The dawn of WRIT

Personal tax



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Ritchie Tout and *Anne Smith* look at the devolution of the UK tax system with the introduction of Welsh income tax

Key Points

What is the issue?

Slowly, but surely, the political devolution of the UK is being reflected in the UK tax system. As regards Wales, Land Transaction Tax (LTT) and Landfill Disposal Tax

(LDT) replaced SDLT and Landfill Tax from 1 April 2018. All the signs are that the Welsh Revenue Authority (WRA) will celebrate a highly successful first full year of operation.

What does it mean to me?

The Welsh Rates of income Tax – WRIT – come into effect from 6 April 2019. Importantly, whilst LTT and LDT are collected by the WRA, the WRIT will be collected by HMRC and affected taxpayers should have contacted and, where appropriate received amended notices of coding.

What can I take away?

The intention is for there to be no changes in the immediate future. This is unlikely to be the case for long as there are a number of needs and causes that have fairly widespread popular and political support – it would surprising to see the system remain fully aligned with that for English taxpayers.

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As with the Scottish Parliament and Revenue Scotland, the Welsh Assembly and the WRA have chosen to deviate from the UK Government and HMRC model. The impact of these variations on taxpayers, the tax authorities and the devolved authorities/parliaments will be of interest to practitioners and academics alike in the years to come.

Income tax

With the partial devolution of income tax, a significant source of funding will reflect political decisions made by the Welsh government/assembly. As with the land related taxes that have already been devolved, the determination of the tax base is a critical element. For income tax, the scope is restricted to earned and pension income of those who are resident in Wales. Simon and Sharon McKie set out a

number of issues with the new intra-UK residence rules (see 'Celtic Complexities', *Tax Adviser*, October 2015.

Individuals with an address in Wales will have received letters in November or December 2018 about their Welsh residence status. During February and March 2019, the P9 Notice of coding will have been despatched for all employees that HMRC has identified as Welsh residents so that they pay the Welsh rates of Income Tax (WRIT) from 6 April 2019. The new codes for Welsh taxpayers will begin with a 'C' (C for Cymru, for those who are not aware, being the Welsh word for Wales). It is the employee's/taxpayer's responsibility to ensure that they provide their employer with their correct address, and, when necessary, to also inform HMRC if they change address. They can do this online.

HMRC has already undertaken an exercise, based on their existing records, to identify and notify taxpayers who would be considered as resident in Wales. This has obviously been a huge exercise and HMRC have confirmed that there are some anomalies in the record which still have to be resolved. If taxpayers have not received a notification or if they believe they have been incorrectly designated as a Welsh taxpayer, they or their advisers will need to contact HMRC. If a taxpayer has been incorrectly designated, they may find it easier to have their records corrected now rather than later when HMRC may be naturally more circumspect about taxpayers wanting to opt out of the WRIT. The rates of income tax, at least in the first year, will not change. For further information on the Welsh Rates of Income Tax visit GOV.Wales.

Welsh taxpayers

The determination of a taxpayer's status will not, as noted above, affect their aggregate tax liability for next year. Further, the status will apply for a whole tax year – specifically, it is not possible to be a Welsh taxpayer for part of a year.

How is Welsh residence determined?

There are a number of tests to determine Welsh residence status. The fundamental test is that if, in the course of a tax year, an individual is UK resident for tax purposes, they will be a Welsh taxpayer for that tax year if they satisfy any of three tests:

- They are a Welsh parliamentarian

- They have a ‘close connection’ to Wales through either:
    - Having only a single ‘place of residence’, which is in Wales; or
    - Where they have more than one ‘place of residence’, having their ‘main place of residence’ in Wales for at least as much of the tax year as it has been in each other part of the UK
- Where no ‘close connection’ to Wales or any other part of the UK exists (either through it not being possible to identify any place of residence, or a main residence) – through day counting.

In the vast majority of cases the key aspect of the test for Welsh taxpayer status rests on establishing an individual’s ‘place of residence’. As so often is the case with fact specific issues, this term is not defined by the legislation, so must be given its ordinary meaning as the dwelling in which that person habitually lives as his or her home. As such, according to guidance on the HMRC website, it should be regarded as having similarities to the concept of ‘home’ within the UK Statutory Residence Test.

What if the individual has more than one home?

The guidance continues to explain that where an individual has two or more ‘places of residence’ in different parts of the UK in a tax year, Welsh taxpayer status will depend on whether a ‘close connection’ with Wales or with another part of the UK exists. Central to that test is establishing an individual’s ‘main place of residence’.

A ‘main place of residence’ is not necessarily the residence where the individual spends the majority of their time, although it commonly might be. A ‘main place of residence’ is the ‘place of residence’ with which the individual can be said to have the greatest degree of connection.

Whether a place constitutes a ‘main place of residence’ is a matter of fact and all of the facts and circumstances of the particular case must be considered. The HMRC guidance states specifically that an individual’s election of ‘main residence’ for Capital Gains Tax (CGT) purposes will not determine ‘main place of residence’ for Welsh taxpayer status purposes.

The following factors may be useful in establishing whether a place constitutes a ‘main place of residence’ for a given tax year, but the relevance of each point will vary from individual to individual.

- If the individual is married, in a civil partnership or a long-term relationship, where does the family spend its time?
- If the individual has children, where do they go to school?
- The location of social, non-work activity, e.g. club membership and participation, hobbies etc.
- How is each residence furnished?
- Where are the majority of the individual's possessions kept?
- Where is the individual registered with a doctor, dentist and optician?
- Which address is used for correspondence, for example from banks and building societies, credit cards?
- At which address is the individual's car registered and insured?
- Which address is the main residence for council tax?
- At which residence is the individual registered to vote?

Further guidance on Welsh residence may be found on the HMRC website.

Implications of Welsh income tax

From 6 April 2019, some of the income tax paid by people living in Wales will directly fund Welsh public services. It is also important, see further below, to note that it is HMRC and not the WRA that will continue to collect income tax as usual. However, for the first time, a proportion of that income tax will be transferred straight to the Welsh Government, to be spent on public services in Wales. Unsurprisingly, the opportunity is being taken by the Welsh Government to highlight the importance of this.

The process for setting Welsh Rates of Income Tax

From April 2019, each of the three rates of income tax – basic, higher and additional rate – paid by Welsh taxpayers will be reduced by 10p. Each year, the Welsh Government will then decide the three Welsh rates of income tax which will be added to the reduced UK rates. The combination of reduced UK rates plus the Welsh rates will determine the overall rate of income tax paid by Welsh taxpayers.

The Welsh Government proposes to set the first Welsh rates of income tax at 10p: this means the rates of income tax paid by Welsh taxpayers will continue to be the same as those paid by English and Northern Irish taxpayers.

Administration of Welsh income tax from April 2019

The tax at Welsh rates will be administered by HMRC as part of the UK income tax system, so there will be no difference in reporting procedures for individuals, either through existing PAYE or self-assessment systems. Individuals who are Welsh taxpayers will receive a tax code prefixed by a ‘C’ which will be issued as part of the annual coding routine to employers and pension providers so the correct rate of income tax can be deducted based on the individual’s taxpayer status. Employers and pension providers will not be expected to determine an individual’s Welsh taxpayer status.

What changes can be expected?

As noted, the intention is for there to be no changes in the immediate future. This is unlikely to be the case for long as there are a number of needs and causes that have fairly widespread popular and political support – it would be surprising to see the system remain fully aligned with that for English taxpayers. That being said, as is clear from the reluctance to deviate too far from the key features of SDLT and Landfill Tax, there is a strong appreciation of the extensive and porous border between Wales and England. In the nearer term, changes in effective tax rates may arise from new taxes and levies which are within the Welsh Assembly’s power to enact and there is already evidence that these taxes could be taken up more widely across the UK, starting with the innocuous plastic bag charge but potentially going much further.

View from the Welsh Treasury

Income tax in Wales

Wales is preparing for the next step in fiscal devolution with the introduction of Welsh Rates of Income Tax.
From 6 April, for the first time, some of the money raised by income tax in Wales will stay in Wales and directly fund Welsh public services. If you live in Wales, and pay income tax, Welsh rates of income tax will apply to you.

UK legislation

The Wales Act 2014 marked a significant milestone in Wales’ devolution journey, providing the Welsh Government and the National Assembly with a package of tax and borrowing powers, strengthening Welsh devolution. The Wales Act 2017

removed the requirement for a referendum before income tax could be considered for devolution, paving the way for the introduction of Welsh rates of income tax this year.

So what's changing?

From April 2019, the Welsh Government will decide the Welsh rates of income tax to be paid by Welsh taxpayers.

Under the current system, all income tax raised by Welsh tax payers is paid to the UK Treasury to fund spending across the UK. But from April, the UK Government will reduce each of the three rates of income tax – basic, higher and additional rate – paid by Welsh taxpayers by 10p.

The Welsh Government will then set its own rates, which, combined with the UK rate, will determine the overall amount of income tax paid by Welsh taxpayers. This means that people living in Wales could potentially pay a different rate of income tax compared to people in other parts of the UK.

In the short term it is unlikely Welsh taxpayers will notice any changes. Rates of 10p per band for 2019-20 have been agreed by the National Assembly, keeping Welsh rates of income tax in line with those of England and Northern Ireland. The Welsh Labour Government has committed not to raise Welsh rates of income tax during this Assembly term.

One noticeable change is that all Welsh taxpayers will receive a new tax code beginning with the letter 'C' for Cymru.

What stays the same?

Responsibility for many aspects of income tax will remain with the UK Government – HMRC will continue to collect income tax from pay and pensions through PAYE and self-assessment in the same way as it does now.

How will rate setting work?

Each year, the Welsh Government will propose the Welsh rates of income tax in its draft Budget. The National Assembly for Wales will vote on the proposed rates.

Welsh taxes

The first Welsh taxes in almost 800 years were introduced in April 2018 when land transaction tax and landfill disposals tax replaced stamp duty land tax and landfill tax, respectively. They will contribute more than £1bn to the Welsh budget over the next four years. The Welsh Government set up the Welsh Revenue Authority to collect and manage these two new taxes.

Following the introduction of land transaction tax, Wales has the most generous starting threshold for property tax in the UK – homebuyers pay no tax on homes costing £180,000 or less.

In setting rates for landfill disposals tax, Wales has become the first country in the UK to introduce a new unauthorised rate to deter people from disposing of waste illegally.

The future of tax policy in Wales

From April this year, the Welsh Government and the National Assembly for Wales will be responsible for a suite of taxes in Wales – Welsh rates of income tax, land transaction tax and landfill disposals tax. Together with council tax and non-domestic rates, which are collected by local authorities, Welsh taxes will contribute around £5bn to the Welsh budget every year, directly funding public services in Wales.

The devolution of tax powers provides Wales with the opportunity to reshape and change taxes to meet Wales' unique needs.

Wales is continuing to develop its approach to taxation in line with the principles set out in the Tax Policy Framework, including the aim to engage and collaborate.

Our annual tax policy work plan is an important part of this process – drawing on what we have learned so far, it identifies the key areas of interest to the Welsh Government. The Tax Policy Framework 2018 noted that the Welsh Government is looking at four possible new taxes – and has approached the UK Treasury to agree on possible development of one idea (vacant land tax).

Interested in contributing?

The Tax Policy Framework is an open invitation to anyone who wishes to contribute to our thinking and to help shape Welsh tax policy. Go to GOV.Wales to learn more or contact us at WelshTreasury@gov.wales. Follow @WelshTreasury on Twitter for

the latest developments.

Image

PROFILE



Name **Dr Andrew Jeffreys**
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Profile Andrew Jeffreys studied at Newcastle University, London School of Economics and Cardiff University, where he completed his PhD in 1999. He spent a number of years working in Whitehall, initially for HM Customs and Excise where he ran the Permanent Secretary's Private Office, and then for HM Treasury where he worked on tax policy and strategy, leading the team responsible for consumption taxes. He returned to Wales in 2006 to work in the Welsh Government. He is currently Director, Welsh Treasury with responsibility for – among other things – establishing the new Welsh Revenue Authority, allocating the Welsh Government's £15bn budget, policy in relation to devolved taxes (including the Welsh Rate of Income Tax from 2019), and the Welsh PPP programme.