

**National Assembly for Wales**  
Bill Summary

# Tax Collection and Management (Wales) Bill

September 2015

Cynulliad  
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Richard Bettley and Alys Thomas

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# Tax Collection and Management (Wales) Bill

## Introduction

**Date of introduction:** 13 July 2015

**Member in Charge:** Jane Hutt AM, Minister for Finance and Government Business

**Assembly Committee undertaking Stage 1 scrutiny of the Bill:** Finance Committee

**Stage 1 reporting deadline:** 27 November 2015

The Tax Collection and Management (Wales) Bill ('the Bill') was laid before the Assembly on 13 July 2015. The Bill was introduced in plenary by the Minister for Finance and Government Business, Jane Hutt on 14 July 2015. The Bill is the first in an anticipated series of three bills related to the devolution of the tax powers in the [Wales Act 2014](#). This Bill will be followed by tax specific legislation in the next Assembly establishing the two new Welsh taxes - Land Transaction Tax 'LTT' (which will replace Stamp Duty Land Tax) and Landfill Disposals Tax 'LDT'.

## 1. Background to the Bill

### *1.1. Devolution of tax powers*

The Wales Act 2014 will devolve control over Stamp Duty Land Tax and Landfill Tax to the Welsh Government – current expectations are that this will be from 1 April 2018. This followed recommendations made by the [Silk Commission](#). Although the same Act will also devolve an element of income tax to Wales, subject to a referendum, the UK Government will remain responsible for the wider income tax system and HMRC will collect the devolved Welsh element of income tax in Wales. The Tax Collection and Management (Wales) Bill therefore relates only to the collection and management of the two fully devolved taxes of Stamp Duty Landfill Tax (the replacement for which in Wales will be called Land Transaction Tax (“LTT”)) and Landfill Tax (“LDT”). The specific details of the proposed LTT and LDT will be contained in future legislation.

The Bill may also apply to any new Welsh taxes which are created in the future, although the [Wales Bill Command Paper](#) notes that these taxes would need to be agreed by Parliament. The Bevan Foundation announced in June 2015 that it would begin a nine month project to consider what [potential new taxes](#) could be introduced in Wales.

On the basis of HMRC data, the [Welsh Government Treasury function estimates](#) that Stamp Duty Land Tax has raised between £100 million and £236 million per year in Wales over recent years. Landfill Tax has been more stable at £50 million per year in Wales. This is around 1-2 per cent of the Welsh Government block grant of £15 billion, and the block grant will be reduced to reflect the scale of the devolved tax revenues. The main purpose of devolving an element of taxation to Wales is therefore not to raise extra income, but rather to improve accountability by linking a notional element of public spending to tax revenues.

### *1.2. Welsh Government consultations and decisions*

To accompany the September 2014 White Paper: [Collection and management of devolved taxes in Wales](#), the Welsh Government launched a consultation which closed in December 2014. Consultation responses are summarised in the Explanatory Memorandum and on the Welsh Government’s [website](#). There was broad support for:

- establishing a Welsh Revenue Authority (WRA) that would be operationally independent of the Welsh Ministers;
- the introduction of a Taxpayers’ Charter;
- the proposed core set of WRA duties;
- the proposed obligations on taxpayers; and,



- broad agreement that powers similar to those available to the UK tax authority would need to be made available to the WRA.

Issues which were raised in the White paper but are not in the Bill include:

- how to define and operate a General Anti-Abuse Rule 'GAAR' to limit opportunities for tax avoidance schemes. Of the two devolved taxes, this issue is of most relevance to Stamp Duty, and it is anticipated that Welsh Government will make a decision on their policy when that bill is introduced.
- Alternative Dispute Resolution 'ADR' mechanisms using a third party to help resolve a tax dispute. This is likely to be addressed in internal policies of the WRA.

On 30 June 2015 the Minister for Finance and Government Business [announced](#) that:

- HMRC are the preferred partner for collecting LTT on behalf of WRA;
- WRA will undertake the complex compliance, avoidance and enforcement work for LTT;
- WRA will collect LDT directly; and
- Natural Resources Wales (NRW) will deal with compliance and enforcement for WRA.

The Welsh Government has emphasised that the Tax Collection and Management Bill must be considered in the context of the two tax specific bills which will be introduced in the next Assembly. Two consultations on [LTT](#) and [LDT](#) closed in May 2015, although no responses have yet been released. Although these consultations explore various alternatives policies they do not include detailed proposals or costings.

## 2. Bill Summary

### 2.1. *Policy Objectives of the Bill*

The Explanatory Memorandum (EM) accompanying the Bill identifies the following policy objectives for the legislation:

- Provide a clear and strong governance framework in Wales that will support the efficient and effective collection and management of devolved Welsh taxes.
- Establish a corporate body (the Welsh Revenue Authority - WRA) that will have the responsibility for the collection and management of devolved taxes in Wales.
- Conferral of appropriate powers and duties on WRA (and taxpayers and others) in relation to the submission of tax returns and carrying out of enquiries and assessments.
- Civil investigation and enforcement powers.
- Duties on taxpayers to pay penalties and interest
- Rights for taxpayers to request internal reviews of certain WRA decisions or to make appeals through tribunals
- Criminal enforcement powers

### 2.2. *Part 2: The Welsh Revenue Authority*

Part 1 lists the contents of the Bill. Part 2 establishes the WRA, makes provision for its board membership, describes its main functions, defines how taxpayer information can be used, and allows the WRA to instigate court proceedings. The EM notes that there are a number of existing public organisations in Wales with Board structures. The exact size of the WRA board will be determined by the extent to which functions are delegated.

It does this by:

- (s2) Establishing a body corporate to be known as the Welsh Revenue Authority (or Awdurdod Cyllid Cymru), referred to as WRA in the Bill.
- (s3-6) Requiring non-executive members of the WRA appointed by the Welsh Ministers will be a chairperson and other 3-8 persons. There are certain restrictions on appointment and removal of members. The executive members will be the chief executive and 1-2 members of staff nominated by WRA.
- (s7-10) Allowing WRA to create its own committees and sub-committees, to pay committee members, and to agree its own procedures. WRA must appoint a Chief Executive.

- (s11-12) Defining particular functions of the WRA – providing information, advice and assistance on devolved taxes to Welsh Ministers, taxpayers and other persons; resolving complaints and disputes; promoting compliance with tax law and preventing tax evasion and avoidance.
- (s13-14) Allowing WRA to delegate any of its functions, and allowing Welsh Ministers to give general directions to WRA. The EM is clear that in the event of delegation the WRA will still retain legal responsibility for its functions.
- (s15-19) Requiring WRA to treat taxpayer information confidentially, to only disclose it in certain circumstances, and to make it an offence to wrongfully disclose information.
- (s20-21) Allowing WRA to undertake criminal and civil proceedings.
- (s22-24) Require Welsh Ministers to fund the WRA, allows WRA to pay rewards (not defined, but assumed to be to informants) in relation to its functions, and requires the WRA to pay receipts into the Welsh Consolidated Fund after deducting disbursements.
- (s25-34) Requiring WRA to produce a Charter of Standards and Values (also called ‘Taxpayers’ Charter in EM) for WRA and taxpayers, a 3 yearly corporate plan, an annual report, audited accounts and audited Tax Statement for approval by the Welsh Ministers, and to be laid before the Assembly.

### *2.3. Part 3: Tax returns, enquiries and assessments*

This Part creates powers for WRA to assess the level of devolved taxes to be paid by taxpayers, requires taxpayers to make returns, and allows WRA to determine taxes to be paid where no information is provided.

It does this by:

- (s36-37) Requiring taxpayers to keep and preserve records for certain periods.
- (s38-40) Allowing the taxpayer to amend tax returns, or the WRA to correct obvious errors.
- (s41-49) Allowing the WRA to ‘enquire’ into a tax return (i.e. ask questions to help identify the amount of tax and who is chargeable), to amend a tax return to make good any insufficiency, and for any question to be referred to the tribunal for a determination.
- (s50-51) Allowing WRA to make a ‘determination’ of the tax charge where no tax return is made, although this may be superseded if the person subsequently makes a tax return.
- (S52-59) Allowing WRA to make an assessment of the amount which ought to be charged to make good the loss of devolved tax where the original tax charge, relief claimed or tax repaid proves to be incorrect.

- (s60-65) Allowing a person to make a claim for relief in case of double assessment (paying the same tax twice) or over paid tax where the devolved tax should not have been chargeable. WRA may disallow claim for various reasons such as ‘unjustified enrichment’ where the cost of the overpaid tax has not been borne by the claimant.
- (s66-79) Requiring that claims for overpaid tax or double assessment are made according to the procedures in the Bill.

#### *2.4. Part 4: Investigatory Powers of WRA*

This Part provides WRA with the powers to access information and documents through five types of ‘information notices’, to inspect premises, and to remove or copy documents for the purpose of checking a taxpayer’s tax position.

It does this by:

- (s81-89) Requiring taxpayers and other persons to comply with a ‘taxpayer notice’, a ‘third party notice’ or an ‘unidentified third party notice’ issued by WRA to provide information or produce a document. The notices require the approval of the tribunal.
- (s90) Allowing WRA to issue an ‘identification notice’ to obtain information to enable a person’s identity to be ascertained. The notice requires the approval of the tribunal.
- (s91) Allowing WRA to issue a ‘debtor contact notice’ requiring a third party to provide contact details for another person who owes tax.
- (s92-100) Placing restrictions on when the above ‘information notices’ are issued, how they are complied with, and protecting certain types of records and communications.
- (s101-109) Allowing WRA to inspect premises and assets in various ways, and to measure and value other premises, subject to approval of the tribunal.
- (s110-111) Allowing WRA to make copies of and remove documents.
- (s112-114) Making it an offence to conceal or destroy documents following an information notice, or following notification that an information notice is likely to be produced. Additionally, there is no review or appeal of tribunal approvals for issuing information notices.

#### *2.5. Part 5: Penalties*

This Part provides WRA with powers to issue various penalties relating to devolved taxes. The EM is clear that the WRA will only be seeking similar civil penalty powers to those which currently apply in Wales through HMRC. It is anticipated that the majority of any enforcement action will be through a civil penalty regime.

It does this by:

- (s115-121) Making persons liable to various penalties for failure to make a tax return within certain time limits. This may be reduced by WRA if a person later discloses information.
- (s120-121) Making persons liable to a penalty for failure to pay tax by the agreed date, unless there is a deferral agreement.
- (s122-126) Requiring WRA to consider how penalties interact, whether to reduce penalties in special circumstances, to consider reasonable excuses for reducing penalties, and how penalties will be collected.
- (s127-140) Making persons liable to penalties for inaccuracies, and describing how WRA must apply this penalty scheme.
- (s141-143) Making persons liable to penalties relating to record-keeping, and describing how WRA must apply this penalty scheme.
- (s144-154) Making persons liable to penalties relating to investigations.

## *2.6. Part 6: Interest*

This Part provides for interest to be charged on amounts owing to and by WRA.

It does this by:

- (s155-161) Defining how interest will be charged on amounts owing to and by WRA, and allowing the Welsh Ministers to decide the rate.

## *2.7. Part 7: Payment and Enforcement*

This Part provides for WRA to recover payments due, and to recover these in magistrates' court.

It does this by:

- (s162-168) Defining payments due to WRA and allowing recovery and enforcement action by WRA.

## *2.8. Part 8: Reviews and appeals*

This Part provides for the establishment of reviews against decisions made by WRA, and for the making of appeals to tribunals. The EM notes that the existing Ministry of Justice tax tribunal system will be used to ensure simplicity, stability and certainty.

It does this by:

- (s169-170) Defining those decisions, referred to in the Bill as “appealable decisions” for which a person may request a review or make an appeal. Appealable decisions are decisions which affect whether a person is liable to a devolved tax, the amount of tax due and the day by which it is to be paid and decisions about penalties and the issuing of information notices.

- (s171-175) Requiring that a review is requested correctly, within time limits, and that WRA should carry out and communicate the review appropriately.
- (s176-79) Requiring that an appeal is requested correctly, and within time limits.
- (s180-182) Requiring any penalties subsequent to the review or appeal to be paid, and allowing WRA to enter into a 'settlement agreement' for appealable decisions.

## *2.9. Part 9: Investigation of criminal offences*

This Part provides for certain criminal investigation powers (which are already available to HMRC) to be extended to the WRA. The EM notes that there have only been a small number of criminal offences for the two devolved taxes in England and Wales in recent years. The Act will provide a consistent approach to criminal enforcement in Wales to provide clarity.

It does this by:

- (s183) Applying parts of the Police and Criminal Evidence Act 1984 and the Criminal Justice and Police Act 2001 to WRA, giving powers to detain persons, to use reasonable force, and to search persons, subject to relevant conditions.
- (s184) Applying parts of the Proceeds of Crime Act 2002 relating to compensation payable by the WRA.
- (s185) Applying parts of the Regulation of Investigatory Powers Act 2000 to WRA, relating to the granting of authorisations for surveillance and intelligence.

## *2.10. Part 10: Final Provisions*

This Part makes various provisions relating to amending the Act, issuing regulations under the Act and the definition of certain terms in the Act.

It does this by:

- (s186) Permitting Welsh Ministers to make consequential provisions or to amend the Act.
- (s187) Requiring any regulations under the Act to be approved by the National Assembly for Wales.
- (s188-189) Defining how the issuing of notices by WRA, and provision of documents to WRA, under the Act will occur.
- (s190-193) Defines certain terms in the Act, provides for the Act to come into force the day after it receives Royal Assent, and provide a short title.

### 3. Costs and impacts of the bill

Although the EM includes a Regulatory Impact Assessment (RIA), Chapter 6 of the EM states that the Bill is an enabling piece of legislation which does not directly require spend. The decisions which will result in financial commitments will be set out in the two tax-specific bills (and their RIAs).

The Welsh Government has launched consultations on both the new Land Transaction Tax and Landfill Tax which will assist policy development. These policy decisions and the decision over whether to delegate some of WRA's functions will drive the detailed costs associated with collecting and managing these taxes. These costs will become clearer closer to the implementation date of April 2018.

On 30 June 2015 the [Minister for Finance announced](#) that the Welsh Government's preferred provider to collect the devolved taxes was HMRC. The statement also said that initial cost estimates will be available in autumn 2015:

In the autumn, ahead of the Stage 1 debate on the Tax Collection and Management (Wales) Bill, I will provide the Assembly with an update on work to establish collection and management arrangements. This will be informed by detailed discussions around partnership arrangements with HMRC and NRW over the coming months, and will include initial estimates of set up and operating costs.

The RIA states that it is difficult to provide a robust estimate of the costs of establishing and running the WRA at this stage. However, it is planned to recruit a Chief Executive for WRA in autumn 2016, which is expected to incur costs of **£50,700** for 2016-17 and **£101,400** for 2017-18.

As well as WRA's costs, the RIA notes that HMRC charged **£1 million** for 'switching off' the collection of the two devolved taxes in Scotland. The [Wales Bill Command Paper](#) highlighted that such a charge may be payable in Wales. The EM states that HMRC is also expected to reimburse the Welsh Government with the costs of not collecting the devolved taxes - the equivalent amount in Scotland was **£275,000**.

To provide a broad indication of the potential scale of costs the EM includes details of the implementation and early running costs of Revenue Scotland. This is seen as a comparator organisation providing similar tax collection and management services.

The EM notes that this comparison implies costs for the WRA of:

- Set up costs of approximately £800,000 in 2016-17
- Set up costs of £4.3 million to £4.4 million in 2017-18
- Set up costs of £4.3 million to £4.4 million in 2018-19
- Ongoing costs of approximately £2.9 million per annum from 2019-20.

However, the EM also notes that the equivalent costs for WRA could differ for various reasons such as the smaller scale of WRA relative to Revenue Scotland.

The EM also includes narrative discussion of the potential costs and impacts of the bill on external audit, access to justice, businesses and other public bodies. It does not provide any further amounts apart from an estimate of £20,000 to £70,000 annually for the Wales Audit Office's audit of the Tax Statement.



## 4. Response to the bill

The Member in charge, Jane Hutt AM, in a statement to [Plenary](#), said that the Bill addressed three wide ambitions:

First, I am sure that the whole Assembly would agree that the introduction of this Bill is another significant chapter in the story of Welsh devolution. The Bill is the result of a considerable body of work by many people in the public and private sectors, as well as our social partners, and I've sought to achieve a reflection of views across this Chamber. At its core, it represents our collective commitment to a self-confident and more prosperous Wales. This will be the first devolved tax legislation that the Assembly has considered, and it will pave the way for the replacement of stamp duty land tax and landfill tax with new devolved Welsh taxes from April 2018.

But, this is also an important time for the United Kingdom. To echo the First Minister's recent speech, fiscal reform is in the best interests of the UK. There are clear merits in different parts of our union being able to decide on the balance between levels of taxation and the level of resources for public services to respond to the needs and preferences of citizens.

Secondly, our approach to this Bill, and the preparatory work on developing proposals for the devolved taxes, underlines the commitment of the Government to working with business to create a world-class economy, supported by a first-class system of public services. That is why, in developing the tax arrangements for Wales, I've pursued the following principles: fairness, simplicity, supporting jobs and growth, and stability and certainty. I believe that the Bill enshrines these principles.

To guide us in developing our policy and setting standards for how a tax authority might operate, the Welsh Government has looked at the experience of Her Majesty's Revenue and Customs and Revenue Scotland, together with consideration of wider international best practice. We recognise that businesses and taxpayers in Wales deserve a system of taxation that is fundamentally simple and transparent. Such an approach will help minimise the burden on taxpayers and assist tax compliance. We also recognise the benefits of consistency. The Welsh Government has not diverged, and will not diverge, from the existing UK tax collection processes unless there is a good reason to do so.

Thirdly, and finally, the Bill protects our commitment to fairness that is central to this Welsh Government. Taxation must be fair, both to those who pay it and to the broader society that benefits from the services our taxes support, and that's why the Bill includes the requirement for the WRA to prepare a charter of standards and values, and for the WRA to consult on it before laying it before the Assembly. The Bill also provides for taxpayers to request internal reviews of certain WRA decisions and to appeal to the first-tier tribunal against such decisions.

Welsh Conservative spokesman, Nick Ramsey AM stated:

Can I ask you firstly—and this must always be asked at the outset of the introduction of these Bills—do we actually need this Bill? Do we actually need a Welsh revenue authority? How closely have you listened to the consultation responses? I note that a number of organisations that did respond did question the need for the new authority in the way that you have proposed it. I'm sure you will agree that we don't want any unnecessary quangos,

so how sure are you that we need a Welsh revenue authority? If the answer is, as I imagine it will be—I'd be amazed if it wasn't—'yes', that we do definitely need some form of agency, some form of body or some form of mechanism to do this job, then does this this Welsh revenue authority that you are proposing truly address the needs of taxpayers and businesses, first and foremost, and not simply provide a vehicle that is an off-the-shelf format, with the usual chair and members and all the trimmings, and is simply convenient to the Welsh Government?

**The Minister replied:**

I think your point is important in terms of the purpose of this Bill. It is about ensuring that the Bill does establish a Welsh revenue authority whose main function will be the collection and management of devolved taxes, and to ensure that Welsh revenue authority has those appropriate powers and duty to identify and collect the appropriate amount of devolved tax due from taxpayers. Through the consultation—and you've looked at this carefully, I know, in terms of supporting business—many businesses have emphasised, for example, the need for taxes and administration arrangements to be consistent on either side of the Welsh border. So, our approach, as I've said, has been not to change the existing administrative processes unless there are efficiency, effectiveness or Welsh priority reasons to do this, and also to look for the opportunity for certainty and stability—again, an important principle in terms of our new Welsh taxes. So, we've used UK and Scottish tax legislation as a starting point throughout the UK because of cross-border businesses, and also to ensure that we learn from, for example, the Scottish experience in terms of establishing their devolved taxes to replace stamp duty land tax and landfill tax.

**Alun Ffred Jones AM, Plaid Cymru, said:**

[...] the Minister confirmed that she is to establish a treasury function in her department, which will undertake a range of duties that include the implementation of the Welsh revenue authority, along with the management of innovative funding, invest to save and economic forecasting. We have welcomed this warmly. Therefore, will the Minister ensure—or how, rather, will the Minister ensure—that the revenue authority has the necessary range of expertise and that this is linked to the establishment of a Government treasury function?

**The Minister responded:**

[...] on your points and questions relating to the relationship between the development of the specialist work and role of the Welsh treasury and how that will be provided, and, of course, linked through to the work of the Welsh revenue authority in terms of guiding Ministers in terms of developing tax policy, I recognise your points about the fact that we will then have to be guided in terms of the development of tax policy, also by robust forecasting, which, as you say, doesn't link to the record of economic statistics that we discussed most recently, but looks to the prospects in terms of the forecasting of tax in terms of the devolved taxes that are coming our way from April 2018, and recognise the importance of the expertise that has to be developed in the Welsh treasury to inform the Welsh Government and those who are going to be in the process of delivering those new taxes.

**Peter Black AM (Welsh Liberal Democrat) said:**

[...] the Bill provides for Ministers to make regulations to specified powers in the Police and Criminal Evidence Act 1984 that may be used by the WRA when investigating tax offences. It

also amends the Proceeds of Crime Act 2002, so that designated WRA staff can make applications under that particular legislation, and, of course, it also amends the Regulation of Investigatory Powers Act 2000 to provide Welsh Ministers with the power to designate the staff of the WRA by Order as being able to exercise specific RIPA powers. Can I ask you what process of oversight is being put in place to monitor the use of these powers, and what level of authority will be applied to ensure that those powers are properly scrutinised and allocated, and what specific role the Assembly will have in terms of scrutinising the use of those powers?

**The Minister replied:**

In terms of the Welsh revenue authority's relationship with the Assembly, the Assembly will have full oversight, as I've said, in terms of the funding of the Welsh revenue authority by the Welsh Government. The Welsh revenue authority will be identified separately in the budget, as I've said, and, of course, that includes annual accounts, an annual report, an annual tax statement, a corporate plan, and a charter of standards and values, which will be laid before the Assembly. The Bill doesn't specify how the Assembly should scrutinise the WRA, but those are arrangements for the Assembly to decide.

## Annex A: Anticipated implementation timetable according to EM

Subject to the approval of the Bill by the National Assembly for Wales and subsequent Royal Assent, the anticipated implementation milestones are as follows:

- Decision made on the operating model for collection and management of LTT and SDLT - June 2015
- Royal Assent - anticipated April 2016
- Consultation on subordinate legislation - Summer 2016
- Appointment of interim WRA Chief Operating Officer Autumn 2016
- Subordinate legislation - to be completed by Spring 2017
- Appointment of WRA Chair - Autumn 2017
- Appointment of non-executive Board members - Winter 2017
- Consultation on draft tax guidance - Winter 2017/18
- Consultation on Taxpayers' Charter - Winter 2017/18
- Publication of WRA Corporate Plan - Spring 2018
- Anticipated WRA go-live date - on or before April 2018



