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Jocelyn Davies AM
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National Assembly for Wales

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Dear Chair,

Thank you for your letter of 7 October and for inviting HMRC to give evidence to the Finance Committee earlier this month.

Before responding to the points you raised, I would like to correct a point I made when giving evidence to the Committee. During the hearing, I stated that HMRC did not have a legal requirement to have a charter – in fact, there is a legal requirement. This is found in section 16A of the Commissioners for Revenue and Customs Act 2005, as inserted by section 92 of the Finance Act 2009. This requires HMRC to have a charter which includes “standards of behaviour and values to which Her Majesty's Revenue and Customs will aspire when dealing with people in the exercise of their functions”. It also requires HMRC to review the charter regularly (publishing any updates) and to produce an annual report on its performance against the charter. I apologise for any confusion caused by my oversight.

At the hearing, we also agreed to provide further information on two specific points:

- the percentage of taxpayers that have access to a time-to-pay arrangement; and
- information relating to the provision of Welsh services available for online payments.

On the first point, all taxpayers who fall into debt potentially have access to time to pay arrangements. However, HMRC will only allow a customer to enter into a time to pay arrangement if they have the means to make the agreed payments and to pay other tax liabilities that become due during the time to pay period. Additionally, the time to pay period must be as short as possible (it would be exceptional for such an arrangement to last more than a year). In practice, at any point in time, HMRC would expect to have around 15% of its debt balance included in time to pay arrangements.

On the second point, a Welsh language facility for making online payments was introduced on 16 September 2015.

Accountability of the Welsh Revenue Authority

- Do you envisage any difficulty in the use of Welsh language forms and the provision of phone support and supplementary information in Welsh?

HMRC currently has a wide range of forms available in Welsh and has a Welsh language call centre for customers who prefer to contact us in Welsh – during 2014-15, HMRC dealt with approximately 700 email enquiries in Welsh, responded to around 18,500 calls to our Welsh helplines and dealt with approximately 37,500 letters and forms in Welsh. HMRC will work with the Welsh Government and Welsh Revenue Authority (WRA) to establish the requirements and costs for a Welsh language service in relation to the Land Transaction Tax (LTT) and this will clearly depend on the standards that are ultimately set for the WRA by the Welsh Language Commissioner.

Finances of the WRA and costs of the Bill

- What types of additional costs will HMRC incur when collecting Land Transactions Tax in Wales?

Changes will be required to HMRC's systems to implement the new tax, such as introducing different tax tables and reliefs and sharing LTT data with the WRA. Other costs that could

arise include staff time in processing returns, issuing penalties and pursuing debtors and work involved in carrying out compliance activity for the new tax. Any cost savings that HMRC incurs from no longer administering Stamp Duty Land Tax (SDLT) and Landfill Tax in Wales will be passed onto the Welsh Government.

- Do you intend to charge a fixed fee for collecting Welsh taxes, or a variable fee based on the volume of transactions?

As set out in the written evidence to the Committee, HMRC's initial intention is to adapt its existing SDLT system to operate the LTT and use the experienced staff working on SDLT in its Birmingham Stamps Office to carry out administration activities (for example, processing returns, following-up errors etc). HMRC additionally proposes to set up a specialist team to carry out compliance activities, which could be based in Wales, that would also liaise with the WRA and assist in building up their knowledge and expertise on devolved taxes.

In line with the Treasury Statement of Funding Policy, HMRC intend only to pass on the additional costs that arise as a result of this work, rather than charging a fixed fee. The precise arrangements for this will be governed by a Memorandum of Understanding to be agreed between the Welsh Government and HMRC (to 2018), and a partnership agreement with the Welsh Revenue Authority from then.

Where HMRC charges for its services, it does so (following HM Treasury policy) at the full cost of providing the service, seeking to make clear the breakdown of the calculation. Full cost is based on the average salary cost for the relevant grade plus per capita overheads such as superannuation, HR, accommodation and finance costs. Where costs are incurred under contract by third parties, including HMRC's IT supplier, these will be charged at cost.

Anti-avoidance, complex transactions and interaction with WRA

- Do you envisage that the HMRC Anti-Avoidance group will supply the WRA with information regarding tax planning structures notified to it that may involve land interests in Wales and which could have an implication on the amount of LTT?

The extent to which this will be necessary and practical will depend on the degree of similarity between the LTT and SDLT. If, for example, the taxes have comparable reliefs then an avoidance scheme for one tax is more likely to apply to the other. In this scenario, HMRC would anticipate alerting WRA to the issue. Similar arrangements have already been put in place for working with Revenue Scotland in their administration of the Land and Buildings Transaction Tax in Scotland. Clearly though if the LTT is radically different from SDLT there will be less of a role that HMRC can practically play here.

- On a similar note, if general tax planning that involves land interests in Wales is the subject of an enquiry, will details be supplied to the WRA as a matter of routine?

The Wales Act 2014 allows HMRC to share information with Welsh Ministers if this is for the purposes of the collection and management of a devolved tax. Given that SDLT and LTT are both transactional taxes, there is limited scope for general tax planning activities to have an impact, but the legislative gateway exists to allow this to happen.

- In relation to properties straddling the border, we appreciate that it is envisaged that a just and reasonable apportionment is to be made, however, what information would you expect to be supplied and enquiries undertaken as a matter of routine?

At the point when the return is made, HMRC would not anticipate requiring additional information to be supplied, although we think it is likely that the SDLT (and LTT) returns will need to include a box to indicate that the transaction is linked to one in another part of the UK.

In most cases, apportionment should be reasonably straightforward, although in some cases customers may need to obtain a specialist valuation. Just and reasonable apportionment is a well-established concept among professional advisers involved in land transactions. It is already required for SDLT, for example where the purchase price includes a non-chargeable amount for fixtures and fittings. Records showing the basis under which the apportionment was made would need to be retained.

- If complex technical issues are to be dealt with by the WRA, does HMRC envisage that it would need to disseminate guidance material and provide training for its own staff to deal with taxpayer enquiries to HMRC?

HMRC will work with the WRA to establish how the two organisations will work together on the provision of guidance and training material. HMRC anticipate that staff working on the LTT will need training on the new tax to ensure they are able to administer it effectively, irrespective of whether the material used is produced by WRA or HMRC.

Do let me know if you have any further questions in relation to these matters. HMRC looks forward to continuing to work with the Assembly, the Welsh Government and the WRA in implementing the LTT.

Yours sincerely,

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