



WALES AUDIT OFFICE
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Reference	1026.mju.summers
Date	26 October 2015
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Dear Tanwen,

Tax Collection and Management (Wales) Bill – scrutiny by the Finance Committee

When I appeared alongside the Auditor General before the Finance Committee earlier this month to give oral evidence to support its scrutiny of the Tax Collection and Management (Wales) Bill, members asked me about the audit arrangements in Scotland [paras 284-287 of the 15 October meeting transcript refer].

I have since checked the position in respect of the Memorandum of Understanding (MoU) between the Comptroller & Auditor General and the Auditor General of Scotland regarding the audit of the Scottish rate of income tax, and I am pleased to enclose a copy of that document for the Committee.

Please note that whilst the MoU still carries a 'draft' watermark, as it has not yet been physically signed, both the National Audit Office and Audit Scotland have confirmed to me that their respective staffs are already operating under the MoU arrangements.

I hope that this material is of assistance to the Committee's ongoing scrutiny of the Bill.

With best wishes,

MIKE USHER
Sector Lead – Health and Central Government

Enclosure: *'Memorandum of Understanding for co-operation between the C&AG and the AGW, on the audit of the Scottish rate of income tax'*

MEMORANDUM OF UNDERSTANDING

**For cooperation between the Comptroller and Auditor
General and the Auditor General for Scotland, on the audit
of the Scottish rate of income tax**

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Introduction

1. The Scotland Act 1998 (“the 1998 Act”), as amended by the Scotland Act 2012 (“the 2012 Act”), gives the Scottish Parliament the power to set a Scottish rate of income tax (SRIT) for Scottish taxpayers (as defined in a new section 80D of the 1998 Act). SRIT will commence from a date to be set by the UK Government, expected to be April 2016. It will be administered by HM Revenue and Customs (HMRC) as part of the UK-wide income tax system and applied to non-savings income. The Scottish Parliament will be able to set a rate of SRIT from zero to any number of pence or half-pence in the pound. This rate will be added to each of the main UK rate bands after ten pence in the pound has been deducted from each rate.
2. An amount equal to ten pence of each rate will be deducted from the Scottish Block grant whether the Scottish Parliament sets a rate or not and replaced by the amount received through SRIT will be included in the overall Scottish Block grant for each year based on estimated figures, with a reconciliation to actual amounts raised taking place twelve months after the end of the year
3. The Command Paper which accompanied the draft 2012 Act, entitled *Strengthening Scotland’s Future*¹, outlined the arrangements that the UK Government proposed to put in place to ensure accountability in relation to HMRC implementing and operating the SRIT:
 - The UK Government will invite the Comptroller and Auditor General (C&AG), as head of the National Audit Office (NAO), to prepare a report to the Scottish Parliament on HMRC’s administration of the SRIT.
 - The Scottish Parliament will receive a report from HMRC on the administration of the Scottish income tax receipts;
 - Scottish Parliamentary Committees will be able to request HMRC’s Accounting Officers to give evidence.
 - An HMRC Additional Accounting Officer will be made specifically accountable for the collection of the SRIT.
 - The UK Government will also inform Scottish Ministers in writing of HMRC Commissioner appointments.
4. The UK Finance Act 2014 places a duty on the C&AG, as the statutory external auditor of HMRC, to prepare a report on the administration of the SRIT for each financial year, to be laid before the Scottish Parliament not later than 31 January of the financial year following that to which the report relates.
5. HMRC is governed by the Commissioners for Revenue and Customs Act 2005 which prohibits disclosure of HMRC’s information except under specific circumstances. Audit Scotland is not HMRC’s auditor, nor does it have any statutory right of access to HMRC information.

¹ Command Paper CM 7973 November 2010

<https://www.gov.uk/government/publications/strengthening-scotland-s-future-hm-command-paper>

6. The C&AG and the Auditor General for Scotland have confirmed to the Public Audit Committee of the Scottish Parliament that they are happy to work together to ensure that the Parliament receives appropriate reports on the operation of the SRIT.
7. This Memorandum of Understanding describes our respective powers and responsibilities and sets out a framework for collaborative working. This framework is designed to optimise the skills and experience involved in audits, reviews or investigations, avoid duplication of effort and ensure that the Scottish Parliament receives the assurance it requires about the implementation and operation of the SRIT.

Statutory role of the Comptroller and Auditor General and the NAO

8. The National Audit Office (NAO) scrutinises public spending on behalf of the UK Parliament and its audit of central government has two main aims. By reporting the results of audits to the UK Parliament, it holds government departments and bodies to account for the way they use public money, thereby safeguarding the interests of taxpayers. In addition, its work aims to help public service managers improve performance and service delivery.
9. The audit and inspection rights are vested in the head of the National Audit Office, the Comptroller and Auditor General (C&AG). The NAO undertakes these tasks on his behalf.
10. The C&AG is an Officer of the House of Commons. Both he and the NAO are totally independent of government and are not subject to the control or direction of the UK Government or Parliament.
11. There are a number of Acts of Parliament that give the C&AG the right to audit, or examine the receipt of revenue of, HMRC:
 - The Exchequer and Audit Departments Act 1921 provides that the C&AG audits the revenues collected by HMRC, as accounted for in HMRC's Trust Statement (as directed by HM Treasury) and to examine these "*to ascertain that adequate regulations and procedure have been framed to secure an effective check on the assessment, collection, and proper allocation of revenue*" and to satisfy himself that any such regulations and proceedings are being duly carried out, and as to the correctness of sums brought to account in respect of revenue. This examination takes the form of a separate report (the Standard Report) by the C&AG on HMRC's Annual Accounts;
 - The Government Resource and Accounts Act 2000 provides that the C&AG audits the departmental accounts produced by UK central government departments, including those produced by HMRC; and
 - The National Audit Act 1983 allows the C&AG to undertake examinations into the economy, efficiency and effectiveness of how certain bodies, including HMRC, have used their resources in discharging their functions.

12. Subject to certain constraints, the C&AG has complete discretion in the carrying out of the functions of that office including what is reported to Parliament.
13. The Scotland Act 2012 makes no changes to the way the C&AG and the NAO undertakes their existing roles in respect of HMRC.
14. From 2014-15, under section 80HA of the Scotland Act 1998 (inserted by section 297 of the Finance Act 2014), the C&AG is required to report to the Scottish Parliament on:
 - the adequacy of any of HMRC's regulations and procedures relating to the Scottish rate provisions;
 - whether these rules and procedures are being complied with;
 - the correctness of the sums brought to account by HMRC which relate to SRIT; and
 - the accuracy and fairness of the administrative expenses reimbursed to HMRC.
15. The C&AG may also include in the report an assessment of the economy, efficiency and effectiveness with which HMRC has used its resources in carrying out relevant functions.
16. It is currently envisaged that HMRC will report the revenue collected under the SRIT in notes to the Trust Statement. Costs associated with its collection will be shown in HMRC's Resource Account. HMRC will use these notes to compile a specific report to the Scottish Parliament.
17. The C&AG is required to report to the Scottish Parliament on these activities, and assurances over these figures, from 2014-15. The report must be laid before the Scottish Parliament by 31 January of the financial year following the one to which the report relates. The C&AG might also exercise his rights under the National Audit Act 1983 to report to the UK Parliament on these activities.

Statutory roles of the Auditor General for Scotland and Audit Scotland

18. Under the Scotland Act 1998, the Auditor General for Scotland (AGS) and those who exercise functions on her behalf are not subject to the control or direction of any member of the Scottish Government or the Scottish Parliament. She is responsible for ensuring propriety and value for money in the spending of public funds. She investigates whether public bodies are achieving the best possible value for money and adhering to the highest standards of financial management.
19. Scottish Ministers, the Lord Advocate and every other person to whom sums are paid out of the Consolidated Fund in a financial year must prepare accounts of their expenditure and receipts for that year to be audited by the AGS. The AGS is responsible for securing the audit of the Scottish Government and most other public bodies in Scotland except local authorities. Annual financial audit reports are produced for all of the public bodies that the AGS is responsible for auditing.

20. Section 23 of the Public Finance and Accountability (Scotland) Act 2000 (the 2000 Act) gives the AGS specific powers to examine the economy, efficiency and effectiveness with which resources are being used by specified public bodies.
21. The AGS is required to lay reports in Parliament which are then scrutinised by the Public Audit Committee (and which may also be considered by other relevant Committees).
22. Audit Scotland is a statutory body set up in April 2000 under the 2000 Act. It provides services to the AGS and the Accounts Commission. Audit Scotland provides independent assurance to the people of Scotland that public money is spent properly and provides value for money. It supports improvement in public services by holding to account those responsible for spending public funds.
23. The 2012 Act makes no changes to the role of the AGS or Audit Scotland.
24. The estimated receipts from the SRIT and any subsequent adjustments to reflect actual receipts will flow into the Scottish Consolidated Fund as an adjustment to the overall Scottish Block Grant. This is the first point at which the SRIT flows become subject to audit by the AGS.
25. As part of its audit of the Scottish Government, Audit Scotland will consider and, where appropriate, report on
 - The Scottish Government's governance arrangements for the development of SRIT;
 - Scottish Government arrangements to prepare information about the proposed Scottish rate;
 - Expenditure paid to HMRC for administrative costs incurred under Section 80H, through the audit of the Scottish Government; and
 - The assurance obtained from NAO on overall arrangements.
26. The Public Audit Committee of the Scottish Parliament has recommended that Audit Scotland should provide additional assurance on the NAO's audit of HMRC and to work with the NAO on the future priorities and focus of its work. This MOU sets out how these recommendations will be fulfilled.

A framework for collaborative working

27. The C&AG and the AGS are committed to ensuring that we deliver our audits, reviews and investigations efficiently and effectively. We have agreed the following arrangements for collaborative working. Specifically we are committed to:
 - Maintaining effective communication and liaison;
 - Sharing relevant information and respecting confidentiality of shared information; and
 - Sharing knowledge, skills, expertise and experience.

28. We will evolve approaches to sharing knowledge and expertise to build mutual confidence in the quality of our audit work. The NAO and Audit Scotland will meet regularly to ensure effective communication and information sharing between the two organisations.
29. As part of the framework to deliver assurance on the implementation and operation of SRIT, each year the NAO will discuss with Audit Scotland:
- their audit planning to ensure that attention is focused on the key risk areas of the audit, that potential problems are identified and resolved timeously and that the audit timetable will meet stakeholder requirements. This will include any plans for value for money work.
 - the NAO's approach to risk assessment undertaken at the start of the audit process. The process will enable the NAO to identify the key risk areas and control systems and develop an audit approach designed to address these risks in the most efficient manner.
 - their application of the concept of materiality to the audit of SRIT. Materiality is concerned with the extent to which auditors can tolerate error and is relevant for determining which account areas are significant from an audit perspective and the nature, timing and extent of audit procedures required. Materiality has both quantitative and qualitative factors; however, the final assessment of what is material is a matter of professional judgement.
 - the NAO's testing strategy to deliver appropriate assurance that the control systems are operating as intended.
 - the NAO's testing strategy for the financial and other information included in the HMRC report.
 - the findings arising from the audit.
 - the draft report on the audit.
30. The first NAO audit report to be prepared under the 2012 Act will cover the financial year ending 31 March 2015 and will have to be published by January 2016 at the latest. The AGS will report on the same period and that report will:
- summarise the extent and nature of work performed by Audit Scotland in relation to NAO's audit on the SRIT.
 - provide views and comments on the reasonableness of NAO's audit approach, findings and conclusions.
 - highlight any specific aspects of NAO's findings or conclusions that are considered pertinent from a Scottish perspective.

Resolving disagreements

31. The C&AG and AGS are committed to working together in an environment of professional respect and promoting a culture of openness. This approach should minimise the risk of disagreements. Any disagreements will normally be resolved at a working level between the individuals involved. If this is not possible, it will be referred upwards through normal management reporting channels until resolution is achieved. Ultimately a disagreement may be referred to the C&AG and the AGS who will be responsible for ensuring a mutually satisfactory resolution.

Reviewing the Memorandum of Understanding

32. We will formally review this Memorandum at least every three years, or when there are relevant changes to legislation, to ensure both organisations are working within our agreed framework, and consider whether the arrangements needs to be revised to meet changing circumstances.

DRAFT

Signed

Date

Comptroller and Auditor General

Signed

Date

Auditor General for Scotland

Appendix 1: EXTRACT FROM THE UK FINANCE ACT 2014

290 Report on administration of the Scottish rate of income tax

(1) In Chapter 2 of Part 4A of the Scotland Act 1998, after section 80H insert—

“80HA Report by the Comptroller and Auditor General

(1) The Comptroller and Auditor General must for each financial year prepare a report on the matters set out in subsection (2).

(2) Those matters are—

(a) the adequacy of any of HMRC’s rules and procedures put in place, in consequence of the Scottish rate provisions, for the purpose of ensuring the proper assessment and collection of

income tax charged at rates determined under those provisions,

(b) whether the rules and procedures described in paragraph (a) are being complied with,

(c) the correctness of the sums brought to account by HMRC which relate to income tax which is attributable to a Scottish rate resolution, and

(d) the accuracy and fairness of the amounts which are reimbursed to HMRC under section 80H (having been identified by it as administrative expenses incurred as a result of the charging of income tax as mentioned in paragraph (a)).

(3) The “Scottish rate provisions” are—

(a) any provision made by or under this Chapter, and

(b) any provision made by or under the Income Tax Acts relating to the Scottish basic rate, the Scottish higher rate or the Scottish additional rate.

(4) A report under this section may also include an assessment of the economy, efficiency and effectiveness with which HMRC has used its resources in carrying out relevant functions.

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(5) “Relevant functions” are functions of HMRC in the performance of which HMRC incurs administrative expenses which are reimbursed to HMRC under section 80H (having been identified by it as administrative expenses incurred as a result of the charging of income tax as mentioned in subsection (2)(a)).

(6) HMRC must give the Comptroller and Auditor General such information as the Comptroller and Auditor General may reasonably require for the purposes of preparing a report under this section.

(7) A report prepared under this section must be laid before the Scottish Parliament not later than 31 January of the financial year following that to which the report relates.

(8) In this section “HMRC” means Her Majesty’s Revenue and Customs.”

(2) The amendment made by this section has effect in relation to the financial year ending on 31 March 2015 and subsequent financial years.