



TAXREP 41/15 (ICAEW REPRESENTATION 115/15)

Tax Collection and Management (Wales) Bill 2015

ICAEW welcomes the opportunity to comment on the *Tax Collection and Management (Wales) Bill* published by the Welsh Government on 13 July 2015.

This response of 7 September 2015 has been prepared on behalf of ICAEW jointly by the Tax Faculty and the ICAEW's Director for Wales, supported by input from a working party of members based in Wales.

The Tax Faculty is a leading authority on taxation and internationally recognised as a source of expertise. It is responsible for making submissions to tax authorities on behalf of ICAEW and does this with support from over 130 volunteers, many of whom are well-known names in the tax world. Appendix 1 sets out the ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark proposals for changes to the tax system.

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ICAEW members operate across a wide range of areas in business, practice and the public sector. They provide financial expertise and guidance based on the highest professional, technical and ethical standards. They are trained to provide clarity and apply rigour, and so help create long-term sustainable economic value.

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Introduction

1. We welcome the opportunity to comment on the Bill introduced on 13 July 2015. We will also be happy to present these points orally or expand upon them in writing if requested.
2. We are pleased to see that the majority of our previous advice and recommendations have been incorporated into the Bill and wish to acknowledge the open and effective way in which the Welsh Government has conducted its development fully taking into account the views expressed through the various consultation processes it has adopted.
3. We consider that the devolvement of these taxes has provided the Welsh Government with a real opportunity to review their relevance and appropriateness to Wales and to improve the efficiency of tax collection through simplification wherever possible. To date it has been evident that these objectives are being pursued and we will continue to support Welsh Ministers in this endeavour.
4. We welcome the drafting of the Bill so that all of the substantive provisions are included in the body of the Bill rather than relegated to Schedules. This aids clarity and we recommend this approach should always be adopted in future Bills.

Specific comments on the Bill

Part 2, Welsh Revenue Authority (WRA)

5. We support the development of a Board to oversee the performance of the WRA made up of a majority of non-executive members, one of whom will be Chair. It is critical that these non-executive members have both the skills and the knowledge to provide appropriate governance for the WRA and therefore include those with a strong understanding of taxation, business processes and the economy in particular.
6. We are pleased to note the ability of the WRA to establish committees and sub committees to fulfil its functions which can include individuals who are not members of the Board. This will allow the WRA to supplement the skills and knowledge of the Board members themselves to ensure a greater coverage and understanding of the effect, or potential effect, of their work and gather more directly the views of those involved in business and the economy as a whole.
7. We are disappointed that in clause 11 of the bill covering primary responsibilities there is no mention of ensuring a “quality” service to the public and Government. Whilst this section requires an efficient and effective complaints and disputes procedure there is no mention of the same for the collection and management systems. It is our view the primary responsibilities should include the development of efficient and effective tax collection systems (whether operated directly or indirectly) which are user friendly for the taxpayer and simple in operation and regulation. The objective of which would be to encourage and maximise the collection of taxes and minimises the opportunity for avoidance or evasion or disputes and appeals.
8. It may be implicit in para 2(a) of clause 11 but we consider it should be explicit that the WRA has a role to provide Welsh Ministers with an independent assessment of the effects of any policies which they may adopt that may affect tax collection. They should also provide feedback of the actual effects of policies adopted through a formal reporting mechanism.
9. Para 2(b) of clause 11 is a key role and perhaps requires some expansion regarding the main objectives of this function. Maximising taxpayer’s acceptance of the regulations and compliance to the rules is, in our view, a primary function of the WRA. Consequently it should have a duty to “ensure” the information provided is appropriate and sufficient for these purposes and also that it conducts appropriate consultation when seeking to introduce new

regulation or changes to the tax system. Once again this is well covered for penalties but not for the core tax collection system.

Clause 16 et seq, Confidentiality of Taxpayer's Information

10. This topic is comprehensively covered but the issue of consent in clause 17 1(a) does need to be tightened up to define exactly what constitutes consent. If this is not done then disputes may arise regarding the evidence or otherwise that consent has been given.
11. Where disclosure is made without consent under the other listed permitted situations, we believe that there should there be a duty to advise the taxpayer of this action and the reasons why.
12. Similarly, we believe it should it be a requirement that the duty of confidentiality is passed onto and accepted by the receiving organisation or individual where appropriate.

Clause 22, Funding

13. Clause 22(1) appears to give Welsh Ministers the ability to withdraw funding from WRA without any notice or consultation. Surely this is not the intention. This clause should be amended to clarify that it is Welsh Ministers who will decide the funding provided to the WRA but that this would be normally subject to a specific procedure. e.g. an annual basis and after consultation and discussion with the WRA itself. Also, if there is to be a major reduction in funding, the Bill should set out clear procedures and consultation processes to be followed.

Clause 23, Rewards

14. Clause 23 gives power for the WRA to pay a reward to a person in return for a service which relates to any of its functions. It is not entirely clear as to who might receive such an award as compared to, for example, remuneration or payment for services rendered. We would welcome clarification as to the extent of this power and where it would be appropriate to apply it.

Clause 25, Taxpayers' charter

15. We support the inclusion of a Taxpayers' Charter that sets out the rights and responsibilities of both taxpayers and WRA.
16. We believe that a Charter should aim to do more than merely reflect aspirations about how HMRC should behave and what service standards taxpayers might expect. We believe that good tax compliance is encouraged by an efficient and effective tax administration service and the Charter should reflect this commitment. It needs to have some practical value and a reasonable set of service standards and behaviours that taxpayers can use and rely upon in their dealings with the revenue authority.

Part 8, Reviews & Appeals

17. As stated previously we anticipate a role of the WRA will be to make the collection system and tax regulations user friendly to the taxpayer and thereby minimise the level of necessary reviews or appeals against the tax payable. Some measure of performance should be put in place regarding disputes which demonstrates the WRA's success or otherwise in this area.
18. We welcome the statement in the Explanatory notes which states "The WRA will seek to get things right first time, working collaboratively with taxpayers, communicating clearly and effectively and providing appropriate explanations of decisions." We are not sure this aspiration is truly reflected in the Bill itself and believe the wording should be amended to reflect this aspiration more clearly.

Other comments

Service standards

- 19.** It is essential that WRA puts customer service and efficient delivery at the heart of its process designs and implementation. The Welsh Government might wish to consider, for example, whether it would be appropriate to be seen to have a more local presence that taxpayers could access when they had problems.
- 20.** We believe it is important that whatever approach is adopted and whoever provides the actual management and operation of the taxes (whether by WRA or a subcontractor), there should be a clear level of agreed service standards. If any operations are subcontracted such standards should be built in to any agreement.

APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see icaew.com/en/technical/tax/tax-faculty/~media/Files/Technical/Tax/Tax%20news/TaxGuides/TAXGUIDE-4-99-Towards-a-Better-tax-system.ashx)