

## Appendix 1

### **Question 1.7: Do you have any general comments on the provisions in section 16 and Schedule 3 of the Draft Bill relating to Local Government finance?**

In themselves, both Section 16 and Schedule 3 are reasonable and are as we would expect, putting arrangements in place for amalgamating Council Tax lists, Non-Domestic Rates lists and Council Funds in preparation for the establishment of the new authorities. In this respect we have no objections to their contents.

We would not wish to create further complications before the establishment of the new authorities, but as the new section 22C of the 1992 Act (as proposed) highlights, the last general Council Tax revaluation took place for 1 April 2005. This means that the general lists at the establishment of the new authorities will be 15 years old.

We believe that the Welsh Government must work with local authorities to ensure that those who use public services contribute fairly towards them. We believe that holding the revaluation exercise much more regularly, with sustained re-banding, would give the public more confidence about the robustness, transparency and fairness of the arrangements.

Also, there is a need for a full review of the exemptions and discounts arrangements. The current arrangements are a mess, and they must be updated. Some of the current exemptions are archaic, or fail to reflect the current situations of Councils.

At present, Council Tax is considered equally as a tax on property and a tax on people. There may be room to consider changing the current balance (i.e. 50% property and 50% for the first 2 people in the property), or to even give the right for local councils to adjust this proportion to reflect local requirements.

Therefore, it could be argued that the draft Bill represents a missed opportunity to update the local taxation regime, but we accept that this is not the purpose of this particular Bill.

### **Question 1.8: How could the Welsh Government measure the current level of avoidance of Non-Domestic Rates?**

Local knowledge is vital in this regard. We also urge the Welsh Government to ensure that the Valuation Office Agency undertake better information sharing with local authorities.

We believe that the system of business taxes is generally working well. We believe that fostering good relationships with the Valuation Office Agency, as they carry out their specialist service in maintaining the rating list, have contributed to this. In view of this, we are convinced that keeping business tax collection arrangements at a local level is key in order to be able to take advantage of the local information available.

In our experience, regular visits by council officers to business premises, using appropriate technology and a risk-based programme, give an opportunity to see “in the flesh” whether new businesses have been set up. This again demonstrates the strong advantage of having local knowledge and local collection. Specific grants to support the development of new techniques, using the latest technology, and to employ visiting officers would help local authorities to work with the Welsh Government to measure the current level of avoidance of Non-Domestic Rates

**Question 1.9: Do you have any comments or suggestions on how future legislation could help to reduce instances of avoidance of Non-Domestic Rates?**

We share the belief that one area in which the public purse suffers as a result of avoidance of Non-Domestic Rates are is the ability of businesses to avoid business rates on empty properties. The Rating (Empty Property) Act 2007 states that any industrial property which has been empty for more than six months does not receive rate relief and the empty property will instead be liable for 100% of the basic occupied business rate.

However, it also states that if a property is occupied again for a period of more than six weeks before becoming empty again, a further six-month exemption will apply. The same situation is true for retail units, but a further exemption is only available for up to 3 months in these cases.

Recent court cases (e.g. Makro v Nuneaton & Bedworth DC) has relaxed the definition of "rateable occupation" to such an extent that we consider that rewriting the legislation is necessary. For example, we are now seeing situations where keeping a few files or internet boxes are enough to deem the premises "occupied" in terms of rates liability. Such "minimal occupation" can easily be set up and dismantled to take advantage of initially a relatively small rates bill appertaining to a less than 42 day period of occupation, followed by a further and greater period of exemption, (be that 3 months retail or 6 months industrial), on vacation. We do not believe that this was the intention of the legislation when it was written, and this needs particular attention to ensure that business taxes work much more effectively. Increasing the "rateable occupation" period of 42 days to 3 months (or even 6 months) before allowing empty property relief would go much of the way to closing the "loophole" that currently exists.

The Government should also take steps to prevent avoidance through Phoenixism. This is the practice of creating a succession of limited companies where the process of incorporation is incomplete, and there is little or no attempt to prevent utility providers and the Local Authority from accruing debts. Once the recovery process commences the old company is liquidated and a new company appears.

To the public and customers the business appears continuous – the Officers and employees of the companies are identical, on occasion the details provided to Companies House may differ slightly. The level of losses created is never enough to cause Companies House to investigate the conduct of the Directors.

**Question 1.10: In what other ways could the Welsh Government enable Local Government to reduce the level of avoidance and fraud within the Non-Domestic Rates system?**

We feel that collection arrangements would be strengthened if Councils had the same statutory powers to write for information from businesses when administering business taxes as they do for Council Tax.