

Finance Committee Consultation on the Tax Collection and Management (Wales) Bill

Introduction

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales. The three fire and rescue authorities and the three national park authorities are associate members. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.

WLGA's general position in the new tax environment

2. The WLGA has long been supportive of greater devolution as we believe that decisions about services and how they are delivered, managed and funded should be taken as close to the point of delivery as possible. The ability for the Welsh Government to be responsible for these elements of taxation in Wales will enhance accountability with the electorate.

General Principles of the Tax Collection and Management (Wales) Bill

Part 2: The Welsh Revenue Authority (WRA)

3. Our view is that the WRA will become a key player in our financial landscape and will have substantial powers available to it. We would agree that the new body should be independent of the Welsh Government and that there is strong accountability to National Assembly. The body should be open to interaction with a wide range of stakeholders. A non-executive Board with a chief executive responsible would seem appropriate, this being an understood and effective model for public sector bodies across the UK and consistent with the Nolan principles (the Code of Practice for Ministerial Appointments to Public Bodies) and international best practice.
4. It is important that the size of the authority and its costs are proportionate to the scale of the taxes that are devolved to Wales, although we recognise that there is a minimum size and cost to establishing the authority. We also recognise that whatever is established needs to be suitable for the potential for devolution of further taxes.

5. We are generally content with the provisions in the Bill in relation to the membership of the WRA but would add that non-executive members should out-number executive members. In addition, while section 6 sets out how Welsh Ministers may remove a person from the WRA it does not specifically deal with the removal of the non-executive chair person.
6. We agree with the main functions of the WRA and agree strongly that the WRA should be able to delegate any of its functions to other bodies in order to minimise the costs of establishing, collecting and managing these taxes. The ability to delegate some functions to bodies that are already experienced in collecting and managing taxes is extremely important.
7. We consider the confidentiality of protected taxpayer information to be of paramount importance and are content that sections 16 to 19 provide adequate protection of such information to taxpayers. There also needs to be consideration of how public bodies might share certain information in order to minimise tax avoidance or evasion. The regulations should provide explicit powers to ensure that information sharing is permitted.
8. The WRA, like any other public body must be open, transparent and accountable to taxpayers and must have robust governance and audit arrangements in place. As set out in the Bill, we agree that these arrangements should include the preparation and publication of:
 - A charter of standards and values;
 - A corporate plan;
 - An annual report;
 - A statement of accounts;
 - A tax statement.
9. The WRA must be accountable to Welsh Ministers, the National Assembly for Wales and Welsh taxpayers through audit by the Auditor General for Wales and be within the scope of the Public Services Ombudsman.

Part 3: Tax returns, enquiries and assessments

10. Any authority charged with collecting taxes or any other debt, needs to have well established processes in order to be able to assess the tax that is due, to investigate where it believes there may be fraud, error or criminal activity and to respond appropriately to non-payment of the tax.
11. Where an authority has these powers, it is important that there are safeguards in place for those taxpayers that are willing to pay the tax but are not in a

position to make that payment and that the officers involved are fully aware of the options available to them in those circumstances.

12. Part of the management of such situations would involve ensuring that the taxes are well publicised and well understood by potential taxpayers so that they can be taken into account when making plans. Where there is provision made for WRA or Welsh Ministers to set different requirements from those set out in the Bill, these requirements should also be established, publicised and well understood in advance of the transactions which give rise to the tax return taking place in order that taxpayers have adequate notice of the requirements to preserve records.
13. It is reasonable to expect taxpayers to preserve any records and supporting documents that relate to a tax return for sufficient time as to allow any enquiry into the tax return, and that these records may be preserved in any form, as set out in the Bill. Similarly the provisions in relation to enquiries, amendments, referral to tribunal and WRA determination and assessment of a tax liability are also reasonable, but, as set out above, safeguards are needed where the taxpayer is willing to pay the tax but is not in a position to make the payment in full or in part.
14. It is important that taxpayers are able to reclaim overpaid tax, whether as a result of a double assessment or where the tax is not chargeable. The provisions included within the Bill set out in great detail the where claims may be disallowed and the procedure to be followed in making claims.

Part 4: Investigatory Powers of WRA

15. Any authority charged with collecting taxes or any other debt, needs to have the appropriate powers to investigate. Such powers should be conferred on the WRA and the WRA should then be able to delegate that function to another body where an existing experienced resource could be utilised. Any investigatory powers should include the power to require information and documents from relevant people and to inspect premises and other property.

Part 5: Penalties

16. Any body that has tax management and collection responsibilities needs also to have a range of sanctions such as penalties available to it in order to manage errors and non-compliance effectively. Any penalties and actions need to be well understood and need to be proportionate to the tax due. WLGA consistently sets out that those who are due to pay tax should do so in order to

be fair to both other taxpayers but also to those who need and use the public services that are funded as a result of the collection of those taxes. It is important that there is a clear and consistent message that all tax due will be pursued and that appropriate penalties will be enforced where there is failure to pay tax due whether that is as a result of not making tax returns or actively avoiding or evading the payment of tax.

17. As the existing enforcement regime operated by HMRC will no longer apply to Wales once the Welsh devolved tax system is established it is vital that a replacement enforcement regime is established as part of that tax system.
18. It is important that any penalty regime is consulted upon widely prior to its introduction and the publication of the Bill is the first opportunity to comment on the details of proposals for the penalty regime. It is important that any system of penalties is clear, accessible and geared to be proportionate with the amount of tax due.

Part 6: Interest

19. It is an appropriate part of the sanction regime that interest would be chargeable on tax due or on penalties due but not paid at the appropriate time as set out in Part 6 of the Bill.

Part 7: Payment and enforcement

20. The arrangements set out in Part 7 of the Bill in relation to payment and enforcement appear to be reasonable, comprehensive and would allow the WRA to take appropriate action should a payment due become an unpaid debt.

Part 8: Reviews and appeals

21. For the protection of taxpayers, it is important that the devolved tax system also establishes appropriate procedures for the review of, and appeal against, decisions made by the WRA. These procedures need to be clear, well established and well understood.
22. It is appropriate that the intention is to use the existing Ministry of Justice two-tier tax tribunal system in relation to reviews and appeals, underpinned by a Memorandum of Understanding as this provides all stakeholders with greater simplicity, stability and certainty, particularly through the transition period.

23. The primary aim of avoiding dispute if at all possible, complimented by a system of informal resolution or internal review will help to minimise the number of formal reviews and appeals that are taken forward.

Part 9: Investigation of Criminal Offences

24. While there have not been any criminal investigations in relation to Stamp Duty Land Tax (SDLT) or Landfill Tax (LFT) in Wales in the last 12 months, there is a need to establish arrangements for criminal enforcement in Wales. The WLGA supports the Bill's provisions for enforcement arrangements that are consistent with UK arrangements, minimising complexity and misunderstanding for stakeholders and reinforcing messages that avoidance and evasion will not be tolerated.

Potential barriers to implementation

25. The introduction of legislation in relation to tax and the establishment of the Welsh Revenue Authority are complex issues. While the two taxes to be devolved from April 2018 are relatively small, there is nevertheless the need to establish legislation and bodies that are suitable for a potentially larger role in the future.

Financial implications

26. Given that the UK Government will make a reduction to the Welsh block grant allocation to reflect the devolution of SDLT and LFT there are significant implications to the Welsh Government's budget and, in turn, public services in Wales, should these taxes not be replaced in Wales. For these same reasons, it is imperative that the most cost effective model is sought for the collection and management of these taxes in Wales in order to minimise the administrative burden and to maximise the amount of tax available to fund public services.
27. In particular, care must be taken when setting up the WRA that its establishment is not so large as to place an unnecessary burden on already scarce public resources while ensuring that it is adequate to undertake its role and responsibility appropriately.

Appropriateness of powers in the Bill for Welsh Ministers to make subordinate legislation

28. The utilisation of subordinate legislation is essential to allow the new Welsh tax system to be flexible and able to respond quickly to new circumstances when necessary. However, it is important that suitable safeguards are put in place such as consultation requirements with stakeholders.

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