



CONSULTATION RESPONSE:

HM TREASURY Stamp Duty Land Tax: consultation on the potential impacts of devolving to the National Assembly for Wales and Welsh Government

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The UK's Changing Union project

The UK's Changing Union project is a joint initiative between the Wales Governance Centre at Cardiff University, the Institute of Welsh Affairs, and Cymru Yfory/Tomorrow's Wales. The project seeks to explore and debate the future of the Union and the Welsh devolution settlement through research and engagement with relevant public and civil society stakeholders. We are funded by the Joseph Rowntree Charitable Trust and the Nuffield Foundation.

Introduction

The UK's Changing Union project welcomes the opportunity to respond to this consultation. Whilst we welcome the opportunity to respond, the project would like to place on record its disappointment as to the length of time it has taken to reach this stage. Whilst part one of the Commission on Devolution's work reported in November 2012, we are now in a position where we believe it's unlikely we will have a response from the UK Government until at least October 2013, which is disappointing. The UK's Changing Union Partnership would urge the UK Government to make swift progress following this consultation in order for any proposed changes to be implemented as soon as possible in the next Assembly following the 2016 Welsh election.

The UK's Changing Union project's response will reflect on the current situation in Wales and the rest of the UK in relation to stamp duty land tax (SDLT), before answering the questions put forward by HM Treasury.

Accountability in government

On announcing the creation of Silk Commission on Devolution in Wales, the then Secretary of State for Wales, the Rt Hon Cheryl Gillan MP said that "It is only right and proper that we look at ways to make the Assembly more accountable."

The Terms of Reference for part one of the Silk Commission notes:

To review the case for the devolution of fiscal powers to the National Assembly for Wales and to recommend a package of powers that would improve the financial accountability of the Assembly.

Further to this term of reference, Mrs Gillan said on 3 November 2011, "Why should one institution of government merely be the spending arm, without having any linkage or responsibility for raising the money it spends?", before going on to say, "Even local government, have to raise an element of their taxation...Are we saying that that the Welsh Government should be in a lesser position than local government?"

Similar comments were echoed by the then Parliamentary Under-Secretary for State David Jones MP (now Secretary of State for Wales), "It is widely accepted not only in the Chamber but outside that the level of power should be matched by the accountability to the people of Wales for the money that those institutions spend on their behalf."

Mr Jones is right to say that the level of power should be matched by accountability, and as such we believe that the SDLT is one of the most appropriate taxes to devolve. It's a tax on immovable objects which shouldn't impact on cross border concerns and reduces risk of

avoidance, it can be easily administered, and it can be used as a lever for economic and social policies. It has already been devolved to Scotland, therefore we also see no reason it shouldn't be devolved to Wales; after all it will also achieve the UK Government's objective of introducing more fiscal accountability to the National Assembly and Welsh Government.

<http://www.bbc.co.uk/news/uk-wales-politics-15575096>

<http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm111103/debtext/111103-0004.htm>

The Silk Commission

The first part of the Silk Commission reported back on the 19th of November 2013 and made several recommendations in relation to the way Wales should be funded as well as to what taxes should be devolved to Wales.

The Silk Commission begin their report by discussing the principles of fiscal devolution. The Silk Commission note that the National Assembly for Wales "is unusual, if not unique, in having legislative and spending powers but not tax and borrowing powers". The Silk Commission decided that the principles should be autonomy, cooperation constructive engagement between the UK Government and devolved administrations, economic incentivisation, efficiency, empowerment, equity, fiscal discipline, simplicity, stability, predictability and sustainability, and transparency. As the Commission's report notes, "these principles have underpinned the recommendations we have reached throughout this report".

In its discussions over property tax, the Silk Commission notes that property tax is the joint largest source of tax revenue for sub national governments across the OECD. The Silk Commission note that the devolution of SDLT would be a good policy fit as it could be designed to fit Welsh housing and economic circumstances. Their report also notes that SDLT may influence location decisions of businesses and individuals; research in their report shows that this is only marginal and is not a decisive factor in location decisions. The Silk Commission further note that it's the availability of finance and characteristics of the household that plays a much larger role in location decisions. Finally the Silk Commission note that if the "tax were devolved this could incentivise the Welsh Government to grow the tax base and economy to increase its income."

The Holtham Commission

The Independent Commission on Funding and Finance for Wales, more commonly known as the Holtham Commission, looked at fairness and accountability in a new funding settlement for Wales. The Holtham Commission notes that property taxes are strong candidates for devolution because the tax base is immobile which reduces the risk of avoidance or other economic distortions. The Commission's report, like the Silk Commission, also noted that the devolution of SDLT would be aligned with existing devolved responsibilities because Welsh Ministers have significant powers over housing in Wales already.

Whilst recognising the volatility of the duty, the Holtham Commission note that SDLT could benefit from reform. The Commission note that removing the step-wise banded approach and replacing it with a percentage of the property value would reduce distortions and improve the operation of the property market.

Scotland- an asymmetrical devolution settlement?

The Commission on Devolution in Scotland, more commonly known as the Calman Commission, supported the devolution of SDLT in its final report in 2009. The Calman Commission notes that SDLT is a strong candidate for devolution because of the immovable tax base and because its administration can be readily achieved.

Northern Ireland

Whilst SDLT is not devolved to Northern Ireland, one report advocates the devolution of SDLT. Since the restoration of devolution in Northern Ireland in 1999, the Northern Ireland Assembly has acquired borrowing powers and control over long-haul air passenger duty whilst the decision over the devolution of corporation tax has been delayed until after the Scots independence referendum in 2014. But since the advent of devolution, and despite Northern Ireland having some fiscal levers, no formal review of Northern Ireland's fiscal powers has taken place.

A report by PwC on behalf of the Centre of Economic Empowerment at the Northern Ireland Council for Voluntary Action undertakes a review of the fiscal powers of the Northern Ireland Assembly, whilst also taking into consideration of both the Calman and Silk Commissions in Scotland and Wales respectively. The PwC report recognises certain advantages of devolving SDLT to Northern Ireland. The report notes that SDLT is a tax which the public at large understand, it applies to immovable assets (which it notes would minimise distorting economic conditions between NI and the UK) and that it could be used as a lever for both economic and social policies.

Fairer tax in line with devolution

SDLT is one of the few taxes left in the UK which operates on a tiered rate structure based on the entire value of something that can be taxed. It is a slab sided tax where the rate jumps on the whole purchase price at certain threshold prices, not just on increments to the price above the threshold. This leads to price clustering just below the thresholds.

Since SDLT has been devolved to the Scottish Parliament and Scottish Government under the Scotland Act 2012, the Scottish Government has reformed the SDLT to become the Land and Buildings Transaction Tax (Scotland) 2013. These reforms provide a more progressive taxation (similar to income tax in the way it's charged) of land and buildings sale whereby any property sold above the first tax threshold but below the second threshold would be charged only the tax on the amount which is over the first tax threshold.

Mythbusting second home claims

The Telegraph ran an article in its copy on the 31st of July 2013 which read "Wales could push up stamp duty for 60,000 second home owners, Whitehall warns". The article suggested that the devolution of SDLT to Wales could see second homes in Wales targeted for higher taxation by the Welsh Government, something which is also suggested in paragraph 2.19.

This seems nonsensical as avenues already exist for the taxation of such homes in Wales. Powers over council tax have already been devolved to the Welsh Government as part of the local government portfolio. If the Welsh Government wanted to raise a tax on second homes in

Wales, then the most obvious way to do it would be via council tax, which would also generate a yearly income, unlike SDLT which is only levied once at the time of purchase. This is echoed in the Holtham Commission's report where they note that whether a discount or a premium council tax charge should be levied on second homes should be left to local authorities to determine.

Conclusions

Throughout our response to this consultation we have provided evidence which shows that SDLT should be devolved to the National Assembly for Wales and the Welsh Government, a belief which has been shared by many independent commissions across the UK.

We believe that SDLT conforms to the Silk Commission's principles for whether the devolution of a tax was appropriate for Wales (outlined earlier in the document). The Calman Commission in Scotland had similar principles in their first report, and as such also recommended the devolution of SDLT, which has now been devolved to the Scottish Parliament. The devolution of SDLT to Scotland already shows that any previous concerns by the UK Government over any possible negative impacts of its devolution must already have been alleviated by the UK Government.

The devolution of SDLT took place under the Scotland Act 2012, which is now being reformed in Scotland and will now be called the Land and Building Transaction Tax. These reforms will replace the tiered system of SDLT that exists in the rest of the UK and introduce the tax as a percentage tax of the cost of property.

As has been outlined in reports above, we believe that land and property taxes are good candidates for devolution as they are hard to evade, they can be easily administered and can be used as a lever for both economic and social policies of the devolved governments- subject matters which are already devolved to the governments of Scotland, Wales and Northern Ireland.

The UK's Changing Union believes that now SDLT has been devolved to Scotland, there is no reason as to why it cannot be devolved to the rest of the UK, including the National Assembly for Wales and Welsh Government. The devolution of SDLT to Wales could go a long way in helping develop Welsh economic and social policies, and as a widely understood tax, would pave the way as a popular and sensible tax to devolve.

Consultation Questions

- ***How significant would the potential positive or negative impacts be on the construction industry and housing market?***

That depends on whether and how the tax is changed following devolution. If the tax is amended as it has been in Scotland and as recommended in the Holtham report, the UK's Changing Union believes that the devolution of SDLT to Wales would have a positive impact on the construction industry and housing market. Policy areas for economic development and housing are already devolved to the Welsh Government therefore this is one tax which it is appropriate to devolve to the Welsh Government. The devolution of SDLT would incentivise the Welsh Government to create policies which would boost the construction industry and housing market in Wales since it

would benefit directly from more transactions. Now that SDLT has been devolved to Scotland, and because of its direct connections to housing policy, the UK's Changing Union sees no reason as to why it shouldn't be devolved to Wales.

- ***What would the likely impact on investment and business location decisions that might result from different property transaction tax regimes in England and Wales?***

Again, this depends on the nature of any changes but the UK's Changing Union doesn't believe that location decisions would be much affected by different property transaction tax regimes in England and Wales. Research shows that transaction costs only very marginally influence where individuals locate, whilst housing characteristics and the availability of finance are much more likely to influence the decision. The Silk Commission notes in their first report that the potential for differences in the tax between Wales and the rest of the UK is unlikely to have a significant direct consequence on location decisions. The British government itself has introduced a higher threshold for the tax in designated 'disadvantaged areas'.

In addition there is no evidence as yet to suggest that the devolution of SDLT to Scotland has had a material impact on the decision of business and investment to locate there. There is also nothing to suggest the devolution of SDLT to Wales would impact on the location decisions of business. Even if changes to the tax encouraged construction activity in Wales, it seems probable the effect would be marginal, given tax rates. Moreover national construction companies can serve most of Wales without changing the location of offices or depots.

- ***How significant would the potential administrative burdens be if there were different property transaction regimes and collection authorities in England and Wales?***

The UK's Changing Union believes there is no evidence to suggest that there would be any significant administrative burdens if there were different property transaction regimes and collection authorities in England and Wales. On the contrary, the characteristics of this particular tax make it among the easiest to collect and one where devolution adds little to administration costs.

In its first report, the Silk Commission suggested that if SDLT was devolved to Wales then the Welsh Government could discuss with HMRC whether it could have a role in operating a devolved system on behalf of the Welsh Government under a service level agreement- service level agreements already exist between the UK and Welsh Governments on different issues. As the Silk Commission note, this would be a relatively simple tax to collect as the burden lies with the purchaser, which is usually done through a third party i.e. a solicitor. There would be no additional burden for the HMRC in terms of administration as existing SDLT returns require the local authority in which the transaction is taking place to be cited, thereby allowing HMRC to identify transactions undertaken in Wales.

In addition, we believe that the transaction costs would not be excessive for the Welsh Government. In response to a Freedom of Information request submitted by PwC on the

cost of administering SDLT in Scotland to the Scottish Government in 2012 produced the following figures (these include landfill tax as well):

“SDLT assuming no change from current UK policy and using HMRC would cost £2.9m and annual administration would be £3.9m

“SDLT assuming different policies to the UK and using a new collection agency in Scotland would cost £2.5m and annual administration would be £2.8m”

- ***What impacts would devolving SDLT have on the Welsh and English economies, particularly in border areas, and what would be the extent of those impacts?***

The UK's Changing Union does not believe that devolving of SDLT in itself would have a particularly big impact on the Welsh economy and its effect on the English economy would be insignificant. The UK's Changing Union believes that if tax rates were different on the different sides of the border, house prices would no doubt adjust but the implications are extremely modest. If the tax were reformed to be a regular progressive tax with no change in rates, there would be a fall in the average tax rate and in revenue but no house would experience a tax reduction of more than 3 per cent of house value. The effect on house prices would be imperceptible. Moreover if the new tax were adjusted to be revenue neutral compared with the current tax, even that effect would be eliminated.

Since the Welsh government will ‘pay’ for this tax with a reduction in its block grant, there is no reason to suppose it would slash rates and sacrifice revenue, particularly at a time of austerity. Even in the highly unlikely event that it were to abolish the tax, the effect on the average house price would be a reduction of 1 per cent and for the huge majority of houses it would be below 4 per cent. The adjustment in relative prices is far below an average year's house price inflation in the UK since the Second World War.

The principal effects of devolving the tax would be indirect: the additional responsibility for revenue raising would encourage a more efficient use of public expenditure at the margin in Wales and a balancing of the marginal expenditure against its revenue cost. That does not happen with block-grant finance. Evidently the effect is greater with politically sensitive taxes that are visible to the voters. SDLT in that context is a more significant tax than aggregates or landfill taxes.

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