



**Consultation on an inquiry into the Tax Collection and Management (Wales) Bill  
Response from the Low Incomes Tax Reform Group (LITRG)**

**1 Executive Summary**

- 1.1 We are pleased that the Tax Collection and Management (Wales) Bill contains provision for the introduction of a Taxpayers' Charter. The Bill signifies that the Charter should clearly state the standards of behaviour and values that the Welsh Revenue Authority (WRA) will use when interacting with Welsh taxpayers and vice versa. The WRA must ensure that the Charter is publicised upon the devolution of Land Transaction Tax and Landfill Disposals Tax.
- 1.2 The functions of the WRA are wide-ranging which is to be expected as it is not yet known how the devolution of Welsh taxes will unfold over time. For the Welsh Government and Welsh taxpayers to have confidence in a new tax authority it is essential that there is sufficient funding in place to enable the WRA to work effectively, efficiently and build up a good and trusting relationship with the National Assembly and the general public.
- 1.3 Any 'digital by default' approach must have proper regards to the needs of those who are unable to use computers or access the internet.
- 1.4 WRA guidance must be written with the unrepresented taxpayer in mind as its audience. Taxpayers must be able to rely on the guidance provided they have followed it in good faith.

## **2 About Us**

- 2.1 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.
- 2.2 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.
- 2.3 The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

## **3 Introduction**

- 3.1 We welcome this opportunity to respond to the Finance Committee's consultation into the general principles of the Tax Collection and Management (Wales) Bill. It is important that the legislation contains the fundamental principles on how tax should be collected and managed in Wales even though it has yet to be decided which taxes will be devolved alongside Land Transaction Tax and Landfill Disposals Tax. We understand that there will be separate consultations regarding the legislation and guidance on penalties for the two new devolved taxes.
- 3.2 As explained in 2.1 above, LITRG primarily focuses on income tax and although that is currently not being devolved to Wales, we understand that the framework for the collection and management of devolved taxes may include income tax if this is devolved in the future. Therefore our comments on the principles of the Tax Collection and Management (Wales) Bill focus on developing a tax system which will be fit for purpose if income tax is devolved. Consequently our response primarily focuses on the formation and role of the WRA.
- 3.3 LITRG is an initiative of the CIOT; we support the CIOT's separate submission. Our response focuses on points of concern that have direct relevance for the low-income taxpayer.
- 3.4 We are pleased that the Welsh Government has recognised and agreed 'that where there is no good policy reason (for example, on the grounds of a focus on Welsh needs or efficiency)

to diverge from the UK tax administration, Welsh tax collection and management arrangements should replicate current UK operational processes and arrangements'.<sup>1</sup> This should minimise any changes and result in a more consistent approach for taxpayers who will be using both the Welsh and UK tax systems.

#### **4 Part 2 – The Welsh Revenue Authority**

- 4.1 We are pleased that staff who will be appointed to the WRA will be independent from the National Assembly, Government and Local Authorities. The WRA should be held accountable for its performance by the Welsh Government and therefore there should be no conflicts or perceived conflicts of interest. We support the decision that the WRA has power to set up non-voting committees which will enable them to receive advice and support from experts in particular areas of tax; this is imperative as it is unknown how Welsh taxes will develop in the future.
- 4.2 The functions of the WRA are wide-ranging and include providing ministers and taxpayers with information and advice, resolving complaints and disputes and promoting compliance with the tax system. For the WRA to be effective and achieve these objectives there needs to be sufficient resources and funding in place. It is good that the Bill provides flexibility to enable Welsh Ministers to provide appropriate funding for the WRA so that it can carry out its functions.<sup>2</sup> We consider that funding should be monitored on a regular basis as if there is insufficient funding this could potentially result in taxpayers losing confidence with the new system which may lead to less compliance, placing additional burdens on the WRA and possibly affecting any decisions to devolve further taxes in the future.
- 4.3 We understand the reasons for the WRA delegating some of the collection and management tax processes for Land Transaction Tax and Landfill Disposal Tax. We have raised concerns in our previous responses<sup>3</sup> regarding delegation and we are pleased that the Tax Collection and Management (Wales) Bill addresses most of these concerns by stating that the WRA has

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<sup>1</sup> Paragraph 23 of Explanatory Memorandum – Tax Collection and Management (Wales) Bill:  
<http://www.assembly.wales/laid%20documents/pri-ld10293-em/pri-ld10293-em-e.pdf>

<sup>2</sup> Tax Collection and Management (Wales) Bill, Part 2 section 22:  
<http://www.assembly.wales/laid%20documents/pri-ld10293/pri-ld10293-e.pdf>

<sup>3</sup> See LITRG responses at:  
<http://www.litrg.org.uk/Resources/LITRG/Documents/2014/12/141210%20LITRG%20response%20Collection%20and%20management%20of%20devolved%20taxes%20in%20Wales%20FINAL.pdf> and  
[http://www.litrg.org.uk/Resources/LITRG/Documents/2015/04/150423\\_LITRG%20Inquiry%20into%20the%20collection%20of%20devolved%20taxes%20FINAL.pdf](http://www.litrg.org.uk/Resources/LITRG/Documents/2015/04/150423_LITRG%20Inquiry%20into%20the%20collection%20of%20devolved%20taxes%20FINAL.pdf)

ultimate responsibility for any delegated processes,<sup>1</sup> that the delegated body must comply with the WRA's functions, that the delegation agreements may be varied and revoked at any time and that the WRA must publish information regarding these delegated processes. One concern we have raised which has not been addressed by the Bill or the Explanatory Memorandum is confirmation that any organisations performing collection of taxes will not be remunerated on a 'payment by results' basis. We would recommend that any organisation responsible for tax debt collection is paid independently of the amount they are able to collect.

4.4 One area we consider to be fundamental to the introduction of a new devolved tax system is a Taxpayers' Charter, as this should provide guidance and protection to unrepresented and vulnerable taxpayers. It is heartening to see that the Tax Collection and Management (Wales) Bill requires the WRA to produce a Charter, which must include standards of behaviour and values to which the WRA will aspire when dealing with taxpayers and also what is expected from devolved taxpayers when they deal with the WRA. LITRG would like to be involved in any future consultations which will address the format and wording of this new Charter. We agree with the Bill that the Charter should be reviewed and revised where necessary and that monitoring the WRA's standards of behaviour will be included as part of their Annual Report. We think it is important that the Charter is ready and its purpose publicised before 1 April 2018 as the Charter will only be effective and of value if devolved taxpayers are aware of it. The WRA must be provided with adequate funding to promote and embed the Taxpayers' Charter in due course.

4.5 The Tax Collection and Management (Wales) Bill explains how the WRA will be accountable to Welsh Ministers through the submission of a corporate plan for approval and Annual Reports. This level of public disclosure and accountability is reassuring but for it to work most effectively the Annual Reports must be prepared and published within a fairly short length of time, to enable any changes in processes to occur as soon as possible. The Bill refers to preparing the report 'as soon as it is reasonably practicable',<sup>2</sup> however as there is no definition of what is 'reasonably practicable' we recommend that a time limit of four months after the accounting year end is also included within the legislation to ensure that there are no lengthy delays.

## **5 Digital by default approach**

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<sup>1</sup> Tax Collection and Management (Wales) Bill Part 2, Section 13 Paragraph 6b:  
<http://www.assembly.wales/laid%20documents/pri-ld10293/pri-ld10293-e.pdf>

<sup>2</sup> Tax Collection and Management (Wales) Bill Part 2, Section 27 Paragraph 1:  
<http://www.assembly.wales/laid%20documents/pri-ld10293/pri-ld10293-e.pdf>

- 5.1 The Explanatory Memorandum mentions that it is probable that a ‘digital by default’ approach will be taken and that this could be seriously problematic for disadvantaged groups such as people with visual impairments or devolved taxpayers living in rural areas with poor internet connections. We would strongly recommend that other options are made available rather than just a ‘one size fits all’ approach using only digital payment and filing methods. This should then mean that the tax collection systems are fairer to all devolved taxpayers and would follow the principles set out by the Finance Minister which stated that the tax system ‘be fair to businesses and individuals who pay them’. LITRG were involved in the *LH Bishop & Others v HMRC* [2013] UKFTT 522 (TC)<sup>1</sup> case which established that while HMRC have a right to mandate the format of returns, in doing so they have to have regard to individuals’ human rights and similar principles.

## 6 Welsh Revenue Authority guidance

- 6.1 WRA guidance will always be required in respect of all taxes and management of taxes. For the unrepresented taxpayer, WRA guidance will explain the tax system and the approach of WRA— they are unlikely to read the legislation behind the guidance. It is essential that WRA guidance is written with the unrepresented taxpayer in mind as its audience. The guidance must be written in plain language; while it must be easy to understand, it must not simplify the law to such an extent that is misleading or incorrect. Taxpayers should be able to rely on WRA guidance, provided they have acted in good faith. Access to guidance is also of prime importance. Not all taxpayers will be able to access guidance on the WRA website. It is essential that WRA considers properly how to ensure that unrepresented and digitally excluded taxpayers in particular can obtain WRA guidance easily.

LITRG  
24 August 2015

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<sup>1</sup> The case of *LH Bishop Electrical Ltd and Others v HMRC Commissioners* [2013] UKFTT 522 (TC): <http://www.bailii.org/uk/cases/UKFTT/TC/2013/TC02910.html#7>