



TAXREP 44/13

(ICAEW REP 121/13)

ICAEW TAX REPRESENTATION

STAMP DUTY LAND TAX: CONSULTATION ON THE POTENTIAL IMPACTS OF DEVOLVING TO THE NATIONAL ASSEMBLY FOR WALES AND WELSH GOVERNMENT

Comments submitted on 10 September 2013 by ICAEW Tax Faculty in response to HM Treasury consultation document *Stamp Duty Land Tax: consultation on the potential impacts of devolving to the national assembly for Wales and Welsh Government* published on 30 July 2013

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INTRODUCTION

1. ICAEW welcomes the opportunity to comment on the consultation document [Stamp Duty Land Tax: consultation on the potential impacts of devolving to the national assembly for Wales and Welsh Government](#) published by HM Treasury (HMT) on 30 July 2013.
2. We should be happy to discuss any aspect of our comments and to take part in all further consultations on this area.
3. Information about the Tax Faculty and ICAEW is given below. We have also set out, in Appendix 1, the Tax Faculty's Ten Tenets for a Better Tax System by which we benchmark proposals to change the tax system.

WHO WE ARE

4. ICAEW is a professional membership organisation, supporting over 140,000 chartered accountants around the world. Through our technical knowledge, skills and expertise, we provide insight and leadership to the global accountancy and finance profession.
5. Our members provide financial knowledge and guidance based on the highest professional, technical and ethical standards. We develop and support individuals, organisations and communities to help them achieve long-term, sustainable economic value.
6. The Tax Faculty is the voice of tax within ICAEW and is a leading authority on taxation. Internationally recognised as a source of expertise, the faculty is responsible for submissions to tax authorities on behalf of ICAEW as a whole. It also provides a range of tax services, including TAXline, a monthly journal sent to more than 8,000 members, a weekly newswire and a referral scheme.

KEY POINT SUMMARY

7. The impact of devolving Stamp Duty Land Tax (SDLT) to Wales will depend entirely on what changes are made to SDLT by the Welsh government.
8. The SDLT payable on a transaction, whether it is a commercial or residential property will be one factor taken into account by a prospective purchaser but is unlikely to be a deciding factor.
9. A business purchasing a commercial property will look first at the availability of the necessary work force, accessibility and cost of the property before considering the expenses of purchase including the SDLT.
10. For a residential property the buyer will consider the accessibility of employment, amenities and location with SDLT being considered much further down the decision process. The average price of residential property in Wales is considerably lower than the UK overall and Herefordshire and Shropshire in particular so SDLT is already much less in Wales. If the Welsh government reduce SDLT below the existing level it is unlikely to have an impact on the residential property market. Similarly any increase in SDLT rates is also unlikely to have any impact.
11. If the Welsh government introduced a tax very different to SDLT this could result in additional burdens being placed on HM Revenue & Customs (HMRC) if the administration and collection is outsourced to them at a time when they are already having to cope with new taxes and staff rationalisation. The administration and collection costs could far outweigh any benefit of devolving SDLT to Wales.

12. Finance Act 2013 introduced measures to combat SDLT avoidance, Annual Tax on Enveloped Dwellings (ATED). If SDLT is to be devolved to the Welsh government consideration should be given to the devolution of ATED as it is a property based tax.
13. With the increase in rates of SDLT in recent years avoidance has become much more extensive and this has resulted in considerable extra complexity. The boundary between SDLT, income tax and capital gains tax has now become quite blurred at the high value end and thought needs to be given to the interaction of all these taxes, who gets what and how it would all fit together.

RESPONSES TO CONSULTATION QUESTIONS

Q1: How significant would the potential positive or negative impacts be on the construction industry and housing market?

14. The impact on the construction and housing markets depend on what is introduced to replace SDLT and whether it will be more or less. SDLT would not normally be a key influence on the decision making process other than for property priced just above a threshold level.
15. If Wales has the direct benefit of the SDLT the Welsh government may be more proactive in encouraging property development but it is unlikely to have much sway. The Welsh government encourage commercial development to bring employment to the area and this would probably have a knock on effect to encourage residential development but the employment possibilities would be a far greater driver than having access to the SDLT income.
16. A potential purchaser will look at the SDLT or equivalent charge on acquisition but the council tax/business rates are likely to have a greater influence as they are annual and not just a one off.

Q2: What would be the likely impact on investment and business location decisions that might result from different property transaction tax regimes in England and Wales?

17. As the SDLT is a relatively small cost on top of the purchase price the key decision influencers will remain as now.
18. For commercial property the availability of the necessary workforce, the transport network for goods and the purchase price of the property will influence the purchase decision. For residential property the available employment opportunities, either local or transport to a more remote jobs market, the location of the property and the local amenities will be the deciding factors.
19. A lower or higher SDLT or equivalent Welsh charge is unlikely to be part of the primary decision making process. Property prices are considerably lower in Wales than in the UK generally even in the border areas and that is likely to have a bigger influence on property purchase than SDLT or the Welsh equivalent charge.

The average residential property price in Wales in the first quarter of 2013 was £150,808, the majority of residential property transactions are below the £125,000 SDLT threshold or at the 1% rate. The average price for the same period in the border regions were Herefordshire £208,936, Shropshire £199,966 and Powys £177,485. (House prices from BBC website http://news.bbc.co.uk/1/shared/spl/hi/in_depth/uk_house_prices/html/houses.stm)

Q3: How significant would the potential administrative burdens be if there were different property transaction regimes and collection authorities in England and Wales?

20. Much of the administration for the calculation and collection of SDLT is in the hands of solicitors/conveyance agents dealing with the property transactions. There would be an initial

cost for solicitors/conveyance agents learning any new system for Wales but it is unlikely that there would be any significant on-going additional costs for them in dealing with a Welsh SDLT equivalent assuming it was a straightforward tax along similar lines to SDLT. If a completely different system was introduced the administrative costs for the Welsh government and the solicitors/conveyance could be out of all proportion to the tax collected.

21. If a different rate of tax were to be charged on second homes this is likely to cause significant additional costs in determining if the property is a second home or not.
22. The Welsh government would have costs of collecting and checking the calculations. They could use HMRC as an agent rather than establish their own administration and collection office. Using HMRC would simplify administration matters for solicitors/conveyance agents. The economies of scale would be lost and the administrative costs for the Welsh government are likely to be significantly larger slice of the SDLT collected than at present. However if the tax introduced was very different to SDLT we are very concerned that this would place further burdens onto HMRC which is already having to cope with staff rationalisation and additional taxes.

Q4: 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?

23. The impact is likely to be neutral as the block grant to Wales will be reduced to account for the fact that the Welsh government will receive the SDLT equivalent directly.
24. The Welsh government will be giving up a fixed part of their budget in exchange for the variable amount collected on property transactions so they will need to manage this fluctuation in their cash flow. The opposing income and costs in England are a far smaller percentage of the total income and expenses and so are much more easily managed.

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APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see icaew.com/en/technical/tax/tax-faculty/-/media/Files/Technical/Tax/Tax%20news/TaxGuides/TAXGUIDE-4-99-Towards-a-Better-tax-system.ashx)