

## Agenda – Finance Committee

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Meeting Venue:

**Committee Room 2 – Senedd**

Meeting date: 15 October 2015

Meeting time: 09.00

For further information contact:

**Bethan Davies**

Committee Clerk

0300 200 6565

[SeneddFinance@Assembly.Wales](mailto:SeneddFinance@Assembly.Wales)

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### **1 Introductions, apologies and substitutions**

(09.00)

### **2 Papers to note**

(09.00)

(Pages 1 – 7)

### **3 Tax Collection and Management (Wales) Bill: Evidence session 8**

(09.00 – 10.00)

(Pages 8 – 18)

Mari Thomas, Policy Officer (Finance), Welsh Local Government Association

Gary Watkins, Revenue Services Manager, Cardiff Council

Nick Jones, Service Director for Operational Finance, Rhondda Cynon Taf County

Borough Council

Paper 1 – Welsh Local Government Association consultation response

Research briefing

### **4 Tax Collection and Management (Wales) Bill: Evidence session 9**

(10.00 – 10.45)

(Pages 19 – 28)

Huw Vaughan Thomas, Auditor General for Wales

Mike Usher, Wales Audit Office

Martin Peters, Wales Audit Office

Paper 2 – Auditor General for Wales consultation response

Research briefing



Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales

**5 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:**

(10.45)

Items 6, 7, 8 and 9

**6 Tax Collection and Management (Wales) Bill: Consideration of evidence**

(10.45 – 11.00)

(Pages 29 – 32)

Paper 3 – Expert Adviser briefing note

**Break**

(11.00 – 11.15)

**7 Consideration of powers: Public Services Ombudsman for Wales: Consultation on a draft Bill**

(11.15 – 12.00)

(Pages 33 – 116)

Paper 4 – Consultation on a draft Bill: Public Service Ombudsman for Wales Bill

**8 Welsh Government Draft Budget 2016–17: Approach to scrutiny**

(12.00 – 12.20)

(Pages 117 – 119)

Paper 5 – Approach to scrutiny

**9 Fourth Assembly Business Committee Legacy: Consultation**

(12.20 – 12.30)

(Pages 120 – 123)

Paper 6 – Letter to Chair of Finance Committee from Presiding Officer

## Concise Minutes – Finance Committee

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Meeting Venue:

Committee Room 3 – Senedd

Meeting date: 1 October 2015

Meeting time: 09.02 – 14.43

This meeting can be viewed

on [Senedd TV](#) at:

<http://senedd.tv/en/3248>

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### Attendance

Category	Names
Assembly Members:	Jocelyn Davies AM (Chair) Peter Black AM Christine Chapman AM Mike Hedges AM Alun Ffred Jones AM Jenny Rathbone AM (In place of Ann Jones AM) Julie Morgan AM Nick Ramsay AM
Witnesses:	Eleanor Emberson, Revenue Scotland Colin Miller, Revenue Scotland Neil Broadfoot, Revenue Scotland Geoff Yapp, HM Revenue and Customs (HMRC) Doug Stoneham, HMRC Isobel Moore, Natural Resources Wales Rebecca Favager, Natural Resources Wales



	<p>John Cullinane, Chartered Institute of Taxation</p> <p>Claire Thackaberry, Low Incomes Tax Reform Group</p> <p>David Melding AM, Deputy Presiding Officer</p> <p>Claire Clancy, Chief Executive &amp; Clerk of the Assembly</p> <p>Nicola Callow, Director of Finance</p>
Committee Staff:	<p>Bethan Davies (Clerk)</p> <p>Leanne Hatcher (Second Clerk)</p> <p>Tanwen Summers (Deputy Clerk)</p> <p>Georgina Owen (Deputy Clerk)</p> <p>Martin Jennings (Researcher)</p> <p>Richard Bettley (Researcher)</p> <p>Joanest Varney-Jackson (Legal Adviser)</p> <p>Lakshmi Narain – Technical Adviser</p>

## TRANSCRIPT

View the [meeting transcript](#).

### 1 Introductions, apologies and substitutions

1.1 The Chair welcomed Members to the meeting.

1.2 Apologies were received from Ann Jones AM.

1.3 Jenny Rathbone AM attended as a substitute.

### 2 Papers to note

2.1 The papers were noted.

### **3 Tax Collection and Management (Wales) Bill: Evidence session 2**

3.1 The Committee took evidence from Eleanor Emberson, Chief Executive, Revenue Scotland, Colin Miller, Revenue Scotland and Tax Powers Bill Team Leader and Neil Broadfoot, Communications Officer.

3.2 Eleanor Emberson agreed to provide the Committee with additional information.

### **4 Tax Collection and Management (Wales) Bill: Evidence session 3**

4.1 The Committee took evidence from Geoff Yapp, Deputy Director, Corporation Tax, International and Stamps, Head of Stamp Taxes, HMRC and Doug Stoneham, Senior Policy Adviser, Devolution.

4.2 The Committee agreed to write to HMRC for further information.

### **5 Tax Collection and Management (Wales) Bill: Evidence session 4**

5.1 The Committee took evidence from Isobel Moore, Head of Business, Regulation and Economics, Natural Resources Wales and Rebecca Favager, Waste and Resources Manager.

### **6 Tax Collection and Management (Wales) Bill: Evidence session 5**

6.1 The Committee took evidence from John Cullinane, Tax Policy Director, Chartered Institute of Taxation and Claire Thackaberry, Technical Officer, Low Incomes Tax Reform Group.

6.2 Claire Thackaberry agreed to provide the Committee with additional information.

### **7 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:**

7.1 The Motion was agreed.

### **8 Tax Collection and Management (Wales) Bill: Consideration of evidence**

8.1 The Committee considered the evidenced received.

## **9 Assembly Commission draft budget 2016–17: Evidence session 1**

9.1 Peter Black AM absented himself for this item due to his role as a Member of the Assembly Commission.

9.2 Members scrutinised David Melding AM, Deputy Presiding Officer and Acting Assembly Commissioner, Claire Clancy, Chief Executive and Clerk to the Assembly, and Nicola Callow, Director of Finance on the draft Assembly Commission budget 2016–17.

9.3 Jocelyn Davies AM declared the following relevant interest under Standing Order 17.24A:

- Member is standing down at the end of the Fourth Assembly.

## **10 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:**

10.1 The Motion was agreed.

## **11 Assembly Commission draft budget 2016–17: Consideration of evidence**

11.1 Peter Black AM absented himself for this item due to his role as a Member of the Assembly Commission.

11.2 The Committee considered the evidence received.

## **12 Welsh Government Report on Outturn 2014–15**

12.1 The Committee noted the report and agreed to write to the Minister for Finance and Government Business.

## **13 Welsh Government Draft Budget 2016–17**

13.1 The Committee noted the correspondence and agreed to write to the Minister for Finance and Government Business.

# Concise Minutes – Finance Committee

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Meeting Venue:

Committee Room 2 – Senedd

Meeting date: 7 October 2015

Meeting time: 08.45 – 12.03

This meeting can be viewed

on [Senedd TV](#) at:

<http://senedd.tv/en/3254>

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## Attendance

Category	Names
Assembly Members:	Jocelyn Davies AM (Chair) Peter Black AM Christine Chapman AM Mike Hedges AM Alun Ffred Jones AM Julie Morgan AM Nick Ramsay AM
Witnesses:	Nick Bennett, Public Services Ombudsman for Wales Susan Hudson, Public Services Ombudsman for Wales Office David Meadon, Public Services Ombudsman for Wales Office Martin Warren, Institute of Chartered Accountants in England and Wales Jason Piper, The Association of Chartered Certified Accountants (ACCA) Kay Powell, The Law Society Richard Beech, Glamorgan Law LLP



Committee Staff:	Bethan Davies (Clerk) Leanne Hatcher (Second Clerk) Tanwen Summers (Deputy Clerk) Georgina Owen (Deputy Clerk) Richard Bettley (Researcher) Helen Jones (Researcher) Joanest Varney-Jackson (Legal Adviser) Lakshmi Narain – Technical Adviser
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## **1 Assembly Commission draft budget 2016–17: Consideration of draft report**

1.1 The Committee agreed the draft Report with some changes.

### **TRANSCRIPT**

View the [meeting transcript](#).

## **2 Introductions, apologies and substitutions**

2.1 The Chair welcomed Members to the meeting.

2.2 Apologies were received from Ann Jones AM.

2.3 Peter Black AM declared the following relevant interest under Standing Order 17.24A:

- Member is a Councillor for the City and County of Swansea Council

## **3 Papers to note**

3.1 The papers were noted.

## **4 Public Services Ombudsman for Wales: Estimate of income and expenses 2016–17: Evidence session 1**

4.1 Members scrutinised Nick Bennett, Public Services Ombudsman for Wales, David Meaden, Financial Accountant, and Susan Hudson, Policy and Communications Manager on the Public Services Ombudsman for Wales' estimate for 2016–17.

4.2 The Ombudsman agreed to provide the Committee with a breakdown of the types of housing complaints received.

**5 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:**

5.1 The Motion was agreed.

**6 Public Services Ombudsman for Wales: Estimate of income and expenses 2016–17: Consideration of evidence**

6.1 The Committee considered the evidence received and noted that a draft report will be prepared for consideration at the Committee meeting scheduled for 5 November 2015.

**7 Tax Collection and Management (Wales) Bill: Evidence session 6**

7.1 The Committee took evidence from Martin Warren, Director for Wales, Institute of Chartered Accountants in England and Wales and Jason Piper, Senior Manager – Tax and Business Law, The Association of Chartered Certified Accountants.

**8 Tax Collection and Management (Wales) Bill: Evidence session 7**

8.1 The Committee took evidence from Kay Powell, Policy Adviser, The Law Society and Richard Beech, Partner, Glamorgan Law LLP.

**9 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:**

9.1 The Motion was agreed.

**10 Tax Collection and Management (Wales) Bill: Consideration of evidence**

10.1 The Committee considered the evidenced received.

## **Finance Committee Consultation on the Tax Collection and Management (Wales) Bill**

### **Introduction**

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales. The three fire and rescue authorities and the three national park authorities are associate members. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.

### **WLGA's general position in the new tax environment**

2. The WLGA has long been supportive of greater devolution as we believe that decisions about services and how they are delivered, managed and funded should be taken as close to the point of delivery as possible. The ability for the Welsh Government to be responsible for these elements of taxation in Wales will enhance accountability with the electorate.

## **General Principles of the Tax Collection and Management (Wales) Bill**

### **Part 2: The Welsh Revenue Authority (WRA)**

3. Our view is that the WRA will become a key player in our financial landscape and will have substantial powers available to it. We would agree that the new body should be independent of the Welsh Government and that there is strong accountability to National Assembly. The body should be open to interaction with a wide range of stakeholders. A non-executive Board with a chief executive responsible would seem appropriate, this being an understood and effective model for public sector bodies across the UK and consistent with the Nolan principles (the Code of Practice for Ministerial Appointments to Public Bodies) and international best practice.
4. It is important that the size of the authority and its costs are proportionate to the scale of the taxes that are devolved to Wales, although we recognise that there is a minimum size and cost to establishing the authority. We also recognise that whatever is established needs to be suitable for the potential for devolution of further taxes.

5. We are generally content with the provisions in the Bill in relation to the membership of the WRA but would add that non-executive members should out-number executive members. In addition, while section 6 sets out how Welsh Ministers may remove a person from the WRA it does not specifically deal with the removal of the non-executive chair person.
6. We agree with the main functions of the WRA and agree strongly that the WRA should be able to delegate any of its functions to other bodies in order to minimise the costs of establishing, collecting and managing these taxes. The ability to delegate some functions to bodies that are already experienced in collecting and managing taxes is extremely important.
7. We consider the confidentiality of protected taxpayer information to be of paramount importance and are content that sections 16 to 19 provide adequate protection of such information to taxpayers. There also needs to be consideration of how public bodies might share certain information in order to minimise tax avoidance or evasion. The regulations should provide explicit powers to ensure that information sharing is permitted.
8. The WRA, like any other public body must be open, transparent and accountable to taxpayers and must have robust governance and audit arrangements in place. As set out in the Bill, we agree that these arrangements should include the preparation and publication of:
  - A charter of standards and values;
  - A corporate plan;
  - An annual report;
  - A statement of accounts;
  - A tax statement.
9. The WRA must be accountable to Welsh Ministers, the National Assembly for Wales and Welsh taxpayers through audit by the Auditor General for Wales and be within the scope of the Public Services Ombudsman.

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

10. Any authority charged with collecting taxes or any other debt, needs to have well established processes in order to be able to assess the tax that is due, to investigate where it believes there may be fraud, error or criminal activity and to respond appropriately to non-payment of the tax.
11. Where an authority has these powers, it is important that there are safeguards in place for those taxpayers that are willing to pay the tax but are not in a

position to make that payment and that the officers involved are fully aware of the options available to them in those circumstances.

12. Part of the management of such situations would involve ensuring that the taxes are well publicised and well understood by potential taxpayers so that they can be taken into account when making plans. Where there is provision made for WRA or Welsh Ministers to set different requirements from those set out in the Bill, these requirements should also be established, publicised and well understood in advance of the transactions which give rise to the tax return taking place in order that taxpayers have adequate notice of the requirements to preserve records.
13. It is reasonable to expect taxpayers to preserve any records and supporting documents that relate to a tax return for sufficient time as to allow any enquiry into the tax return, and that these records may be preserved in any form, as set out in the Bill. Similarly the provisions in relation to enquiries, amendments, referral to tribunal and WRA determination and assessment of a tax liability are also reasonable, but, as set out above, safeguards are needed where the taxpayer is willing to pay the tax but is not in a position to make the payment in full or in part.
14. It is important that taxpayers are able to reclaim overpaid tax, whether as a result of a double assessment or where the tax is not chargeable. The provisions included within the Bill set out in great detail the where claims may be disallowed and the procedure to be followed in making claims.

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

15. Any authority charged with collecting taxes or any other debt, needs to have the appropriate powers to investigate. Such powers should be conferred on the WRA and the WRA should then be able to delegate that function to another body where an existing experienced resource could be utilised. Any investigatory powers should include the power to require information and documents from relevant people and to inspect premises and other property.

#### **Part 5: Penalties**

16. Any body that has tax management and collection responsibilities needs also to have a range of sanctions such as penalties available to it in order to manage errors and non-compliance effectively. Any penalties and actions need to be well understood and need to be proportionate to the tax due. WLGA consistently sets out that those who are due to pay tax should do so in order to

be fair to both other taxpayers but also to those who need and use the public services that are funded as a result of the collection of those taxes. It is important that there is a clear and consistent message that all tax due will be pursued and that appropriate penalties will be enforced where there is failure to pay tax due whether that is as a result of not making tax returns or actively avoiding or evading the payment of tax.

17. As the existing enforcement regime operated by HMRC will no longer apply to Wales once the Welsh devolved tax system is established it is vital that a replacement enforcement regime is established as part of that tax system.
18. It is important that any penalty regime is consulted upon widely prior to its introduction and the publication of the Bill is the first opportunity to comment on the details of proposals for the penalty regime. It is important that any system of penalties is clear, accessible and geared to be proportionate with the amount of tax due.

#### **Part 6: Interest**

19. It is an appropriate part of the sanction regime that interest would be chargeable on tax due or on penalties due but not paid at the appropriate time as set out in Part 6 of the Bill.

#### **Part 7: Payment and enforcement**

20. The arrangements set out in Part 7 of the Bill in relation to payment and enforcement appear to be reasonable, comprehensive and would allow the WRA to take appropriate action should a payment due become an unpaid debt.

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

21. For the protection of taxpayers, it is important that the devolved tax system also establishes appropriate procedures for the review of, and appeal against, decisions made by the WRA. These procedures need to be clear, well established and well understood.
22. It is appropriate that the intention is to use the existing Ministry of Justice two-tier tax tribunal system in relation to reviews and appeals, underpinned by a Memorandum of Understanding as this provides all stakeholders with greater simplicity, stability and certainty, particularly through the transition period.

23. The primary aim of avoiding dispute if at all possible, complimented by a system of informal resolution or internal review will help to minimise the number of formal reviews and appeals that are taken forward.

### **Part 9: Investigation of Criminal Offences**

24. While there have not been any criminal investigations in relation to Stamp Duty Land Tax (SDLT) or Landfill Tax (LFT) in Wales in the last 12 months, there is a need to establish arrangements for criminal enforcement in Wales. The WLGA supports the Bill's provisions for enforcement arrangements that are consistent with UK arrangements, minimising complexity and misunderstanding for stakeholders and reinforcing messages that avoidance and evasion will not be tolerated.

### **Potential barriers to implementation**

25. The introduction of legislation in relation to tax and the establishment of the Welsh Revenue Authority are complex issues. While the two taxes to be devolved from April 2018 are relatively small, there is nevertheless the need to establish legislation and bodies that are suitable for a potentially larger role in the future.

### **Financial implications**

26. Given that the UK Government will make a reduction to the Welsh block grant allocation to reflect the devolution of SDLT and LFT there are significant implications to the Welsh Government's budget and, in turn, public services in Wales, should these taxes not be replaced in Wales. For these same reasons, it is imperative that the most cost effective model is sought for the collection and management of these taxes in Wales in order to minimise the administrative burden and to maximise the amount of tax available to fund public services.
27. In particular, care must be taken when setting up the WRA that its establishment is not so large as to place an unnecessary burden on already scarce public resources while ensuring that it is adequate to undertake its role and responsibility appropriately.

## **Appropriateness of powers in the Bill for Welsh Ministers to make subordinate legislation**

28. The utilisation of subordinate legislation is essential to allow the new Welsh tax system to be flexible and able to respond quickly to new circumstances when necessary. However, it is important that suitable safeguards are put in place such as consultation requirements with stakeholders.

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**Author:** Mari Thomas

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***To be cleared by:*** Councillor Aaron Shotton, WLGA Spokesperson for Finance & Resources

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## Archwilydd Cyffredinol Cymru Auditor General for Wales

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Ms Jocelyn Davies AM  
Chair, Finance Committee  
National Assembly for Wales  
Cardiff Bay CF99 1NA

Date: 7 September 2015  
Our ref: HVT/2383/fgb  
Page: 1 of 1

Dear Jocelyn

### **THE TAX COLLECTION AND MANAGEMENT (WALES) BILL: CONSULTATION ON GENERAL PRINCIPLES**

Thank you for the invitation to provide evidence to the Finance Committee on the general principles of the Tax Collection and Management (Wales) Bill.

In responding to the Committee's call for evidence, I have focused my comments primarily on those parts of the Bill that are relevant to the exercise of my functions. I have also offered some observations on certain of the clauses that address the operation of the Welsh Revenue Authority, informed by our experiences in setting up the Wales Audit Office in accordance with the Public Audit (Wales) Act 2013.

My specific comments set out in the attached Annex therefore refer principally to Part 2 of the Bill.

The Committee may also be interested to know that it is currently my intention to issue short progress reports on the state of the Welsh Government's preparations to implement fiscal devolution for Wales, including the provisions of this Bill once enacted.

At present, I envisage issuing the first of those reports in the autumn of 2016, with a follow-up report in the autumn of 2017. These reports should enable any issues with preparedness to be identified, scrutinised and addressed well in advance of the planned commencement of the legislation implementing devolved taxes on 1 April 2018.

I look forward to appearing before your Committee on 15 October 2015 to provide oral evidence on these matters.

Yours sincerely



**HUW VAUGHAN THOMAS**  
**AUDITOR GENERAL FOR WALES**

Enc: Annex

## RESPONSE OF THE AUDITOR GENERAL FOR WALES TO THE FINANCE COMMITTEE CONSULTATION ON THE GENERAL PRINCIPLES OF THE TAX COLLECTION AND MANAGEMENT (WALES) BILL

### Clause 3

1. Clause 3(1)(d) of the Bill requires the Welsh Revenue Authority (WRA) itself to nominate one or two of its employees to become members of the WRA. This seems to be slightly circular and amounts to the „board“ selecting its own members. Perhaps it would be more appropriate for the employee members of the WRA to be nominated by the Chief Executive for approval by the board.

### Clause 9

2. This clause grants a wide discretion on the WRA to be able to regulate its own procedure, including quorum. This could potentially allow it to operate without the control of the non-executive members appointed by the Welsh Ministers. To prevent this, clause 9 could include a provision that the quorum set by the WRA must require there to be a majority of non-executive members present.

### Clause 12

3. This clause would allow for the WRA to adopt an entirely hands-off approach to its functions, allowing it to authorise its staff to exercise all of its functions to any extent, without further consideration by the WRA itself. It would, in my view, be consistent with good governance if certain important functions (such as approval of: the Corporate Plan; the Annual Report; the annual Accounts; and the annual Tax Statement) were reserved to the WRA itself and could not be delegated to its staff.

### Clause 14

4. Given the fact that subsection 6 of this clause allows for some directions not to be published if the Welsh Ministers consider that doing so would prejudice the functions of the WRA, it would be helpful if clause 14 included a requirement on the Welsh Ministers to copy all directions given to the WRA to the Auditor General. This would ensure that I am informed of (and can then consider the potential audit implications of) all such directions at the time that they are made, rather than only finding out about those not published at a later date during the course of my annual audit.

### Clause 25

5. There is no deadline set by which the WRA must publish the initial Charter. It would perhaps be appropriate for such a deadline to be set given the important function of the charter to set out the standards of behaviour and values to which the WRA will aspire.

### **Clause 26**

6. Clause 26(2)(b) requires the Corporate plan to set out the “outcomes by reference to which the achievement of the main objectives may be measured”. However, many qualitative “outcomes” are inherently difficult to measure and therefore it is not always possible to determine if a certain outcome has been achieved. It may therefore be more appropriate to use terminology such as “key performance measures” instead of “outcomes”. I also note that there is no deadline by which the Welsh Ministers must approve the WRA’s Corporate Plan under clause 26 of the Bill.

### **Clause 27**

7. Currently, the Annual Report must be prepared “as soon as is reasonably practicable after the end of the financial year”. It would, however, aid the exercise of my functions in relation to the WRA if the Annual Report was required to be prepared no later than the submission deadline for the WRA’s accounts, that is 31 August in the following financial year to which it relates. Publication of the Annual Report alongside the Annual Accounts and the Annual Tax Statement would significantly enhance accountability, transparency and scrutiny of the operations of the WRA.

### **Clause 30**

8. I think it would be appropriate for clause 30(2)(b) to be rephrased to acknowledge that I will submit two reports to the National Assembly: one in relation to the WRA’s annual accounts and one in relation to the annual Tax Statement. Submission of a single report would not in my view be appropriate, given the differing nature of the Tax Statement and the WRA’s annual accounts. The reporting arrangements would then mirror the position in respect of the Comptroller & Auditor General’s (C&AG) annual audit of HMRC.
9. In my view it would be appropriate for clause 30(3)(a) to be rephrased to “that the expenditure to which the accounts relate has been incurred lawfully and in accordance with the authority which governs it, and”. This would ensure that the wording of the audit provision is consistent with that of the audit provision for the Welsh Ministers set out in section 131 of the Government of Wales Act 2006.
10. I think I should also mention that the mandatory element of the Auditor General’s examination functions with respect to the Tax Statement under clause 30(4) is narrower than the equivalent requirements on the C&AG in respect of UK taxes (section 2 of the Exchequer & Audit Act 1921). However, the provisions of clause 30 (and 31) present the AGW with the discretion to apply an equally comprehensive and rigorous approach.
11. The duty on the C&AG under section 2 of the 1921 Act is to ascertain whether “adequate regulations and procedure have been framed to ensure an effective check on the assessment, collection and proper allocation of revenue”. C&AG must also be satisfied that “such regulations and procedure are being duly carried out”. The legislation therefore requires the C&AG to be satisfied that the systems

of HMRC are adequate and effective at checking that taxes are being assessed, collected and properly allocated.

12. The duty under clause 30(4) of the Bill only requires the Auditor General to be satisfied that WRA has collected taxes lawfully (and that only lawful disbursements have been made). This is narrower than the duty on the C&AG; it only requires assessment of whether the money that has in fact been collected has been lawfully collected; it does not require the AGW to look at WRA's systems generally and whether or not they are effective. The Bill would not therefore require the Auditor General to be satisfied that the WRA's systems were effective at ensuring it is collecting all the tax it is entitled to collect. The situation could arise where the WRA were omitting to collect tax by having poor procedures for identifying when tax is owed, but the Auditor General would not be obliged by the Bill to consider this in examining the Tax Statement.
13. In my view, the narrower requirements of clause 30(4) do not stop the Auditor General commenting on the effectiveness of the WRA's systems if he is so minded. He would just not be under an obligation to do so by virtue of clause 30(4). For my own part, while I cannot speak for any successor, I am inclined to pursue a broader approach in line with that which the C&AG applies to UK tax statements.
14. In connection with clause 30, I think I should also mention that, in the absence of any fee provisions in the Bill, the examination of the Tax Statement seems to fall outside the WAO's fee charging provisions. Section 23(2) of the Public Audit (Wales) Act 2013 says, "The WAO may charge a fee in relation to the audit of a person's accounts or statement of accounts". While there may be scope for argument, it appears that the Tax Statement is not a "person's accounts or statements of accounts". In the absence of a fee, the cost of the examination will need to be borne by the WAO's Estimate.
15. Again, I do not see this as real problem, provided that the Welsh Government and the Assembly do not specifically want the WAO to charge fees for the examination of the Trust Statement. To my mind, it would be more appropriate to have the cost of the Trust Statement funded through the Estimate process, as this would match C&AG's practice and the Tax Statement is not a statement of accounts of an entity for which normal accounting practice requires the disclosure of an audit fee.

### **Clause 32**

16. Clause 32(3)(a) states particularly that the chief executive of the WRA may have responsibilities for the time being specified by the Welsh Ministers in "relation to the signing of accounts". It would in my view be appropriate to explicitly mention both the WRA's annual accounts and the annual Tax Statement in that subsection, as in my view the signing of the Tax Statement would not fall within the definition of "signing of accounts".

**Clause 190**

17. The definition of “financial year” in subsection 2 of this clause appears to me to appropriate and will prevent the need for me to conduct a full audit of the WRA for the financial year ending 31 March 2018, provided that the WRA is established on or after 1 January 2018. If, however, the WRA were to be established, say, in November 2017, this would result in the need for a full audit despite the accounting period only covering five months.

**7 September 2015**

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# Agenda Item 9

By virtue of paragraph(s) vi of Standing Order 17.42

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