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Ref: WTC

8 March 2021

██████████
Welsh Treasury

Via email: ██████████

Dear ██████████

The fifth Welsh Parliament

The Chartered Institute of Taxation and its Low Incomes Tax Reform Group are pleased to offer some observations on the current Welsh Parliament term from the perspective of the devolved taxes.

The fifth term marks a pivotal stage in the devolution of taxes in Wales with the implementation of Land Transaction Tax (LTT), Landfill Disposals Tax (LDT) and the Welsh Rates of Income Tax (WRIT). We note the statutory requirement for an independent review of LTT and for LDT. The joint CIOT, IFS and IfG report '[Better Budgets: making tax policy better](#)' promotes the value of post-legislative review and data led evaluation. In our view, rigorous post-legislative review is essential to evaluate whether the legislation is working consistently with the Welsh government's tax principles and particularly to assess the efficacy of reliefs – whether they meet their policy objectives and provide value for money.

We make the following further observations.

Tax policy objectives

The Welsh government's tax principles provide a clear framework. We think stating clear objectives in this way is a highly beneficial approach in terms of coherence of policy development across government and to facilitate effective evaluation.

A more refined understanding of the policy objectives may be needed for specific measures. In relation to the introduction of the higher rates for LTT for example, it is not entirely clear whether the policy intent is to deter the purchase of additional residential properties (so that in fact lower revenue attributable to higher rates in Wales would

represent a fulfilment of the policy) or to raise revenue which may be applied to building good quality, affordable housing or a combination of both. The same point is relevant to the 2020-21 Budget announcing the increase of one percentage point for the higher rates. The recent statement by the Minister for Housing and Local Government¹ points to both aspects.

Consultation

The development and successful implementation of LTT and LDT was the culmination of extensive informal and formal consultation. We commend this consultative approach that continued throughout the term with

- the three Welsh Government's annual Welsh taxes conferences,
- the Welsh government's Tax Advisory Group and latterly the establishment of the permanent Tax Engagement Group to provide a permanent forum for organisations representing businesses, local government, and the third sector to discuss tax policy developments (with minutes published); and
- the comprehensive and transparent consultation 'Enabling changes to the Welsh Tax Acts'

Changes to the devolved taxes are to some extent driven by changes made by the UK government to the predecessor taxes as a consequence of the effect of such changes on the Welsh government's tax revenues through block grant adjustments. The need to make consequential changes at short notice is likely to restrict the Welsh government's ability to consult where changes are announced with little notice and an immediate adjustment is required to preserve revenue, as the Scottish experience demonstrated with the truncated process to introduce additional dwelling supplement from 1 April 2016 to match the UK's introduction of the SDLT higher rates.

Innovation

Effective consultation has enabled the Welsh government to adapt and innovate. While LTT was designed to achieve substantial consistency with SDLT and LTT, a key message from the consultation process, LTT design diverged from the SDLT regime in some respects to add greater certainty or, for example, to remove known anomalies or inconsistencies in the SDLT higher rates regime such as introducing the concept of transactions during an interim period² and introducing exceptions to the charge where the buyer already owns a major interest in the dwelling purchased, or in proceedings for divorce where a dwelling is owned by a person in consequence of a property adjustment order.

Following LTT implementation, changes were made to the SDLT higher rates in Finance Acts 2018 and 2019 to align SDLT with the LTT code. The development of the LTT regime has therefore both learnt from the experience of SDLT and, to some degree, driven positive changes to the SDLT regime. Devolution inevitably generates complexity for taxpayers operating across devolved jurisdictions under different tax regimes but it also drives prospective refinements to the tax codes that need to evolve with changing circumstances.

Threats to the tax base

The focus of the current term has been quite rightly on implementation and embedding the new taxes. However, raising revenue to fund public services requires the Welsh government to monitor threats to the tax base through evasion and avoidance. In the absence of a Disclosure of Tax Avoidance Schemes regime, awareness of potential losses is dependent on other strategies for assessing tax risk and from exchanges of information between HMRC and the Welsh Revenue Authority. We suggest consideration is given to providing appropriate mechanisms or routes for taxpayers and advisers to report awareness or concerns in relation to tax avoidance or evasion. The recent National

¹ <https://gov.wales/written-statement-second-homes-wales>

² LTTADT(W)A 2017 Sch 5 paras 9 and 18.

Audit Office report on the Administration of Welsh Income Tax 2019/20³ noted the recommendation of the Committee of Public Accounts that HMRC should consider the benefits and challenges of estimating a Welsh-specific tax gap, the difference between the amount of tax that should be paid and what is actually paid. We suggest a similar exercise for the devolved taxes, including business rates, would inform policy development and demonstrate whether existing mechanisms are sufficient to detect threats to the devolved tax base.

Mechanism for devolving powers for new Welsh taxes

During this term, one of the four new tax ideas, Vacant Land Tax, is being used by the Welsh government to test the mechanism for introducing new taxes. As a progressive process, it is important the framework for devolution of tax competence is effective and operates as intended as set out in the Command paper⁴ issued by the UK Government alongside the Wales Bill 2014. It is therefore disappointing that the sixth annual report by Welsh Ministers about the implementation and operation of Part 2 (Finance) of the Wales Act 2014⁵ concludes at paragraph 35:

It has become apparent there are serious flaws in the agreed process for devolution of further tax competence. As the process currently stands, it is difficult to envision a scenario whereby the Welsh Government could successfully make the case for further tax competence. The process needs urgent review and reform.

Devolution is a progressive process. Without an effective and timely mechanism for devolving existing taxes or powers for new Welsh taxes, policy levers to raise additional revenue, address policy issues and/or affect behaviours in accordance with the Welsh government's tax principles will be restricted or curtailed with tax changes following only several years after the issue tax policy is trying to address.

Covid-19

In response to the COVID-19 pandemic and in line with similar temporary measures for SDLT and LBTT, the rates and bands for the main rates of LTT were reduced for the period 27 July 2020 to 31 March 2021 with a further extension, as recently announced, for transactions that have an effective date on or before 30 June 2021. The pandemic has highlighted the need for pro-active cooperation, both at civil servant and ministerial level, between the Welsh and UK governments to ensure the devolved taxes operate effectively. In particular, it would be sensible, and improve the policy-making process, for the devolved governments to receive forewarning of changes (through confidential channels) to predecessor taxes. Since implementing tax changes is a difficult process, proactive co-operation is necessary to enable the devolved governments to run their tax systems effectively, in the spirit of devolution and in the interests of the wider UK economy.

Welsh rates of income tax

We are concerned that awareness and understanding of the WRIT by the public in Wales remains low despite considerable efforts to engage the public. Low levels of understanding in relation to the tax system are a national not just a devolved taxes issue. We commend the Welsh government's approach of promoting a positive case for taxation by illustrating the link between taxes and spend on public services. Realistically it is however challenging to generate interest when rates are aligned so the practical effect for most Welsh taxpayers is limited to the PAYE C code. For the future we suggest Welsh-specific research is needed to establish Welsh taxpayer attitudes to paying more or less tax and to explore possible behavioural effects of tax changes. In terms of awareness it is possible the pandemic has

³ https://www.nao.org.uk/report/administration-of-welsh-income-tax-2019-20/?utm_campaign=administration-of-welsh-income-tax-2019-20&utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=

⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/294470/Wales_Bill_Command_Paper_-_English.pdf

⁵ <https://gov.wales/wales-act-2014-part-2-finance-annual-report-2020>

highlighted the Welsh government's ability to respond in ways that differ from the Westminster government as a result of devolution which may in turn lead to greater awareness of the devolved tax powers.

Charter

The Tax Collection and Management (Wales) Act 2016 set out the statutory requirement⁶ for the Welsh Revenue Authority to prepare a charter of standards of service, behaviour and values to which the WRA is expected to adhere. Following extensive and responsive consultation the Charter was published on 29 March 2018. We recognise the WRA's commitment to embedding the Charter however we think consideration should be given to making the Charter more evident and accessible on the WRA website and in wider communications, for example the Charter is not mentioned on the WRA website home page or on the main list of guidance and forms pages, and there is no link to the Charter on the [complaints page](#) (the latter page is also quite difficult to find).

We hope these reflections are helpful.

Yours sincerely

Lakshmi Narain, Welsh Technical Committee

The Chartered Institute of Taxation

The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

Our stated objectives for the tax system include:

- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
- Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
- Greater certainty, so businesses and individuals can plan ahead with confidence.
- A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
- Responsive and competent tax administration, with a minimum of bureaucracy.

The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

⁶ Tax Collection and Management (Wales) Act 2016 section 26.

The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.

Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

The Low Incomes Tax Reform Group

The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998, LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes. Everything we do is aimed at improving the tax and benefits experience of low-income workers, pensioners, migrants, students, disabled people and carers.

LITRG works extensively with HM Revenue & Customs (HMRC) and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often the tax and related welfare laws and administrative systems are not designed with the low-income user in mind and this often makes life difficult for those we try to help.