

Committee Clerk
Finance Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

Delivered by email to:
seneddfinance@assembly.wales

08 September 2015
Our ref: WJID/SJJ/MC

Dear Sir

Consultation on the Tax Collection and Management (Wales) Bill

We refer to the draft guidance and legislation introduced on 13 July 2015 and entitled "Tax Collection and Management (Wales) Bill". We welcome the opportunity to comment. Our comments below are designed to assist the National Assembly for Wales achieve the implementation of the Bill in a clear and simple way with the minimum of incremental administration.

The main powers

In our view, the framework from Part 3 of the draft Bill onwards concerning enquiries, investigatory powers, penalties etc. appears to be based on current UK legislation concerning self-assessment taxes (such as corporation tax) and we believe is a sufficient framework in respect of operation of the Land Transactions Tax in Wales. However, we do not believe that the broad nature of the legislation is sufficient with regards to Landfill Tax. It is our view that further legislation would be required, mirroring the provisions of the current UK Landfill Tax legislation, to ensure that the Welsh Revenue Authority ("WRA") can manage the collection of Landfill Tax in Wales.

The legislation appears to be drafted broadly in order to incorporate further taxes, which may be devolved to Wales at a later date, e.g. corporation tax and income tax. This seems to us to be a sensible approach.

Secondary v. Primary legislation

As a policy matter, we believe secondary legislation should be used for administrative matters only. The

draft Bill sets out regulatory powers in three areas which belong, in our view, in primary legislation:

- Power to amend the conditions under which protected taxpayer information is disclosed (clause 17(2))
- Power to amend provisions relating to what are to be classed as appealable decisions (clause 170(7)) and
- Power to confer further investigative, detention and seizure powers (clause 183(1)(2)).

Time To Pay (“TTP”) arrangements and financial hardship

We support HMRC’s TTP initiative, which allows financially viable customers who cannot pay their tax on the due date to make payment(s) over a period that they can afford. Arrangements are tailored (based on objective criteria) to the ability of the customer to pay, and allow HMRC to collect more tax in a more cost-effective manner. We strongly recommend that consideration is given to including similar arrangements in the Bill.

Other

We have included additional points of detail regarding the draft legislation and explanatory notes which require consideration at Appendix 1.

If you would like to discuss any of these points further please do not hesitate to contact the undersigned or Wayne Harvey (wharvey@deloitte.co.uk).

Yours faithfully



WJI Dodwell
Deloitte LLP
Enc

Appendix – points of detail regarding the draft guidance and legislation

There are a handful of aspects of the draft legislation that we suggest could be made clearer, and these are set out below:

- Clause 5 - Terms of non-executive membership does not require any of the non-executive members to have a minimum level of tax knowledge or expertise. We believe that the WRA would benefit from members of the board having representation from experienced tax professionals.
- It is not clear from Clause 11 as to who will carry out the functions of the WRA; confirmation should be given as to the split of functions between the executive and non-executive members (to the extent that non-executive members have explicit functions)
- In considering the delegation of the functions of the WRA, Clause 13(1) does not provide any restrictions on whom these functions may be delegated to. There are restrictions in Clause 3 as to who can become a member of the WRA but there appears to be no restriction on who can carry its functions by way of delegation. We would have expected that minimum requirements might be specified.
- The Welsh Ministers are required to approve payments to committee (or sub-committee) members for their services as Clause 7(3); however no such approval appears to be required in respect of payments for delegated functions at Clause 13(7). It is recommended that clarification be given as to with whom this authority rests.
- The WRA is required to produce a Tax Statement providing the amount of money collected by it during the financial year. We believe that further clarification should be given as to the information to be presented in the Tax Statement. It would be useful to the stakeholders of the Tax Statement for this to include *inter alia* breakdowns of the amounts collected by tax, the sector in which the tax payer operates and months of collection.
- HMRC currently require the majority of tax payments to be made electronically. If it is the intention of the WRA to collect taxes in this manner then this should be set out in the legislation.
- In the Explanatory Notes, paragraph 115 refers to clause 101(1) when discussing the protection of communication with tax advisors. The reference here should be to clause 100(1).