 11:33.*