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Y Gweinidog Cyllid a Busnes y Llywodraeth
Minister for Finance and Government Business



Llywodraeth Cymru
Welsh Government

Jocelyn Davies AM
Chair, Finance Committee
National Assembly for Wales
Cardiff Bay
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4⁵ November 2015

Dear Jocelyn,

At the Finance Committee's evidence session on 21 October in relation to the Tax Collection and Management (Wales) Bill, I committed to provide further information concerning Section 37 of GOWA 2006, and to review the record and clarify the current situation in discussions with HMRC about the management of Land Transaction Tax (LTT). In relation to Landfill Disposals Tax (LDT) collection, I referred to Councillor Shotton's letter concerning local government's response to the invitation to consider devolved tax collection and therefore I attach a copy for information.

I also confirmed in my Written Statement in June this year and at my attendances at Committee that I would provide the Assembly with an update on work to establish collection and management arrangements. This letter fulfils that commitment.

Assembly scrutiny of the Welsh Revenue Authority

When discussing how the Assembly might approach the future scrutiny of the Welsh Revenue Authority (WRA) I briefly mentioned section 37 of the Government of Wales Act 2006. I drew attention to this because the section confers broad powers on the Assembly to require a person to attend to give evidence or produce documents. The powers can be exercised by the Audit Committee or such other committee as the Assembly expressly authorise (by standing orders or otherwise).

I also mentioned that the Tax Collection and Management Bill (the Bill) includes several measures that provide the Assembly with information to assist it to scrutinise the WRA. Specifically, the Bill requires that the WRA's Charter of Standards and Values, [section 25], corporate plan [section 26], annual report [section 27], annual accounts [section 28] and annual tax statement [section 29] are laid before the Assembly. Also, the responsibilities of the Chief Executive Officer as accounting officer of the WRA may include responsibilities owed to the Assembly or a committee of the Assembly [section 32].

Taken together these provisions enable the Assembly to undertake scrutiny of the WRA, separate from the Welsh Ministers, however the Bill does not specify how the

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Assembly should scrutinise the WRA. Arrangements such as which Committee should undertake scrutiny are for the Assembly to decide, not for the Welsh Government to prescribe in legislation. This is in line with other Assembly Acts, such as the Public Audit (Wales) Act 2013 which contains no provisions relating to the scrutiny of the Wales Audit Office by the Assembly, in response to recommendations in its Stage 1 report.

Charter

I consider the introduction of a Charter of Standards and Values [section 25] to be an appropriate approach to promoting positive behaviours and standards on the part of both the WRA and taxpayers. The proposed wording in this section of the Bill is consistent with the existing HMRC approach, and sets out the standards of administration that WRA intends to follow and to make clear to the public how they can expect to be treated by WRA.

The Charter is not intended to impose procedural or practical obligations on WRA over and above those imposed by the Bill itself. Any dispute between a taxpayer and WRA as to compliance with the Charter will be a matter for the Public Services Ombudsman for Wales to consider, rather than the Courts or Tribunals

We discussed at Committee whether WRA and taxpayers should *aspire* to the standards and behaviours set out in it (as is the case with the HMRC Charter) or whether they should be *expected to adhere* to those standards and behaviours. I am happy to reflect on the point further and will consider amending the wording at stage 2.

Amendments to the Bill

I also wanted to confirm the specific amendment that I mentioned at Committee, which I intend bringing forward at stage 2. This relates to the General directions power [section 14 (6)] of the Bill where I propose removing the caveat so that all directions are published. I will also bring forward an amendment giving Wales Audit Office the power to charge a fee for the audit of the tax statement.

Delegation options

There was a good deal of discussion at committee around the potential future delegation options and the approach to this.

As previously discussed, the Welsh Government leads on tax policy and legislation. The Bill confirms that the Welsh Ministers will be able to prescribe in regulations who the WRA might delegate its functions to, make the non-executive appointments to the WRA Board and approve the WRA's Corporate Plan.

It is important to reiterate that the WRA's main role is to collect and manage devolved taxes. The WRA will be wholly accountable for the particular functions as set out in section 11 of the Bill. The WRA will retain legal responsibility for the exercise of its functions and the discretion over whether to delegate its functions, for how long and to what extent. The WRA can vary or revoke any delegations that it has made at any time. The delegation of a function does not affect the WRA's responsibility for the exercise of that function.

It will be for the next Welsh Government to prescribe in regulations, subject to the Assembly's approval, to whom the WRA might ultimately delegate its functions. It will then be for the WRA to consider what functions it might then delegate, the format of

the delegations and how it will monitor the performance of those performing functions on its behalf.

Collection and Management arrangements

The arrangements set out below have been informed by detailed and continuing discussions with my preferred partners, HMRC and Natural Resources Wales (NRW).

I announced in June this year that the Welsh Revenue Authority (WRA) would work with HMRC and NRW to collect and manage Land Transaction Tax (LTT) and Landfill Disposals Tax (LDT). My preferred way forward is for HMRC to provide facilities to submit online and manual LTT returns and payments, and undertake the transactional and routine compliance functions. The WRA will undertake complex compliance, anti-avoidance and enforcement work for LTT. The WRA will undertake the collection and management functions for LDT, with NRW undertaking compliance and enforcement.

All Welsh devolved tax data and information would be the property of the WRA, and would be separately provided to the WRA for use in complex compliance work, performance reporting and other analysis (for example forecasting). The Committee referred to a close link between Welsh and non-devolved taxes, but as confirmed at Committee, this would not be the case and Welsh taxes will be kept discreet from the other non-devolved taxes that are managed by HMRC.

Welsh Ministers will require the WRA to develop strong and collaborative relationships with bodies to which it delegates functions, and a commitment to transparent ways of working. In particular, the WRA must publish information about the delegation arrangements and we would expect this to include agreed service standards. The WRA will ensure that devolved Welsh tax collection and management meets the Welsh language standards required by the Welsh Language Commissioner, and the commitments under its Charter of Standards and Values.

Further details on the proposed roles and responsibilities of the WRA, HMRC and NRW in the collection and management of devolved taxes is set out below.

WRA

Preparatory work on establishing the WRA is underway. A WRA Implementation Director (Chief Operating Officer) will be appointed in summer 2016 and it is envisaged that a Chief Executive will be appointed in the autumn of 2017. Both appointments will be to the Senior Civil Service.

The WRA, in accordance with the Tax Collection and Management (Wales) Bill, will require a governance structure to ensure that taxpayers' details and information are protected and managed properly. The Bill, as currently drafted, provides for a range of membership: not fewer than 3 and not more than 8 Non-Executive Board members including the Chair. To ensure that the WRA has the necessary level of expertise on this Board I expect these appointments to be paid and I anticipate, given the taxes devolved, that the Board could have 5 Non-Executive members, not including the Chair, from April 2018. Consistent with the comments made by the Committee and external stakeholders, I expect that the next Government will wish to ensure a range of tax and professional expertise on the Board, as well as seeking to ensure the Board is representative of the community, including an appropriate gender balance. I expect the Chair and Board members to have taken post by autumn 2017 and I anticipate in its first year the Board may need to commit to meeting as regularly as necessary to ensure an effective transition to April 2018.

The WRA will be expected to fulfil its wider corporate functions to a high standard, including provision of performance and other information to Ministers and the Assembly across the range of its responsibilities. It is anticipated that it will be required to collect LDT and undertake full compliance work in relation to more complex LTT cases, and will need ICT provision to ensure that all its functions can be undertaken efficiently and effectively. Our current estimate is that the WRA would have between 25 and 32 staff.

There are likely to be other operational costs associated with the WRA, including costs relating to audit, and data sharing with Valuation Office Agency and Her Majesty's Land Registry. Further work is required to assess and quantify these costs.

HMRC

HMRC have been constructive in discussions with my officials and are keen to take on the role in administering devolved Welsh taxes.

They have a wealth of tax knowledge and experience - HMRC collected almost £11bn in Stamp Duty Land Tax, (SDLT) in 2014-15, handling well over 1 million transactions. They have an end-to-end processing and management office in Birmingham, which includes all transactional elements of SDLT collection (based on their existing ICT system), as well as addressing more complex and challenging compliance and avoidance issues, and making wider links to other UK taxes. Over 96% of SDLT returns are received online with over 60% of payments being made online and this proportion is rising. The WRA would gain the benefit of these service improvements.

HMRC have made it clear that their current SDLT return would be adapted to ensure that the LTT return meets the distinct needs of the Welsh Government and WRA. They would use the experienced staff working on SDLT to carry out administration activities (for example, processing returns, following-up errors). All data would remain the property of the WRA: the WRA will use this information to undertake more complex compliance and avoidance activity.

Alongside this, HMRC have offered a small, separate, ring-fenced Welsh Taxes Team, which could be based in Wales and possibly co-located with the WRA. This team would ensure that there is close liaison in Wales between HMRC and WRA on more complex compliance and avoidance in relation to LTT, and would transfer knowledge and expertise. This team could lead on LTT technical queries and guidance, risk analysis and liaison with WRA drawing on their experience of the HMRC office in Porthmadog.

Stakeholders, and in particular the business community, have consistently expressed support for working with HMRC on collection of LTT, to ensure a smooth transition to April 2018. The priority now is to clarify and confirm the service standards that will be needed within this relationship and to ensure that the most cost-effective solution is being delivered.

NRW

NRW lead on permitting of landfill sites, so they already have an extensive knowledge of the tax base and have established relationships with landfill site operators. Compliance activity for LDT would be new to NRW and it is anticipated that a small number of additional NRW staff will be required to undertake this activity. The Welsh Government will be working closely with NRW over the coming period to ensure that

there is clear management of compliance and avoidance in relation to LDT and that we exploit the opportunities to improve coordinated and effective management of waste sites within Wales.

Next Steps

At Annex A is my initial estimate of costs for the set up and operation of collection and management arrangements for devolved taxes. Set up costs are estimated to be £4.8m–£6.3m over the period 2016/17 to 2018/19. Operating costs are estimated to be £2.8m–£4m annually, beginning in 2018/19.

At this stage, I am providing a range, rather than a specific figure, to reflect the degree of uncertainty remaining over some elements of these arrangements. This estimate will be further refined in discussions with HMRC and NRW in relation to service standards for LTT and LDT, and underpinning ICT issues in particular. It should also be noted that the next Government will introduce two further pieces of legislation on LTT and LDT and the policy decisions agreed in the passage of these bills may well have cost implications.

As the UK Government is not prepared to transfer the funding needed to cover this new area of work, the Welsh Government has to ensure that we develop a service that not only meets Welsh taxpayers needs but that also provides value for money in the short term whilst allowing for flexibility if and when further taxes are devolved to Wales.

I have confirmed that there will be a review of the WRA's delegation arrangements after 3-5 years of operation (2021-23), which will consider a range of partnership options. We are also establishing a working group with local government to ensure that we share expertise and knowledge around the collection and management of devolved Welsh taxes.

I intend to keep the Finance Committee updated on costs throughout the journey of the Tax Collection and Management (Wales) Bill and beyond. I anticipate that the next Welsh Government will wish to provide an update on the outcome of the discussions with HMRC and NRW soon after the Assembly elections next year.

Yours sincerely,
Jane

Jane Hutt AC / AM

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Minister for Finance and Government Business

Estimated Costs for Set Up and Operation of Collection and Management Arrangements for Devolved Taxes

Estimated Set Up Cost for the period 2016/17-2018/19		
£k	Low	High
Welsh Government – Staff <i>(Gross staff cost incl. salaries & overhead)</i>	1,700	2,000
Welsh Government – Non-Staff <i>(Incl. ICT development, Board & staff recruitment)</i>	550	1,200
HM Revenue and Customs – Staff and Non-Staff <i>(Incl. ICT development & project implementation)</i>	2,500	2,970
Natural Resources Wales – Staff and Non-Staff <i>(Incl. ICT development & project implementation)</i>	100	180
Total	4,850	6,350

Estimated Annual Running Cost		
£k	Low	High
Welsh Revenue Authority – Staff <i>(Gross staff cost incl. salaries & overhead)</i>	1,400	1,800
Welsh Revenue Authority – Non-Staff <i>(Board, Audit, ICT, accommodation, etc)</i>	400	840
HM Revenue and Customs – Staff and Non-Staff <i>(LTT processing, ICT provision & Welsh Taxes Team)</i>	840	1,000
Natural Resources Wales – Staff and Non-Staff <i>(LDT Compliance & Enforcement Team)</i>	200	315
Total	2,840	3,955

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Dear Minister,

Management and Collection of Devolved Taxes

An essential part of the WLGA's vision is that local government should have maximum freedom and flexibility to control the resources needed to deliver services locally to communities. The tax raising powers which local government already possesses are a key feature of the resource landscape at the local level and are a key element in our vision for greater local control of resources.

The WLGA would argue that in the new tax management environment, local democratic responsibility for taxation remains a key feature. Just as there is recognition in the consultation proposals that the new devolved taxes should be brought together, there must equally be recognition of the link between nationally devolved taxes and their administration with the management and control of local taxation. Gerry Holtham's recent paper to the Institute of Welsh Affairs¹ recognised the strategic links between locally collected property taxes, newly devolved taxes and taxes that have the potential to be devolved.

The WLGA has welcomed invitations already made to participate in the Tax Advisory Group and our officers are contributing constructively in other fora. We believe that there is a need for Local Government to have a close relationship with the WRA and a means for high level and meaningful interaction with the new body.

Local authorities in Wales are best placed to collect and manage devolved taxes. They already have systems in place to undertake the management and collection of taxes and/or sundry debtor accounts. Local authorities have experienced staff with relevant qualifications from the Institute of Revenues Rating and Valuation (IRRV) who have practical experience in all aspects of collection, minimisation of tax

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¹ IWA Senedd Paper 2: Taxation in Wales, Spring 2014 (<http://www.iwa.org.uk/en/publications/view/233>)

avoidance, revenue leakage and managing outstanding debt. Experienced staff would ensure a smooth transition and utilising existing systems would keep costs to a minimum.

The track record of local authorities in Wales in collecting taxes and income due is good. Collection rates for council tax are at historic highs. Compared to unitary authorities in England and Scotland collection rates here are higher. Outstanding debt is falling and revenues practitioners are constantly striving to improve their service.

Unfortunately, there are a number of factors that mitigate against local authorities putting forward a proposal to undertake the management and collection of Welsh devolved taxes at the current time:

- The future shape of local government is not yet determined, but the transition process will encompass April 2018 when the Welsh devolved taxes become operational. The degree of uncertainty means that it is extremely difficult for individual authorities to commit to new responsibilities from 2018;
- Timescales have not allowed for the development of a sufficiently robust proposal with all of the consultation that this would require. Councils are currently focused on achieving balanced budgets for 2015-16 and implementing savings plans. The level and scale of cuts that need to be addressed means that there is not the capacity at the senior level required to give this proposition the serious consideration needed within the timescales available;
- A detailed process map needs to be developed which sets out all the steps involved, what can be provided within current systems and what needs to be developed separately;
- Discussions need to take place at an all-Wales level at both political and officer fora to agree whether one or more authorities should seek to provide these services, and which authority(ies) this should be;
- Further work would be required with the authority(ies) to discuss the details of how this might work and to provide robust estimates of the potential costs involved.

It is my understanding that you intend to review the arrangements to collect and manage Welsh devolved taxes after some three to five years of operation, which is a more opportune time for local government to put forward a firm proposal for the provision of these services. This will allow time between now and the review for the detailed planning required for provision of the management and collection of Welsh devolved taxes within local government, and also for the future shape of local authorities to be more certain.

I would emphasise that Local Government wishes to continue working closely with Welsh Government both to share our tax expertise and also to maximise opportunities to allow business intelligence and information to be routinely shared, to ensure that yield is maximised and that the cost of collection is minimised.

Yours sincerely,



Cllr Aaron Shotton
WLGA Finance Spokesperson