



# Tax Collection and Management (Wales) Act 2016

2016 anaw 6

An Act of the National Assembly for Wales to establish the Welsh Revenue Authority; to make provision about the collection and management of devolved taxes; and for connected purposes. [25 April 2016]

**Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:**

## PART 1

### OVERVIEW

#### 1 Overview of Act

This Act is arranged as follows—

- (a) Part 2 establishes the Welsh Revenue Authority and makes provision about its organisation and main functions;
- (b) Part 3 makes provision about the assessment of devolved taxes;
- [<sup>F1</sup>(ba) Part 3A makes provision about counteracting avoidance arrangements in relation to devolved taxes;]
- (c) Part 4 makes provision about the Welsh Revenue Authority's investigatory powers, including provision about notices requiring information and the inspection of premises;
- (d) Part 5 makes provision for and in connection with the imposition of penalties in relation to devolved taxes;
- (e) Part 6 makes provision for interest to be payable on late payments to the Welsh Revenue Authority and on repayments by the Welsh Revenue Authority;
- (f) Part 7 makes provision about payments to the Welsh Revenue Authority and the recovery of unpaid amounts;

*Status: Point in time view as at 01/04/2018.*

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- (g) Part 8 makes provision for and in connection with reviews of and appeals against decisions of the Welsh Revenue Authority;
- (h) Part 9 confers powers to make subordinate legislation about the investigation of criminal offences relating to devolved taxes;
- (i) Part 10 contains provision that applies generally for the purposes of this Act.

**Annotations:**

**Amendments (Textual)**

- F1** S. 1(ba) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 2**; S.I. 2018/34, art. 3

## PART 2

### THE WELSH REVENUE AUTHORITY

#### *Establishment and status of the Welsh Revenue Authority*

## 2 The Welsh Revenue Authority

- (1) There is to be a body corporate to be known as the Welsh Revenue Authority or Awdurdod Cyllid Cymru.
- (2) In this Act, the Welsh Revenue Authority is referred to as “WRA”.
- (3) The functions of WRA are performed on behalf of the Crown and, accordingly, the property, rights and liabilities of WRA are property, rights and liabilities of the Crown.

**Annotations:**

**Commencement Information**

- II** S. 2 in force at 18.10.2017 by [S.I. 2017/954](#), art. 2

#### *Membership*

## 3 Membership

- (1) The members of WRA are—
  - (a) a chairperson appointed by the Welsh Ministers,
  - (b) not fewer than 4, nor more than 8, other persons appointed by the Welsh Ministers,
  - (c) the chief executive (see section 9),
  - (d) either 1 or 2 other members of staff of WRA appointed by the chief executive, and
  - (e) 1 other member of staff of WRA appointed under section 6.
- (2) The Welsh Ministers may appoint one of the members appointed under subsection (1) (b) as deputy chairperson.

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- (3) The Welsh Ministers may by regulations amend subsection (1) so as to substitute a different number for any of the numbers for the time being specified in it; but the regulations must ensure that the number of non-executive members continues to exceed the number of executive members.
- (4) In this Part—
- (a) the chairperson and members of WRA appointed under subsection (1)(b) are collectively referred to as “non-executive members”;
  - (b) the chief executive and members of WRA appointed under subsection (1)(d) or section 6 are collectively referred to as “executive members”;
  - (c) the member of WRA appointed under section 6 is referred to as an “elected executive member”.

**Annotations:**

**Commencement Information**

**I2** S. 3 in force at 18.10.2017 by [S.I. 2017/954, art. 2](#)

#### **4 Disqualification for appointment as non-executive member**

A person is disqualified from appointment as a non-executive member of WRA if the person is—

- (a) a member of the National Assembly for Wales,
- (b) a member of the House of Commons, House of Lords, Scottish Parliament or Northern Ireland Assembly,
- (c) a member of the European Parliament,
- (d) a member of a local authority,
- (e) a member of a National Park Authority,
- (f) a member of the Welsh Government,
- (g) a Minister of the Crown, a member of the Scottish Government or a Northern Ireland Minister,
- (h) a police and crime commissioner,
- (i) a person holding office under the Crown,
- (j) a person employed in the civil service of the State, or
- (k) the holder of an office, or a member or member of staff of a body, prescribed by regulations made by the Welsh Ministers.

**Annotations:**

**Commencement Information**

**I3** S. 4 in force at 18.10.2017 by [S.I. 2017/954, art. 2](#)

#### **5 Terms of non-executive membership**

- (1) A non-executive member of WRA holds office as a member for such period and on such terms as are specified in the terms of the member's appointment (but subject to subsection (4) and section 7).

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- (2) The period of office specified in the terms of a non-executive member's appointment must not be more than 5 years.
- (3) A non-executive member of WRA appointed as deputy chairperson holds office as deputy chairperson for such period and on such terms as are specified in the person's terms of appointment as deputy chairperson (but subject to subsection (4) and section 7).
- (4) A person may resign from office as a non-executive member, or as deputy chairperson, of WRA by giving notice to the Welsh Ministers.
- (5) A person who is or has been a non-executive member of WRA may be re-appointed as a non-executive member once only.
- (6) A person who is or has been deputy chairperson of WRA may be re-appointed as deputy chairperson.
- (7) WRA may pay to non-executive members—
  - (a) such remuneration as WRA may, with the approval of the Welsh Ministers, determine, and
  - (b) such sums as WRA may, with the approval of the Welsh Ministers, determine by way of reimbursement of expenses incurred by them in carrying out their functions.

**Annotations:**

**Commencement Information**

**I4** S. 5 in force at 18.10.2017 by [S.I. 2017/954, art. 2](#)

## 6 Appointment of elected executive member

- (1) WRA must conduct a ballot of its staff for the purpose of appointing a member of staff as an elected executive member of WRA.
- (2) The non-executive members of WRA must—
  - (a) appoint the winner of the ballot as an elected executive member of WRA, and
  - (b) determine the terms of that person's appointment.
- (3) An elected executive member of WRA holds office as a member for such period and on such terms as are specified in the terms of the member's appointment (but subject to subsection (4) and section 7).
- (4) An elected executive member of WRA may resign from office by giving notice to the non-executive members of WRA.

**Annotations:**

**Commencement Information**

**I5** S. 6 in force at 18.10.2017 by [S.I. 2017/954, art. 2](#)

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## 7 Removal of members etc.

- (1) The Welsh Ministers may remove a person from office as a non-executive member of WRA by notice if—
  - (a) the person becomes disqualified from appointment as a non-executive member by virtue of section 4,
  - (b) the person has been absent from meetings of WRA for a period longer than 6 months without the permission of WRA, or
  - (c) the Welsh Ministers consider that the person is unfit to be a member or is unable or unwilling to carry out the person's functions as a member.
- (2) The non-executive members of WRA may remove a person from office as an elected executive member of WRA by notice if—
  - (a) the person has been absent from meetings of WRA for a period longer than 6 months without the permission of WRA, or
  - (b) the non-executive members of WRA consider that the person is unfit to be a member or is unable or unwilling to carry out the person's functions as a member.
- (3) A person ceases to be deputy chairperson of WRA on ceasing to be a non-executive member.
- (4) A person ceases to be a non-executive member of WRA if the person becomes a member of staff of WRA.
- (5) A person ceases to be an executive member of WRA on ceasing to be chief executive or any other member of staff of WRA.

### Annotations:

#### Commencement Information

**I6** S. 7 in force at 18.10.2017 by [S.I. 2017/954](#), [art. 2](#)

### *Committees and staff*

## 8 Committees and sub-committees

- (1) WRA may establish committees for any purpose relating to its functions.
- (2) WRA may determine the composition of its committees.
- (3) WRA may appoint persons who are not members of WRA to be members of a committee, but those persons are not entitled to vote at meetings of the committee.
- (4) A committee of WRA may establish sub-committees.
- (5) A committee which establishes a sub-committee may determine its composition.
- (6) A committee may appoint persons who are not members of WRA to be members of a sub-committee, but those persons are not entitled to vote at meetings of the sub-committee.
- (7) WRA may pay to any members of a committee established by it, or of a sub-committee established by such a committee, who are not members of WRA—

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- (a) such remuneration as WRA may, with the approval of the Welsh Ministers, determine, and
- (b) such sums as WRA may, with the approval of the Welsh Ministers, determine by way of reimbursement of expenses incurred by them in carrying out their functions.

**Annotations:**

**Commencement Information**

**I7** S. 8 in force at 18.10.2017 by [S.I. 2017/954, art. 2](#)

**9 Chief executive and other staff**

- (1) There is to be a chief executive of WRA.
- (2) The chief executive is responsible for (among other things) securing that the functions of WRA are performed efficiently and effectively.
- (3) The first person employed as chief executive is to be appointed by the Welsh Ministers on such terms as they may determine.
- (4) Each subsequent chief executive is to be appointed by the non-executive members of WRA on such terms as they may, with the approval of the Welsh Ministers, determine.
- (5) WRA may appoint other members of staff on such terms as it may, with the approval of the Welsh Ministers, determine.
- (6) Service as the chief executive or as any other member of staff of WRA is service in the civil service of the State.

**Annotations:**

**Commencement Information**

**I8** S. 9 in force at 18.10.2017 by [S.I. 2017/954, art. 2](#)

*Procedure and validity*

**10 Procedure**

- (1) WRA must make rules to regulate its own procedure (including quorum) and that of any committee or sub-committee.
- (2) The rules must provide that a meeting of WRA is not quorate unless a majority of the members present are non-executive members of WRA.

**Annotations:**

**Commencement Information**

**I9** S. 10 in force at 18.10.2017 by [S.I. 2017/954, art. 2](#)

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## 11 Validity of proceedings and acts

The validity of any proceedings or acts of WRA (or of any committee or sub-committee) is not affected by—

- (a) any vacancy in its membership,
- (b) any defect in the appointment of a member, or
- (c) any non-executive member becoming disqualified from appointment by virtue of section 4.

### Annotations:

#### Commencement Information

**I10** S. 11 in force at 18.10.2017 by [S.I. 2017/954](#), [art. 2](#)

## Functions

## 12 Main functions

- (1) WRA's general function is the collection and management of devolved taxes.
- (2) WRA has the following particular functions—
  - (a) providing to the Welsh Ministers information, advice and assistance relating to devolved taxes;
  - (b) providing information and assistance relating to devolved taxes to devolved taxpayers, their agents and other persons;
  - (c) resolving complaints and disputes relating to devolved taxes;
  - (d) promoting compliance with the law relating to devolved taxes and protecting against tax evasion and tax avoidance in relation to devolved taxes.
- (3) WRA must provide the Welsh Ministers with such information, advice or assistance relating to its functions as the Welsh Ministers may from time to time require in such form as the Welsh Ministers determine.
- (4) In addition to any other powers it has, WRA may do anything which it considers—
  - (a) necessary or expedient in connection with the exercise of its functions, or
  - (b) incidental or conducive to the exercise of those functions.

### Annotations:

#### Commencement Information

**I11** S. 12 in force at 18.10.2017 by [S.I. 2017/954](#), [art. 2](#)

## 13 Internal authorisation to carry out functions

- (1) WRA may authorise the carrying out of any of its functions (to any extent) by—
  - (a) a member of WRA,
  - (b) a committee of WRA or a sub-committee of such a committee, or
  - (c) the chief executive or any other member of staff of WRA.

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- (2) But WRA may not authorise a committee or sub-committee to carry out any of its functions (to any extent) unless at least one of the members of the committee or sub-committee is a non-executive member of WRA.
- (3) The authorisation of the carrying out of a function under this section does not affect—
  - (a) WRA's ability to exercise the function, or
  - (b) WRA's responsibility for the exercise of the function.

**Annotations:**

**Commencement Information**

**I12** S. 13 in force at 18.10.2017 by [S.I. 2017/954](#), [art. 2](#)

## 14 Delegation of functions

- (1) WRA may delegate any of its functions to any person prescribed by regulations made by the Welsh Ministers.
- (2) WRA may give directions to a person to whom any of its functions have been delegated about how the delegated functions are to be exercised and the person to whom the functions have been delegated must comply with any such direction.
- (3) Delegations or directions under this section may be varied or revoked at any time.
- (4) WRA must publish information about—
  - (a) delegations under this section, and
  - (b) directions under this section.
- (5) Subsection (4) does not apply to the extent that WRA considers that publication of information would prejudice the effective exercise of its functions.
- (6) Delegation of a function under this section does not affect—
  - (a) WRA's ability to exercise the function, or
  - (b) WRA's responsibility for the exercise of the function.
- (7) WRA may make to a person to whom any of its functions have been delegated payments in respect of the exercise by the person of the delegated functions.

**Annotations:**

**Commencement Information**

**I13** S. 14 in force at 18.10.2017 by [S.I. 2017/954](#), [art. 2](#)

## 15 General directions

- (1) The Welsh Ministers may give to WRA directions of a general nature.
- (2) WRA must, in the exercise of its functions, comply with directions given under subsection (1).
- (3) Directions given under subsection (1) may not relate to the exercise of the functions in sections 29 or 30.



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(4) Directions under this section may be varied or revoked at any time.

(5) The Welsh Ministers must publish any directions given under subsection (1).

**Annotations:**

**Commencement Information**

**I14** S. 15 in force at 18.10.2017 by [S.I. 2017/954](#), [art. 2](#)

*Information*

**16 Use of information by WRA and delegates**

- (1) Information acquired—
  - (a) by WRA, or
  - (b) by a person to whom WRA has delegated any of its functions, in connection with a function of WRA may be used only in accordance (2).
- (2) The information may be used—
  - (a) by WRA, or
  - (b) by any person to whom WRA has delegated any of its functions, in connection with any function of WRA.
- (3) This section is subject to any international obligation of the United Kingdom which restricts or prohibits the use of information.

**Annotations:**

**Commencement Information**

**I15** S. 16 in force at 18.10.2017 by [S.I. 2017/954](#), [art. 2](#)

**17 Confidentiality of protected taxpayer information**

- (1) An individual who is or has been a relevant official must not disclose protected taxpayer information unless the disclosure is permitted by section 18.
- (2) In this section and section 19, “relevant official” means an individual who is—
  - (a) a member of WRA, of a committee of WRA or of a sub-committee of such a committee,
  - (b) a person to whom WRA has delegated any of its functions, a member of a body to whom WRA has delegated any of its functions, of a committee of such a body or of a sub-committee of such a committee, or an office-holder of such a body,
  - (c) a member of staff of WRA,
  - (d) a member of staff of a person to whom WRA has delegated any of its functions employed in connection with any of those functions,
  - (e) a person providing services to WRA, or
  - (f) a person providing services to a person to whom WRA has delegated any of its functions in connection with any of those functions.

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- (3) In subsection (1) and section 18, “protected taxpayer information” means information relating to a person (the “affected person”)—
- (a) which was acquired by WRA or which was acquired by a person to whom any of the functions of WRA have been delegated in connection with those functions, and
  - (b) by which the affected person may be identified (whether by reason of the affected person's identity being specified in the information or being capable of being deduced from it).
- (4) But information is not “protected taxpayer information” if it is information about internal administrative arrangements of WRA or of a person to whom WRA has delegated any of its functions (whether the information relates to members of staff of WRA or of such a person or to other persons).

**Annotations:**

**Commencement Information**

**I16** S. 17 in force at 18.10.2017 by [S.I. 2017/954](#), **art. 2**

**18 Permitted disclosures**

- (1) A disclosure of protected taxpayer information is permitted by this section if—
- (a) it is made with the consent of each person to whom the information relates,
  - (b) it is made for the purpose of obtaining services in connection with a function of WRA,
  - (c) it is made for the purposes of a criminal investigation or criminal proceedings or for the purposes of the prevention or detection of crime,
  - (d) it is made to a body with responsibility for the regulation of a profession in connection with misconduct on the part of a member of the profession which relates to a function of WRA,
  - (e) it is made for the purposes of civil proceedings,
  - (f) it is made in pursuance of an order of a court or tribunal,
  - (g) it is made in accordance with an enactment requiring or permitting the disclosure,<sup>F2</sup>...
  - (h) it is made to WRA or to a person to whom WRA has delegated any of its functions for use in accordance with section 16<sup>F3</sup>,]
  - <sup>F4</sup>(i) it is made to Her Majesty's Revenue and Customs in connection with a function of WRA or in connection with a function of Her Majesty's Revenue and Customs, or
  - (j) it is made to Revenue Scotland in connection with a function of WRA or in connection with the collection and management of a devolved tax within the meaning of the Scotland Act 1998 (c. 46).]
- (2) The Welsh Ministers may by regulations amend subsection (1).

**Annotations:**

**Amendments (Textual)**

**F2** Word in s. 18(1) omitted (29.11.2017) by virtue of [The Tax Collection and Management \(Permitted Disclosures\) \(Wales\) Regulations 2017 \(S.I. 2017/1163\)](#), regs. 1(2), **2(a)**

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- F3** S. 18(1)(h); punctuation mark substituted for full stop (29.11.2017) by [The Tax Collection and Management \(Permitted Disclosures\) \(Wales\) Regulations 2017 \(S.I. 2017/1163\)](#), regs. 1(2), **2(b)**
- F4** S. 18(1)(i)(j) inserted (29.11.2017) by [The Tax Collection and Management \(Permitted Disclosures\) \(Wales\) Regulations 2017 \(S.I. 2017/1163\)](#), regs. 1(2), **2(c)**

#### **Commencement Information**

- I17** S. 18 in force at 18.10.2017 by [S.I. 2017/954](#), **art. 2**

## **19 Declaration of confidentiality**

- (1) Every individual who is a relevant official must make a declaration acknowledging the obligation of confidentiality under section 17.
- (2) A declaration must be made—
  - (a) as soon as reasonably practicable following the individual's appointment, and
  - (b) in such form and manner as WRA may determine.
- (3) For the purposes of subsection (2)(a)—
  - (a) the renewal of a fixed term appointment is not to be treated as an appointment,
  - (b) an individual within section 17(2)(e) is to be treated as appointed when the individual first provides services as mentioned there, and
  - (c) if an individual within section 17(2)(b), (d) or (f) was appointed (or treated as appointed) before the delegation of functions concerned, the individual is to be treated as required to make the declaration as soon as reasonably practicable after the functions are delegated.

#### **Annotations:**

#### **Commencement Information**

- I18** S. 19 in force at 18.10.2017 by [S.I. 2017/954](#), **art. 2**

## **20 Offence of wrongful disclosure of protected taxpayer information**

- (1) An individual who discloses information in contravention of section 17(1) commits an offence.
- (2) It is a defence for an individual charged with an offence under subsection (1) to prove that the individual reasonably believed—
  - (a) that the disclosure of the information was permitted by section 18, or
  - (b) that the information had already lawfully been made available to the public.
- (3) An individual who commits an offence under subsection (1) is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (4) This section does not affect the pursuit of any remedy or the taking of any action in relation to a contravention of section 17(1).

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**Annotations:**

**Commencement Information**

**I19** S. 20 in force at 18.10.2017 by [S.I. 2017/954](#), **art. 2**

*Court proceedings and evidence*

**21 Court proceedings**

- (1) WRA may institute criminal and civil proceedings in England and Wales.
- (2) An individual authorised to conduct criminal or civil proceedings in magistrates' courts in England and Wales—
  - (a) by WRA, or
  - (b) by a person to whom WRA has delegated the function of authorising the conduct of such proceedings,
 is entitled to do so even though not an authorised person for the purposes of the Legal Services Act 2007 (c. 29).

**Annotations:**

**Commencement Information**

**I20** S. 21(1) in force at 18.10.2017 by [S.I. 2017/954](#), **art. 2**

**I21** S. 21(2) in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

**22 Evidence**

- (1) A document that purports to have been issued or signed by or with the authority of WRA—
  - (a) is to be treated as having been so issued or signed unless the contrary is proved, and
  - (b) is admissible in any legal proceedings.
- (2) A document that purports to have been issued by WRA and which certifies any of the matters specified in subsection (3) is sufficient evidence of that fact unless the contrary is proved.
- (3) The matters are—
  - (a) that a specified person was appointed as a member of WRA on a specified date;
  - (b) that a specified person was appointed as a member of WRA's staff on a specified date;
  - (c) that at a specified time or for a specified purpose (or both) a specified member of WRA was authorised to exercise a function of WRA;
  - (d) that at a specified time or for a specified purpose (or both) a specified committee of WRA or a specified sub-committee of such a committee was authorised to exercise a function of WRA;
  - (e) that at a specified time or for a specified purpose (or both)—
    - (i) a specified member of WRA's staff, or

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- (ii) a member of WRA's staff of a specified description,  
was authorised to exercise a function of WRA;
  - (f) that at a specified time or for a specified purpose (or both) a function of WRA  
was delegated to another specified person.
- (4) A document that purports to have been issued by or with the authority of WRA and  
which certifies—
- (a) that a tax return required to be made to WRA has not been made, or
  - (b) that a notice required to be given to WRA has not been given,
- is sufficient evidence of that fact unless the contrary is proved.
- (5) A copy of a document issued or acquired by WRA (or on its behalf) that is certified by  
WRA (or on its behalf) to be an accurate copy is admissible in any legal proceedings  
to the same extent as the document itself and is sufficient evidence of that document  
unless the contrary is proved.
- (6) See section 168 (certificates of debt) for provision about the certification of debt.

**Annotations:**

**Commencement Information**

**I22** S. 22 in force at 18.10.2017 by [S.I. 2017/954](#), **art. 2**

*Money*

**23 Funding**

- (1) The Welsh Ministers must pay WRA such amounts as they consider appropriate in  
respect of the carrying out of WRA's functions.
- (2) The payments are to be made at the times, and subject to the conditions, that the Welsh  
Ministers consider appropriate.

**Annotations:**

**Commencement Information**

**I23** S. 23 in force at 18.10.2017 by [S.I. 2017/954](#), **art. 2**

**24 Rewards**

WRA may pay a reward to a person in return for a service which relates to any of  
its functions.

**Annotations:**

**Commencement Information**

**I24** S. 24 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: Tax Collection and Management (Wales) Act 2016 is up to date with all changes known to be in force on or before 24 May 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 25 Payments of receipts into Welsh Consolidated Fund

- (1) WRA must pay amounts collected in the exercise of its functions into the Welsh Consolidated Fund.
- (2) But WRA may do so after deduction of disbursements by way of repayments of devolved taxes (including interest on such repayments) and credits in respect of devolved taxes.

### Annotations:

#### Commencement Information

**I25** S. 25 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(a\)](#)

### *Charter of standards and values*

## 26 Charter of standards and values

- (1) WRA must prepare a Charter.
- (2) The Charter must include—
  - (a) standards of service, standards of behaviour and values which WRA is expected to adhere to when dealing with devolved taxpayers, their agents and other persons in the exercise of its functions, and
  - (b) standards of behaviour and values which WRA expects devolved taxpayers, their agents and other persons to adhere to when dealing with it.
- (3) WRA must—
  - (a) publish the Charter,
  - (b) review the Charter—
    - (i) at least once in the period of 5 years beginning with the day on which the Charter is published, and
    - (ii) subsequently, at least once in the period of 5 years following a review, and
  - (c) revise the Charter when it considers it appropriate to do so and publish the revised Charter.
- (4) Before publishing the Charter or a revised Charter WRA must consult such persons as it considers appropriate.
- (5) WRA must lay the Charter and any revised Charter before the National Assembly for Wales.
- (6) The first Charter must be published within 3 months of the coming into force of this section.

### Annotations:

#### Commencement Information

**I26** S. 26 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(b\)](#)

*Status: Point in time view as at 01/04/2018.*

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*Corporate plans, annual reports, accounts etc.*

## 27 Corporate plan

- (1) WRA must, for each planning period, prepare a corporate plan and submit it for approval by the Welsh Ministers.
- (2) The corporate plan must set out—
  - (a) WRA's main objectives for the planning period,
  - (b) the outcomes by reference to which the achievement of the main objectives may be measured, and
  - (c) the activities which WRA expects to undertake during the planning period.
- (3) The Welsh Ministers may approve the corporate plan subject to such modifications as may be agreed between them and WRA.
- (4) When the Welsh Ministers approve the corporate plan, WRA must—
  - (a) publish the plan, and
  - (b) lay a copy of the plan before the National Assembly for Wales.
- (5) During the planning period to which a corporate plan relates, WRA may review the plan and submit a revised corporate plan to the Welsh Ministers for approval.
- (6) Subsections (2) to (4) apply to a revised corporate plan as they apply to a corporate plan.
- (7) “Planning period” means—
  - (a) a first period prescribed by the Welsh Ministers by regulations, and
  - (b) each subsequent period of 3 years.
- (8) The Welsh Ministers may by regulations substitute for the period for the time being specified in subsection (7)(b) such other period as they consider appropriate.
- (9) The corporate plan for the first planning period must be submitted for approval by the Welsh Ministers not later than 6 months after WRA is established; and the corporate plan for each subsequent planning period must be submitted before the beginning of the planning period.

### Annotations:

#### Commencement Information

I27 S. 27 in force at 18.10.2017 by [S.I. 2017/954](#), [art. 2](#)

## 28 Annual report

- (1) As soon as is reasonably practicable after the end of each financial year, WRA must—
  - (a) prepare and publish a report on the exercise of its functions during that year,
  - (b) send a copy of the report to the Welsh Ministers, and
  - (c) lay a copy of the report before the National Assembly for Wales.
- (2) The report must (in particular) contain an assessment of the extent to which WRA has demonstrated during the financial year the standards of service, standards of behaviour and values which it is stated in the Charter that it is expected to adhere to.

*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: Tax Collection and Management (Wales) Act 2016 is up to date with all changes known to be in force on or before 24 May 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) WRA may publish such other reports and information on matters relevant to its functions as it considers appropriate.

**Annotations:**

**Commencement Information**

**I28** S. 28 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

## 29 Accounts

- (1) WRA must—
- (a) keep proper accounting records, and
  - (b) prepare accounts in respect of each financial year in accordance with directions given by the Welsh Ministers.
- (2) The directions which the Welsh Ministers may give include (among other things) directions as to—
- (a) the information to be contained in the accounts and the manner in which the accounts are to be presented;
  - (b) the methods and principles in accordance with which the accounts are to be prepared;
  - (c) additional information that is to accompany the accounts.
- (3) Directions under this section may be varied or revoked at any time.

**Annotations:**

**Commencement Information**

**I29** S. 29 in force at 18.10.2017 by [S.I. 2017/954](#), [art. 2](#)

## 30 Tax Statement

- (1) WRA must prepare in respect of each financial year, in accordance with directions given by the Welsh Ministers, a statement of the amount of money collected by it during the financial year in the exercise of its functions (a “Tax Statement”).
- (2) Directions under this section may be varied or revoked at any time.

**Annotations:**

**Commencement Information**

**I30** S. 30 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

## 31 Audit

- (1) WRA must submit—
- (a) the accounts prepared for a financial year, and
  - (b) the Tax Statement for a financial year,



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to the Auditor General for Wales not later than 31 August in the following financial year.

- (2) The Auditor General for Wales must—
  - (a) examine, certify and report on the accounts and Tax Statement, and
  - (b) not later than the end of the period of 4 months beginning with the day on which they are submitted, lay a copy of the certified accounts and Tax Statement, and the reports on them, before the National Assembly for Wales.
- (3) In examining the accounts submitted under this section, the Auditor General for Wales must, in particular, be satisfied—
  - (a) that the expenditure to which the accounts relate has been incurred lawfully and in accordance with the authority which governs it, and
  - (b) that money received for a particular purpose or particular purposes has not been expended otherwise than for that purpose or those purposes.
- (4) In examining the Tax Statement submitted under this section, the Auditor General for Wales must, in particular, be satisfied—
  - (a) that the money collected by WRA, to which the Tax Statement relates, has been collected lawfully, and
  - (b) that any deduction of disbursements has been made in accordance with section 25(2).

**Annotations:**

**Commencement Information**

**I31** S. 31 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

**32 Examination into use of resources**

- (1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which resources have been used in discharging WRA's functions.
- (2) But that does not entitle the Auditor General for Wales to question the merits of the policy objectives of WRA.
- (3) Before carrying out an examination the Auditor General for Wales must—
  - (a) consult the National Assembly for Wales, and
  - (b) take into account the views of the National Assembly for Wales as to whether or not an examination should be carried out.
- (4) The Auditor General for Wales must—
  - (a) as soon as is reasonably practicable, publish a report of the results of an examination carried out under this section, and
  - (b) lay a copy of the report before the National Assembly for Wales.

**Annotations:**

**Commencement Information**

**I32** S. 32 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

*Status: Point in time view as at 01/04/2018.*

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### 33 Accounting officer

- (1) The chief executive of WRA is the accounting officer of WRA.
- (2) The accounting officer has, in relation to the accounts and finances of WRA, the responsibilities which are for the time being specified by the Welsh Ministers.
- (3) The responsibilities which may be specified under this section include (among other things)—
  - (a) responsibilities in relation to the signing of WRA's accounts and the Tax Statement;
  - (b) responsibilities for the propriety and regularity of the finances of WRA;
  - (c) responsibilities for the economy, efficiency and effectiveness with which the resources of WRA are used;
  - (d) responsibilities owed to the National Assembly for Wales, the Welsh Ministers or a committee of the National Assembly for Wales.

#### Annotations:

#### Commencement Information

**I33** S. 33 in force at 18.10.2017 by [S.I. 2017/954](#), [art. 2](#)

#### *Consequential amendments*

### 34 Welsh public records

In section 148 of the Government of Wales Act 2006 (c. 32) (meaning of “Welsh public records”), in subsection (1), after paragraph (b) insert—

“(ba) administrative and departmental records belonging to Her Majesty which are records of or held by the Welsh Revenue Authority;”.

#### Annotations:

#### Commencement Information

**I34** S. 34 in force at 18.10.2017 by [S.I. 2017/954](#), [art. 2](#)

### 35 Public Services Ombudsman

In Schedule 3 to the Public Services Ombudsman (Wales) Act 2005 (c. 10) (listed authorities), after the entry relating to the National Assembly for Wales Commission insert—

“*Taxation*

Welsh Revenue Authority”

#### Annotations:

#### Commencement Information

**I35** S. 35 in force at 18.10.2017 by [S.I. 2017/954](#), [art. 2](#)

*Status: Point in time view as at 01/04/2018.*

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### 36 Auditor General for Wales

In section 23 of the Public Audit (Wales) Act 2013 (anaw 3) (general provision relating to fees), in subsection (3), after paragraph (b) insert—

“(ba) an examination, certification or report under section 31 of the Tax Collection and Management (Wales) Act 2016 in respect of the Welsh Revenue Authority's Tax Statement;”.

#### Annotations:

#### Commencement Information

**I36** S. 36 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

## PART 3

### TAX RETURNS, ENQUIRIES AND ASSESSMENTS

#### CHAPTER 1

##### OVERVIEW

### 37 Overview of Part

This Part is about the assessment of devolved taxes and includes provision about—

- (a) keeping records;
- (b) tax returns;
- (c) enquiries by WRA into tax returns;
- (d) determinations by WRA of devolved tax due where no tax return is made;
- (e) assessments by WRA of devolved tax due [<sup>F5</sup>and of amounts payable in respect of tax credits];
- (f) claims for relief from double assessment and for repayment of devolved tax;
- (g) the making of claims.

#### Annotations:

#### Amendments (Textual)

**F5** Words in s. 37(e) substituted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 9](#)

*Status: Point in time view as at 01/04/2018.*

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## CHAPTER 2

### F6 ... DUTIES TO KEEP AND PRESERVE RECORDS

#### Annotations:

#### Amendments (Textual)

- F6** Word in Pt. 3 Ch. 2 heading omitted (1.4.2018) by virtue of [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 4](#); S.I. 2018/34, art. 3

### 38 [F7 Duty to keep and preserve records: cases where a tax return is required]

- (1) A person who is required to make a tax return must—
- (a) keep any records that may be needed to enable the person to [F8 demonstrate that the tax return is correct and complete,] and
  - [F9(b) preserve any records that may be needed for that purpose.]
- (2) The records must be preserved until the end of the later of the relevant [F10 date] and the [F10 date] on which—
- (a) an enquiry into the tax return is completed (see section 50), or
  - (b) if there is no enquiry, [F11 the enquiry period ends (see section 43(1A)).]
- [F12(3) The ““relevant date”” is the sixth anniversary of whichever is the later of—
- (a) the filing date, and
  - (b) if the return has been made and subsequently amended under section 41, the date on which notice of amendment is given under that section.
- (3A) But if WRA specifies an earlier date under this subsection, the ““relevant date”” means the date specified.]
- (4) Different [F13 dates] may be specified for different purposes under subsection [F14(3A)].
- [F15(5) In this Chapter, ““records”” includes supporting documents (for example, accounts, books, deeds, contracts, vouchers and receipts).]
- F16(6) .....
- F17(7) .....
- F18(8) .....

#### Annotations:

#### Amendments (Textual)

- F7** S. 38 heading substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 5\(g\)](#); S.I. 2018/34, art. 3
- F8** Words in s. 38(1)(a) substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 5\(a\)\(i\)](#); S.I. 2018/34, art. 3
- F9** S. 38(1)(b) substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 5\(a\)\(ii\)](#); S.I. 2018/34, art. 3
- F10** Word in s. 38(2) substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 5\(b\)\(i\)](#); S.I. 2018/34, art. 3

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- F11** Words in s. 38(2)(b) substituted (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 5(b)(ii)**; S.I. 2018/34, art. 3
- F12** S. 38(3)(3A) substituted for s. 38(3) (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 5(c)**; S.I. 2018/34, art. 3
- F13** Word in s. 38(4) substituted (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 5(d)(i)**; S.I. 2018/34, art. 3
- F14** Word in s. 38(4) substituted (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 5(d)(ii)**; S.I. 2018/34, art. 3
- F15** S. 38(5) substituted (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 5(e)**; S.I. 2018/34, art. 3
- F16** S. 38(6) omitted (1.4.2018) by virtue of Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 5(f)**; S.I. 2018/34, art. 3
- F17** S. 38(7) omitted (1.4.2018) by virtue of Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 5(f)**; S.I. 2018/34, art. 3
- F18** S. 38(8) omitted (1.4.2018) by virtue of Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 5(f)**; S.I. 2018/34, art. 3

**Modifications etc. (not altering text)**

- C1** S. 38(1) modified (1.4.2018) by Landfill Disposals Tax (Wales) Act 2017 (anaw 3), **ss. 21(8)**, 43(3), 97(2); S.I. 2018/35, art. 3

**Commencement Information**

- I37** S. 38 in force at 1.4.2018 by S.I. 2018/33, **art. 3**

**[<sup>F19</sup>38A Duty to keep and preserve records: land transactions in respect of which no tax return is required.**

- (1) This section applies in relation to a land transaction, other than a transaction of a type listed in section 65(4) of LTTA, in respect of which no tax return is required to be made.
- (2) The buyer in a land transaction in relation to which this section applies must—
  - (a) keep any records that may be needed to enable the buyer to demonstrate that no tax return is required to be made, and
  - (b) preserve any records that may be needed for that purpose.
- (3) The records must be preserved until the end of the relevant date.
- (4) The ““relevant date”” is the sixth anniversary of the effective date of the transaction.
- (5) But if WRA specifies an earlier date under this subsection, the ““relevant date”” is the date specified.
- (6) Different dates may be specified for different purposes under subsection (5).
- (7) In subsection (4), ““effective date”” has the same meaning as in LTTA.]

**Annotations:**

**Amendments (Textual)**

- F19** S. 38A inserted (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 6**; S.I. 2018/34, art. 3

*Status: Point in time view as at 01/04/2018.*

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### 39 Preservation of information etc.

[<sup>F20</sup>(1 )] The duty under section 38 [<sup>F21</sup>or 38A] to preserve records may be satisfied—

- (a) by preserving them in any form and by any means, or
- (b) by preserving the information contained in them in any form and by any means, subject to any conditions or exceptions prescribed by regulations made by the Welsh Ministers.

[<sup>F22</sup>(2) But this is subject to any requirement specified under section 21(7) (water discount record) or 43(2) (landfill disposals tax summary) of LDТА.]

#### Annotations:

##### Amendments (Textual)

- F20** S. 39 renumbered as s. 39(1) (1.4.2018) by Landfill Disposals Tax (Wales) Act 2017 (anaw 3), s. 97(2), **Sch. 4 para. 2(a)**; S.I. 2018/35, art. 3
- F21** Words in s. 39 inserted (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 7**; S.I. 2018/34, art. 3
- F22** S. 39(2) inserted (1.4.2018) by Landfill Disposals Tax (Wales) Act 2017 (anaw 3), s. 97(2), **Sch. 4 para. 2(b)**; S.I. 2018/35, art. 3

##### Commencement Information

- I38** S. 39 in force at 1.4.2018 by S.I. 2018/33, art. 3

### [<sup>F23</sup>39A Power to make regulations about records

The Welsh Ministers may by regulations provide that the records required to be kept and preserved under this Chapter do, or do not, include records of a description prescribed by the regulations.]

#### Annotations:

##### Amendments (Textual)

- F23** S. 39A inserted (18.10.2017) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 8**; S.I. 2017/953, art. 2(j)

## CHAPTER 3

### TAX RETURNS

#### *Filing date*

### 40 Meaning of “filing date”

In [<sup>F24</sup>the Welsh Tax Acts] , the “filing date” [<sup>F25</sup>—

- (a) in relation to a tax return for land transaction tax, is the day by which the return is required to be made under LTТА;
- (b) in relation to a tax return for landfill disposals tax, has the meaning given by section 39(4) of LDТА.]

*Status: Point in time view as at 01/04/2018.*

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**Annotations:**

**Amendments (Textual)**

- F24** Words in s. 40 substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 9**; S.I. 2018/34, art. 3
- F25** S. 40(a)(b) substituted for words (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), **Sch. 4 para. 3**; S.I. 2018/35, art. 3

**Commencement Information**

- I39** S. 40 in force at 1.4.2018 by [S.I. 2018/33](#), art. 3

*Amendment and correction of tax returns*

**41 Amendment of tax return by taxpayer**

- (1) A person who has made a tax return may amend it by giving notice to WRA.
- (2) An amendment under this section must be made before the end of the period of 12 months beginning with the relevant date (referred to in section 42 as the “amendment period”).
- [<sup>F26</sup>(3) The relevant date is the filing date.
- (3A) But if the Welsh Ministers prescribe another date in regulations under this subsection, the relevant date is that date.]
- (4) This section is subject to sections 45(3) and 50.

**Annotations:**

**Amendments (Textual)**

- F26** S. 41(3)(3A) substituted for s. 41(3) (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 10**; S.I. 2018/34, art. 3

**Commencement Information**

- I40** S. 41 in force at 1.4.2018 by [S.I. 2018/33](#), art. 3

**42 Correction of tax return by WRA**

- (1) WRA may correct any obvious error or omission in a tax return.
- (2) A correction under this section—
  - (a) is made by issuing a notice to the person who made the tax return, and
  - (b) is regarded as effecting an amendment of the tax return.
- (3) The reference in subsection (1) to an error includes, for instance, an arithmetical mistake or an error of principle.
- (4) A correction under this section must be made before the end of the period of 9 months beginning with the day on which the tax return was made.



*Status: Point in time view as at 01/04/2018.*

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- [<sup>F27</sup>(4A) If, as a result of a correction made under this section, an amount, or an additional amount, of devolved tax is payable, the person who made the tax return must pay the amount, or additional amount, before the end of the period of 30 days beginning with the day on which notice of the correction is issued.]
- (5) A correction under this section has no effect if the person who made the tax return rejects it by—
- (a) during the amendment period, amending the tax return [<sup>F28</sup>under section 41] so as to reject the correction, or
  - (b) after that period, giving a notice rejecting the correction.
- (6) A notice under subsection (5)(b) must be given to WRA before the end of the period of 3 months beginning with the day on which the notice of correction is issued.

**Annotations:**

**Amendments (Textual)**

**F27** S. 42(4A) inserted (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 11(a)**; S.I. 2018/34, art. 3

**F28** Words in s. 42(5)(a) inserted (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 11(b)**; S.I. 2018/34, art. 3

**Commencement Information**

**I41** S. 42 in force at 1.4.2018 by S.I. 2018/33, art. 3

## CHAPTER 4

### WRA ENQUIRIES

#### *Notice and scope of enquiry*

#### **43 Notice of enquiry**

- (1) WRA may enquire into a tax return if it issues notice of the intention to do so (a “notice of enquiry”) to the person who made the tax return before the end of the [<sup>F29</sup>enquiry period (but see subsection (1B)).]
- [<sup>F30</sup>(1A) The enquiry period for a tax return is the period of 12 months beginning with the relevant date.
- (1B) But WRA may enquire into a tax return after the expiry of the enquiry period if—
- (a) the tax return is made in respect of a land transaction,
  - (b) after the tax return is made, a further return is made in respect of the same land transaction,
  - (c) WRA has issued a notice of enquiry into the further return, and
  - (d) WRA believes it is necessary to enquire into the tax return mentioned in paragraph (a).]

(2) [<sup>F31</sup>For the purposes of subsection (1A),] the relevant date is—



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- (a) if the tax return was made after the filing date, the day on which the tax return was made, or
  - (b) otherwise, the filing date,
- but if the tax return is amended under section 41, the relevant date is the day on which the amendment was made.
- (3) A tax return that has been the subject of one notice under this section may not be the subject of another, except a notice issued
- [<sup>F32</sup>(a) as a result of an amendment of the tax return under section 41, or
  - (b) by virtue of subsection (1B)].
- [<sup>F33</sup>(4) In subsection (1B), ““further return”” means a further return made under LTTA.]

#### Annotations:

##### Amendments (Textual)

- F29** Words in s. 43(1) substituted (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 12(a)**; S.I. 2018/34, art. 3
- F30** S. 43(1A)(1B) inserted (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 12(b)**; S.I. 2018/34, art. 3
- F31** Words in s. 43(2) inserted (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 12(c)**; S.I. 2018/34, art. 3
- F32** S. 43(3)(a)(b) substituted for words in s. 43(3) (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 12(d)**; S.I. 2018/34, art. 3
- F33** S. 43(4) inserted (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 12(e)**; S.I. 2018/34, art. 3

##### Commencement Information

- I42** S. 43 in force at 1.4.2018 by S.I. 2018/33, art. 3

## 44 Scope of enquiry

- (1) An enquiry into a tax return extends to anything contained in the tax return, or required to be contained in the tax return, that relates—
- (a) to the question whether the person who made the tax return is chargeable to the devolved tax to which the tax return relates, <sup>F34</sup>...
  - (b) to the amount of devolved tax chargeable on the person who made the tax return.
  - [<sup>F35</sup>(c) to the question whether the person who made the tax return is entitled to a tax credit claimed in the tax return, or
  - (d) to the amount of tax credit to which the person is entitled.]
- (2) But if a notice of enquiry is issued as a result of the amendment of a tax return under section 41 after an enquiry into the tax return has been completed, the enquiry is limited to—
- (a) matters to which the amendment relates, and
  - (b) matters affected by the amendment.

*Status: Point in time view as at 01/04/2018.*

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**Annotations:**

**Amendments (Textual)**

**F34** Word in s. 44(1) omitted (1.4.2018) by virtue of [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 10(a)**

**F35** S. 44(1)(c)(d) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 10(b)**

**Commencement Information**

**I43** S. 44 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

*Amendment of tax return during enquiry*

**45 Amendment of tax return during enquiry to prevent loss of tax**

- (1) If, during the period when an enquiry into a tax return is in progress, WRA forms the opinion—
- (a) that the amount stated in the tax return as the amount of devolved tax [<sup>F36</sup>chargeable] is insufficient, and
  - (b) that, unless the return is immediately amended, there is likely to be a loss of devolved tax,

WRA may by notice issued to the person who made the return amend it to make good the insufficiency.

- [<sup>F37</sup>(1A) If, during the period when an enquiry into a tax return is in progress, WRA forms the opinion—
- (a) that the amount of tax credit claimed in the tax return is excessive, and
  - (b) that, unless the return is immediately amended, there is likely to be a loss of devolved tax,

WRA may by notice issued to the person who made the return amend it so that the amount claimed is no longer excessive.]

- (2) If the enquiry is one that is limited by section 44(2) to matters arising from an amendment of the tax return,
- [<sup>F38</sup>(a)] subsection (1) applies only so far as the insufficiency is attributable to the amendment [<sup>F39</sup>, and
  - (b) subsection (1A) applies only so far as the excessive amount is attributable to the amendment.]
- (3) Where a notice is issued under subsection (1) [<sup>F40</sup>or (1A)], the person who made the tax return may no longer amend it under section 41.
- (4) The person who made the tax return must pay any amount, or additional amount, of devolved tax payable as a result of the amendment before the end of the period of 30 days beginning with the day on which notice of the amendment is issued.
- (5) For the purposes of this section and [<sup>F41</sup>sections 45A and 46] the period during which an enquiry into a tax return is in progress is the whole of the period—
- (a) beginning with the day on which notice of enquiry into the tax return is issued, and
  - (b) ending with the day on which the enquiry is completed (see section 50).

*Status: Point in time view as at 01/04/2018.*

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#### Annotations:

##### Amendments (Textual)

- F36** Word in s. 45(1)(a) substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 13\(a\)](#); S.I. 2018/34, art. 3
- F37** S. 45(1A) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 11\(2\)](#)
- F38** Words in s. 45(2) renumbered as s. 45(2)(a) (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 11\(3\)\(a\)](#)
- F39** S. 45(2)(b) and word inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 11\(3\)\(b\)](#)
- F40** Words in s. 45(3) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 11\(4\)](#)
- F41** Words in s. 45(5) substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 13\(b\)](#); S.I. 2018/34, art. 3

##### Commencement Information

- I44** S. 45 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

#### [<sup>F42</sup> 45A Amendment of tax return by taxpayer when enquiry is in progress

- (1) This section applies if a person who has made a tax return amends it during the period when an enquiry into the return is in progress.
- (2) For the purposes of section 44 (scope of enquiry), the amendment is to be treated as something contained in the tax return.
- (3) The amendment takes effect on the day on which the enquiry is completed unless WRA states in the closure notice issued under section 50 that—
  - (a) the amendment has been taken into account in formulating the amendments required to give effect to WRA's conclusions, or
  - (b) WRA's conclusion is that the amendment is incorrect.]

#### Annotations:

##### Amendments (Textual)

- F42** S. 45A inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 14](#); S.I. 2018/34, art. 3

#### *Referral during enquiry*

#### 46 Referral of questions to tribunal during enquiry

- (1) At any time when an enquiry is in progress the person who made the tax return and WRA may jointly refer any question arising in connection with the subject-matter of the tax return to the tribunal.
- (2) The tribunal must determine any question referred to it.
- (3) More than one referral may be made under this section in relation to an enquiry.

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**Annotations:**

**Commencement Information**

**I45** S. 46 in force at 1.4.2018 by [S.I. 2018/33, art. 3](#)

**47 Withdrawal of referral**

WRA or the person who made the tax return may withdraw a referral made under section 46.

**Annotations:**

**Commencement Information**

**I46** S. 47 in force at 1.4.2018 by [S.I. 2018/33, art. 3](#)

**48 Effect of referral on enquiry**

- (1) While proceedings on a referral under section 46 are in progress in relation to an enquiry—
  - (a) no closure notice may be issued in relation to the enquiry (see section 50), and
  - (b) no application may be made for a direction to issue a closure notice (see section 51).
- (2) Proceedings on a referral are in progress where—
  - (a) a referral has been made and has not been withdrawn, and
  - (b) the question referred has not been finally determined.

**Annotations:**

**Commencement Information**

**I47** S. 48 in force at 1.4.2018 by [S.I. 2018/33, art. 3](#)

**49 Effect of determination**

- (1) A determination under section 46 is binding on the parties to the referral in the same way, and to the same extent, as a decision on a preliminary issue in an appeal.
- (2) WRA must take the determination into account—
  - (a) in reaching conclusions on the enquiry, and
  - (b) in the formulation of any amendments of the tax return that may be required to give effect to those conclusions.
- (3) The question determined may not be reopened on an appeal, except to the extent that it could be reopened if it had been determined as a preliminary issue in an appeal.

**Annotations:**

**Commencement Information**

**I48** S. 49 in force at 1.4.2018 by [S.I. 2018/33, art. 3](#)

*Status: Point in time view as at 01/04/2018.*

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### Completion of enquiry

#### 50 Completion of enquiry

- (1) An enquiry is completed when WRA issues a notice (a “closure notice”) to the person who made the tax return stating—
  - (a) that the enquiry is complete, and
  - (b) the conclusions reached in the enquiry.
- (2) A closure notice must either—
  - (a) state that in WRA's opinion no amendment of the tax return is required, or
  - (b) make the amendments of the tax return required to give effect to WRA's conclusions.
- (3) Where a closure notice is issued which makes amendments of a tax return, the person who made the tax return may no longer amend it under section 41.
- (4) The person who made the tax return must pay an amount, or additional amount, of devolved tax [<sup>F43</sup>payable] as a result of an amendment made by a closure notice before the end of the period of 30 days beginning with the day on which the notice is issued.

#### Annotations:

#### Amendments (Textual)

**F43** Word in s. 50(4) substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 15](#); S.I. 2018/34, art. 3

#### Commencement Information

**I49** S. 50 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

#### 51 Direction to complete enquiry

- (1) The person who made the tax return may make an application to the tribunal for a direction that a closure notice is to be issued within a specified period.
- (2) The tribunal must give a direction unless satisfied that WRA has reasonable grounds for not giving a closure notice within that period.

#### Annotations:

#### Commencement Information

**I50** S. 51 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

## CHAPTER 5

### WRA DETERMINATIONS

#### 52 Determination of tax chargeable if no tax return made

- (1) This section applies where—

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- (a) WRA has reason to believe that a person is chargeable to a devolved tax,
  - (b) the person has not made a tax return in relation to the devolved tax chargeable, and
  - (c) the relevant filing date has passed.
- (2) “The relevant filing date” means the date by which WRA believes a tax return was required to be made.
  - (3) WRA may make a determination (a “WRA determination”) of the amount of devolved tax to which the person is, in WRA's opinion, chargeable.
  - (4) Notice of the determination must be issued to the person.
  - (5) The person must pay the devolved tax payable [<sup>F44</sup>in accordance with] the WRA determination before the end of the period of 30 days beginning with the day on which notice of the determination is issued.
  - (6) No WRA determination may be made more than 4 years after the relevant date.
  - (7) The relevant date is—
    - (a) the relevant filing date, or
    - (b) such other date as the Welsh Ministers may by regulations prescribe.

**Annotations:**

**Amendments (Textual)**

**F44** Words in s. 52(5) substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 16](#); S.I. 2018/34, art. 3

**Commencement Information**

**I51** S. 52 in force at 1.4.2018 by [S.I. 2018/33](#), art. 3

**53 Determination superseded by tax return**

- (1) If, after a WRA determination has been made, the person whom WRA had reason to believe was chargeable to a devolved tax makes a tax return with respect to the tax, the return supersedes the determination.
- (2) But subsection (1) does not apply to a tax return made—
  - (a) more than 4 years after the power to make a WRA determination first became exercisable, or
  - (b) more than 12 months after the day on which the notice of the determination was issued,
 whichever is the later.
- (3) Where—
  - (a) proceedings have been begun for the recovery of any devolved tax charged by a WRA determination, and
  - (b) before the proceedings are concluded the determination is superseded by a tax return,

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the proceedings may be continued as if they were proceedings for the recovery of so much of the devolved tax charged by the tax return as is required to be paid and has not yet been paid.

**Annotations:**

**Commencement Information**

**I52** S. 53 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

## CHAPTER 6

### WRA ASSESSMENTS

#### *Assessment of loss of tax or of excessive repayment*

#### **54 Assessment where loss of tax**

If WRA comes to the view that—

- (a) an amount of devolved tax that ought to have been assessed as devolved tax chargeable on a person has not been assessed,
- (b) an assessment of the devolved tax chargeable on a person is or has become insufficient, or
- (c) relief in respect of a devolved tax has been claimed or given that is or has become excessive,

WRA may make an assessment of the amount or further amount that ought in its opinion to be charged in order to make good the loss of devolved tax.

**Annotations:**

**Commencement Information**

**I53** S. 54 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

#### **55 Assessment to recover excessive repayment of tax**

- (1) If an amount of a devolved tax has been, but ought not to have been, repaid to a person that amount may be assessed and recovered as if it were unpaid devolved tax.
- (2) If the repayment was made with interest, the amount assessed and recovered may include the amount of interest that ought not to have been paid.

**Annotations:**

**Commencement Information**

**I54** S. 55 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

#### **[<sup>F45</sup>55A. Assessment in relation to tax credit**

If WRA comes to the view that—

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- (a) an amount of tax credit that has been set off against an amount of tax that a person would otherwise have been required to pay—
  - (i) ought not to have been set off, or
  - (ii) has become excessive,
- (b) an amount that has been paid to a person in respect of a tax credit—
  - (i) ought not to have been paid, or
  - (ii) has become excessive, or
- (c) an amount that a person is required to pay to WRA in respect of a tax credit has not been paid,

WRA may make an assessment of the amount that ought in its opinion to be paid to WRA in order to remedy that matter.]

**Annotations:**

**Amendments (Textual)**

**F45** S. 55A inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 12**

**56 References to “WRA assessment”**

In this Act, “WRA assessment” means an assessment under section 54<sup>[F46]</sup>, 55 or 55A].

**Annotations:**

**Amendments (Textual)**

**F46** Words in s. 56 substituted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 13**

**Commencement Information**

**I55** S. 56 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

*Making WRA assessments*

**57 References to the “taxpayer”**

In sections 58 to 61, “taxpayer” means—

- (a) in relation to a WRA assessment under section 54, the person chargeable to the devolved tax,
- (b) in relation to a WRA assessment under section 55 <sup>[F47]</sup> or 55A], the person mentioned there.

**Annotations:**

**Amendments (Textual)**

**F47** Words in s. 57(b) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 14**



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### Commencement Information

**I56** S. 57 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

## 58 Conditions for making WRA assessments

- (1) A WRA assessment—
- (a) may be made only in the [<sup>F48</sup>four] cases specified in subsections [<sup>F49</sup>(2), (3)]<sup>F50</sup>, (3A) and (3B)]], and
  - (b) may not be made in the circumstances specified in subsection (4).
- (2) The first case is where the situation mentioned in section 54 or 55 was brought about carelessly or deliberately by—
- (a) the taxpayer,
  - (b) a person acting on the taxpayer's behalf, or
  - (c) a person who was a partner in the same partnership as the taxpayer.
- [<sup>F51</sup>(3) The second case is where—
- (a) a tax return has been made,
  - (b) WRA has ceased to be entitled to issue a notice of enquiry into the return, or has completed its enquiries into it, and
  - (c) at the time when WRA ceased to be so entitled or completed those enquiries, it could not reasonably have been expected to be aware of the situation mentioned in section 54 or 55 on the basis of information made available to WRA before that time.]

[<sup>F52</sup>(3A) The third case is where WRA makes an adjustment under the general anti-avoidance rule (see Part 3A, in particular section 81E).]

[<sup>F53</sup>(3B) The fourth case is where WRA has come to the view that a situation described in section 55A has arisen.]

(4) No WRA assessment may be made [<sup>F54</sup>in the first or second case] if—

    - (a) the situation mentioned in section 54 or 55 is attributable to a mistake in [<sup>F55</sup>a tax return] as to the basis on which the devolved tax liability ought to have been calculated, and
    - (b) the mistake occurred because the tax return was made on the basis prevailing, or in accordance with the practice generally prevailing, at the time it was made.

### Annotations:

#### Amendments (Textual)

- F48** Word in s. 58(1)(a) substituted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 15\(2\)\(a\)](#)
- F49** Words in s. 58(1)(a) substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 18\(a\)\(ii\)](#); [S.I. 2018/34](#), art. 3
- F50** Words in s. 58(1)(a) substituted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 15\(2\)\(b\)](#)
- F51** S. 58(3) substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 18\(b\)](#); [S.I. 2018/34](#), art. 3

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- F52** S. 58(3A) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 18(c)**; S.I. 2018/34, art. 3
- F53** S. 58(3B) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 15(3)**
- F54** Words in s. 58(4) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 18(d)(i)**; S.I. 2018/34, art. 3
- F55** Words in s. 58(4)(a) substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 18(d)(ii)**; S.I. 2018/34, art. 3

**Modifications etc. (not altering text)**

- C2** S. 58 applied (with modifications) (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 7 para. 43(2)**; S.I. 2018/34, art. 3

**Commencement Information**

- I57** S. 58 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

**59 Time limits for WRA assessments**

- (1) No WRA assessment may be made more than 4 years after the relevant date [<sup>F56</sup>in any case involving a situation mentioned in section 54, 55 or 55A(a) or (b)].
  - (2) But a WRA assessment of a taxpayer in any case involving a situation mentioned in section 54 [<sup>F57</sup>, 55 or 55A(a) or (b)] brought about carelessly by the taxpayer or a related person may be made up to 6 years after the relevant date.
  - (3) And a WRA assessment of a taxpayer in any case involving a situation mentioned in section 54 [<sup>F58</sup>, 55 or 55A(a) or (b)] brought about deliberately by the taxpayer or a related person may be made up to 20 years after the relevant date.
  - (4) A WRA assessment under section 55 is not out of time if it is made within the period of 12 months beginning with the day on which the repayment in question was made.
- [<sup>F59</sup>(4A) No WRA assessment may be made in a case involving a situation mentioned in section 55A(c)—
- (a) if WRA has issued a notice to the taxpayer requiring payment of the amount in question, after the period of 12 months beginning with the day after that by which the payment was required, and
  - (b) otherwise, after the period of 12 months beginning with the day on which WRA became aware that the taxpayer was required to pay the amount in question.]
- (5) If the taxpayer has died—
    - (a) any WRA assessment on the personal representatives must be made before the end of the period of 4 years beginning with the date of the death, and
    - (b) a WRA assessment is not to be made in respect of a relevant date more than 6 years before that date.
  - (6) Any objection to the making of a WRA assessment on the ground that the time limit for making it has expired can only be made on a review of or appeal against the assessment.
  - (7) In this section—

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“related person” (“*person cysylltiedig*”), in relation to the taxpayer, means

- (a) a person acting on the taxpayer's behalf, or
- (b) a person who was a partner in the same partnership as the taxpayer;

“relevant date” (“*dyddiad perthnasol*”)<sup>[F60]</sup>, in relation to a WRA assessment in a case involving a situation mentioned in section 54 or 55,] means—

(za) <sup>[F61]</sup>if a tax return has not been made, the date by which WRA believes a tax return was required to be made,]

- (a) if <sup>[F62]</sup>a tax return] was made after the filing date, the day on which the tax return was made, or
- (b) otherwise, the filing date.

<sup>[F63]</sup>“relevant date” (“*dyddiad perthnasol*”), in relation to a WRA assessment in a case involving a situation mentioned in section 55A(a) or (b), means—

- (a) where the tax credit in question was claimed in a tax return made on or before the filing date, the filing date;
- (b) where the tax credit in question was claimed in a tax return made after the filing date, the day on which the tax return was made;
- (c) where the tax credit in question was claimed by any other means, the day on which the claim was made.]

#### Annotations:

##### Amendments (Textual)

- F56** Words in s. 59(1) inserted (1.4.2018) by The Landfill Disposals Tax (Administration) (Wales) Regulations 2018 (S.I. 2018/101), reg. 1(2), **Sch. para. 16(2)**
- F57** Words in s. 59(2) substituted (1.4.2018) by The Landfill Disposals Tax (Administration) (Wales) Regulations 2018 (S.I. 2018/101), reg. 1(2), **Sch. para. 16(3)**
- F58** Words in s. 59(3) substituted (1.4.2018) by The Landfill Disposals Tax (Administration) (Wales) Regulations 2018 (S.I. 2018/101), reg. 1(2), **Sch. para. 16(4)**
- F59** S. 59(4A) inserted (1.4.2018) by The Landfill Disposals Tax (Administration) (Wales) Regulations 2018 (S.I. 2018/101), reg. 1(2), **Sch. para. 16(5)**
- F60** Words in s. 59(7) inserted (1.4.2018) by The Landfill Disposals Tax (Administration) (Wales) Regulations 2018 (S.I. 2018/101), reg. 1(2), **Sch. para. 16(6)(a)**
- F61** Words in s. 59(7) inserted (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 19(a)**; S.I. 2018/34, art. 3
- F62** Words in s. 59(7) substituted (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 19(b)**; S.I. 2018/34, art. 3
- F63** Words in s. 59(7) inserted (1.4.2018) by The Landfill Disposals Tax (Administration) (Wales) Regulations 2018 (S.I. 2018/101), reg. 1(2), **Sch. para. 16(6)(b)**

##### Modifications etc. (not altering text)

- C3** S. 59 applied (with modifications) (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 7 para. 43(3)**; S.I. 2018/34, art. 3

##### Commencement Information

- I58** S. 59 in force at 1.4.2018 by S.I. 2018/33, art. 3

*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: Tax Collection and Management (Wales) Act 2016 is up to date with all changes known to be in force on or before 24 May 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 60 Situations brought about carelessly or deliberately

- (1) This section applies for the purposes of sections 58 and 59.
- (2) A situation is brought about carelessly by a person if the person fails to take reasonable care to avoid bringing about that situation.
- (3) Where—
  - (a) information is provided to WRA,
  - (b) the person who provided the information, or the person on whose behalf it was provided, discovers some time later that the information was inaccurate, and
  - (c) that person fails to take reasonable steps to inform WRA,
 any situation brought about by the inaccuracy is to be treated as having been brought about carelessly by that person.
- (4) References to a situation brought about deliberately by a person include a situation brought about as a result of a deliberate inaccuracy in a document given to WRA.

### Annotations:

#### Commencement Information

**I59** S. 60 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

## 61 Assessment procedure

- (1) Notice of a WRA assessment must be issued to the taxpayer.
- (2) The amount payable in accordance with a WRA assessment must be paid before the end of the period of 30 days beginning with the day on which the notice of the assessment is issued.

<sup>F64</sup>(3) . . . . .

### Annotations:

#### Amendments (Textual)

**F64** S. 61(3) omitted (1.4.2018) by virtue of [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 20](#); [S.I. 2018/34](#), [art. 3](#)

#### Commencement Information

**I60** S. 61 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: Tax Collection and Management (Wales) Act 2016 is up to date with all changes known to be in force on or before 24 May 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## CHAPTER 7

### RELIEF IN CASE OF EXCESSIVE ASSESSMENT OR OVERPAID TAX

#### Annotations:

#### Modifications etc. (not altering text)

- C4** Pt. 3 Ch. 7 applied (with modifications) (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), **ss. 48(3), 81(2)(3)**, Sch. 6 para. 14(2); S.I. 2018/34, art. 3

#### *Double assessment*

### 62 Claim for relief in case of double assessment

A person who believes that a devolved tax has been assessed on that person more than once in respect of the same matter may make a claim to WRA for relief against any double charge.

#### Annotations:

#### Modifications etc. (not altering text)

- C5** Pt. 3 Ch. 7 applied (with modifications) (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 6 para. 14(2)**; S.I. 2018/34, art. 3

#### Commencement Information

- I61** S. 62 in force at 1.4.2018 by [S.I. 2018/33](#), art. 3

#### *Overpaid tax etc.*

### 63 Claim for relief for overpaid tax etc.

- (1) This section applies where—
- a person has paid an amount by way of a devolved tax but believes the devolved tax was not chargeable, or
  - a person has been assessed as chargeable to an amount of a devolved tax, or a [<sup>F65</sup>WRA] determination has been made that a person is chargeable to an amount of a devolved tax, but the person believes the devolved tax is not chargeable.
- (2) The person may make a claim to WRA for the amount to be repaid or discharged.
- (3) Where this section applies, WRA is not liable to give relief except as provided in this Part or by or under any other provision of [<sup>F66</sup>the Welsh Tax Acts].
- (4) For the purposes of this section and sections [<sup>F67</sup>63A] to 81, an amount paid by one person on behalf of another is treated as paid by the other person.

*Status: Point in time view as at 01/04/2018.*

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#### Annotations:

#### Amendments (Textual)

- F65** Word in s. 63(1)(b) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 23\(a\)](#); S.I. 2018/34, art. 3
- F66** Words in s. 63(3) substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 23\(c\)\(ii\)](#); S.I. 2018/34, art. 3
- F67** Word in s. 63(4) substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 23\(d\)](#); S.I. 2018/34, art. 3

#### Commencement Information

- I62** S. 63 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

### [<sup>F68</sup>63A Claim for relief in respect of land transaction tax: regulations ceasing to have effect

- (1) If—
- (a) by virtue of section 26(2) of LTTA the tax bands and tax rates specified in rejected regulations apply to a chargeable transaction, and
  - (b) in consequence, the amount of land transaction tax chargeable in respect of the transaction is greater than the amount that would otherwise have been chargeable,
- the buyer in the transaction may make a claim to WRA for the discharge or repayment of the amount of land transaction tax that would not have been chargeable had the rejected regulations not been made.
- (2) Where WRA decides to give effect to a claim under subsection (1) it must also discharge or repay any penalty or interest related to the amount of tax discharged or repaid.
- (3) Any penalty or interest is related to an amount of tax for this purpose to the extent that it—
- (a) is attributable to the amount, and
  - (b) would not have been incurred but for the application to the transaction in question of the tax bands and tax rates specified in the rejected regulations.
- (4) A claim under subsection (1) must be made before the end of the period of 12 months beginning with the later of—
- (a) the date on which the rejected regulations cease to have effect, or
  - (b) the filing date for a tax return containing an assessment of tax chargeable calculated using the tax bands and tax rates specified in the rejected regulations.
- (5) A claim under subsection (1) is to be treated as if it were an amendment made under section 41 to the assessment of tax chargeable contained in a tax return.
- (6) In this section—
- “chargeable transaction” (“*trafodiad trethadwy*”) has the meaning given by section 17 of LTTA;
- “rejected regulations” (“*rheoliadau a wrthodir*”) has the meaning given by section 26(1)(a) of that Act.]

*Status: Point in time view as at 01/04/2018.*

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**Annotations:**

**Amendments (Textual)**

- F68** S. 63A inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 24**; S.I. 2018/34, art. 3

*Unjustified enrichment*

**64** [<sup>F69</sup>**Disallowing claims for relief due to unjustified enrichment**]

WRA need not give effect to a claim for relief made under section 63 [<sup>F70</sup>or 63A] if, or to the extent that, repayment or discharge of the amount would unjustly enrich the claimant.

**Annotations:**

**Amendments (Textual)**

- F69** S. 64 heading substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 25(2)**; S.I. 2018/34, art. 3
- F70** Words in s. 64 inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 25(1)(a)**; S.I. 2018/34, art. 3

**Modifications etc. (not altering text)**

- C6** S. 64 modified (1.4.2018) by [The Tax Collection and Management \(Reimbursement Arrangements\) \(Wales\) Regulations 2018 \(S.I. 2018/88\)](#), regs. 1(2), 3

**Commencement Information**

- I63** S. 64 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

**65** **Unjustified enrichment: further provision**

- (1) This section applies where—
- there is an amount paid by way of a devolved tax which (apart from section 64) would fall to be repaid or discharged to any person (“the taxpayer”), and
  - the whole or a part of the cost of the payment of that amount to WRA has, for practical purposes, been borne by a person other than the taxpayer.
- (2) Where, in a case to which this section applies, loss or damage has been or may be incurred by the taxpayer as a result of mistaken assumptions made in the taxpayer's case about the operation of any provisions relating to a devolved tax, that loss or damage is to be disregarded, except to the extent of the quantified amount, in the making of any determination—
- of whether or to what extent the repayment or discharge of an amount to the taxpayer would enrich the taxpayer, or
  - of whether or to what extent any enrichment of the taxpayer would be unjust.
- (3) In subsection (2) “the quantified amount” means the amount (if any) which is shown by the taxpayer to constitute the amount that would appropriately compensate the taxpayer for loss or damage shown by the taxpayer to have resulted to the taxpayer from the making of the mistaken assumptions.



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- (4) The reference in subsection (2) to provisions relating to a devolved tax is a reference to any provisions of—
- (a) any enactment or EU legislation (whether or not still in force) which relates to the devolved tax or to any matter connected with it, or
  - (b) any notice published by WRA under or for the purposes of any such enactment.

**Annotations:**

**Commencement Information**

**I64** S. 65 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

**66 Unjustified enrichment: reimbursement arrangements**

- (1) The Welsh Ministers may by regulations make provision for reimbursement arrangements made by any person to be disregarded for the purposes of section 64 except where the arrangements—
- (a) contain such provision as may be prescribed by the regulations, and
  - (b) are supported by such undertakings to comply with the provisions of the arrangements as may be required by the regulations to be given to WRA.
- (2) In this section, “reimbursement arrangements” means any arrangements for the purposes of a claim under section 63 [<sup>F71</sup>or 63A] which—
- (a) are made by any person for the purpose of securing that the person is not unjustly enriched by the repayment or discharge of any amount in pursuance of the claim, and
  - (b) provide for the reimbursement of persons who have for practical purposes borne the whole or any part of the cost of the original payment of that amount to WRA.
- (3) The provision that may be prescribed by regulations under this section to be contained in reimbursement arrangements includes in particular—
- (a) provision requiring a reimbursement for which the arrangements provide to be made within such period after the repayment to which it relates as may be specified in the regulations;
  - (b) provision for the repayment of amounts to WRA where those amounts are not reimbursed in accordance with the arrangements;
  - (c) provision requiring interest paid by WRA on any amount repaid by it to be treated in the same way as that amount for the purposes of any requirement under the arrangements to make reimbursement or to repay WRA;
  - (d) provision requiring such records relating to the carrying out of the arrangements as may be described in the regulations to be kept and produced to WRA.
- (4) Regulations under this section may impose obligations on persons specified in the regulations—
- (a) to make the repayments to WRA that they are required to make in pursuance of any provisions contained in any reimbursement arrangements by virtue of subsection (3)(b) or (c);



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- (b) to comply with any requirements contained in any such arrangements by virtue of subsection (3)(d).
- (5) Regulations under this section may make provision for the form and manner in which, and the times at which, undertakings are to be given to WRA in accordance with the regulations and any such provision may allow for those matters to be determined by WRA in accordance with the regulations.
- (6) Regulations under this section may make provision for penalties where a person breaches an obligation imposed by virtue of subsection (4).
- (7) The regulations may in particular make provision—
  - (a) about the circumstances in which liability to a penalty is incurred;
  - (b) about the amounts of penalties;
  - (c) for fixed penalties, daily penalties and penalties calculated by reference to the amount of repayments which the person would have been liable to make to WRA if the obligation had been breached;
  - (d) about the procedure for assessing penalties;
  - (e) about reviews of or appeals against penalties;
  - (f) about enforcing penalties.
- (8) But the regulations may not create criminal offences.
- (9) Regulations made by virtue of subsection (6) may amend any enactment (including this Act).
- (10) Regulations so made do not apply to a failure beginning before the day on which the regulations come into force.

**Annotations:**

**Amendments (Textual)**

**F71** Words in s. 66(2) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 27(a)**; S.I. 2018/34, art. 3

**Commencement Information**

**I65** S. 66 in force at 18.10.2017 by [S.I. 2017/954](#), **art. 2**

*Other grounds for disallowing claims*

**67 Cases in which WRA need not give effect to a claim**

- (1) WRA need not give effect to a claim for relief made under section 63 if, or to the extent that, the claim falls within a case described in this section.
- (2) Case 1 is where the amount of a devolved tax paid, or liable to be paid, is excessive because of—
  - (a) a mistake in a claim [<sup>F72</sup>or election], or
  - (b) a mistake consisting of making, or failing to make, a claim [<sup>F73</sup>or election].

[<sup>F74</sup>(2A) In subsection (2), “election” means an election made under paragraph 3, 5 or 12 of Schedule 15 to LTTA (social housing reliefs).]

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- (3) Case 2 is where the claimant is or will be able to seek relief by taking other steps under this Part.
- (4) Case 3 is where the claimant—
- (a) could have sought relief by taking such steps within a period that has now expired, and
  - (b) knew or ought reasonably to have known, before the end of that period, that such relief was available.
- (5) Case 4 is where the claim is made on grounds that—
- (a) have been put to the tribunal in the course of an appeal by the claimant relating to the amount paid or liable to be paid, or
  - (b) have been put to WRA in the course of a review by the claimant relating to the amount paid or liable to be paid that is treated as having been determined by the tribunal by virtue of section 184.
- (6) Case 5 is where the claimant knew, or ought reasonably to have known, of the grounds for the claim before the latest of the following—
- (a) the day on which a relevant appeal in the course of which the ground could have been put forward was determined by the tribunal (or is treated as having been so determined);
  - (b) the day on which the claimant withdrew a relevant appeal to the tribunal;
  - (c) the end of the period in which the claimant was entitled to make a relevant appeal to the tribunal.
- (7) In subsection (6), “relevant appeal” means an appeal by the claimant relating to the amount paid or liable to be paid.
- (8) Case 6 is where the amount in question was paid or is liable to be paid—
- (a) in consequence of proceedings enforcing the payment of that amount brought against the claimant by WRA, or
  - (b) in accordance with an agreement between the claimant and WRA settling such proceedings.
- (9) Case 7 is where—
- (a) the amount paid, or liable to be paid, is excessive by reason of a mistake in calculating the claimant's liability to devolved tax, and
  - (b) the mistake occurred because liability was calculated in accordance with the practice generally prevailing at the time.
- (10) Case 7 does not apply where the amount paid, or liable to be paid, is devolved tax which has been charged contrary to EU law.
- (11) For the purposes of subsection (10), an amount of devolved tax is charged contrary to EU law if, in the circumstances in question, the charge to devolved tax is contrary to—
- (a) the provisions relating to the free movement of goods, persons, services and capital in Titles II and IV of Part 3 of the Treaty on the Functioning of the European Union, or
  - (b) the provisions of any subsequent treaty replacing the provisions mentioned in paragraph (a).
- [<sup>F75</sup>(12) Case 8 is where—
- (a) the claim is made in respect of an amount of landfill disposals tax, and

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- (b) an amount of landfill disposals tax that the claimant is required to pay has not been paid.]

**Annotations:**

**Amendments (Textual)**

- F72** Words in s. 67(2)(a) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 28(b)**; S.I. 2018/34, art. 3
- F73** Words in s. 67(2)(b) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 28(c)**; S.I. 2018/34, art. 3
- F74** S. 67(2A) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 28(d)**; S.I. 2018/34, art. 3
- F75** S. 67(12) inserted (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), **ss. 45, 97(2)**; S.I. 2018/35, art. 3

**Commencement Information**

- I66** S. 67 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

## CHAPTER 8

### PROCEDURE FOR MAKING CLAIMS ETC.

#### 68 Making claims

- (1) A claim under section 62<sup>F76</sup>, 63 or 63A] must be made in such form as WRA may determine.
- (2) The form of claim must provide for a declaration to the effect that all the particulars given in the form are correctly stated to the best of the claimant's information and belief.
- (3) The form of claim may require—
- a statement of the amount of devolved tax that will be required to be discharged or repaid in order to give effect to the claim;
  - such information as is reasonably required for the purpose of determining whether and, if so, the extent to which the claim is correct;
  - the delivery with the claim of such statements and documents, relating to the information contained in the claim, as are reasonably required for the purpose mentioned in paragraph (b).
- (4) A claim for repayment of devolved tax may not be made unless the claimant has documentary evidence that the devolved tax has been paid.
- (5) A claim under section 63 may not be made by being included in a tax return.

**Annotations:**

**Amendments (Textual)**

- F76** Words in s. 68(1) substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 29(a)**; S.I. 2018/34, art. 3

*Status: Point in time view as at 01/04/2018.*

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#### Commencement Information

**I67** S. 68 in force at 1.4.2018 by [S.I. 2018/33, art. 3](#)

### 69 Duty to keep and preserve records

- (1) A person making a claim under section 62<sup>[F77]</sup>, 63 or 63A] must—
  - (a) have kept any records that are needed to enable the person to make a correct and complete claim, and
  - (b) preserve those records in accordance with this section.
- (2) The records must be preserved until the latest of the following—
  - (a) (except where paragraph (b) or (c) applies) the end of the period of 12 months beginning with the day on which the claim was made;
  - (b) where there is an enquiry into the claim, or into an amendment of the claim, the day on which the enquiry is completed;
  - (c) where the claim is amended and there is no enquiry into the amendment, the day on which WRA ceases to have power to enquire into the amendment.
- (3) The Welsh Ministers may by regulations—
  - (a) provide that the records required to be kept and preserved under this section include, or do not include, records of a description prescribed by the regulations;
  - (b) prescribe descriptions of supporting documents that are required to be kept under this section.
- (4) Regulations under this section may make provision by reference to things specified in a notice published by WRA in accordance with the regulations (and not withdrawn by a subsequent notice).
- (5) “Supporting documents” includes accounts, books, deeds, contracts, vouchers and receipts.

#### Annotations:

##### Amendments (Textual)

**F77** Words in s. 69(1) substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 30](#); [S.I. 2018/34, art. 3](#)

##### Commencement Information

**I68** S. 69(1)(2)(5) in force at 1.4.2018 by [S.I. 2018/33, art. 3](#)

**I69** S. 69(3)(4) in force at 18.10.2017 by [S.I. 2017/954, art. 2](#)

### 70 Preservation of information etc.

The duty under section 69 to preserve records may be satisfied—

- (a) by preserving them in any form and by any means, or
- (b) by preserving the information contained in them in any form and by any means, subject to any conditions or exceptions prescribed by regulations made by the Welsh Ministers.

*Status: Point in time view as at 01/04/2018.*

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**Annotations:**

**Commencement Information**

**I70** S. 70 in force at 1.4.2018 by [S.I. 2018/33, art. 3](#)

**71 Amendment of claim by claimant**

- (1) A person who has made a claim under section 62<sup>F78</sup>, 63 or 63A] may amend the claim by giving notice to WRA.
- (2) No such amendment may be made—
  - (a) more than 12 months after the day on which the claim was made, or
  - (b) if WRA issues a notice under section 74, during the period—
    - (i) beginning with the day on which the notice is issued, and
    - (ii) ending with the day on which the enquiry under that section is completed.

**Annotations:**

**Amendments (Textual)**

**F78** Words in s. 71(1) substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\), s. 81\(2\)\(3\), Sch. 23 para. 31; S.I. 2018/34, art. 3](#)

**Commencement Information**

**I71** S. 71 in force at 1.4.2018 by [S.I. 2018/33, art. 3](#)

**72 Correction of claim by WRA**

- (1) WRA may by issuing notice to the claimant amend a claim so as to correct obvious errors or omissions in the claim (whether errors of principle, arithmetical mistakes or otherwise).
- (2) No such correction may be made—
  - (a) more than 9 months after the day on which the claim was made, or
  - (b) if WRA issues a notice under section 74, during the period—
    - (i) beginning with the day on which notice is issued, and
    - (ii) ending with the day on which the enquiry under that section is completed.
- (3) A correction under this section has no effect if, within the period of 3 months beginning with the day following that on which the notice of correction is issued, the claimant gives a notice to WRA rejecting the correction.

**Annotations:**

**Commencement Information**

**I72** S. 72 in force at 1.4.2018 by [S.I. 2018/33, art. 3](#)

*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: Tax Collection and Management (Wales) Act 2016 is up to date with all changes known to be in force on or before 24 May 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### 73 Giving effect to claims and amendments

- (1) As soon as practicable after a claim is made, amended or corrected—
  - (a) WRA must issue notice of its decision to the claimant, and
  - (b) where WRA decides to give effect to the claim or amendment (whether in part or in full), it must do so by discharge or repayment of devolved tax.
- (2) Where WRA enquires into a claim or amendment—
  - (a) subsection (1) does not apply until a closure notice is issued under section 75, and then it applies subject to section 77, but
  - (b) WRA may at any time before then give effect to the claim or amendment, on a provisional basis, to such extent as it thinks fit.

#### Annotations:

#### Commencement Information

**I73** S. 73 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

### 74 Notice of enquiry

- (1) WRA may enquire into a person's claim or amendment of a claim if it issues to the claimant notice of its intention to do so (a “notice of enquiry”) before the end of the period of 12 months beginning with the day after the day on which the claim or amendment was made.
- (2) A claim or amendment that has been the subject of one notice of enquiry may not be the subject of another.

#### Annotations:

#### Modifications etc. (not altering text)

**C7** Ss. 74-77 applied (with modifications) (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), [regs. 1\(2\), 27](#)

#### Commencement Information

**I74** S. 74 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

### 75 Completion of enquiry

- (1) An enquiry is completed when WRA issues a notice (a “closure notice”) to the claimant stating—
  - (a) that the enquiry is complete, and
  - (b) the conclusions reached in the enquiry.
- (2) A closure notice must either—
  - (a) state that in the opinion of WRA no amendment of the claim is required, or
  - (b) if in WRA's opinion the claim is insufficient or excessive, amend the claim so as to make good or eliminate the deficiency or excess.
- (3) In the case of an enquiry into an amendment of a claim, subsection (2)(b) applies only so far as the deficiency or excess is attributable to the amendment.

*Status: Point in time view as at 01/04/2018.*

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**Annotations:**

**Modifications etc. (not altering text)**

**C7** Ss. 74-77 applied (with modifications) (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), regs. 1(2), 27

**Commencement Information**

**I75** S. 75 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

**76 Direction to complete enquiry**

- (1) The claimant may make an application to the tribunal for a direction that a closure notice is to be issued within a specified period.
- (2) The tribunal must give a direction unless satisfied that WRA has reasonable grounds for not issuing a closure notice within the specified period.

**Annotations:**

**Modifications etc. (not altering text)**

**C7** Ss. 74-77 applied (with modifications) (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), regs. 1(2), 27

**Commencement Information**

**I76** S. 76 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

**77 Giving effect to amendments under section 75**

- (1) Within 30 days after the day on which a notice under section 75(2)(b) is issued WRA must give effect to the amendment by making such adjustment as may be necessary, whether—
  - (a) by way of assessment on the claimant, or
  - (b) by discharge or repayment of devolved tax.
- (2) An assessment made under subsection (1) is not out of time if it is made within the time mentioned in that subsection.

**Annotations:**

**Modifications etc. (not altering text)**

**C7** Ss. 74-77 applied (with modifications) (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), regs. 1(2), 27

**Commencement Information**

**I77** S. 77 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

*Status: Point in time view as at 01/04/2018.*

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## 78 Time limit for making claims

A claim under section 62 or 63 must be made within the period of 4 years beginning with the day after the filing date for the tax return to which the payment by way of devolved tax, or the assessment or determination, relates.

### Annotations:

#### Commencement Information

**I78** S. 78 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

## 79 The claimant: partnerships

- (1) This section is about the application of section 63 in a case where either—
  - (a) (in a case falling within section 63(1)(a)) the person paid the amount in question in the capacity of a partner in a partnership, or
  - (b) (in a case falling within section 63(1)(b)) the assessment was made on, or the determination related to the liability of, the person in such a capacity.
- (2) In such a case, only a relevant person who has been nominated to do so by all of the relevant persons may make a claim under section 63 in respect of the amount in question.
- (3) The relevant persons are the persons who would have been liable as partners to pay the amount in question had the payment been due or (in a case falling within section 63(1)(b)) had the assessment or determination been correctly made.

### Annotations:

#### Modifications etc. (not altering text)

**C8** S. 79 applied (with modifications) (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 7 para. 43\(4\)](#); [S.I. 2018/34](#), [art. 3](#)

#### Commencement Information

**I79** S. 79 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

## 80 Assessment of claimant in connection with claim

- (1) This section applies where—
  - (a) a claim is made under section 63,
  - (b) the grounds for giving effect to the claim also provide grounds for a WRA assessment on the claimant in respect of the devolved tax, and
  - (c) such an assessment could be made but for a relevant restriction.
- (2) In a case falling within section 79(1)(a) or (b), the reference to the claimant in subsection (1)(b) of this section includes any relevant person (as defined in section 79(3)).
- (3) The following are relevant restrictions—
  - (a) section 58;
  - (b) the end of a time limit for making a WRA assessment.



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- (4) Where this section applies—
- (a) the relevant restrictions are to be disregarded, and
  - (b) the WRA assessment is not out of time if it is made before the final determination of the claim.
- (5) A claim is not finally determined until—
- (a) the claim, or
  - (b) the amount to which it relates,
- can no longer be varied (whether on review, appeal or otherwise).

**Annotations:**

**Modifications etc. (not altering text)**

- C9** S. 80 applied (with modifications) (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 7 para. 43(5)**; S.I. 2018/34, art. 3

**Commencement Information**

- I80** S. 80 in force at 1.4.2018 by [S.I. 2018/33](#), art. 3

**81 Contract settlements**

- (1) In section 63(1)(a), the reference to an amount paid by a person by way of devolved tax includes an amount paid by a person under a contract settlement in connection with devolved tax believed to be payable.

[<sup>F79</sup>(1A) In section 63A(1), the reference to repayment of an amount of land transaction tax includes repayment of an amount paid by a person under a contract settlement in connection with that amount of land transaction tax.]

- (2) The following provisions apply if the person who paid the amount under the contract settlement (“the payer”) and the person by whom the devolved tax was payable (“the taxpayer”) are not the same person.
- (3) In relation to a claim under section 63 in respect of that amount—
- (a) the references to the claimant in section 67(5), (6) and (8) have effect as if they included the taxpayer, and
  - (b) the references to the claimant in sections 67(9) and 80(1)(b) have effect as if they were references to the taxpayer.
- (4) In relation to a claim under section 63 [<sup>F80</sup>or 63A] in respect of that amount, references to devolved tax in sections 68, 73 and 77 include the amount paid under the contract settlement.
- (5) Where the grounds for giving effect to a claim by the payer in respect of the amount also provide grounds for a WRA assessment on the taxpayer in respect of the devolved tax—
- (a) WRA may set any amount repayable to the payer as a result of the claim against any amount payable by the taxpayer as a result of the assessment, and
  - (b) the obligations of WRA and the taxpayer are discharged to the extent of the set-off.

*Status: Point in time view as at 01/04/2018.*

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**Annotations:**

**Amendments (Textual)**

- F79** S. 81(1A) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 34(a)**; S.I. 2018/34, art. 3
- F80** Words in s. 81(4) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 34(b)**; S.I. 2018/34, art. 3

**Commencement Information**

- I81** S. 81 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

## [<sup>F81</sup>PART 3A

### GENERAL ANTI-AVOIDANCE RULE

**Annotations:**

**Amendments (Textual)**

- F81** Pt. 3A inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), **ss. 66, 81(2)(3)**; S.I. 2018/34, art. 3

#### *Overview*

#### **81A Meaning of ““general anti-avoidance rule”” and overview**

- (1) This Part makes provision for counteracting tax advantages arising from artificial tax avoidance arrangements, including provision—
  - (a) about the meaning of ““tax avoidance arrangement””, ““artificial”” and ““tax advantage”” (sections 81B to 81D);
  - (b) about WRA's power to make adjustments to counteract tax advantages and the steps to be taken by WRA in connection with such adjustments (sections 81E to 81G).
- (2) The rules in this Part are collectively to be known as ““the general anti-avoidance rule””.

#### *Artificial tax avoidance arrangements*

#### **81B Tax avoidance arrangements**

- (1) For the purposes of this Part, an arrangement is a ““tax avoidance arrangement”” if the obtaining of a tax advantage for any person is the main purpose, or one of the main purposes, of a taxpayer entering into the arrangement.
- (2) In determining whether the main purpose, or one of the main purposes, of an arrangement is the obtaining of a tax advantage regard may in particular be had to the amount of devolved tax that would have been chargeable in the absence of the arrangement.

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(3) In this Part—

- (a) an “arrangement” includes any transaction, scheme, action, operation, agreement, grant, understanding, promise, undertaking, event or any series of any of those things (whether legally enforceable or not);
- (b) references to an arrangement are to be read as including—
  - (i) a series of arrangements, and
  - (ii) any part or stage of an arrangement comprised of more than one part or stage;
- (c) “taxpayer” means a person liable to devolved tax or who would be liable but for the tax avoidance arrangement in question.

### 81C Artificial tax avoidance arrangements

- (1) For the purposes of this Part, a tax avoidance arrangement is “artificial” if the entering into or carrying out of it is not a reasonable course of action in relation to the provisions of Welsh tax legislation applying to the arrangements.
- (2) In determining whether the tax avoidance arrangement is artificial, regard may in particular be had—
  - (a) to any genuine economic or commercial substance to the arrangement (other than the obtaining of a tax advantage);
  - (b) as to whether the arrangement results in an amount of tax chargeable that it is reasonable to assume was not the anticipated result when the relevant provision of Welsh tax legislation was enacted.
- (3) But an arrangement is not artificial if, at the time it was entered into or carried out—
  - (a) the arrangement was consistent with generally prevailing practice, and
  - (b) WRA had indicated its acceptance of that practice.
- (4) Where a tax avoidance arrangement forms part of any other arrangements, regard must also be had to those other arrangements in determining whether the tax avoidance arrangement is artificial.
- (5) In this section, “Welsh tax legislation” means—
  - (a) the Welsh Tax Acts, and
  - (b) any subordinate legislation (within the meaning of section 21 of the Interpretation Act 1978 (c. 30)) made under those Acts.

### 81D Meaning of “tax” and “tax advantage

For the purposes of this Part—

“tax” (“*treth*”) means any devolved tax;

“tax advantage” (“*mantais drethiannol*”) means—

- (a) relief or increased relief from tax,
- (b) repayment or increased repayment of tax,
- (c) avoidance or reduction of a charge to tax,
- (d) deferral of a payment of tax or advancement of a repayment of tax,<sup>F82</sup>...
- (e) avoidance of an obligation to deduct or account for tax.<sup>F83</sup>, and
- (f) tax credit or increased tax credit.]

*Status: Point in time view as at 01/04/2018.*

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**Annotations:**

**Amendments (Textual)**

- F82** Word in s. 81D omitted (1.4.2018) by virtue of [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 17(a)**
- F83** Words in s. 81D inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 17(b)**

*Counteracting tax advantages*

**81E Adjustments to counteract tax advantages**

- (1) WRA may make such adjustments as it considers just and reasonable to counteract a tax advantage that would (ignoring this Part) arise from an artificial tax avoidance arrangement.
- (2) An adjustment may be made in respect of the devolved tax in question or any other devolved tax.
- (3) An adjustment must be made—
  - (a) where the adjustment relates to a tax return in respect of which an enquiry is in progress, by amending the return in a closure notice issued under section 50;
  - (b) otherwise by means of a WRA assessment.
- (4) WRA may not make an adjustment unless it has complied with the requirements of sections 81F and 81G.

**81F Notice of proposed counteraction**

- (1) WRA may issue a notice (a “proposed counteraction notice”) to a taxpayer if WRA considers—
  - (a) that a tax advantage has arisen to a person from an artificial tax avoidance arrangement, and
  - (b) that the tax advantage should be counteracted by means of an adjustment under section 81E.
- (2) A proposed counteraction notice must—
  - (a) specify the tax avoidance arrangement and the tax advantage,
  - (b) explain why WRA considers that a tax advantage has arisen from an artificial tax avoidance arrangement,
  - (c) set out the adjustment that WRA proposes to make in order to counteract the tax advantage,
  - (d) specify any amount that the taxpayer will be required to pay in accordance with the proposed WRA assessment, and
  - (e) inform the taxpayer—
    - (i) that a final counteraction notice is to be issued after the expiry of the period of 45 days beginning with the day on which the proposed counteraction notice is issued,
    - (ii) that the taxpayer may request that WRA extend that 45 day period, and

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- (iii) that the taxpayer may make written representations to WRA at any time before the final counteraction notice is issued.

### **81G Final counteraction notice**

- (1) WRA must, after the expiry of the 45 day period mentioned in section 81F(2)(e)(i) or such longer period as WRA has agreed to, issue a notice (a “final counteraction notice”) to the taxpayer.
- (2) A final counteraction notice must state whether the tax advantage arising from the tax avoidance arrangement is to be counteracted by means of an adjustment under section 81E.
- (3) In determining whether the tax advantage is to be counteracted WRA must have regard to any written representations made by the taxpayer.
- (4) If a final counteraction notice states that a tax advantage is to be counteracted by means of an adjustment the notice must also—
  - (a) specify the adjustment required to give effect to the counteraction,
  - (b) where the adjustment relates to a tax return in respect of which an enquiry is in progress, specify the amendment of the return which is to be included in the closure notice issued under section 50 when WRA reaches its conclusions in the enquiry,
  - (c) where paragraph (b) does not apply—
    - (i) be accompanied by the WRA assessment which gives effect to the adjustment, or
    - (ii) where a WRA assessment giving effect to the adjustment has been made, specify that assessment, and
  - (d) specify any amount that the taxpayer—
    - (i) will be required to pay as a result of the amendment specified under paragraph (b), or
    - (ii) is required to pay in accordance with the WRA assessment mentioned in paragraph (c).
- (5) If a final counteraction notice states that a tax advantage is not to be counteracted it must state the reasons for WRA's decision.

#### *Proceedings before a court or tribunal*

### **81H Proceedings in connection with the general anti-avoidance rule**

In proceedings before a court or the tribunal in connection with the general anti-avoidance rule, it is for WRA to show—

- (a) that there is an artificial tax avoidance arrangement, and
- (b) that the adjustments made (or to be made) to counteract the tax advantage arising from the arrangement are just and reasonable.

*Status: Point in time view as at 01/04/2018.*

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### *Commencement and transitional provision*

## **811 General anti-avoidance rule: commencement and transitional provision**

- (1) The general anti-avoidance rule has effect in relation to any tax avoidance arrangement entered into on or after the date on which this Part comes into force.
- (2) Where a tax avoidance arrangement forms part of any other arrangements entered into before that day, those other arrangements are to be ignored for the purposes of section 81C(4) unless the result of having regard to those other arrangements would be to determine that the tax avoidance arrangement was not artificial.]

## **PART 4**

### INVESTIGATORY POWERS OF WRA

#### **CHAPTER 1**

#### INTRODUCTORY

##### *Overview*

## **82 Overview of Part**

This Part is arranged as follows—

- (a) Chapter 2 sets out WRA's investigatory powers in relation to information and documents,
- (b) Chapter 3 sets out restrictions on the powers in Chapter 2,
- (c) Chapter 4 sets out WRA's investigatory powers in relation to premises and other property,
- (d) Chapter 5 sets out further investigatory powers,
- (e) Chapter 6 sets out offences in relation to information notices, and
- (f) Chapter 7 is about reviews and appeals against certain tribunal approvals of information notices and inspections.

##### *Interpretation*

## **83 Information notices**

- (1) In this Act, “information notice” means—
  - (a) a taxpayer notice under section 86,
  - (b) a third party notice under section 87,
  - (c) an unidentified third party notice under section 89,
  - (d) an identification notice under section 92, or
  - (e) a debtor contact notice under section 93.
- (2) An information notice may either specify or describe the information or documents to be provided or produced.

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- (3) If an information notice is issued with the approval of the tribunal, the notice must state that fact.

**Annotations:**

**Commencement Information**

**I82** S. 83 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(c)**

**84 Meaning of “tax position”**

- (1) In this Part, “tax position”, in relation to a person, means the person's position as regards any devolved tax, including the person's position as regards—
- (a) past, present and future liability to pay any devolved tax,
  - (b) penalties [<sup>F84</sup>tax credits], interest (including interest on penalties [<sup>F85</sup>and amounts payable in respect of tax credits] ) and other amounts that have been paid, or are or may be payable, by or to the person in connection with any devolved tax, and
  - (c) claims or notices that have been or may be made or given in connection with the person's liability to pay any devolved tax [<sup>F86</sup>or any amount in respect of a tax credit],
- and references to a person's position as regards a particular devolved tax (however expressed) are to be interpreted accordingly.
- (2) References in this Part to the tax position of a person include references to the tax position of—
- (a) an individual who has died, and
  - (b) a body corporate or unincorporated association that has ceased to exist.
- (3) References in this Part to a person's tax position refer to the person's tax position at any time or in relation to any period, unless otherwise stated.
- (4) References to checking a person's tax position include references to carrying out an investigation or making an enquiry of any kind.

**Annotations:**

**Amendments (Textual)**

- F84** Words in s. 84(1)(b) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 18(2)(a)**
- F85** Words in s. 84(1)(b) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 18(2)(b)**
- F86** Words in s. 84(1)(c) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 18(3)**

**Commencement Information**

**I83** S. 84 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(e)**

*Status: Point in time view as at 01/04/2018.*

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**[<sup>F87</sup>84A. Meaning of “prejudice to the assessment or collection of devolved tax”**

In this Part, references to prejudice to the assessment or collection of devolved tax include prejudice to the assessment or collection of any amount payable in respect of a tax credit.]

**Annotations:**

**Amendments (Textual)**

**F87** S. 84A inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 19](#)

**85 Meaning of “carrying on a business”**

- (1) In this Part, references to carrying on a business include—
- (a) carrying on any activity for the purposes of generating income from land (wherever situated),
  - (b) carrying on a profession,
  - (c) the activities of a charity, and
  - (d) the activities of a local authority or any other public authority.
- (2) The Welsh Ministers may by regulations provide that for the purposes of this Part—
- (a) the carrying on of a specified activity, or
  - (b) the carrying on of any activity, or a specified activity, by a specified person, is or is not to be treated as the carrying on of a business.
- (3) In this Act, “charity” has the meaning given by Part 1 of Schedule 6 to the Finance Act 2010 (c. 13).

**Annotations:**

**Commencement Information**

**I84** S. 85 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

**CHAPTER 2**

**POWERS TO REQUIRE INFORMATION AND DOCUMENTS**

**86 Taxpayer notices**

- (1) WRA may issue a notice (a “taxpayer notice”) requiring a person (“the taxpayer”) to provide information or produce a document if—
- (a) WRA requires the information or document for the purpose of checking the taxpayer's tax position,
  - (b) it is reasonable to require the taxpayer to provide the information or produce the document, and
  - (c) nothing in sections 97 to 102 prevents WRA from requiring the taxpayer to provide the information or produce the document.



*Status: Point in time view as at 01/04/2018.*

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(2) But WRA may not issue a taxpayer notice without the approval of the tribunal.

**Annotations:**

**Commencement Information**

**I85** S. 86 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

**87 Third party notices**

(1) WRA may issue a notice (a “third party notice”) requiring a person to provide information or produce a document if—

- (a) WRA requires the information or document for the purpose of checking the tax position of another person (“the taxpayer”) whose identity is known to WRA,
- (b) it is reasonable to require the person to provide the information or produce the document, and
- (c) nothing in sections 97 to 102 prevents WRA from requiring the person to provide the information or produce the document.

(2) But WRA may not issue a third party notice without—

- (a) the agreement of the taxpayer, or
- (b) the approval of the tribunal.

(3) The taxpayer to whom a third party notice relates must—

- (a) be named in the notice, and
- (b) be issued with a copy of the notice by WRA.

(4) But when it approves a third party notice, the tribunal may disapply one or both of the requirements of subsection (3) if it is satisfied that WRA has grounds for believing that naming the taxpayer or, as the case may be, issuing the taxpayer with a copy of the notice might seriously prejudice the assessment or collection of devolved tax.

**Annotations:**

**Commencement Information**

**I86** S. 87 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

**88 Tribunal approval of taxpayer notices and third party notices**

(1) WRA may apply to the tribunal for approval to issue a taxpayer notice or a third party notice to a person (“the recipient”) without notice of the application being sent to the recipient.

(2) Where notice of the application for approval is not sent to the recipient, the tribunal may approve the issuing of the taxpayer notice or third party notice only if it is satisfied —

- (a) that—
  - (i) in the case of a taxpayer notice, the requirements of section 86(1), or
  - (ii) in the case of a third party notice, the requirements of section 87(1),have been met, and

*Status: Point in time view as at 01/04/2018.*

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- (b) that sending notice of the application for approval to the recipient might have prejudiced the assessment or collection of devolved tax.
- (3) Where the recipient has been notified of the application for approval, the tribunal may approve the issuing of the taxpayer notice or third party notice only if—
  - (a) it is satisfied that—
    - (i) in the case of a taxpayer notice, the requirements of section 86(1), or
    - (ii) in the case of a third party notice, the requirements of section 87(1), have been met,
  - (b) the recipient has been told that the information or documents referred to in the taxpayer notice or third party notice are required and has been given a reasonable opportunity to make representations to WRA,
  - (c) the tribunal has been provided with a summary of any representations made, and
  - (d) in the case of a third party notice, the taxpayer has been provided with a summary of the reasons why WRA requires the information or documents.
- (4) But the tribunal may disapply the requirements of paragraph (b) or (d) of subsection (3) to the extent that it is satisfied that taking the action specified in the paragraph might prejudice the assessment or collection of devolved tax.
- (5) In approving the issuing of a taxpayer notice or third party notice, the tribunal may make such modifications to the notice as it thinks appropriate.

**Annotations:**

**Commencement Information**

**187** S. 88 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

**89 Power to require information and documents about persons whose identity is not known**

- (1) WRA may issue a notice (an “unidentified third party notice”) requiring a person (“the recipient”) to provide information or produce a document if—
  - (a) WRA requires the information or document for the purpose of checking the tax position of—
    - (i) a person whose identity is not known to WRA, or
    - (ii) a class of persons whose individual identities are not known to WRA,
  - (b) it is reasonable to require the recipient to provide the information or produce the document,
  - (c) nothing in sections 97 to 102 prevents WRA from requiring the recipient to provide the information or produce the document, and
  - (d) the tribunal has approved the issuing of the notice.
- (2) An application for approval may be made without notice.
- (3) The tribunal may approve the issuing of the unidentified third party notice only if it is satisfied that—
  - (a) the requirements of subsection (1)(a) to (c) have been met,
  - (b) the information or document to which the notice relates is not readily available to WRA from another source,

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- (c) there are grounds for believing that the person or any of the class of persons to whom the notice relates may have failed or may fail to comply with any provision of the law relating to a devolved tax, and
  - (d) any such failure is likely to have led or to lead to serious prejudice to the assessment or collection of devolved tax.
- (4) In approving the issuing of an unidentified third party notice, the tribunal may make such modifications to the notice as it thinks appropriate.

**Annotations:**

**Commencement Information**

**I88** S. 89 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

**90 Requiring information and documents in relation to a group of undertakings**

- (1) This section applies where an undertaking is a parent undertaking in relation to [<sup>F88</sup>a subsidiary undertaking] .
- (2) Where a third party notice is issued to any person for the purpose of checking the tax position of a parent undertaking and any of its subsidiary undertakings—
- (a) the references in sections 87(2)(a), (3) and (4) and 88(3)(d) to the taxpayer have effect as if they were references to the parent undertaking, and
  - (b) section 87(3) is to be treated as also requiring the notice to state its purpose.
- (3) Where a third party notice is issued to a parent undertaking for the purpose of checking the tax position of more than one subsidiary undertaking—
- (a) the notice must state its purpose,
  - (b) sections 87(2)(a) and (3) and 88(3)(d) do not apply, and
  - (c) section 100 (taxpayer notices following a tax return) applies as if the third party notice were a taxpayer notice issued to each subsidiary undertaking (or, if the third party notice names the subsidiary undertakings to which it relates, to each of those undertakings).
- (4) In this section, “parent undertaking”, “subsidiary undertaking” and “undertaking” have the meanings given in [<sup>F89</sup>sections 1161 and 1162 of, and Schedule 7 to, the Companies Act 2006 (c. 46), but in the application of this section in relation to land transaction tax, section 1161(1)(b) of that 2006 Act has effect as if the words ““carrying on a trade or business, with or without a view to profit”” were omitted.]

**Annotations:**

**Amendments (Textual)**

**F88** Words in s. 90(1) substituted (25.1.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 35\(a\)](#); S.I. 2018/34, art. 2(b)(i)

**F89** Words in s. 90(4) substituted (25.1.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 35\(b\)](#); S.I. 2018/34, art. 2(b)(i)

**Commencement Information**

**I89** S. 90 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

*Status: Point in time view as at 01/04/2018.*

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## 91 Requiring information and documents in relation to a partnership

- (1) This section applies where a business is carried on by two or more persons in partnership.
- (2) Where a third party notice is issued to someone other than one of the partners for the purpose of checking the tax position of more than one of the partners (in their capacity as such)—
  - (a) section 87(3) is to be treated as requiring WRA to—
    - (i) state that purpose,
    - (ii) name the taxpayer by giving a name by which the partnership is known or under which it is registered for any purpose, and
    - (iii) issue a copy of the notice to at least one of the partners,
  - (b) section 87(4) is to be treated as permitting the tribunal to disapply any or all of the requirements mentioned in paragraph (a) of this subsection, and
  - (c) the references to the taxpayer in sections 87(2)(a) and 88(3)(d) have effect as if they were references to at least one of the partners.

### Annotations:

#### Modifications etc. (not altering text)

**C10** S. 91 applied (with modifications) (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 7 para. 43(6)**; S.I. 2018/34, art. 3

#### Commencement Information

**I90** S. 91 in force at 25.1.2018 by [S.I. 2018/33](#), art. 2(c)

## 92 Power to obtain information to enable a person's identity to be ascertained

- (1) WRA may issue a notice (an “identification notice”) requiring a person to provide relevant information about another person (“the taxpayer”) only if the tribunal has approved the issuing of the notice.
- (2) An application for approval may be made without notice.
- (3) The tribunal may approve the issuing of the identification notice only if it is satisfied that conditions 1 to 6 are met.
- (4) Condition 1 is that WRA requires the information for the purpose of checking the tax position of the taxpayer.
- (5) Condition 2 is that it is reasonable to require the person to provide the relevant information.
- (6) Condition 3 is that WRA—
  - (a) does not know the taxpayer's identity, but
  - (b) holds information from which the taxpayer's identity can be ascertained.
- (7) Condition 4 is that WRA has grounds for believing—
  - (a) that the person will be able to ascertain the identity of the taxpayer from the information held by WRA, and
  - (b) that the person obtained relevant information about the taxpayer in the course of carrying on a business.

*Status: Point in time view as at 01/04/2018.*

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- (8) Condition 5 is that the taxpayer's identity cannot readily be ascertained by other means from the information held by WRA.
- (9) Condition 6 is that nothing in sections 97 to 102 prevents WRA from requiring the person to provide the relevant information.
- (10) In this section, “relevant information” means all or any of the following—
  - (a) name,
  - (b) last known address, and
  - (c) date of birth (in the case of an individual).
- (11) This section also applies for the purpose of checking the tax position of a class of persons (and references to the taxpayer are to be read accordingly).

**Annotations:**

**Commencement Information**

**I91** S. 92 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

**93 Power to obtain contact details for debtors**

- (1) WRA may issue a notice (a “debtor contact notice”) requiring a person (“the third party”) to provide contact details for another person (“the debtor”) only if conditions 1 to 5 are met.
- (2) Condition 1 is that an amount by way of—
  - (a) devolved tax,
  - (b) interest on devolved tax,
  - (c) a penalty relating to devolved tax, <sup>F90</sup>...
  - (d) interest on a penalty relating to devolved tax,
  - [<sup>F91</sup>(e) a payment in respect of a tax credit, or
  - (f) interest on a payment in respect of a tax credit,]is payable by the debtor to WRA under an enactment or contract settlement.
- (3) Condition 2 is that WRA requires contact details for the debtor for the purpose of collecting that amount.
- (4) Condition 3 is that it is reasonable to require the third party to provide the details.
- (5) Condition 4 is that—
  - (a) the third party is a body corporate or unincorporated association, or
  - (b) WRA has grounds for believing that the third party obtained the details in the course of carrying on a business.
- (6) Condition 5 is that nothing in sections 97 to 102 prevents WRA from requiring the third party to provide the details.
- (7) But WRA may not issue a debtor contact notice if—
  - (a) the third party is a charity and obtained the details in the course of providing services free of charge, or

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- (b) the third party is not a charity but obtained the details in the course of providing services on behalf of a charity that are free of charge to the recipient of the service.

- (8) In this section, “contact details”, in relation to a person, means the person's address and any other information about how the person may be contacted.

**Annotations:**

**Amendments (Textual)**

- F90** Word in s. 93(2) omitted (1.4.2018) by virtue of [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 20\(a\)](#)
- F91** S. 93(2)(e)(f) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 20\(b\)](#)

**Commencement Information**

- I92** S. 93 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

**94 Time limit for issuing a tribunal approved information notice**

Where the tribunal has approved the issuing of an information notice WRA must issue the notice—

- (a) no later than 3 months after the day on which the tribunal's approval was given, or
- (b) within such shorter period as the tribunal may specify when giving the approval.

**Annotations:**

**Commencement Information**

- I93** S. 94 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

**95 Complying with an information notice**

- (1) A person to whom an information notice is issued must comply with the notice—
- (a) within the period specified in the notice [<sup>F92</sup>(or such longer period as may be agreed to by WRA and the person)] , and
- (b) in such manner as is specified or described in the notice.
- (2) But if the person has requested a review of, or made an appeal against, the notice or a requirement in it, subsection (1)(a) ceases to apply to the notice or the requirement.
- (3) Where an information notice requires a person to produce a document, it must be produced—
- (a) at a place agreed to by that person and WRA, or
- (b) at a place which WRA may specify.
- (4) WRA must not specify for the purpose of subsection (3)(b) a place that is used solely as a dwelling.

*Status: Point in time view as at 01/04/2018.*

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- (5) The production of a document in compliance with an information notice is not to be regarded as breaking any lien claimed on the document.

**Annotations:**

**Amendments (Textual)**

**F92** Words in s. 95(1)(a) inserted (25.1.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 36**; S.I. 2018/34, art. 2(b)(i)

**Commencement Information**

**I94** S. 95 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(e)**

**96 Producing copies of documents**

- (1) Unless an information notice requires a person to produce an original document, the person may comply with the notice by producing a copy of the document.
- (2) Subsection (1) is subject to any conditions or exceptions specified in regulations made by the Welsh Ministers.
- (3) Where a person complies with a notice by producing a copy of the document, WRA may subsequently require that person to produce the original document—
- (a) within such period, and
  - (b) in such manner,
- as WRA may specify.
- (4) But a person is not required to produce the original document if a request is made by WRA more than 6 months after the day on which the copy of the document was produced.

**Annotations:**

**Commencement Information**

**I95** S. 96 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(e)**

**CHAPTER 3**

**RESTRICTIONS ON POWERS IN CHAPTER 2**

**97 Information notices: general restrictions**

- (1) An information notice requires a person to produce a document only if it is in the person's possession or power.
- (2) An information notice may not require a person to produce a document if the whole of the document originates more than 6 years before the day on which the notice is issued, unless the notice is issued with the approval of the tribunal.
- (3) An information notice issued for the purpose of checking the tax position of a person who has died may not be issued more than 4 years after the person's death.



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- (4) An information notice may not require a person to provide information or produce a document (or any part of a document) that relates to the conduct of a pending review or appeal relating to any tax (whether or not a devolved tax).

**Annotations:**

**Commencement Information**

**I96** S. 97 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(c)**

**98 Protection for journalistic material**

- (1) An information notice may not require a person to provide or produce journalistic material.
- (2) “Journalistic material” means information or a document which is—
- (a) in the possession of someone who created or acquired it for the purposes of journalism, or
  - (b) in the possession of someone who received it from another person who intended the recipient to use it for the purposes of journalism.

**Annotations:**

**Commencement Information**

**I97** S. 98 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(c)**

**99 Protection for personal records**

- (1) An information notice may not require a person to provide or produce personal records or information contained in personal records.
- (2) But an information notice may require a person—
- (a) to produce a document (or a copy of a document) that is a personal record, omitting the information which (either alone or with other information) makes the document a personal record;
  - (b) to provide information contained in a document which is a personal record, other than the information which (either alone or with other information) makes the document a personal record.
- (3) “Personal records” means documentary and other records concerning an individual (“P”) (whether living or dead) who can be identified from those records and relating to—
- (a) P's physical or mental health,
  - (b) spiritual counselling or assistance given or to be given to P, or
  - (c) counselling or assistance given or to be given to P in relation to P's personal welfare by a person who—
    - (i) by reason of an office or occupation has responsibilities for P's personal welfare, or
    - (ii) by reason of an order of a court has responsibilities for P's supervision.



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**Annotations:**

**Commencement Information**

**I98** S. 99 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

**100 Taxpayer notices following a tax return**

- (1) Where a person has made a tax return for a tax period, a taxpayer notice may not be issued for the purpose of checking that person's tax position for that period.
- (2) Where a person has made a tax return in relation to a transaction, a taxpayer notice may not be issued for the purpose of checking a person's tax position in relation to that transaction.
- (3) Subsections (1) and (2) do not apply where (or to the extent that) either condition 1 or 2 is met.
- (4) Condition 1 is that a notice of enquiry has been issued in respect of—
  - (a) the tax return, or
  - (b) a claim (or an amendment of a claim) made by the person in relation to the tax period or the transaction to which the return relates, and the enquiry has not been completed.
- (5) Condition 2 is that, as regards the person, WRA has reason to suspect that—
  - (a) an amount that ought to have been assessed to a devolved tax for the tax period or in relation to the transaction may not have been assessed,
  - (b) an assessment to a devolved tax for the tax period or in relation to the transaction may be or have become insufficient,<sup>F93</sup> ...
  - (c) relief from a devolved tax given or claimed for the tax period or in relation to the transaction may be or have become excessive.
  - [<sup>F94</sup>(d) an amount of tax credit to which the person is not entitled may have been claimed, or
  - (e) a claim for tax credit may be or have become excessive.]
- (6) Where any partner in a partnership has made a tax return, this section has effect as if that return had been made by each of the partners.
- (7) References in this section to a person who has made a tax return refer only to that person in the capacity in which the return was made.

**Annotations:**

**Amendments (Textual)**

**F93** Word in s. 100(5) omitted (1.4.2018) by virtue of [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 21\(a\)](#)

**F94** S. 100(5)(d)(e) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 21\(b\)](#)

**Modifications etc. (not altering text)**

**C11** S. 100 applied (with modifications) (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 7 para. 43\(7\)](#); [S.I. 2018/34](#), art. 3

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#### Commencement Information

**I99** S. 100 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

### 101 Protection for privileged communications between legal advisers and clients

- (1) An information notice may not require a person—
  - (a) to provide privileged information, or
  - (b) to produce any part of a document that is privileged.
- (2) Information or a document is privileged if a claim for legal professional privilege could be maintained in respect of it in legal proceedings.
- (3) The Welsh Ministers may by regulations make provision for the resolution by the tribunal of any dispute as to whether any information or document is privileged.
- (4) The regulations may, in particular, make provision for the custody of a document while its status is being determined.

#### Annotations:

#### Commencement Information

**I100** S. 101(1)(2) in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

**I101** S. 101(3)(4) in force at 18.10.2017 by [S.I. 2017/954](#), [art. 2](#)

### 102 Protection for tax advisers and auditors

- (1) An information notice may not require a tax adviser—
  - (a) to provide information about a relevant communication, or
  - (b) to produce any part of a document which is the tax adviser's property and consists of a relevant communication.
- (2) In subsection (1)—
 

“relevant communication” (*“gohebiaeth berthnasol”*) means a communication between—

  - (a) a tax adviser and a person in relation to whose tax affairs the tax adviser has been appointed, or
  - (b) the tax adviser of a person and any other tax adviser of that person,

the purpose of which is the giving or obtaining of advice about the person's tax affairs;

“tax adviser” (*“cynghorwr treth”*) means a person appointed to give advice about the tax affairs of another person (whether appointed directly by that person or by another tax adviser of that person).
- (3) An information notice may not require a person who has been appointed as an auditor for the purpose of an enactment—
  - (a) to provide information held in connection with the performance of the person's functions under that enactment, or
  - (b) to produce a document which is that person's property and which was created by that person or on that person's behalf for or in connection with the performance of those functions.

*Status: Point in time view as at 01/04/2018.*

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- (4) Subsections (1) and (3) do not have effect in relation to—
- (a) information explaining any information or document which the person to whom the notice is issued has, as tax accountant, assisted any client in preparing for, or delivering to, WRA, or
  - (b) a document which contains such information.
- (5) In the case of an unidentified third party notice, subsections (1) and (3) do not have effect in relation to—
- (a) information giving the identity or address of a person to whom the notice relates or of a person who has acted on behalf of such a person, or
  - (b) a document which contains such information.
- (6) Subsections (1) and (3) have effect despite subsections (4) and (5) if the information in question has already been provided, or a document containing the information has already been produced, to WRA.
- (7) Where subsection (1) or (3) does not have effect in relation to a document by virtue of subsection (4) or (5), an information notice that requires the document to be produced has effect as if it requires that part or those parts of the document containing the information mentioned in subsection (4) or (5) to be produced.
- (8) In subsection (3), “enactment” also includes an enactment (whenever enacted or made) which is, or is contained in—
- (a) an Act of the Scottish Parliament,
  - (b) Northern Ireland legislation (within the meaning of the Interpretation Act 1978 (c. 30)),
  - (c) a Scottish instrument (within the meaning of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)), or
  - (d) a statutory instrument (within the meaning of the Interpretation Act (Northern Ireland) 1954 (c. 33)).

**Annotations:**

**Commencement Information**

**I102** S. 102 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

## CHAPTER 4

### INSPECTIONS OF PREMISES AND OTHER PROPERTY

#### 103 Power to inspect business premises

- (1) If WRA has grounds for believing that the inspection of a person's business premises is required for the purpose of checking the person's tax position, WRA may enter the premises and inspect—
- (a) the premises;
  - (b) business assets that are on the premises;
  - (c) business documents that are on the premises (but see section 110).
- (2) But WRA may carry out such an inspection only with—

*Status: Point in time view as at 01/04/2018.*

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- (a) the agreement of the occupier of the premises, or
  - (b) the approval of the tribunal.
- (3) An inspection may be carried out—
- (a) at a time agreed to by the occupier of the premises, or
  - (b) if the inspection has been approved by the tribunal—
    - (i) at a reasonable time specified in a notice issued to the occupier at least 7 days before that time, or
    - (ii) at any reasonable time if the tribunal, when approving the inspection, is satisfied that WRA has grounds for believing that notifying the occupier would seriously prejudice the assessment or collection of devolved tax.
- (4) If WRA seeks to carry out an inspection without—
- (a) the agreement of the occupier, or
  - (b) issuing a notice under subsection (3)(b)(i),
- WRA must provide a notice at the time the inspection is to begin.
- (5) A notice provided under subsection (4) must—
- (a) if the occupier of the premises is present, be provided to the occupier;
  - (b) if the occupier is not present but there is a person present who appears to WRA to be in charge of the premises, be provided to that person;
  - (c) in any other case, be left in a prominent place on the premises.
- (6) A notice issued under subsection (3)(b)(i), or provided under subsection (4), must state—
- (a) that the inspection has been approved by the tribunal, and
  - (b) the possible consequences of obstructing a person exercising WRA's functions.
- (7) The powers under this section do not include power to enter or inspect any part of the premises that is used solely as a dwelling.
- [<sup>F95</sup>(8) An inspection of premises is not to be carried out under this section if WRA has the power to carry out the inspection under section 103B.]

**Annotations:**

**Amendments (Textual)**

**F95** S. 103(8) inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), **ss. 59(2), 97(2)**; [S.I. 2018/35](#), art. 2(s)

**Commencement Information**

**I103** S. 103 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(c)**

[<sup>F96</sup>**103A Further power to inspect business premises: landfill disposals tax**

- (1) If WRA has grounds for believing that the following conditions are met, WRA may enter a person's business premises and inspect—
- (a) the premises;
  - (b) business assets that are on the premises;

*Status: Point in time view as at 01/04/2018.*

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- (c) relevant business documents that are on the premises (but see section 110).
- (2) The first condition is that the person is or has been involved in any capacity with a disposal of material that is or may be a taxable disposal.
- (3) The second condition is that the inspection of the premises is required for the purpose of checking the position of another person as regards landfill disposals tax in respect of the disposal concerned.
- (4) Subsections (2) to (7) of section 103 apply in respect of an inspection under this section as they apply in respect of an inspection under section 103(1).
- (5) In this section, “relevant business documents” means business documents that relate to matters relevant to the position of a person as regards landfill disposals tax.
- (6) The circumstances in which WRA is to be treated as having grounds for believing that the first condition is met include (for example) circumstances where WRA has grounds for believing that the person—
  - (a) is, or has been, involved in any capacity with receiving, transporting or supplying any material for purposes connected with or preparatory to a disposal of material that is or may be a taxable disposal, or
  - (b) is, or has been, involved in any capacity in subjecting any material to any procedure or use, or otherwise in dealing with or making arrangements in respect of any material, for purposes connected with or preparatory to a disposal of material that is or may be a taxable disposal.
- (7) An inspection of premises is not to be carried out under this section if WRA has the power to carry out the inspection under section 103B.
- (8) In this section—
  - (a) references to a disposal of material include the carrying out of a specified landfill site activity in relation to material;
  - (b) “material”, “specified landfill site activity” and “taxable disposal” have the same meanings as in LDTA.

**Annotations:**

**Amendments (Textual)**

**F96** Ss. 103A, 103B inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), **ss. 59(1), 97(2)**; S.I. 2018/35, art. 2(s)

**103B Further power to inspect premises: taxable disposals made at places other than authorised landfill sites**

- (1) This section applies if WRA has grounds for believing—
  - (a) that a disposal of material that is or may be a taxable disposal has been made at a place that is not, and does not form part of, an authorised landfill site, and
  - (b) that the inspection of premises within subsection (3) is required for one or more of the purposes listed in subsection (4).
- (2) WRA may enter the premises and inspect—
  - (a) the premises, and
  - (b) anything on the premises (including documents).

*Status: Point in time view as at 01/04/2018.*

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- (3) Premises are within this subsection if WRA has reason to believe that—
- (a) the disposal was made at them, or
  - (b) the occupier of the premises meets, or may meet, the charging condition in respect of the disposal.
- (4) The purposes are—
- (a) determining whether the disposal was made at the premises;
  - (b) identifying the nature or origin of the material disposed of;
  - (c) identifying the date on which the disposal was made;
  - (d) determining whether the disposal is a taxable disposal;
  - (e) determining the weight of the material disposed of;
  - (f) determining the amount of any proposed charge to tax under LDTA on the disposal;
  - (g) identifying a person who meets, or may meet, the charging condition in respect of the disposal.
- (5) Subsections (2) to (7) of section 103 apply in respect of an inspection under this section as they apply in respect of an inspection under section 103(1).
- (6) In this section—
- (a) “authorised landfill site”, “material” and “taxable disposal” have the same meanings as in LDTA;
  - (b) references to a person meeting the charging condition have the same meaning as in Chapter 2 of Part 4 of LDTA.]

**Annotations:**

**Amendments (Textual)**

**F96** Ss. 103A, 103B inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\), ss. 59\(1\), 97\(2\); S.I. 2018/35, art. 2\(s\)](#)

**104 Carrying out inspections under section 103 [<sup>F97</sup>, 103A or 103B] : further provision**

- (1) When carrying out an inspection under section 103, [<sup>F98</sup>103A or 103B,] WRA has the following powers.
- (2) On entering the <sup>F99</sup>... premises, WRA may—
  - (a) if it has grounds for believing that the carrying out of the inspection may be seriously obstructed, be accompanied by a constable, and
  - (b) be accompanied by a person authorised by WRA.
- (3) WRA may make such examination or investigation as it considers to be necessary in the circumstances.
- (4) WRA may direct that the premises or any part of them, or anything in them, be left undisturbed (either generally or in particular respects) for so long as is necessary for the purposes of any such examination or investigation.
- (5) WRA, or a person accompanying WRA, may take samples of material from the premises.

*Status: Point in time view as at 01/04/2018.*

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- (6) The power to take samples includes power—
- (a) to carry out experimental borings or other works on the premises, and
  - (b) to install, keep or maintain monitoring and other apparatus on the premises.
- (7) Any sample taken under subsection (5) is to be disposed of in such manner as WRA may determine.

**Annotations:**

**Amendments (Textual)**

- F97** Words in s. 104 heading inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), [Sch. 4 para. 4\(a\)](#); S.I. 2018/35, art. 2(z)(i)
- F98** Words in s. 104(1) substituted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), [Sch. 4 para. 4\(b\)](#); S.I. 2018/35, art. 2(z)(i)
- F99** Word in s. 104(2) omitted (25.1.2018) by virtue of [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), [Sch. 4 para. 4\(c\)](#); S.I. 2018/35, art. 2(z)(i)

**Commencement Information**

- I104** S. 104 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

**105 Carrying out inspections under section 103 [<sup>F100</sup>, 103A or 103B] : use of equipment and materials**

- (1) WRA, or a person accompanying WRA, may take any equipment or materials required for the purpose of an inspection under section [<sup>F101</sup>103, 103A or 103B onto the] premises being inspected.
- (2) WRA, or a person accompanying WRA, may take equipment or materials onto the premises—
- (a) at a time agreed to by the occupier of the premises, or
  - (b) at any reasonable time, if either—
    - (i) a notice was issued under section 103(3)(b)(i) and the notice specified that the equipment or materials were to be taken onto the premises, or
    - (ii) WRA has grounds for believing that issuing such a notice would seriously prejudice the assessment or collection of devolved tax.
- (3) If equipment or materials are taken onto premises without—
- (a) the agreement of the occupier, or
  - (b) a notice having been issued in accordance with subsection (2)(b)(i),
- WRA must provide a notice at the time the equipment or materials are to be taken onto the premises.
- (4) The notice must—
- (a) if the occupier of the premises is present, be provided to the occupier;
  - (b) if the occupier is not present but there is a person present who appears to WRA to be in charge of the premises, be provided to that person;
  - (c) in any other case, be left in a prominent place on the premises.
- (5) The notice must state the possible consequences of obstructing a person exercising WRA's functions.



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(6) If the inspection, or the use of equipment or materials, has been approved by the tribunal, the notice must state that fact.

[<sup>F102</sup>(7) References in this section to a notice issued under section 103(3)(b)(i) include a notice issued under that provision as applied by sections 103A(4) and 103B(5).]

**Annotations:**

**Amendments (Textual)**

**F100** Words in s. 105 heading inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), [Sch. 4 para. 5\(a\)](#); S.I. 2018/35, art. 2(z)(i)

**F101** Words in s. 105(1) substituted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), [Sch. 4 para. 5\(b\)](#); S.I. 2018/35, art. 2(z)(i)

**F102** S. 105(7) inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), [Sch. 4 para. 5\(c\)](#); S.I. 2018/35, art. 2(z)(i)

**Commencement Information**

**I105** S. 105 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

**106 Power to inspect premises or property for valuation etc.**

- (1) WRA may enter premises and inspect the premises and any property on the premises for the purpose of valuing, measuring or determining the character of the premises or property if—
  - (a) the valuation, measurement or determination is required for the purposes of checking any person's tax position, and
  - (b) either condition 1 or 2 is met.
- (2) Condition 1 is that—
  - (a) the inspection is carried out at a time agreed to by a relevant person, and
  - (b) a notice of the agreed time of the inspection has been issued to the relevant person.
- (3) Condition 2 is that—
  - (a) the inspection has been approved by the tribunal, and
  - (b) a notice of the time of the inspection has been issued to a relevant person specified by the tribunal at least 7 days before that time.
- (4) In this section, “relevant person” means—
  - (a) the occupier of the premises, or
  - (b) if the occupier cannot be identified or the premises are vacant, a person who controls the premises.
- (5) A notice under subsection (2)(b) or (3)(b) must state possible consequences of obstructing a person exercising WRA's functions.
- (6) A notice under subsection (3)(b) must also state that the inspection has been approved by the tribunal.
- (7) If WRA considers it necessary to assist with the inspection, WRA may be accompanied by a person authorised by WRA.



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**Annotations:**

**Commencement Information**

**I106** S. 106 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

**107 Producing authorisation to carry out inspections**

If a person carrying out an inspection under section 103 [<sup>F103</sup>, 103A, 103B] or 106 is unable to produce evidence of authority to carry out the inspection when asked to do so by—

- (a) the occupier of the premises, or
- (b) any other person who appears to be in charge of, or to control, the premises, the inspection must stop and may not be continued until such evidence is produced.

**Annotations:**

**Amendments (Textual)**

**F103** Words in s. 107 inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), [Sch. 4 para. 6](#); [S.I. 2018/35](#), [art. 2\(z\)\(i\)](#)

**Commencement Information**

**I107** S. 107 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

**108 Approval of tribunal for inspection of premises**

- (1) WRA may ask the tribunal to approve—
  - (a) an inspection under section 103 [<sup>F104</sup>, 103A, 103B] or 106, or
  - (b) the exercise of powers under section 104 or 105 in relation to an inspection under section 103 [<sup>F105</sup>, 103A or 103B] which has been agreed to by the occupier of the premises.
- (2) The tribunal's approval of an inspection under section 103 [<sup>F106</sup>, 103A or 103B] includes approval of the exercise of the powers under section 104 or 105 subject to any conditions imposed by the tribunal in approving the inspection.
- (3) An application for approval may be made under subsection (1) without notice of the application being sent to—
  - (a) the person whose tax position is the subject of the proposed inspection, or
  - (b) the occupier of the premises.
- (4) The tribunal may approve an inspection under section [<sup>F107</sup>103, 103A or 103B] only if—
  - (a) it is satisfied that the applicable requirement is met,] and
  - (b) if the application for approval was made without notice, it is satisfied that sending notice of the application might have prejudiced the assessment or collection of devolved tax.

[<sup>F108</sup>(4A) The applicable requirement is—

- (a) in the case of an inspection of a person's business premises under section 103, that WRA has grounds for believing that the inspection of the premises is required for the purpose of checking the person's tax position;

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- (b) in the case of an inspection of a person's business premises under section 103A, that WRA has grounds for believing that the conditions set out in subsections (2) and (3) of that section are met;
  - (c) in the case of an inspection of premises under section 103B, that WRA has grounds for believing the matters set out in subsection (1) of that section.]
- (5) The tribunal may approve an inspection under section 106 only if it is satisfied that the inspection is required for the purposes of checking any person's tax position and—
- (a) if the application for approval was made without notice, it is satisfied that sending notice of the application might have prejudiced the assessment or collection of devolved tax, or
  - (b) in any other case—
    - (i) the person whose tax position is the subject of the proposed inspection has been given a reasonable opportunity to make representations to WRA about the inspection,
    - (ii) the occupier of the premises has been given a reasonable opportunity to make such representations, and
    - (iii) the tribunal has been provided with a summary of any representations made.
- (6) Subsection (5)(b)(ii) does not apply if the tribunal is satisfied that the occupier of the premises cannot be identified.
- (7) Where the tribunal has approved an inspection under subsection (1)(a) or the exercise of a power under subsection (1)(b), WRA must carry out the inspection or exercise the power—
- (a) no later than 3 months after the day on which the tribunal's approval was given, or
  - (b) within such shorter period as the tribunal may specify when giving the approval.

**Annotations:**

**Amendments (Textual)**

- F104** Words in s. 108(1)(a) inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), [Sch. 4 para. 7\(a\)](#); S.I. 2018/35, art. 2(z)(i)
- F105** Words in s. 108(1)(b) inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), [Sch. 4 para. 7\(b\)](#); S.I. 2018/35, art. 2(z)(i)
- F106** Words in s. 108(2) inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), [Sch. 4 para. 7\(c\)](#); S.I. 2018/35, art. 2(z)(i)
- F107** Words in s. 108(4) substituted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), [Sch. 4 para. 7\(d\)](#); S.I. 2018/35, art. 2(z)(i)
- F108** S. 108(4A) inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), [Sch. 4 para. 7\(e\)](#); S.I. 2018/35, art. 2(z)(i)

**Commencement Information**

- I108** S. 108 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

**109 Power to mark assets and to record information**

The powers under sections 103 to 106 include—

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- (a) power to mark business assets, and anything containing business assets, for the purpose of indicating that they have been inspected, and
- (b) power to obtain and record information (whether electronically or otherwise) relating to the premises, property, assets and documents that have been inspected.

**Annotations:**

**Commencement Information**

**I109** S. 109 in force at 25.1.2018 by [S.I. 2018/33, art. 2\(c\)](#)

## 110 Restriction on inspection of documents

WRA may not inspect a document under this Chapter if (or to the extent that), by virtue of Chapters 2 and 3, an information notice issued at the time of the inspection to the occupier of the premises could not require the occupier to produce the document.

**Annotations:**

**Commencement Information**

**I110** S. 110 in force at 25.1.2018 by [S.I. 2018/33, art. 2\(c\)](#)

## 111 Interpretation of Chapter 4

[<sup>F109</sup>(1)] In this Chapter—

“business assets” (“*asedau busnes*”) means assets that WRA has reason to believe are owned, leased or used in connection with the carrying on of a business by any person, but does not include documents;

“business documents” (“*dogfennau busnes*”) means documents (or copies of documents) that relate to the carrying on of a business by any person;

“business premises” (“*mangre busnes*”), in relation to a person, means premises (or any part of premises) that WRA has reason to believe are (or is) used in connection with the carrying on of a business by or on behalf of the person;

“premises” (“*mangre*”) includes any building or structure, any land and any means of transport.

[<sup>F110</sup>(2)] For the purposes of the definition of “premises” in subsection (1) as it applies in relation to landfill disposals tax, “land” includes material (within the meaning of LDTA) that WRA has grounds for believing has been deposited on the surface of land or on a structure set into the surface, or under the surface of land.]

**Annotations:**

**Amendments (Textual)**

**F109** S. 111(1): s. 111 renumbered as s. 111(1) (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\), s. 97\(2\), Sch. 4 para. 8\(a\); S.I. 2018/35, art. 2\(z\)\(i\)](#)

**F110** S. 111(2) inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\), s. 97\(2\), Sch. 4 para. 8\(b\); S.I. 2018/35, art. 2\(z\)\(i\)](#)

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**Commencement Information**

**II11** S. 111 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

## CHAPTER 5

### FURTHER INVESTIGATORY POWERS

#### 112 Power to copy and remove documents

- (1) Where a document is inspected by WRA or is produced by a person, WRA may take copies of the document or make extracts from it.
- (2) Where a document is inspected by WRA or is produced by a person, WRA may—
  - (a) remove the document at a reasonable time, and
  - (b) retain the document for a reasonable period,
 if it appears to WRA to be necessary to do so.
- (3) Where WRA removes a document, WRA must supply free of charge—
  - (a) a receipt for the document, and
  - (b) a copy of the document,
 if requested to do so by the person who was in possession or power of the document when it was produced or inspected.
- (4) The removal of a document under subsection (2)(a) is not to be regarded as breaking any lien claimed on the document.
- (5) Where a document removed under subsection (2)(a) is lost or damaged before it is returned, WRA is liable to compensate the owner of the document for any expenses reasonably incurred in replacing or repairing the document.
- (6) In this section, references to a document include a copy of the document.

**Annotations:**

**Commencement Information**

**II12** S. 112 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

#### 113 Further provision about records

- (1) This section applies to any provision of this Act that—
  - (a) requires a person to produce a document,
  - (b) permits WRA—
    - (i) to inspect a document,
    - (ii) to make or take copies of or extracts from a document, or
    - (iii) to remove a document,
  - (c) makes provision about penalties or offences in connection with the production or inspection of documents, including in connection with the failure to produce or permit the inspection of documents, or

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- (d) makes any other provision in connection with the requirement mentioned in paragraph (a) or the powers mentioned in paragraph (b).
- (2) A provision to which this section applies has effect as if—
  - (a) any reference in the provision to a document were a reference to anything in which information of any description is recorded, and
  - (b) any reference in the provision to a copy of a document were a reference to anything onto which information recorded in the document has been copied, by whatever means and whether directly or indirectly.
- (3) WRA may, at any reasonable time, obtain access to, inspect and check the operation of any computer and any associated apparatus or material which is or has been used in connection with a relevant document.
- (4) In subsection (3), “relevant document” means a document—
  - (a) that a person has been, or may be, required to produce by or under a provision of this Act, or
  - (b) that WRA may—
    - (i) inspect,
    - (ii) make or take copies of or extracts from, or
    - (iii) remove.
- (5) WRA may require any assistance that it reasonably requires for the purposes of subsection (3) from—
  - (a) the person by whom or on whose behalf the computer is or has been used, or
  - (b) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material.
- (6) If a person exercising the power under subsection (3) is unable to produce evidence of authority to do so when asked to provide such evidence by—
  - (a) the person by whom or on whose behalf the computer is or has been used, or
  - (b) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,the person exercising the power must stop and may not continue until such evidence is produced.

**Annotations:**

**Commencement Information**

**1113** S. 113 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

## CHAPTER 6

### OFFENCES RELATING TO INFORMATION NOTICES

#### 114 Offence of concealing etc. documents following information notice

- (1) A person commits an offence if—
  - (a) WRA issues an information notice to the person—
    - (i) which requires the person to produce a document, and

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- (ii) which has been approved by the tribunal, and
  - (b) the person conceals, destroys or otherwise disposes of (or arranges for the concealment, destruction or disposal of) that document.
- (2) A person may commit an offence under subsection (1) despite the fact that the person has appealed against the information notice or against a requirement in it.
  - (3) A person does not commit an offence under subsection (1) if the person acts after the original document has been produced in accordance with the information notice, unless WRA has notified the person that the document must continue to be available for inspection (and has not withdrawn the notification).
  - (4) A person does not commit an offence under subsection (1) where a copy of a document has been produced in accordance with section 96(1), if the person acts after the end of the period of 6 months beginning with the day on which the copy was produced unless, before the end of that period, WRA has made a request for the original document under section 96(3).
  - (5) It is a defence for a person charged with an offence under subsection (1) to show that the person had a reasonable excuse for concealing, destroying or otherwise disposing of (or for arranging for the concealment, destruction or disposal of) the document.
  - (6) A person who commits an offence under subsection (1) is liable—
    - (a) on summary conviction, to a fine;
    - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine (or both).

**Annotations:**

**Commencement Information**

**I114** S. 114 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

**115 Offence of concealing etc. documents following notification**

- (1) A person commits an offence if the person conceals, destroys or otherwise disposes of (or arranges for the concealment, destruction or disposal of) a document after WRA has told the person that—
  - (a) a document is to be, or is likely to be, the subject of an information notice addressed to that person (see section 88(3)(b)), and
  - (b) WRA intends to seek the approval of the tribunal for the issuing of the information notice (see section 87(2)(b)) or is required to seek such approval (see sections 86, 89(1)(d) and 92(1)).
- (2) A person does not commit an offence under subsection (1) if the person conceals, destroys or otherwise disposes of the document after—
  - (a) the end of the period of 6 months beginning with the day on which WRA told the person (or last told the person), or
  - (b) an information notice has been issued requiring the person to produce the document.
- (3) It is a defence for a person charged with an offence under subsection (1) to show that the person had a reasonable excuse for concealing, destroying or otherwise disposing of (or for arranging for the concealment, destruction or disposal of) the document.

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- (4) A person who commits an offence under subsection (1) is liable—
- (a) on summary conviction, to a fine;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine (or both).

**Annotations:**

**Commencement Information**

**I115** S. 115 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

## CHAPTER 7

### TRIBUNAL APPROVALS

#### 116 No review or appeal of tribunal approvals

- (1) In section 11(5) of [F<sup>111</sup>TCEA] (decisions excluded from right to appeal to Upper Tribunal), after paragraph (c) insert—
- “(ca) any decision of the First-tier Tribunal under section 88, 89(3) or 92(3) of the Tax Collection and Management (Wales) Act 2016 (anaw 6) (approval for Welsh Revenue Authority to issue certain information notices),
  - (cb) any decision of the First-tier Tribunal under section 108 of that Act (approval for Welsh Revenue Authority to inspect premises),”.
- (2) In section 13(8) of that Act (decisions excluded from right to appeal to Court of Appeal etc.), after paragraph (b) insert—
- “(ba) any decision of the Upper Tribunal under section 88, 89(3) or 92(3) of the Tax Collection and Management (Wales) Act 2016 (anaw 6) (approval for Welsh Revenue Authority to issue certain information notices),
  - (bb) any decision of the Upper Tribunal under section 108 of that Act (approval for Welsh Revenue Authority to inspect premises),”.

**Annotations:**

**Amendments (Textual)**

**F111** Word in s. 116(1) substituted (25.1.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 38](#); [S.I. 2018/34](#), [art. 2\(b\)\(i\)](#)

**Commencement Information**

**I116** S. 116 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)



*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: Tax Collection and Management (Wales) Act 2016 is up to date with all changes known to be in force on or before 24 May 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## PART 5

### PENALTIES

#### CHAPTER 1

##### OVERVIEW

#### 117 Overview of Part

- (1) This Part makes provision about penalties relating to devolved taxes, including—
- (a) penalties relating to failures to make tax returns or to pay devolved tax [<sup>F112</sup>or amounts payable in respect of tax credits],
  - (b) penalties relating to inaccuracies,
  - (c) penalties relating to record-keeping and reimbursement arrangements, and
  - (d) penalties relating to investigations.
- (2) It includes provision about—
- (a) the circumstances which liability to those penalties arises,
  - (b) the amounts of those penalties,
  - (c) the circumstances in which liability to those penalties may be suspended or the amounts of those penalties may be reduced,
  - (d) the assessment of those penalties, and
  - (e) the payment of those penalties.

#### Annotations:

#### Amendments (Textual)

**F112** Words in s. 117(1)(a) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 22**

#### CHAPTER 2

##### PENALTIES FOR FAILURE TO MAKE RETURNS OR PAY TAX [<sup>F113</sup>OR AMOUNTS PAYABLE IN RESPECT OF TAX CREDITS]

#### Annotations:

#### Amendments (Textual)

**F113** Words in Pt. 5 Ch. 2 heading inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 23**



*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: Tax Collection and Management (Wales) Act 2016 is up to date with all changes known to be in force on or before 24 May 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### *Penalty for failure to make tax return*

#### **118 Penalty for failure to make tax return on or before filing date**

[<sup>F114</sup>(1)] A person [<sup>F115</sup>who is required to make a tax return] is liable to a penalty of £100 if the person fails to make a tax return on or before the filing date.

[<sup>F116</sup>(2) But see section 118A for an exception to the rule above.]

#### **Annotations:**

##### **Amendments (Textual)**

**F114** S. 118 renumbered as s. 118(1) (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\), s. 97\(2\), Sch. 4 para. 9\(a\)](#); S.I. 2018/35, art. 3

**F115** Words in s. 118 inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\), s. 81\(2\)\(3\), Sch. 23 para. 39](#); S.I. 2018/34, art. 3

**F116** S. 118(2) inserted (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\), s. 97\(2\), Sch. 4 para. 9\(b\)](#); S.I. 2018/35, art. 3

##### **Commencement Information**

**I117** S. 118 in force at 1.4.2018 by [S.I. 2018/33, art. 3](#)

#### **[<sup>F117</sup>118A Penalties for multiple failures to make tax returns in respect of landfill disposals tax**

- (1) Where a person becomes liable to a penalty under section 118 in respect of a tax return that the person is required to make under section 39 of LDTA, a penalty period—
  - (a) begins with the day after the filing date for the tax return, and
  - (b) ends 12 months later, unless extended under subsection (2)(b).
- (2) If, before the end of the penalty period, the person is required to make another tax return under section 39 of LDTA (“tax return B”) but fails to do so on or before the filing date for tax return B—
  - (a) the person is not liable to a penalty under section 118 in respect of that failure but is liable to a penalty under this section instead, and
  - (b) the penalty period is extended so that it ends 12 months after the filing date for tax return B.
- (3) The amount of the penalty to which a person is liable under this section is determined by reference to the number of tax returns that the person—
  - (a) has been required to make under section 39 of LDTA during the penalty period, but
  - (b) has failed to make on or before the filing dates for those returns.
- (4) If the failure to make tax return B on or before the filing date is the person's first failure during the penalty period, P is liable to a penalty of £200 in respect of that failure.
- (5) If the failure to make tax return B on or before the filing date is the person's second failure during the penalty period, P is liable to a penalty of £300 in respect of that failure.

*Status: Point in time view as at 01/04/2018.*

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- (6) If the failure to make tax return B on or before the filing date is the person's third or subsequent failure during the penalty period, P is liable to a penalty of £400 in respect of that failure.
- (7) A penalty period may be extended more than once under subsection (2)(b).]

**Annotations:**

**Amendments (Textual)**

**F117** S. 118A inserted (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), **ss. 74, 97(2)**; S.I. 2018/35, art. 3

**119 Penalty for failure to make tax return within 6 months from filing date**

- (1) A person [<sup>F118</sup>who is required to make a tax return] is liable to a penalty if the person's failure to make a tax return continues after the end of the period of 6 months beginning with the day after the filing date.
- (2) The penalty is the greater of—
- (a) 5% of the amount of the devolved tax to which the person would have been liable if the tax return had been made, and
  - (b) £300.

**Annotations:**

**Amendments (Textual)**

**F118** Words in s. 119(1) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 40**; S.I. 2018/34, art. 3

**Commencement Information**

**I118** S. 119 in force at 1.4.2018 by [S.I. 2018/33](#), art. 3

**120 Penalty for failure to make tax return within 12 months from filing date**

- (1) A person [<sup>F119</sup>who is required to make a tax return] is liable to a penalty if the person's failure to make a tax return continues after the end of the period of 12 months beginning with the day after the filing date.
- (2) Where, by failing to make the tax return, the person deliberately withholds information which would enable or assist WRA to assess the person's liability to a devolved tax, the penalty is [<sup>F120</sup>—
- (a) £300, or
  - (b) a greater amount, not exceeding 95% of the amount of devolved tax to which the person would have been liable if the tax return had been made.]
- (3) In any case not falling within subsection (2), the penalty is the greater of—
- (a) 5% of the amount of the devolved tax to which the person would have been liable if the tax return had been made, and
  - (b) £300.

*Status: Point in time view as at 01/04/2018.*

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#### Annotations:

#### Amendments (Textual)

**F119** Words in s. 120(1) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 41(a)**; S.I. 2018/34, art. 3

**F120** Words in s. 120(2) substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 41(b)**; S.I. 2018/34, art. 3

#### Commencement Information

**I119** S. 120 in force at 1.4.2018 by [S.I. 2018/33](#), art. 3

## 121 Reduction in penalty for failure to make tax return: disclosure

- (1) WRA may reduce a penalty under section 118, [<sup>F121</sup>118A,] 119 or 120 if the person discloses information which has been withheld as a result of a failure to make a tax return (“relevant information”).
- (2) A person discloses relevant information by—
  - (a) telling WRA about it,
  - (b) giving WRA reasonable help in quantifying any devolved tax unpaid by reason of the information having been withheld, and
  - (c) allowing WRA access to records for the purpose of checking how much devolved tax is so unpaid.
- (3) In reducing a penalty under this section, WRA may take account of—
  - (a) whether the disclosure was prompted or unprompted, and
  - (b) the quality of the disclosure.
- (4) Disclosure of relevant information—
  - (a) is “unprompted” if made at a time when the person making the disclosure has no reason to believe that WRA has discovered or is about to discover the relevant information, and
  - (b) otherwise, is “prompted”.
- (5) “Quality”, in relation to disclosure, includes timing, nature and extent.

#### Annotations:

#### Amendments (Textual)

**F121** Word in s. 121(1) inserted (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), **Sch. 4 para. 10**; S.I. 2018/35, art. 3

#### Commencement Information

**I120** S. 121 in force at 1.4.2018 by [S.I. 2018/33](#), art. 3

*Status: Point in time view as at 01/04/2018.*

**Changes to legislation:** Tax Collection and Management (Wales) Act 2016 is up to date with all changes known to be in force on or before 24 May 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

*Penalty for failure to pay tax*

**[<sup>F122</sup>122 Penalty for failure to pay tax on time**

(1) A person is liable to a penalty if the person has failed to pay an amount of devolved tax on or before the penalty date in respect of that amount.

[<sup>F123</sup>(2) The penalty—

- (a) in respect of an amount of land transaction tax, is 5% of the amount of unpaid tax;
- (b) in respect of an amount of landfill disposals tax, is 1% of the amount of unpaid tax.]

[<sup>F124</sup>(2A) But see section 122ZA for an exception to the rule in subsection (1).]

(3) In this section and in [<sup>F125</sup>sections 122ZA and 122A], the penalty date in respect of an amount of devolved tax specified in column 3 of Table A1 is the date specified in column 4.

TABLE A1

Item	Devolved Tax	Amount of Tax	Penalty date
1	Land transaction tax	Amount (or additional amount) payable as a result of a tax return made by the buyer in a land transaction (unless the amount falls within item 8 or 9).	The date falling 30 days after the filing date for the return.
2	Landfill disposals tax	Amount [ <sup>F126</sup> payable as a result of] a tax return.	The date falling 30 days after the filing date for the return.
3	Any devolved tax	Amount payable as a result of a WRA determination made in place of a tax return.	The date falling 30 days after the date by which WRA believes the tax return was required to be made.
4	Any devolved tax	Amount payable as a result of a WRA assessment made in place of a tax return (unless the amount falls within item 7).	The date falling 30 days after the date by which WRA believes the tax return was required to be made.
5	Any devolved tax	Amount (or additional amount) payable as a	The date falling 30 days after the date by which

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		result of a WRA assessment made where a tax return has been made.	the amount (or additional amount) is required to be paid.
6	Any devolved tax	Amount (or additional amount) payable as a result of an amendment or a correction to a tax return.	The date falling 30 days after the date by which the amount (or additional amount) is required to be paid.
7	Any devolved tax	Amount (or additional amount) payable as a result of a WRA assessment made for the purposes of making an adjustment to counteract a tax advantage (see Part 3A) in a case where a tax return which WRA has reason to believe was required to be made has not in fact been made.	The date falling 30 days after the date by which the amount (or additional amount) is required to be paid.
8	Land transaction tax	Where a deferral request is made under section 58 of LTTA, a deferred amount required to be paid by virtue of section 61(1) of that Act.	The date falling 30 days after the date by which the deferred amount is required to be paid.
9	Land transaction tax	Where a deferral request is made under section 58 of LTTA, a refused amount within the meaning of section 61(2)(a) of that Act.	The date falling 30 days after the date by which the refused amount is required to be paid.
10	Landfill disposals tax	Amount charged by a charging notice issued under section 48 or 49 of LDTA.	The date falling 30 days after the date by which the amount is required to be paid.

*Status: Point in time view as at 01/04/2018.*

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11	Any devolved tax	A postponed amount within the meaning of section 181G(2).	The date falling 30 days after the date on which the postponement period ends (see section 181G as to the calculation of postponement periods).
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(4) In this section, ““deferred amount”” has the same meaning as in section 58(6)(a) of LTTA.

(5) The Welsh Ministers may by regulations modify Table A1.]

**Annotations:**

**Amendments (Textual)**

- F122** Ss. 122, 122A substituted for s. 122 (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 42**; S.I. 2018/34, art. 3
- F123** S. 122(2) substituted (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), **ss. 75, 97(2)**; S.I. 2018/35, art. 3
- F124** S. 122(2A) inserted (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), **Sch. 4 para. 11(a)**; S.I. 2018/35, art. 3
- F125** Words in s. 122(3) substituted (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), **Sch. 4 para. 11(b)**; S.I. 2018/35, art. 3
- F126** Words in s. 122 Table A1 substituted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 24**

**[<sup>F127</sup>122ZA Penalty for multiple failures to pay landfill disposals tax on time**

- (1) Where a person becomes liable to a penalty under section 122 in respect of a failure to pay an amount of landfill disposals tax on or before the penalty date, a penalty period—
  - (a) begins with the day after the penalty date, and
  - (b) ends 12 months later, unless extended under subsection (2)(b).
- (2) If, before the end of the penalty period, the person fails to pay another amount of landfill disposals tax (“amount B”) on or before the penalty date for that amount—
  - (a) the person is not liable to a penalty under section 122(1) in respect of that failure but is liable to a penalty under this section instead, and
  - (b) the penalty period is extended so that it ends 12 months after the penalty date for amount B.
- (3) The amount of the penalty to which a person is liable under this section is determined by reference to—
  - (a) amount B, and
  - (b) the number of times during the penalty period on which the person has failed to pay an amount of landfill disposals tax on or before the penalty date for that amount.
- (4) If the failure is the person's first failure during the penalty period, the person is liable to a penalty of 2% of amount B in respect of that failure.

*Status: Point in time view as at 01/04/2018.*

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- (5) If the failure is the person's second failure during the penalty period, the person is liable to a penalty of 3% of amount B in respect of that failure.
- (6) If the failure is the person's third or subsequent failure during the penalty period, the person is liable to a penalty of 4% of amount B in respect of that failure.
- (7) A penalty period may be extended more than once under subsection (2)(b).]

**Annotations:**

**Amendments (Textual)**

**F127** S. 122ZA inserted (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), **ss. 76, 97(2)**; S.I. 2018/35, **art. 3**

**[<sup>F122</sup>122A Further penalties for continuing failure to pay devolved tax**

- (1) This section applies where a person is liable to a penalty under section 122[<sup>F128</sup> or 122ZA] in respect of a failure to pay an amount of devolved tax on or before the penalty date for that amount.
- (2) If any of the amount remains unpaid after the end of the period of 6 months beginning with the day falling 30 days before the penalty date, the person is liable to a further penalty.
- (3) The further penalty is 5% of the amount that remains unpaid.
- (4) If any of the amount remains unpaid after the end of the period of 12 months beginning with the day falling 30 days before the penalty date, the person is liable to a second further penalty.
- (5) The second further penalty is 5% of the amount that remains unpaid.]

**Annotations:**

**Amendments (Textual)**

**F122** Ss. 122, 122A substituted for s. 122 (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 42**; S.I. 2018/34, **art. 3**

**F128** Words in s. 122A(1) inserted (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), **Sch. 4 para. 12**; S.I. 2018/35, **art. 3**

**[<sup>F129</sup>123 Suspension of penalty for failure to pay tax during currency of agreement for deferred payment**

.....

**Annotations:**

**Amendments (Textual)**

**F129** S. 123 omitted (1.4.2018) by virtue of [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 43**; S.I. 2018/34, **art. 3**

*Status: Point in time view as at 01/04/2018.*

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*[<sup>F130</sup>Penalty for failure to pay amount payable in respect of tax credit*

**Annotations:**

**Amendments (Textual)**

**F130** S. 123A and cross-heading inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 25**

**123A. Penalty for failure to pay amount payable in respect of tax credit on time**

- (1) This section applies where a person is required to pay an amount as a result of a WRA assessment made under section 55A.
- (2) The person is liable to a penalty if he or she fails to pay the amount on or before the penalty date.
- (3) The penalty date is the day falling 30 days after the day by which the amount was required to be paid.
- (4) The penalty is 5% of the amount payable as a result of the WRA assessment.]

*Penalties under Chapter 2: general*

**<sup>F131</sup>124 Interaction of penalties**

.....

**Annotations:**

**Amendments (Textual)**

**F131** S. 124 omitted (1.4.2018) by virtue of [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 43**; S.I. 2018/34, art. 3

**125 Special reduction in penalty under Chapter 2**

- (1) WRA may reduce a penalty under this Chapter if it thinks it right to do so because of special circumstances.
- (2) In subsection (1), “special circumstances” does not include—
  - (a) ability to pay, or
  - (b) the fact that a potential loss of revenue from one person is balanced by a potential over-payment by another.
- [<sup>F132</sup>(2A) But ““special circumstances”” may include the fact that WRA has agreed that a person may pay an amount of devolved tax in instalments over an agreed period.]
- (3) In subsection (1), the reference to reducing a penalty includes a reference to—
  - (a) remitting a penalty entirely,
  - (b) suspending a penalty, and
  - (c) agreeing a compromise in relation to proceedings for a penalty.



*Status: Point in time view as at 01/04/2018.*

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(4) In this section a reference to a penalty include a reference to any interest in relation to a penalty.

#### Annotations:

##### Amendments (Textual)

**F132** S. 125(2A) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 44**; S.I. 2018/34, art. 3

##### Modifications etc. (not altering text)

**C12** Ss. 125-128 applied (1.4.2018) by [The Tax Collection and Management \(Reimbursement Arrangements\) \(Wales\) Regulations 2018 \(S.I. 2018/88\)](#), regs. 1(2), **8(3)**

##### Commencement Information

**I121** S. 125 in force at 1.4.2018 by [S.I. 2018/33](#), art. 3

## 126 Reasonable excuse for failure to make tax return or pay tax [<sup>F133</sup>or amount payable in respect of tax credit]

(1) If a person satisfies WRA or (on appeal) the tribunal that there is a reasonable excuse for a failure to make a tax return, the person is not liable to a penalty under sections 118 to 120 in relation to the failure.

(2) If a person satisfies WRA or (on appeal) the tribunal that there is a reasonable excuse for a failure to pay a devolved tax, the person is not liable to a penalty under [<sup>F134</sup>sections 122 to 122A] in relation to the failure.

[<sup>F135</sup>(2A) If a person satisfies WRA or (on appeal) the tribunal that there is a reasonable excuse for a failure to pay an amount payable in respect of a tax credit, the person is not liable to a penalty under section 123A in relation to the failure.]

(3) For the purposes of subsections (1)[<sup>F136</sup>, (2) and (2A)]—

- (a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside the person's control;
- (b) where a person relies on another person to do anything, that is not a reasonable excuse unless the first person took reasonable care to avoid the failure;
- (c) where a person had a reasonable excuse for the failure but the excuse has ceased, the person is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

#### Annotations:

##### Amendments (Textual)

**F133** Words in s. 126 heading inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 26(4)**

**F134** Words in s. 126(2) substituted (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), **Sch. 4 para. 13**; S.I. 2018/35, art. 3

**F135** S. 126(2A) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 26(2)**

**F136** Words in s. 126(3) substituted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 26(3)**

*Status: Point in time view as at 01/04/2018.*

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#### Modifications etc. (not altering text)

**C12** Ss. 125-128 applied (1.4.2018) by [The Tax Collection and Management \(Reimbursement Arrangements\) \(Wales\) Regulations 2018 \(S.I. 2018/88\)](#), regs. 1(2), **8(3)**

#### Commencement Information

**I122** S. 126 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

## 127 Assessment of penalties under Chapter 2

- (1) Where a person becomes liable to a penalty under this Chapter, WRA must—
  - (a) assess the penalty,
  - (b) issue notice to the person of the penalty assessed, and
  - (c) state in the notice the period<sup>[F137]</sup>, transaction or amount] in respect of which the penalty has been assessed.
- (2) An assessment of a penalty under this Chapter may be combined with an assessment to a devolved tax.
- (3) A supplementary assessment may be made in respect of a penalty under section 119 or 120 if an earlier assessment operated by reference to an underestimate of the amount of devolved tax to which a person would have been liable if a tax return had been made.
- (4) If—
  - (a) an assessment in respect of a penalty under section 119 or 120 is based on the amount of devolved tax to which a person would have been liable if a tax return had been made, and
  - (b) that liability is found by WRA to be excessive,
 WRA may issue a notice to the person liable to the penalty amending the assessment so that it is based on the correct amount.
- (5) A supplementary assessment may be made in respect of a penalty under section 122 <sup>[F138]</sup>, 122ZA<sup>[F139]</sup> or 122A] if an earlier assessment operated by reference to an underestimate of the amount of devolved tax which was payable.
- (6) If an assessment in respect of a penalty under section 122 <sup>[F140]</sup>, 122ZA<sup>[F141]</sup> or 122A] is based on an amount of tax payable that is found by WRA to be excessive, WRA may issue a notice to the person liable to the penalty amending the assessment so that it is based on the correct amount.
- <sup>[F142]</sup>(6A) A supplementary assessment may be made in respect of a penalty under section 123A if an earlier assessment operated by reference to an underestimate of the amount payable in respect of the tax credit in question.
- (6B) If an assessment in respect of a penalty under section 123A is based on an amount that is found by WRA to be excessive, WRA may issue a notice to the person liable to the penalty amending the assessment so that it is based on the correct amount.]
- (7) An amendment made under subsection (4)<sup>[F143]</sup>, (6) or (6B)] —
  - (a) does not affect when the penalty must be paid, and
  - (b) may be made after the last day on which the assessment in question could have been made under section 128.

*Status: Point in time view as at 01/04/2018.*

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#### Annotations:

##### Amendments (Textual)

- F137** Words in s. 127(1)(c) substituted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 27(2)**
- F138** Word in s. 127(5) inserted (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), **Sch. 4 para. 14(a)**; S.I. 2018/35, art. 3
- F139** Words in s. 127(5) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 46(a)**; S.I. 2018/34, art. 3
- F140** Word in s. 127(6) inserted (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), **Sch. 4 para. 14(b)**; S.I. 2018/35, art. 3
- F141** Words in s. 127(6) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 46(b)**; S.I. 2018/34, art. 3
- F142** S. 127(6A)(6B) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 27(3)**
- F143** Words in s. 127(7) substituted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 27(4)**

##### Modifications etc. (not altering text)

- C12** Ss. 125-128 applied (1.4.2018) by [The Tax Collection and Management \(Reimbursement Arrangements\) \(Wales\) Regulations 2018 \(S.I. 2018/88\)](#), regs. 1(2), **8(3)**

##### Commencement Information

- I123** S. 127 in force at 1.4.2018 by [S.I. 2018/33](#), art. 3

## 128 Time limit for assessment of penalties under Chapter 2

- (1) An assessment of a penalty under this Chapter <sup>F144</sup>... must be made on or before the later of date A and (where it applies) date B.
- (2) Date A is the last day of the period of 2 years beginning with—
  - (a) in the case of failure to make a tax return, the filing date, <sup>F145</sup>...
  - (b) in the case of failure to pay a devolved tax, the penalty date. [<sup>F146</sup>, or
  - (c) in the case of a failure to pay an amount payable in respect of a tax credit, the penalty date.]
- (3) Date B is the last day of the period of 12 months beginning with—
  - (a) in the case of a failure to make a tax return—
    - (i) the end of the appeal period for the assessment of the amount of devolved tax to which a person would have been liable if the tax return had been made, or
    - (ii) if there is no such assessment, the date on which that liability is ascertained or it is ascertained that the liability is nil;
  - (b) in the case of a failure to pay a devolved tax—
    - (i) the end of the appeal period for the assessment of the amount of devolved tax in respect of which the penalty is assessed, or
    - (ii) if there is no such assessment, the date on which that amount of devolved tax is ascertained.

*Status: Point in time view as at 01/04/2018.*

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[<sup>F147</sup>(c) in the case of a failure to pay an amount payable in respect of a tax credit, the end of the appeal period for the assessment of the amount in respect of which the penalty is assessed.]

(4) In subsection (2)(b), “penalty date” has the meaning given by section [<sup>F148</sup>122(3)] .

[<sup>F149</sup>(4A) In subsection (2)(c), “penalty date” has the meaning given by section 123A(3).]

(5) In subsection (3) <sup>F150</sup> ..., “appeal period” means <sup>F151</sup> ...—

(a) if no appeal is made, the period during which an appeal could be made, and

(b) if an appeal is made, the period ending with its final determination or withdrawal.

#### Annotations:

##### Amendments (Textual)

**F144** Words in s. 128(1) omitted (1.4.2018) by virtue of Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 47(a)**; S.I. 2018/34, art. 3

**F145** Word in s. 128(2) omitted (1.4.2018) by virtue of The Landfill Disposals Tax (Administration) (Wales) Regulations 2018 (S.I. 2018/101), reg. 1(2), **Sch. para. 28(2)(a)**

**F146** S. 128(2)(c) and word inserted (1.4.2018) by The Landfill Disposals Tax (Administration) (Wales) Regulations 2018 (S.I. 2018/101), reg. 1(2), **Sch. para. 28(2)(b)**

**F147** S. 128(3)(c) inserted (1.4.2018) by The Landfill Disposals Tax (Administration) (Wales) Regulations 2018 (S.I. 2018/101), reg. 1(2), **Sch. para. 28(3)**

**F148** Word in s. 128(4) substituted (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 47(b)**; S.I. 2018/34, art. 3

**F149** S. 128(4A) inserted (1.4.2018) by The Landfill Disposals Tax (Administration) (Wales) Regulations 2018 (S.I. 2018/101), reg. 1(2), **Sch. para. 28(4)**

**F150** Words in s. 128(5) omitted (1.4.2018) by virtue of The Landfill Disposals Tax (Administration) (Wales) Regulations 2018 (S.I. 2018/101), reg. 1(2), **Sch. para. 28(5)**

**F151** Words in s. 128(5) omitted (1.4.2018) by virtue of Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 47(c)**; S.I. 2018/34, art. 3

##### Modifications etc. (not altering text)

**C12** Ss. 125-128 applied (1.4.2018) by The Tax Collection and Management (Reimbursement Arrangements) (Wales) Regulations 2018 (S.I. 2018/88), regs. 1(2), **8(3)**

##### Commencement Information

**I124** S. 128 in force at 1.4.2018 by S.I. 2018/33, **art. 3**

## CHAPTER 3

### PENALTIES FOR INACCURACIES

#### *Penalties for inaccuracies in documents*

#### 129 Penalty for inaccuracy in document given to WRA

(1) A person is liable to a penalty where—

(a) the person gives WRA a document, and

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- (b) conditions 1 and 2 are satisfied.
- (2) Condition 1 is that the document contains an inaccuracy which amounts to, or leads to—
- (a) an understatement of a liability to a devolved tax,
  - (b) a false or inflated statement of a loss relating to a devolved tax,<sup>F152</sup> ...
  - (c) a false or inflated claim to repayment of devolved tax.<sup>F153</sup>, or
  - (d) a false or inflated claim for a tax credit.]
- (3) Condition 2 is that the inaccuracy was deliberate or careless on the person's part.
- (4) An inaccuracy is careless on a person's part if it is due to the person's failure to take reasonable care.
- (5) An inaccuracy which was neither deliberate nor careless on a person's part when the document was given is to be treated as careless if the person—
- (a) discovered the inaccuracy at some later time, and
  - (b) did not take reasonable steps to inform WRA.
- (6) Where a document contains more than one inaccuracy in respect of which conditions 1 and 2 are satisfied, the person is liable to a penalty for each such inaccuracy.

**Annotations:**

**Amendments (Textual)**

**F152** Word in s. 129(2) omitted (1.4.2018) by virtue of [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 29\(a\)](#)

**F153** S. 129(2)(d) and word inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 29\(b\)](#)

**Commencement Information**

**I125** S. 129 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

**130 Amount of penalty for inaccuracy in document given to WRA**

- (1) The penalty for a deliberate inaccuracy is [<sup>F154</sup>an amount not exceeding] 100% of the potential lost revenue.
- (2) The penalty for a careless inaccuracy is [<sup>F155</sup>an amount not exceeding] 30% of the potential lost revenue.

**Annotations:**

**Amendments (Textual)**

**F154** Words in s. 130(1) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 48\(a\)](#); [S.I. 2018/34](#), [art. 3](#)

**F155** Words in s. 130(2) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 48\(b\)](#); [S.I. 2018/34](#), [art. 3](#)

**Commencement Information**

**I126** S. 130 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

*Status: Point in time view as at 01/04/2018.*

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### 131 Suspension of penalty for careless inaccuracy

- (1) WRA may suspend all or part of a penalty for a careless inaccuracy under section 129 by issuing a notice to the person liable to the penalty.
- (2) The notice must specify—
  - (a) what part of the penalty is to be suspended,
  - (b) a period of suspension not exceeding 2 years, and
  - (c) conditions of suspension to be complied with by the person.
- (3) WRA may suspend all or part of a penalty only if compliance with a condition of suspension would help the person to avoid becoming liable to further penalties under section 129 for careless inaccuracy.
- (4) A condition of suspension may specify—
  - (a) action to be taken, and
  - (b) a period within which it must be taken.
- (5) At the end of the period of suspension—
  - (a) if the person satisfies WRA that the conditions of suspension have been complied with, the suspended penalty or part is cancelled, and
  - (b) otherwise, the suspended penalty or part becomes payable.
- (6) If, during the period of suspension of all or part of a penalty payable under section 129, the person becomes liable to another penalty under that section, the suspended penalty or part becomes payable.

#### Annotations:

#### Commencement Information

I127 S. 131 in force at 1.4.2018 by S.I. 2018/33, art. 3

### 132 Penalty for deliberate inaccuracy in document given to WRA by another person

- (1) A person (referred to in this section as “person A”) is liable to a penalty where—
  - (a) another person gives WRA a document,
  - (b) the document contains a relevant inaccuracy, and
  - (c) the inaccuracy was attributable—
    - (i) to person A deliberately supplying false information to the other person (whether directly or indirectly), or
    - (ii) to person A deliberately withholding information from the other person,
 with the intention of the document containing the inaccuracy.
- (2) A “relevant inaccuracy” is an inaccuracy which amounts to, or leads to—
  - (a) an understatement of a liability to a devolved tax,
  - (b) a false or inflated statement of a loss relating to a devolved tax,<sup>F156</sup> ...
  - (c) a false or inflated claim to repayment of devolved tax.<sup>F157</sup>, or
  - (d) a false or inflated claim for a tax credit.]



*Status: Point in time view as at 01/04/2018.*

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- (3) Person A is liable to a penalty under this section in respect of an inaccuracy whether or not the other person is liable to a penalty under section 129 in respect of the same inaccuracy.
- (4) The penalty payable under this section is [<sup>F158</sup>an amount not exceeding] 100% of the potential lost revenue.

**Annotations:**

**Amendments (Textual)**

- F156** Word in s. 132(2) omitted (1.4.2018) by virtue of The Landfill Disposals Tax (Administration) (Wales) Regulations 2018 (S.I. 2018/101), reg. 1(2), **Sch. para. 30(a)**
- F157** S. 132(2)(d) and word inserted (1.4.2018) by The Landfill Disposals Tax (Administration) (Wales) Regulations 2018 (S.I. 2018/101), reg. 1(2), **Sch. para. 30(b)**
- F158** Words in s. 132(4) inserted (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 49**; S.I. 2018/34, art. 3

**Commencement Information**

- I128** S. 132 in force at 1.4.2018 by S.I. 2018/33, art. 3

*Penalty for failure to notify under-assessment etc.*

**133 Penalty for failure to notify under-assessment or under-determination**

- (1) A person is liable to a penalty where—
  - (a) a WRA assessment understates the person's liability to a devolved tax, and
  - (b) the person has failed to take reasonable steps to notify WRA, within the period of 30 days beginning with the day on which the notice of assessment is issued, that it is an under-assessment.
- [<sup>F159</sup>(1A) A person is also liable to a penalty where—
  - (a) a WRA assessment under section 55A understates the amount that the person is required to pay to WRA, and
  - (b) the person has failed to take reasonable steps to notify WRA, within the period of 30 days beginning with the day on which the notice of assessment is issued, that it is an under-assessment.]
  - (2) In deciding what steps (if any) were reasonable, WRA must consider whether the person knew, or should have known, about the under-assessment.
  - (3) The penalty payable under this section is [<sup>F160</sup>an amount not exceeding] 30% of the potential lost revenue.
  - (4) In this section—
    - (a) “WRA assessment” includes a determination made by WRA under section 52, and
    - (b) accordingly, references in this Chapter to an under-assessment include references to an under-determination.

*Status: Point in time view as at 01/04/2018.*

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#### Annotations:

#### Amendments (Textual)

**F159** S. 133(1A) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 31**

**F160** Words in s. 133(3) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 50**; S.I. 2018/34, art. 3

#### Commencement Information

**I129** S. 133 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

### Potential lost revenue

## 134 Meaning of “potential lost revenue”

In this Chapter, “potential lost revenue” has the meaning given by sections 135 to 138.

#### Annotations:

#### Commencement Information

**I130** S. 134 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

## 135 Potential lost revenue: normal rule

- (1) The “potential lost revenue” in respect of—
- (a) an inaccuracy in a document (including an inaccuracy attributable to a supply of false information or withholding of information), or
  - (b) a failure to notify an under-assessment,
- is the additional amount payable in respect of a devolved tax [<sup>F161</sup>or tax credit] as a result of correcting the inaccuracy or under-assessment.
- (2) The reference in subsection (1) to the additional amount payable includes a reference to—
- (a) an amount payable to WRA having been erroneously paid by way of repayment of devolved tax, <sup>F162</sup>...
  - (b) an amount which would have been repayable by WRA had the inaccuracy or under-assessment not been corrected, [<sup>F163</sup>and
  - (c) an amount which WRA would have been required to set off against a person’s liability to tax, or to pay to a person, had the inaccuracy or under-assessment not been corrected.]

#### Annotations:

#### Amendments (Textual)

**F161** Words in s. 135(1) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 32(2)**

**F162** Word in s. 135(2) omitted (1.4.2018) by virtue of [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 32(3)(a)**



*Status: Point in time view as at 01/04/2018.*

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**F163** S. 135(2)(c) and word inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 32\(3\)\(b\)](#)

#### Commencement Information

**I131** S. 135 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

### 136 Potential lost revenue: multiple errors

- (1) Where a person is liable to a penalty under section 129 in respect of more than one inaccuracy, and the calculation of potential lost revenue under section 135 in respect of each inaccuracy depends on the order in which they are corrected, careless inaccuracies are to be taken to be corrected before deliberate inaccuracies.
- (2) In calculating potential lost revenue where a person is liable to a penalty under section 129 in respect of one or more understatements in one or more documents relating to a tax period<sup>F164</sup>, transaction or claim for tax credit], account must be taken of any overstatements in any document given by the person which relate to the same tax period<sup>F165</sup>, transaction or claim for tax credit].
- (3) In subsection (2)—
  - (a) “understatement” means an inaccuracy that meets condition 1 in section 129, and
  - (b) “overstatement” means an inaccuracy that does not meet that condition.
- (4) For the purposes of subsection (2) overstatements are to be set against understatements in the following order—
  - (a) understatements in respect of which the person is not liable to a penalty,
  - (b) careless understatements, and
  - (c) deliberate understatements.
- (5) In calculating, for the purposes of a penalty under section 129, potential lost revenue in respect of a document given by or on behalf of a person, no account is to be taken of the fact that a potential loss of revenue from a person is or may be balanced by a potential overpayment by another person (except to the extent that an enactment requires a person's liability to a devolved tax to be adjusted by reference to another person's liability to a devolved tax).

#### Annotations:

#### Amendments (Textual)

**F164** Words in s. 136(2) substituted (1.4.2018) by virtue of [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 33\(a\)](#)

**F165** Words in s. 136(2) substituted (1.4.2018) by virtue of [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 33\(b\)](#)

#### Commencement Information

**I132** S. 136 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

*Status: Point in time view as at 01/04/2018.*

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### 137 Potential lost revenue: losses

- (1) Where an inaccuracy has the result that a loss is wrongly recorded for the purposes of a devolved tax and the loss has been wholly used to reduce the amount payable in respect of that tax, the potential lost revenue is calculated in accordance with section 135.
- (2) Where an inaccuracy has the result that a loss is wrongly recorded for the purposes of a devolved tax and the loss has not been wholly used to reduce the amount payable in respect of that tax, the potential lost revenue is—
  - (a) the potential lost revenue calculated in accordance with section 135 in respect of any part of the loss that has been used to reduce the amount payable in respect of that tax, plus
  - (b) 10% of any part that has not.
- (3) Subsections (1) and (2) apply both—
  - (a) to a case where no loss would have been recorded but for the inaccuracy, and
  - (b) to a case where a loss of a different amount would have been recorded (but in that case subsections (1) and (2) apply only to the difference between the amount recorded and the true amount).
- (4) The potential lost revenue in respect of a loss is nil where, because of the nature of the loss or the circumstances of the person chargeable to the devolved tax, there is no reasonable prospect of the loss being used to support a claim to reduce any person's liability to that tax.

#### Annotations:

#### Commencement Information

**I133** S. 137 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

### 138 Potential lost revenue: delayed tax

- (1) Where an inaccuracy resulted in an amount of devolved tax being declared later than it should have been (“the delayed tax”), the potential lost revenue is—
  - (a) 5% of the delayed tax for each year of the delay;
  - (b) a percentage of the delayed tax, for each period of delay of less than a year, equating to 5% per year.
- (2) This section does not apply to a case to which section 137 applies.

#### Annotations:

#### Commencement Information

**I134** S. 138 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

#### *Penalties under Chapter 3: general*

### 139 Reduction in penalty under Chapter 3 for disclosure

- (1) WRA may reduce a penalty payable under this Chapter where a person makes a qualifying disclosure.

*Status: Point in time view as at 01/04/2018.*

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- (2) A “qualifying disclosure” means disclosure of—
- (a) an inaccuracy which is relevant to a person's liability to a devolved tax,
  - (b) a supply of false information, or withholding of information, which is relevant to a person's liability to a devolved tax, <sup>F166</sup> ...
  - (c) a failure to disclose an under-assessment in respect of a devolved tax.
  - [<sup>F167</sup>(d) an inaccuracy which is relevant to a person's entitlement to a tax credit or liability to pay an amount in respect of a tax credit,
  - (e) a supply of false information, or withholding of information, which is relevant to a person's entitlement to a tax credit or liability to pay an amount in respect of a tax credit, or
  - (f) a failure to disclose an under-assessment in respect of a person's liability to pay an amount in respect of a tax credit.]
- (3) A person makes a qualifying disclosure by—
- (a) telling WRA about it,
  - (b) giving WRA reasonable help in quantifying—
    - (i) the inaccuracy,
    - (ii) the inaccuracy attributable to the supply of false information or withholding of information, or
    - (iii) the under-assessment, and
  - (c) allowing WRA access to records for the purpose of ensuring that—
    - (i) the inaccuracy,
    - (ii) the inaccuracy attributable to the supply of false information or withholding of information, or
    - (iii) the under-assessment,is fully corrected.
- (4) In reducing a penalty under this section, WRA may take account of—
- (a) whether the disclosure was prompted or unprompted, and
  - (b) the quality of the disclosure.
- (5) Disclosure of relevant information—
- (a) is “unprompted” if made at a time when the person making the disclosure has no reason to believe that WRA has discovered or is about to discover the inaccuracy, the supply of false information or withholding of information, or the under-assessment, and
  - (b) otherwise, is “prompted”.
- (6) “Quality”, in relation to disclosure, includes timing, nature and extent.

**Annotations:**

**Amendments (Textual)**

**F166** Word in s. 139(2) omitted (1.4.2018) by virtue of [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 34\(a\)](#)

**F167** S. 139(2)(d)-(f) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 34\(b\)](#)

*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: Tax Collection and Management (Wales) Act 2016 is up to date with all changes known to be in force on or before 24 May 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I135** S. 139 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

### 140 Special reduction in penalty under Chapter 3

- (1) WRA may reduce a penalty under this Chapter if it thinks it right to do so because of special circumstances.
- (2) In subsection (1), “special circumstances” does not include—
  - (a) ability to pay, or
  - (b) the fact that a potential loss of revenue from one person is balanced by a potential over-payment by another.
- (3) In subsection (1), the reference to reducing a penalty includes a reference to—
  - (a) remitting a penalty entirely,
  - (b) suspending a penalty, and
  - (c) agreeing a compromise in relation to proceedings for a penalty.
- (4) In this section, references to a penalty include references to any interest in relation to a penalty.

#### Annotations:

#### Commencement Information

**I136** S. 140 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

### 141 Assessment of penalties under Chapter 3

- (1) Where a person becomes liable to a penalty under this Chapter, WRA must—
  - (a) assess the penalty,
  - (b) issue a notice to the person of the penalty assessed, and
  - (c) state in the notice the period<sup>F168</sup>, transaction or claim for tax credit] in relation to which the penalty has been assessed.
- (2) An assessment of a penalty under this Chapter may be combined with an assessment to devolved tax.
- (3) An assessment of a penalty under section 129 or 132 must be made before the end of the period of 12 months beginning with—
  - (a) the end of the appeal period for the decision correcting the inaccuracy, or
  - (b) if there is no assessment to the tax concerned as a result of that decision, the day on which the inaccuracy is corrected.
- (4) An assessment of a penalty under section 133 must be made before the end of the period of 12 months beginning with—
  - (a) the end of the appeal period for the assessment of tax which corrected the understatement, or
  - (b) if there is no assessment correcting the understatement, the day on which the understatement is corrected.
- (5) In subsections (3) and (4), “appeal period” means <sup>F169</sup> ...—

*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: Tax Collection and Management (Wales) Act 2016 is up to date with all changes known to be in force on or before 24 May 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) if no appeal is made, the period during which an appeal could be made, and
  - (b) if an appeal is made, the period ending with its final determination or withdrawal.
- (6) Subject to subsections (3) and (4), a supplementary assessment may be made in respect of a penalty under this Chapter if an earlier assessment operated by reference to an underestimate of the potential lost revenue.

**Annotations:**

**Amendments (Textual)**

**F168** Words in s. 141(1)(c) substituted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 35**

**F169** Words in s. 141(5) omitted (1.4.2018) by virtue of [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 51**; S.I. 2018/34, art. 3

**Commencement Information**

**I137** S. 141 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

*Interpretation*

**142 Interpretation of Chapter 3**

In this Chapter—

- (a) a reference to giving a document to WRA includes—
  - (i) a reference to communicating information to WRA in any form and by any method (whether by post, fax, email, telephone or otherwise), and
  - (ii) a reference to making a statement or declaration in a document;
- (b) a reference to making a tax return or doing anything in relation to a tax return includes a reference to amending a tax return or doing anything in relation to an amended tax return;
- (c) a reference to a loss includes a reference to a charge, expense, deficit and any other amount which may be available for, or relied on to claim, a deduction or relief;
- (d) a reference to action includes a reference to omission.

**Annotations:**

**Commencement Information**

**I138** S. 142 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: Tax Collection and Management (Wales) Act 2016 is up to date with all changes known to be in force on or before 24 May 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## CHAPTER 4

### PENALTIES RELATING TO RECORD-KEEPING AND REIMBURSEMENT ARRANGEMENTS

*Penalty for failure to keep and preserve records in connection with tax returns or claims*

#### 143 Penalty for failure to keep and preserve records

- (1) A person who fails to comply with section 38<sup>F170</sup>, 38A] or 69 is liable to a penalty not exceeding £3,000.
- (2) But no penalty is incurred if WRA is satisfied that any facts that it reasonably requires to be proved, and which would have been proved by the records, are proved by other documentary evidence provided to it.

#### Annotations:

#### Amendments (Textual)

**F170** Word in s. 143(1) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 53**; S.I. 2018/34, art. 3

#### Modifications etc. (not altering text)

**C13** Ss. 143-145 applied (1.4.2018) by [The Tax Collection and Management \(Reimbursement Arrangements\) \(Wales\) Regulations 2018 \(S.I. 2018/88\)](#), regs. 1(2), **8(1)**

#### Commencement Information

**I139** S. 143 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

#### 144 Reasonable excuse for failure to keep and preserve records

- (1) If a person who fails to comply with section 38<sup>F171</sup>, 38A] or 69 satisfies WRA or (on appeal) the tribunal that there is a reasonable excuse for the failure, there is no liability to a penalty under section 143 in relation to the failure.
- (2) For the purposes of subsection (1)—
  - (a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside the person's control;
  - (b) where the person relies on another person to do anything, that is not a reasonable excuse unless the first person took reasonable care to avoid the failure;
  - (c) where the person had a reasonable excuse for the failure but the excuse has ceased, the person is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

#### Annotations:

#### Amendments (Textual)

**F171** Word in s. 144(1) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 54**; S.I. 2018/34, art. 3

*Status: Point in time view as at 01/04/2018.*

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**Modifications etc. (not altering text)**

**C13** Ss. 143-145 applied (1.4.2018) by [The Tax Collection and Management \(Reimbursement Arrangements\) \(Wales\) Regulations 2018 \(S.I. 2018/88\)](#), regs. 1(2), **8(1)**

**Commencement Information**

**I140** S. 144 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

**145 Assessment of penalties under section 143**

- (1) Where a person becomes liable to a penalty under section 143, WRA must—
  - (a) assess the penalty, and
  - (b) issue notice to the person of the penalty assessed.
- (2) An assessment of a penalty under section 143 must be made within the period of 12 months beginning with the day on which WRA first believed the person to have failed to comply with section 38<sup>F172</sup>, 38A] or 69.

**Annotations:**

**Amendments (Textual)**

**F172** Word in s. 145(2) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 55**; [S.I. 2018/34](#), art. 3

**Modifications etc. (not altering text)**

**C13** Ss. 143-145 applied (1.4.2018) by [The Tax Collection and Management \(Reimbursement Arrangements\) \(Wales\) Regulations 2018 \(S.I. 2018/88\)](#), regs. 1(2), **8(1)**

**Commencement Information**

**I141** S. 145 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

**CHAPTER 5**

**PENALTIES RELATING TO INVESTIGATIONS**

*Penalties for failure to comply or obstruction*

**146 Penalty for failure to comply with information notice or obstruction**

- (1) This section applies to a person who—
  - (a) fails to comply with an information notice,
  - (b) deliberately obstructs WRA in the course of an inspection, or in the exercise of a power, that has been approved by the tribunal under section 108,
  - (c) deliberately obstructs WRA in the exercise of its power under section 113(3), or
  - (d) fails to comply within a reasonable time with a requirement under section 113(5).
- (2) The person is liable to a penalty of £300.



*Status: Point in time view as at 01/04/2018.*

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- (3) The reference to a person who fails to comply with an information notice includes a person who conceals, destroys or otherwise disposes of (or arranges for the concealment, destruction or disposal of) a document in breach of section 114 or 115.

**Annotations:**

**Commencement Information**

**I142** S. 146 in force at 25.1.2018 by [S.I. 2018/33, art. 2\(d\)](#)

**147 Daily default penalty for failure to comply with information notice or obstruction**

- (1) This section applies if the failure or obstruction mentioned in section 146(1) continues after the day on which a penalty notice is issued under section 153(1)(b) in respect of the failure or obstruction.
- (2) But this section does not apply if—
- (a) the failure is in respect of a debtor contact notice, or
  - (b) a decision relating to the penalty under section 146 in respect of the failure or obstruction is the subject of—
    - (i) a review for which notice of the conclusions has not yet been issued, or
    - (ii) an appeal which has not yet been finally determined or withdrawn.
- (3) The person is liable to a further penalty or penalties not exceeding £60 for each day on which the failure or obstruction continues.

**Annotations:**

**Commencement Information**

**I143** S. 147 in force at 25.1.2018 by [S.I. 2018/33, art. 2\(d\)](#)

**148 Effect of extension of time limit for compliance**

Liability to a penalty under section 146 or 147 does not arise in respect of a failure by a person to do anything required to be done within a limited period of time if the person did it within such further time (if any) as WRA may have allowed.

**Annotations:**

**Commencement Information**

**I144** S. 148 in force at 25.1.2018 by [S.I. 2018/33, art. 2\(d\)](#)

**149 Reasonable excuse for failure to comply or obstruction**

- (1) Liability to a penalty under section 146 or 147 does not arise if the person satisfies WRA or (on appeal) the tribunal that there is a reasonable excuse for the failure or the obstruction of WRA.



*Status: Point in time view as at 01/04/2018.*

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- (2) For the purposes of this section—
- (a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside the person's control;
  - (b) where the person relies on another person to do anything, that is not a reasonable excuse unless the first person took reasonable care to avoid the failure or obstruction;
  - (c) where the person had a reasonable excuse for the failure or obstruction but the excuse has ceased, the person is to be treated as having continued to have the excuse if the failure is remedied, or the obstruction stops, without unreasonable delay after the excuse ceased.

**Annotations:**

**Commencement Information**

**I145** S. 149 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(d\)](#)

*Further penalties for continuing failure to comply or obstruction*

**150 Increased daily default penalty for failure to comply with information notice**

- (1) This section applies if—
- (a) a penalty under section 147 is assessed under section 153 in respect of a person's failure to comply with an unidentified third party notice,
  - (b) the failure continues for more than 30 days beginning with the day on which notice of the penalty was issued, and
  - (c) the person has been told that an application may be made under this section for an increased daily penalty to be imposed.
- (2) WRA may make an application to the tribunal for an increased daily penalty to be imposed on the person.
- (3) But WRA may not make such an application if a decision relating to a penalty under section 146 or 147 in respect of the failure is the subject of—
- (a) a review for which notice of the conclusions has not yet been issued, or
  - (b) an appeal which has not yet been finally determined or withdrawn.
- (4) If the tribunal decides that an increased daily penalty should be imposed, then for each applicable day on which the failure continues—
- (a) the person is not liable to a penalty under section 147 for the failure, and
  - (b) the person is liable instead to a penalty under this section of an amount determined by the tribunal.
- (5) The tribunal may not determine an amount exceeding £1,000 for each applicable day.
- (6) In determining the amount the tribunal must have regard to—
- (a) the likely cost to the person of complying with the notice,
  - (b) any benefits to the person of not complying with it, and
  - (c) any benefits to anyone else resulting from the person's non-compliance.

*Status: Point in time view as at 01/04/2018.*

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- (7) If a person becomes liable to a penalty under this section, WRA must issue to the person notice of that fact.
- (8) The notice must state the first day on which the increased penalty is to apply.
- (9) That day and any subsequent day on which the failure continues is an “applicable day” for the purposes of this section and section 153(4).

**Annotations:**

**Commencement Information**

**I146** S. 150 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(d\)](#)

**151 Tax-related penalty for failure to comply with information notice or obstruction**

- (1) This section applies where—
  - (a) a person becomes liable to a penalty under section 146,
  - (b) the failure or obstruction continues after the day on which a penalty notice is issued under section 153(1)(b) in respect of the penalty,
  - (c) WRA has reason to believe that, as a result of the failure or obstruction,
    - [<sup>F173</sup>(i) the amount of devolved tax that the person has paid, or is likely to pay,]<sup>F174</sup>or
    - (ii) the amount that the person has paid, or is likely to pay in respect of a tax credit,]
      - is significantly less than it would otherwise have been,
  - (d) before the end of the period of 12 months beginning with the relevant date, WRA makes an application to the Upper Tribunal for an additional penalty to be imposed on the person (see subsection (6)) and gives notice of the application to the person, and
  - (e) the Upper Tribunal decides that it is appropriate for an additional penalty to be imposed.
- (2) The person is liable to a penalty of an amount determined by the Upper Tribunal.
- (3) In determining the amount, the Upper Tribunal must have regard to
  - [<sup>F175</sup>(i) the amount of devolved tax]<sup>F176</sup>or
  - (ii) the amount in respect of a tax credit,]
    - which has not been, or is not likely to be, paid by the person.
- (4) Any penalty under this section is in addition to the penalty or penalties under section 146 or 147.
- (5) In subsection (1)(d), the “relevant date” means—
  - (a) in a case involving an information notice against which a person may appeal, the latest of—
    - (i) the day on which the person became liable to the penalty under section 146,
    - (ii) if no appeal against the information notice is made, the end of the period in which such an appeal could have been made, and

*Status: Point in time view as at 01/04/2018.*

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- (iii) if such an appeal is made, the day on which the appeal is finally determined or withdrawn, and
  - (b) in any other case, the day on which the person became liable to the penalty under section 146.
- (6) WRA may not make an application of the kind mentioned in subsection (1)(d) if a decision relating to a penalty under section 146, 147 or 150 in respect of the failure or obstruction is the subject of—
- (a) a review for which notice of the conclusions has not yet been issued, or
  - (b) an appeal which has not yet been finally determined or withdrawn.

#### Annotations:

#### Amendments (Textual)

- F173** Words in s. 151(1)(c) renumbered as s. 151(1)(c)(i) (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 36(2)(a)**
- F174** S. 151(1)(c)(ii) and word inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 36(2)(b)**
- F175** Words in s. 151(3) renumbered as s. 151(3)(i) (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 36(3)(a)**
- F176** S. 151(3)(ii) and word inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 36(3)(b)**

#### Commencement Information

- I147** S. 151 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(d)**

### *Penalty for inaccurate information or documents*

## **152 Penalty for inaccurate information or documents**

- (1) This section applies if—
- (a) a person provides inaccurate information, or produces a document that contains an inaccuracy, in complying with an information notice other than a debtor contact notice, and
  - (b) condition 1, 2 or 3 is met.
- (2) Condition 1 is that the inaccuracy is—
- (a) deliberate, or
  - (b) due to a failure by the person to take reasonable care.
- (3) Condition 2 is that the person knows of the inaccuracy at the time the information is provided or the document is produced but does not inform WRA at that time.
- (4) Condition 3 is that the person—
- (a) discovers the inaccuracy some time later, and
  - (b) fails to take reasonable steps to inform WRA.
- (5) The person is liable to a penalty not exceeding £3,000.
- (6) Where the information or document contains more than one inaccuracy in respect of which condition 1, 2 or 3 is met, a penalty is payable for each such inaccuracy.

*Status: Point in time view as at 01/04/2018.*

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**Annotations:**

**Commencement Information**

**I148** S. 152 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(d)**

*Penalties under Chapter 5: general*

**153 Assessment of penalties under Chapter 5**

- (1) Where a person becomes liable for a penalty under this Chapter, WRA must—
  - (a) assess the penalty, and
  - (b) issue a notice to the person of the penalty assessed.
- (2) An assessment of a penalty under section 146 or 147 must be made within the period of 12 months beginning with the day on which the person became liable to the penalty.
- (3) But in a case involving an information notice against which a person may appeal, an assessment of a penalty under section 146 or 147 must be made within the period of 12 months beginning with the latest of the following—
  - (a) the day on which the person became liable to the penalty,
  - (b) if no appeal against the notice is made, the end of the period in which such an appeal could have been made, and
  - (c) if such an appeal is made, the day on which the appeal is finally determined or withdrawn.
- (4) An assessment of penalties under section 150 must be made—
  - (a) at the end of the period of 7 days beginning with the first applicable day, and
  - (b) at the end of each subsequent period of 7 days that includes an applicable day.
- (5) An assessment of a penalty under section 151 must be made within the period of 12 months beginning with the day on which the Upper Tribunal decided that it was appropriate for the penalty to be imposed.
- (6) An assessment of a penalty under section 152 must be made—
  - (a) within the period of 12 months beginning with the day on which the inaccuracy first came to the attention of WRA, and
  - (b) within the period of 6 years beginning with the day on which the person became liable to the penalty.

**Annotations:**

**Commencement Information**

**I149** S. 153 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(d)**

*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: Tax Collection and Management (Wales) Act 2016 is up to date with all changes known to be in force on or before 24 May 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## CHAPTER 6

### PAYMENT OF PENALTIES

#### 154 Payment of penalties

A penalty under this Part must be paid before the end of the period of 30 days beginning with the day on which notice of the penalty was issued (but see section 182).

##### Annotations:

##### Modifications etc. (not altering text)

**C14** S. 154 applied (1.4.2018) by [The Tax Collection and Management \(Reimbursement Arrangements\) \(Wales\) Regulations 2018 \(S.I. 2018/88\)](#), regs. 1(2), **8(5)**

##### Commencement Information

**I150** S. 154 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(e)**

#### [<sup>F177</sup> 154A] Liability of personal representatives

- (1) If a person liable to a penalty (“P”) has died, any penalty that could have been assessed on P may be assessed on the personal representatives of P.
- (2) Any penalty assessed accordingly is to be paid out of P's estate.]

##### Annotations:

##### Amendments (Textual)

**F177** S. 154A inserted (25.1.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 56**; [S.I. 2018/34](#), art. 2(b)(ii)

## CHAPTER 7

### SUPPLEMENTARY

#### 155 Double jeopardy

A person is not liable to a penalty under this Act in respect of anything if the person has been convicted of an offence in relation to it.

##### Annotations:

##### Commencement Information

**I151** S. 155 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(f)**

#### 156 Power to make regulations about penalties

- (1) The Welsh Ministers may by regulations make provision (or further provision) about

*Status: Point in time view as at 01/04/2018.*

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- (a) the amounts of penalties under this Part;
  - (b) the procedure for assessing penalties under this Part.
- (2) Regulations under this section may modify any enactment (including this Act).
- (3) Regulations under this section may not apply—
- (a) to a failure beginning before the day on which the regulations come into force, or
  - (b) to an inaccuracy in any information or document provided to WRA before that day.

**Annotations:**

**Commencement Information**

**I152** S. 156 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

**PART 6**

INTEREST

**CHAPTER 1**

INTEREST ON AMOUNTS PAYABLE TO WRA

*F178* ...

**Annotations:**

**Amendments (Textual)**

**F178** S. 157 cross-heading omitted (25.1.2018) by virtue of [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 57**; [S.I. 2018/34](#), art. 2(b)(ii)

**[<sup>F179</sup>157 Late payment interest on devolved taxes**

- (1) This section applies to an amount of devolved tax—
- (a) stated in a tax return as—
    - (i) the tax chargeable, or
    - (ii) if the tax return is a further return made by the buyer in a land transaction, the land transaction tax (or additional land transaction tax) payable;
  - (b) payable—
    - (i) as a result of an amendment to a tax return under section 41, 45 or 50;
    - (ii) as a result of a correction to a tax return under section 42;
    - (iii) in accordance with an assessment made in addition to a tax return under section 54 or 55, or
  - (c) payable in accordance with—
    - (i) a determination under section 52, or

*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: Tax Collection and Management (Wales) Act 2016 is up to date with all changes known to be in force on or before 24 May 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(ii) an assessment under section 54 or 55,  
made in place of a tax return which was required to be made.

[<sup>F180</sup>(1A) This section also applies to an amount of landfill disposals tax charged by a charging notice issued under section 49 or 50 of LDTA.]

(2) If the amount is not paid before the late payment interest start date, the amount carries interest (referred to in this Part as “late payment interest”) at the late payment interest rate for the period—

- (a) beginning with the late payment interest start date, and
- (b) ending with the date of payment.

(3) The late payment interest start date is —

- (a) in the case of an amount falling within subsection (1)(a) or (b), the date after the filing date for the tax return;
- (b) in the case of an amount falling within subsection (1)(c) the date after the filing date for the tax return which was required to be made.

[<sup>F181</sup>(c) in the case of an amount falling within subsection (1A), the date immediately after the end of the period specified in section 51 of LDTA.]

(4) But where section 160 applies the late payment interest start date is the date specified in that section.

#### Annotations:

#### Amendments (Textual)

**F179** Ss. 157, 157A, 158 substituted (25.1.2018) for ss. 157, 158 by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 58**; S.I. 2018/34, art. 2(b)(ii)

**F180** S. 157(1A) inserted (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), **ss. 53(2)**, 97(2); S.I. 2018/35, art. 3

**F181** S. 157(3)(c) inserted (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), **ss. 53(3)**, 97(2); S.I. 2018/35, art. 3

#### Commencement Information

**I153** S. 157 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

### 157A Late payment interest on penalties

(1) This section applies to an amount of penalty [<sup>F182</sup>relating to devolved tax] .

(2) If the amount is not paid on or before the date by which it is required to be paid, the amount carries interest (referred to in this Part as “late payment interest”) at the late payment interest rate for the period—

- (a) beginning with the following day, and
- (b) ending with the date of payment.

(3) But where section 160 applies, the late payment interest start date is the date specified in that section.



*Status: Point in time view as at 01/04/2018.*

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**Annotations:**

**Amendments (Textual)**

**F179** Ss. 157, 157A, 158 substituted (25.1.2018) for ss. 157, 158 by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 58**; S.I. 2018/34, art. 2(b)(ii)

**F182** Words in s. 157A(1) substituted (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), **Sch. 4 para. 15**; S.I. 2018/35, art. 3

**Modifications etc. (not altering text)**

**C15** S. 157A excluded (1.4.2018) by [The Tax Collection and Management \(Reimbursement Arrangements\) \(Wales\) Regulations 2018 \(S.I. 2018/88\)](#), regs. 1(2), **8(4)**

**[<sup>F183</sup>157B Late payment interest on amounts payable in respect of tax credit**

- (1) This section applies to an amount payable in respect of a tax credit.
- (2) If the amount is not paid on or before the date by which it is required to be paid, the amount carries interest (referred to in this Part as “late payment interest”) at the late payment interest rate for the period—
  - (a) beginning with the late payment interest start date, and
  - (b) ending with the date of payment.
- (3) Where the amount is payable as a result of a WRA assessment in a case involving a situation mentioned in section 55A(a) or (b), the late payment interest start date is—
  - (a) if the tax credit in question was claimed in a tax return, the day after the filing date for the tax return;
  - (b) if the tax credit in question was claimed by any other means, the day after that on which an amount equal to the amount was paid to a person in respect of the claim.
- (4) Where the amount is payable as a result of a WRA assessment in a case involving a situation mentioned in section 55A(c), the late payment interest start date is the day after that by which the amount was required to be paid.
- (5) But where section 160 applies, the late payment interest start date for the purposes of this section is the date specified in that section.]

**Annotations:**

**Amendments (Textual)**

**F179** Ss. 157, 157A, 158 substituted (25.1.2018) for ss. 157, 158 by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 58**; S.I. 2018/34, art. 2(b)(ii)

**F183** S. 157B inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 37**

**158 Late payment interest: supplementary**

- (1) This section applies for the purposes of sections 157<sup>F184</sup>, 157A and 157B].



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- (2) Late payment interest is not payable on late payment interest.
- (3) A late payment interest start date may be a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882 (c. 61).
- (4) The date of payment, in relation to an amount, includes the date on which the amount is set off against an amount payable by WRA.
- (5) ““Late payment interest rate”” has the meaning given by section 163(1).]

**Annotations:**

**Amendments (Textual)**

**F179** Ss. 157, 157A, 158 substituted (25.1.2018) for ss. 157, 158 by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 58**; S.I. 2018/34, art. 2(b)(ii)

**F184** Words in s. 158(1) substituted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 38**

**Commencement Information**

**I154** S. 158 in force at 1.4.2018 by S.I. 2018/33, art. 3

F185 ...

**Annotations:**

**Amendments (Textual)**

**F185** S. 159 and cross-heading omitted (25.1.2018) by virtue of [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 59**; S.I. 2018/34, art. 2(b)(ii)

**F185** **159 Late payment interest start date: amendments to assessments etc.**

.....

**160 Late payment interest start date: death of taxpayer**

- (1) This section applies if—
  - (a) a person [F186] who is—
    - (i) chargeable to an amount of devolved tax or penalty relating to devolved tax, or
    - (ii) required to pay an amount in respect of a tax credit,] dies before the amount becomes payable, and
  - (b) the executor or administrator is unable to pay the amount before obtaining probate or letters of administration or another document having equivalent effect under the law of a country or territory other than England and Wales in relation to the deceased person's estate.
- (2) The late payment interest start date for that amount is the later of the following—
  - (a) the date which would be the late payment interest start date apart from this section, and

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- (b) the day after the end of the period of 30 days beginning with the grant of probate or letters of administration or another document having equivalent effect under the law of a country or territory other than England and Wales in relation to the deceased person's estate.

**Annotations:**

**Amendments (Textual)**

**F186** Words in s. 160(1)(a) substituted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 39**

**Commencement Information**

**I155** S. 160 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(g)**

## CHAPTER 2

### INTEREST ON AMOUNTS PAYABLE BY WRA

#### *Repayment interest*

#### **161 Repayment interest on amounts payable by WRA**

- (1) This section applies to any relevant amount paid by a person to WRA that is repaid by WRA to that person or to another person.
- (2) “Relevant amount” means an amount paid in connection with any liability (including any purported or anticipated liability) to pay to WRA—
  - (a) an amount of devolved tax, <sup>F187</sup> ...
  - (b) an amount of penalty relating to devolved tax<sup>F188</sup>, or
  - (c) an amount in respect of a tax credit.]
- (3) If an amount to which this section applies is not repaid before the repayment interest start date, the amount carries interest (referred to in this Part as “repayment interest”) at the repayment interest rate for the period—
  - (a) beginning with the repayment interest start date, and
  - (b) ending with the date of repayment.
- (4) The repayment interest start date for the relevant amount is the later of—
  - (a) the day on which the relevant amount was paid to WRA, and
  - (b) the day on which the amount mentioned in subsection <sup>F189</sup>(2)(a), (b) or (c)], in connection with which the relevant amount was paid, became payable to WRA.
- (5) Subsection (3)(a) applies even if the repayment interest start date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882 (c. 61).
- (6) In this section, “repayment interest rate” has the meaning given by section 163(2).

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**Annotations:**

**Amendments (Textual)**

- F187** Word in s. 161(2) omitted (1.4.2018) by virtue of [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 40(2)(a)**
- F188** S. 161(2)(c) and word inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 40(2)(b)**
- F189** Words in s. 161(4)(b) substituted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 40(3)**

**Commencement Information**

- I156** S. 161 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(g)**

**162 Repayment interest: supplementary**

- (1) Repayment interest is not payable on an amount payable in consequence of an order or judgment of a court having power to allow interest on the amount.
- (2) Repayment interest is not payable on repayment interest.
- (3) The date of repayment, in relation to an amount to which section 161 applies, includes the date on which it is set off against an amount owed to WRA.

**Annotations:**

**Commencement Information**

- I157** S. 162 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(g)**

**CHAPTER 3**

**RATES OF INTEREST**

**163 Rates of late payment interest and repayment interest**

- (1) The late payment interest rate is the rate provided for in regulations made by the Welsh Ministers.
- (2) The repayment interest rate is the rate provided for in regulations made by the Welsh Ministers.
- (3) Regulations under subsection (1) or (2)—
  - (a) may make different provision for different purposes;
  - (b) may either themselves specify a rate of interest or make provision for a rate to be determined (and to change from time to time) by reference to a rate or an average of rates referred to in regulations;
  - (c) may provide for rates to be reduced below, or increased above, what they would otherwise be by reference to specified amounts or specified formulae;
  - (d) may provide for rates arrived at by reference to averages to be rounded up or down;

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- (e) may provide for circumstances in which alteration of a rate of interest is or is not to take place;
- (f) may provide that alterations of rates are to have effect for periods beginning on or after a day determined in accordance with the regulations in relation to interest running from before that day as well as from or from after that day.

**Annotations:**

**Commencement Information**

**I158** S. 163 in force at 18.10.2017 by [S.I. 2017/954](#), **art. 2**

**PART 7**

**PAYMENT AND ENFORCEMENT**

*Payment*

**164 Meaning of “relevant amount”**

In this Part, “relevant amount” means—

- (a) devolved tax;
- (b) interest on devolved tax;
- (c) a penalty relating to devolved tax;
- (d) interest on a penalty relating to devolved tax.
- [<sup>F190</sup>(e) an amount payable in respect of a tax credit;
- (f) interest on an amount payable in respect of a tax credit.]

**Annotations:**

**Amendments (Textual)**

**F190** S. 164(e)(f) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 41**

**Commencement Information**

**I159** S. 164 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(h)**

**165 Relevant amounts payable to WRA**

Any relevant amount that becomes payable (whether under an enactment or contract settlement) is payable to WRA.

**Annotations:**

**Commencement Information**

**I160** S. 165 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(h)**

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## 166 Receipts for payment

When a relevant amount is paid to WRA, WRA must give a receipt if requested to do so.

### Annotations:

#### Commencement Information

**I161** S. 166 in force at 25.1.2018 by [S.I. 2018/33, art. 2\(h\)](#)

## 167 Fees for payment

- (1) The Welsh Ministers may by regulations provide that a person who pays a relevant amount to WRA using a method of payment prescribed by the regulations must also pay a fee prescribed by, or determined in accordance with, the regulations.
- (2) Regulations under this section may make provision about the time and manner in which the fee must be paid.

### Annotations:

#### Commencement Information

**I162** S. 167 in force at 18.10.2017 by [S.I. 2017/954, art. 2](#)

### *Certification of debt*

## 168 Certificates of debt

- (1) A certificate of WRA that a relevant amount has not been paid to WRA is sufficient evidence that the amount is unpaid unless the contrary is proved.
- (2) A document purporting to be such a certificate is to be treated as if it were such a certificate unless the contrary is proved.

### Annotations:

#### Commencement Information

**I163** S. 168 in force at 25.1.2018 by [S.I. 2018/33, art. 2\(h\)](#)

### *Recovery*

## 169 Proceedings in magistrates' court

- (1) Where a relevant amount is payable by a person and it does not exceed £2,000, it is recoverable summarily as a civil debt.
- (2) All or any of the amounts recoverable under this section that are payable by any one person may be included in the same complaint, summons or other document required to be laid before or issued by a justice of the peace.

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- (3) Each such document is to be treated, in respect of each amount, as a separate document and its invalidity as respects one amount does not affect its validity in respect of any other amount.
- (4) Where a relevant amount consists of devolved tax or a penalty [<sup>F191</sup>or an amount payable in respect of a tax credit], proceedings may be brought under this section within the period of 12 months beginning with the day following that on or before which the devolved tax [<sup>F192</sup>, penalty or other amount] was required to be paid.
- (5) Where a relevant amount consists of interest on devolved tax or on a penalty [<sup>F193</sup>or on an amount payable in respect of a tax credit], proceedings may be brought under this section within the period of 12 months beginning with the day following that on or before which the devolved tax [<sup>F194</sup>, penalty or other amount] was required to be paid.
- [<sup>F195</sup>(5A) Where a relevant amount includes an amount of land transaction tax in respect of which WRA has agreed to defer payment, any deferral period in respect of that amount (as determined under Chapter 3 of Part 6 of LTТА) must be ignored in calculating the period of 12 months referred to in subsection (4) or (5).
- (5B) Where a relevant amount includes an amount treated as a postponed amount by virtue of section 181G, any postponement period in respect of that amount (as determined under that section) must be ignored in calculating the period of 12 months referred to in subsection (4) or (5).]
- (6) The Welsh Ministers may by regulations increase the amount specified in subsection (1).

#### Annotations:

#### Amendments (Textual)

- F191** Words in s. 169(4) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 42(2)(a)**
- F192** Words in s. 169(4) substituted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 42(2)(b)**
- F193** Words in s. 169(5) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 42(3)(a)**
- F194** Words in s. 169(5) substituted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 42(3)(b)**
- F195** S. 169(5A)(5B) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 60**; S.I. 2018/34, art. 3

#### Commencement Information

- I164** S. 169 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(h)**

## 170 Enforcement by taking control of goods

- (1) If a person does not pay WRA a relevant amount which is payable by the person, WRA may use the procedure in Schedule 12 to [<sup>F196</sup>TCEA] (taking control of goods) to recover that amount.
- (2) In section 63(3) of that Act (enforcement agents), after paragraph (b) insert—
- “(ba) a person authorised to use the procedure in Schedule 12 by the Welsh Revenue Authority (or by a person to whom the Welsh Revenue

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Authority has delegated the function of authorising the use of the procedure);”.

**Annotations:**

**Amendments (Textual)**

**F196** Words in s. 170(1) substituted (25.1.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 61**; S.I. 2018/34, art. 2(b)(iii)

**Commencement Information**

**I165** S. 170 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(h)**

**PART 8**

REVIEWS AND APPEALS

**CHAPTER 1**

INTRODUCTORY

*Overview*

**171 Overview of Part**

- (1) This Part makes provision for reviews of and appeals against certain decisions made by WRA, including provision about—
  - (a) the decisions which are appealable decisions,
  - (b) the right to request WRA to review appealable decisions,
  - (c) the duty of WRA to carry out reviews on request,
  - (d) the effect of review conclusions,
  - (e) the right to appeal to the tribunal against appealable decisions, whether following review or otherwise, and
  - (f) the duty of the tribunal to determine those appeals.
- (2) This Part also makes provision for disputes relating to appealable decisions to be settled by agreement.

*Appealable decisions*

**172 Appealable decisions**

- (1) A person to whom an appealable decision applies—
  - (a) may request a review of the decision (subject to subsection (4)), and
  - (b) may appeal against the decision,in accordance with the following provisions of this Part.
- (2) The following decisions by WRA are appealable decisions—

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- (a) a decision which affects whether a person is chargeable to a devolved tax;
- (b) a decision which affects the amount of a devolved tax to which a person is chargeable;
- (c) a decision which affects the day by which an amount of a devolved tax must be paid;
- (d) a decision about a penalty relating to a devolved tax;
- (e) a decision to issue an information notice or to include a particular requirement in such a notice.
- [<sup>F197</sup>(f) a decision to issue a notice under paragraph 14 of Schedule 16 to LTTA (recovery of group relief: notice requiring payment by another group company or controlling director);
- (g) a decision to issue a notice under paragraph 9 of Schedule 17 to that Act (recovery of reconstruction or acquisition relief: notice requiring payment by another group company or controlling director).]
- [<sup>F198</sup>(h) a decision relating to the method to be used by the operator of an authorised landfill site to determine the weight of material for the purposes of landfill disposals tax;]
- [<sup>F199</sup>(i) a decision relating to the registration of a person for the purposes of landfill disposals tax;]
- [<sup>F200</sup>(j) a decision relating to the designation of a non-disposal area for the purposes of landfill disposals tax;]
- [<sup>F201</sup>(k) a decision relating to the designation of a group of bodies corporate for the purposes of landfill disposals tax.]
- [<sup>F202</sup>(l) a decision relating to a tax credit in respect of landfill disposals tax.]
- [<sup>F203</sup>(2A) In subsection (2), “operator”, “authorised landfill site”, “registration” and “non-disposal area” have the same meanings as in LDTA.]
- (3) But the following decisions are not appealable decisions—
  - (a) a decision to issue a notice of enquiry under section 43 or 74;
  - (b) a decision to issue—
    - (i) a taxpayer notice, or
    - (ii) a third party notice to which section 90(3) applies;
  - (c) a decision to include a particular requirement in—
    - (i) a taxpayer notice, or
    - (ii) a third party notice to which section 90(3) applies.
- (4) Where the tribunal has approved the issuing of an information notice, a person may not request a review of WRA's decision to issue the notice.
- (5) Where a review may be requested, or an appeal made, in respect of a decision to issue an information notice or include a requirement in such a notice, it may be requested or made only on the following grounds—
  - (a) that it is unreasonable to require the person to whom the notice was issued to comply with the notice or requirement;
  - (b) that a provision of sections 97 to 102 prevents the notice from requiring the person to provide the information or produce the document;
  - (c) in the case of an identification notice issued under section 92 or a debtor contact notice issued under section 93, that condition 4 of that section has not been met.



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- (6) In the case of a decision to issue an information notice or to include a particular requirement in such a notice, the person to whom the decision applies for the purposes of subsection (1) is the person to whom the notice was issued.
- (7) The Welsh Ministers may by regulations—
- (a) modify this section to—
    - (i) add a decision to subsection (2) or (3);
    - (ii) vary the description of a decision in either of those subsections;
    - (iii) remove a decision from either of those subsections;
  - (b) amend this Part in order to make provision about the grounds on which a review may be requested, or an appeal made, in respect of an appealable decision.

#### Annotations:

##### Amendments (Textual)

- F197** S. 172(2)(f)(g) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 62**; S.I. 2018/34, art. 3
- F198** S. 172(2)(h) inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), **ss. 24**, 97(2); S.I. 2018/35, art. 2(d)
- F199** S. 172(2)(i) inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), **ss. 38**, 97(2); S.I. 2018/35, art. 2(l)
- F200** S. 172(2)(j) inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), **ss. 58**, 97(2); S.I. 2018/35, art. 2(r)
- F201** S. 172(2)(k) inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), **ss. 80**, 97(2); S.I. 2018/35, art. 2(w)
- F202** S. 172(2)(l) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 43**
- F203** S. 172(2A) inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), **Sch. 4 para. 16**; S.I. 2018/35, art. 2(z)(ii)

##### Commencement Information

- I166** S. 172 in force at 25.1.2018 by S.I. 2018/33, art. 2(i)

## CHAPTER 2

### REVIEWS

#### 173 Requesting a review

- (1) A request to review an appealable decision must be made by giving a notice (a “notice of request”) to WRA.
- (2) A notice of request must set out the grounds for review.
- (3) But a person may not give a notice of request if subsection (4), (5) or (6) applies.
- (4) This subsection applies where—
- (a) the decision which the person wishes WRA to review is a decision to amend the person's tax return under section 45 while an enquiry is in progress, and

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- (b) the enquiry has not yet been completed.
- (5) This subsection applies where the person has appealed to the tribunal against the decision and the appeal has not been withdrawn.
- (6) This subsection applies where the person—
  - (a) has entered into a settlement agreement in relation to the decision which the person wishes WRA to review, and
  - (b) has not given notice of withdrawal from the agreement under section 184(4).
- (7) This section does not prevent an appealable decision from being dealt with in accordance with section 184.

**Annotations:**

**Commencement Information**

**I167** S. 173 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(i)**

**174 Time limit for requesting a review**

- (1) Where a notice of request is given to WRA before the end of the relevant period, WRA must review the decision to which the notice relates.
- (2) Subject to subsection (3), the relevant period is—
  - (a) where the request relates to a decision to amend the person's tax return under section 45 while an enquiry is in progress, the period of 30 days beginning with the day on which WRA issues a closure notice informing the person that the enquiry is completed;
  - (b) where the request relates to a decision of any other kind, the period of 30 days beginning with the day on which WRA issues the notice informing the person of the decision.
- (3) Where the person—
  - (a) has entered into a settlement agreement in respect of the decision to which the request relates, but
  - (b) has subsequently given notice of withdrawal from the agreement under section 184(4),
 the relevant period is the period of 30 days beginning with the day on which the notice of withdrawal is given.

**Annotations:**

**Commencement Information**

**I168** S. 174 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(i)**

**175 Late request for review**

- (1) Where a person gives a notice of request to WRA after the relevant period—
  - (a) WRA may review the decision to which the notice relates, and
  - (b) must do so if it is satisfied that the person—

*Status: Point in time view as at 01/04/2018.*

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- (i) had a reasonable excuse for not giving it during the relevant period, and
  - (ii) subsequently gave it to WRA without unreasonable delay.
- (2) WRA must issue a notice to the person indicating whether or not it will review the decision.
- (3) Where WRA issues a notice indicating that it will not review the decision, the person may apply to the tribunal for a direction requiring WRA to carry out the review.
- (4) The tribunal may give such a direction, and must do so if it is satisfied that the applicant —
  - (a) had a reasonable excuse for not giving the notice of request to WRA during the relevant period,
  - (b) subsequently gave it to WRA without unreasonable delay, and then
  - (c) applied to the tribunal without unreasonable delay.
- (5) In this section, “the relevant period” has the same meaning as in section 174.

**Annotations:**

**Commencement Information**

**1169** S. 175 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(i\)](#)

**176 Carrying out a review**

- (1) The nature and extent of the review are to be such as appear appropriate to WRA in the circumstances.
- (2) For the purpose of subsection (1), WRA must, in particular, have regard to steps taken before the beginning of the review—
  - (a) by WRA in reaching the decision, and
  - (b) by any person in seeking to resolve disagreement about the decision.
- (3) The review must take account of any representations made by the person who gave the notice of request at a stage which gives WRA a reasonable opportunity to consider them.
- (4) The review may conclude that WRA's decision is to be—
  - (a) affirmed,
  - (b) varied, or
  - (c) cancelled.
- (5) WRA must issue notice of the conclusions of the review to the person who gave the notice of request—
  - (a) within the period of 45 days beginning with the day on which WRA received the notice of request, or
  - (b) within such other period as WRA and the person may agree.
- (6) But where the tribunal directs WRA to carry out a review, WRA must issue notice of the conclusions of the review—
  - (a) within the period of 45 days beginning with the day on which the tribunal gave the direction, or

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- (b) within such other period as WRA and the person may agree.
- (7) If WRA fails to issue notice in accordance with subsection (5) or (6)—
  - (a) the review is deemed to have concluded that WRA's decision is to be upheld, and
  - (b) WRA must issue notice of that to the person who gave the notice of request.

**Annotations:**

**Commencement Information**

**I170** S. 176 in force at 25.1.2018 by [S.I. 2018/33, art. 2\(i\)](#)

**177 Effect of conclusions of review**

- (1) Where WRA issues notice under section 176(5), (6) or (7) in relation to a review—
  - (a) the conclusions in the notice are to be treated as if the tribunal had determined an appeal against the decision to which the notice relates in the manner set out in the conclusions, but
  - (b) the conclusions are not to be treated as a decision of the tribunal for the purposes of sections 9 to 13 of the Tribunals, Courts and Enforcement Act 2007 (c. 15) (review of decisions and appeals against decisions).
- (2) But subsection (1) does not apply if, or to the extent that—
  - (a) WRA and the person subsequently enter into a settlement agreement in relation to the decision to which the notice relates, or
  - (b) the tribunal subsequently determines an appeal made against the decision to which the notice relates.

**Annotations:**

**Commencement Information**

**I171** S. 177 in force at 25.1.2018 by [S.I. 2018/33, art. 2\(i\)](#)

**CHAPTER 3**

**APPEALS**

**178 Making an appeal**

- (1) An appeal against an appealable decision must be made to the tribunal.
- (2) But a person may not make an appeal to the tribunal if subsection (3), (4) or (5) applies.
- (3) This subsection applies where—
  - (a) the decision which the person wishes to appeal against is a decision of WRA to amend the person's tax return under section 45 while an enquiry is in progress, and
  - (b) the enquiry has not yet been completed.
- (4) This subsection applies where—

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- (a) the person has given WRA notice of a request under section 173 for a review of the decision which the person wishes to appeal against, and
  - (b) the period within which WRA must issue notice of the conclusions of the review under section 176(5) has not yet ended.
- (5) This subsection applies where the person—
- (a) has entered into a settlement agreement in relation to the decision which the person wishes to appeal against, and
  - (b) has not given notice of withdrawal from the agreement under section 184(4).
- (6) This section does not prevent an appealable decision from being dealt with in accordance with section 184.

**Annotations:**

**Commencement Information**

**I172** S. 178 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(i)**

**179 Time limit for making an appeal**

- (1) An appeal must be made to the tribunal before the end of the relevant period.
- (2) Subject to subsections (3) and (4), the relevant period is—
- (a) where the appeal relates to a decision to amend the appellant's tax return under section 45 while an enquiry is in progress, the period of 30 days beginning with the day on which WRA issues a closure notice informing the appellant that the enquiry is completed;
  - (b) where the appeal relates to a decision of any other kind, the period of 30 days beginning with the day on which WRA issues the notice informing the appellant of the decision.
- (3) Subject to subsection (4), where WRA has reviewed the decision to which the appeal relates, the relevant period is the period of 30 days beginning with the day on which notice is issued to the appellant under section 176(5), (6) or (7) in relation to the review.
- (4) Where the appellant has entered into a settlement agreement in relation to the decision to which the appeal relates but has subsequently given notice of withdrawal from the agreement under section 184(4), the relevant period is—
- (a) the period of 30 days beginning with the day on which the notice of withdrawal is given, or
  - (b) if later, the relevant period applicable under subsection (3).

**Annotations:**

**Commencement Information**

**I173** S. 179 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(i)**

**180 Making a late appeal**

- (1) An appeal may be made to the tribunal after the relevant period if the tribunal gives permission.

*Status: Point in time view as at 01/04/2018.*

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(2) In this section, “the relevant period” has the same meaning as in section 179.

**Annotations:**

**Commencement Information**

**I174** S. 180 in force at 25.1.2018 by [S.I. 2018/33, art. 2\(i\)](#)

**181 Determining an appeal**

(1) If an appeal against an appealable decision is made to the tribunal in accordance with section 179 or 180 (and not withdrawn), the tribunal must determine the appeal.

(2) The tribunal may determine that the appealable decision is to be—

- (a) affirmed,
- (b) varied, or
- (c) cancelled.

**Annotations:**

**Commencement Information**

**I175** S. 181 in force at 25.1.2018 by [S.I. 2018/33, art. 2\(i\)](#)

[<sup>F204</sup>CHAPTER 3A

PAYMENT AND RECOVERY OF DEVOLVED  
 TAX [<sup>F205</sup>ETC] SUBJECT TO REVIEW OR APPEAL

**Annotations:**

**Amendments (Textual)**

**F204** Pt. 8 Ch. 3A inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\), s. 81\(2\)\(3\), Sch. 23 para. 63](#); [S.I. 2018/34, art. 3](#)

**F205** Word in Pt. 8 Ch. 3A heading inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\), reg. 1\(2\), Sch. para. 44](#)

**181A Review or appeal not to affect requirement to pay**

The fact that a person to whom an appealable decision applies has—

- (a) requested a review of the decision, or
- (b) appealed against it,

does not affect any requirement on the person to pay an amount of devolved tax (and interest on that amount).

**181B Postponement requests**

(1) This section applies where a person—

- (a) gives a notice of request to review an appealable decision, or

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- (b) makes an appeal against such a decision.
- (2) If the person thinks that an excessive amount of devolved tax has been charged on the person in consequence of the decision, the person may make a request to WRA to postpone the recovery of the amount of devolved tax that the person thinks is excessive (and interest on that amount) (a “postponement request”).
- (3) A postponement request must specify—
- the amount of devolved tax in respect of which the request is made, <sup>F206</sup> ...
  - the reasons why the person making the request thinks the amount is excessive, <sup>F207</sup>, and
  - where the request relates to an amount of landfill disposals tax, the reasons why the person making the request thinks that recovery of the amount (and interest on that amount) would cause the person financial hardship.]
- (4) If WRA
- <sup>F208</sup>(a) thinks that the person making the postponement request has reasonable grounds for thinking that the amount of devolved tax to which the request relates is excessive, <sup>F209</sup> and
  - where the request relates to an amount of landfill disposals tax, has reason to believe that recovery of the amount (and interest on that amount) would cause the person financial hardship,]
- WRA may grant the postponement request.
- (5) If WRA
- <sup>F210</sup>(a) thinks that it is only in respect of part of the amount that the person has reasonable grounds for thinking the amount is excessive] <sup>F211</sup>, or
  - where the request relates to an amount of landfill disposals tax, has reason to believe that it is only in respect of part of the amount (and interest on that part) that recovery would cause the person financial hardship,
- WRA may grant the request in respect of such part of the amount as it thinks appropriate.]
- (6) WRA may make the grant of the postponement request (in whole or in part) conditional on the provision of adequate security.
- (7) WRA must issue a notice of its decision to the person who made the postponement request.

#### Annotations:

##### Amendments (Textual)

**F206** Word in s. 181B(3) omitted (1.4.2018) by virtue of [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), [ss. 44\(2\)\(a\)](#), 97(2); S.I. 2018/35, art. 3

**F207** S. 181B(3)(c) and word inserted (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), [ss. 44\(2\)\(b\)](#), 97(2); S.I. 2018/35, art. 3

**F208** Words ins. 181B(4) renumbered as s. 181B(4)(a) (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), [ss. 44\(3\)\(a\)](#), 97(2); S.I. 2018/35, art. 3

**F209** S. 181B(4)(b) and word inserted (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), [ss. 44\(3\)\(b\)](#), 97(2); S.I. 2018/35, art. 3

**F210** Words in s. 181B(5) renumbered as s. 181B(5)(a) (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), [ss. 44\(4\)\(a\)](#), 97(2); S.I. 2018/35, art. 3



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**F211** Words in s. 181B(5) substituted (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), ss. [44\(4\)\(b\)](#), [97\(2\)](#); S.I. 2018/35, art. 3

### **181C Time limit for making a postponement request**

- (1) A postponement request connected to a review must be made by giving notice of the request to WRA before the end of the period specified in section 174 for requesting the review.
- (2) But if a late request for a review is made under section 175, the postponement request must be made at the same time as the late request.
- (3) A postponement request connected to an appeal must be made by giving notice to WRA before the end of the period specified in section 179 for making the appeal.
- (4) But if the tribunal gives permission under section 180 for a late appeal to be made, the postponement request must be made at the same time as permission is sought for the late appeal.
- (5) Subsections (1) and (3) are subject to section 181D.

### **181D Late postponement request**

- (1) Where a person—
  - (a) requests a review before the end of the period specified in section 174, and
  - (b) makes a postponement request connected to the review after the end of that period,
 WRA may consider the postponement request only if it is satisfied that the conditions in subsection (3) are met.
- (2) Where a person—
  - (a) makes an appeal before the end of the period specified in section 179, and
  - (b) makes a postponement request connected to the appeal after the end of that period,
 WRA may consider the postponement request only if it is satisfied that the conditions in subsection (3) are met.
- (3) The conditions are that the person making the postponement request —
  - (a) had a reasonable excuse for not making the request during the period specified in section 174 or 179, as the case may be, and
  - (b) subsequently made the request without unreasonable delay.

### **181E Application for tribunal review of decision on a postponement request**

- (1) A person who makes a postponement request may, within the period of 30 days beginning with the date WRA issues the notice of its decision on the request, apply to the tribunal for a review of WRA's decision.
- (2) The tribunal may determine that WRA's decision is to be—
  - (a) affirmed,
  - (b) cancelled, or
  - (c) replaced by another decision that WRA could have made.

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### **181F Variation after postponement request granted**

- (1) This section applies where—
  - (a) a postponement request has been granted by WRA or the tribunal,
  - (b) there is a subsequent change in circumstances, and
  - (c) in consequence of that change, either WRA or the person who made the request thinks—
    - (i) that the amount of devolved tax in respect of which the request was granted should be varied;
    - (ii) where the grant of the request is conditional on the provision of adequate security, that the condition should be varied.
- (2) Either party may seek the agreement of the other by issuing a notice to the other party specifying the proposed variation.
- (3) If an agreement is reached, WRA must issue a notice to the person confirming the variation.
- (4) The variation has effect from the date WRA issues the notice under subsection (3).
- (5) If no agreement is reached within the period of 21 days beginning with the date the notice is issued under subsection (2), either party may apply to the tribunal for a determination.
- (6) The tribunal may determine such an application by—
  - (a) confirming the proposed variation,
  - (b) refusing the proposed variation, or
  - (c) making such other variation as the tribunal thinks appropriate.

### **181G Effect of postponement**

- (1) WRA must not take any action to recover a postponed amount during the postponement period.
- (2) A postponed amount means—
  - (a) an amount of devolved tax specified in a postponement request (unless the request is a late request made in accordance with section 181C(2) or (4) or section 181D), or
  - (b) an amount of devolved tax in respect of which a postponement request is granted by WRA or the tribunal.
- (3) In the case of a postponed amount falling within subsection (2)(a), the postponement period for the amount—
  - (a) begins with the day on which the postponement request is made, and
  - (b) ends—
    - (i) if the request is granted, with the day on which it is granted,
    - (ii) if the request is not granted and no application is made to the tribunal for a review of that decision, with the first day after the end of the period for making such an application, or
    - (iii) if the request is not granted and an application is made to the tribunal for a review of that decision, with the day on which the tribunal makes its determination.

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- (4) In the case of a postponed amount falling within subsection (2)(b) the postponement period for the amount—
- (a) begins with the date on which the postponement request is granted by WRA or the tribunal, and
  - (b) ends—
    - (i) if the postponement request was made in connection with a review of an appealable decision, with the day on which WRA issues a notice of the conclusions of the review, or
    - (ii) if the postponement request was made in connection with an appeal against an appealable decision, with the day on which the tribunal determines the appeal.
- (5) Where a postponed amount falling within subsection (2)(b) is varied under section 181F, the varied amount is to be treated as the postponed amount from the date of the variation.
- (6) In this section, references to a postponement request being granted include cases where the request is granted in part.

#### **181H Postponement requests relating to further appeals**

- (1) Where a person makes (in accordance with TCEA) a further appeal against the tribunal's determination of an appeal against an appealable decision, sections 181B, 181C, 181E, 181F and 181G apply to the further appeal as they apply to an appeal, but as if the following modifications were made.
- (2) Section 181B has effect as if for subsections (3), (4) and (5), there were substituted—
- “(3) A postponement request must specify—
- (a) the amount of devolved tax in respect of which the request is made,
  - (b) the reasons why the person making the request thinks the amount is excessive, and
  - (c) the reasons why the person thinks that recovery of the amount (and interest on the amount) would cause the person serious financial hardship.
- (4) If WRA—
- (a) thinks that the person making the postponement request has reasonable grounds for thinking that the amount of devolved tax to which the request relates is excessive, and
  - (b) has reason to believe that recovery of the amount (and interest on the amount) would cause the person serious financial hardship,
- WRA may grant the request.
- (5) But if WRA—
- (a) thinks that it is only in respect of part of the amount that the person has reasonable grounds for thinking that the amount is excessive, or
  - (b) has reason to believe that it is only in respect of part of the amount (and interest on that part) that recovery would cause the person serious financial hardship,
- WRA may grant the request in respect of such part of the amount as it thinks appropriate.”

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*Status: Point in time view as at 01/04/2018.*

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- (3) Section 181C has effect as if—
- (a) in subsection (3), for ““before the end of the period specified in section 179 for making the appeal”” there were substituted “ on or before the day on which the further appeal is made ”, and
  - (b) subsection (4) were omitted.
- (4) Section 181F has effect as if, in subsection (1), for paragraph (a) there were substituted—
- “(a) a postponement request has been granted by—
    - (i) the Upper Tribunal where the request relates to a further appeal made under section 11 of TCEA, or
    - (ii) the relevant appellate court specified under subsection (11) of section 13 of TCEA where the request relates to a further appeal made under that section,”
- (5) Section 181G has effect as if—
- (a) in subsection (2)(a) the words ““(unless the request is a late request made in accordance with section 181C(2) or (4) or section 181D)”” were omitted, and
  - (b) for subsection (4)(b) there were substituted—
    - “(b) ends on the day on which the further appeal is determined.”.
- (6) The references in sections 181E(1) and (2), 181F(5) and (6) and 181G(2), (3) and (4) to ““the tribunal”” are to be read as references to—
- (a) the Upper Tribunal in a case where the further appeal is made under section 11 of TCEA, or
  - (b) the relevant appellate court specified under subsection (11) of section 13 of TCEA in a case where the further appeal is made under that section.

## **181I No further appeal or review of tribunal decisions relating to postponement requests**

- (1) In section 11(5) of TCEA (decisions excluded from right of appeal to Upper Tribunal), after paragraph (cb) (as inserted by section 116(1) of this Act) insert—
- “(cc) any decision of the First-tier Tribunal under section 181E or 181F of that Act (appeals relating to postponement requests),”.
- (2) In section 13(8) of TCEA (decisions excluded from right of appeal to Court of Appeal etc.), after paragraph (bb) (as inserted by section 116(2) of this Act) insert—
- “(bc) any decision of the Upper Tribunal under section 181E or 181F of that Act (appeals relating to postponement requests),”.]

## **[<sup>F212</sup>181J Application of this Chapter to amounts payable in respect of tax credit**

- (1) This Chapter applies to the payment and recovery of amounts relating to tax credits—
- (a) as if references to an amount of devolved tax (including amounts of landfill disposals tax) were references to an amount payable in respect of a tax credit,
  - (b) as if references to interest on an amount of devolved tax were references to interest on an amount payable in respect of a tax credit, and
  - (c) as if references to devolved tax being charged or chargeable on a person were references to an amount being payable by a person in respect of a tax credit.]

*Status: Point in time view as at 01/04/2018.*

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**Annotations:**

**Amendments (Textual)**

**F212** S. 181J inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018](#) (S.I. 2018/101), reg. 1(2), [Sch. para. 45](#)

## CHAPTER 4

### MISCELLANEOUS AND SUPPLEMENTARY

#### *Consequences of reviews and appeals*

#### **182 Payment of penalties in the event of a review or appeal**

- (1) This section applies to a decision relating to a penalty to which a person may be liable.
- (2) Where WRA carries out a review in respect of the decision, [<sup>F213</sup>the normal penalty payment date] does not apply to any amount of penalty that is disputed (a “disputed amount”).
- (3) Where the review concludes that a disputed amount is payable, the person must pay that amount before the end of the period of 30 days beginning with the day on which notice is issued to the person under section 176(5) [<sup>F214</sup>, (6)] or (7) in relation to the review; but this is subject to subsection (4).
- (4) Where the person makes an appeal in respect of the decision—
  - (a) [<sup>F215</sup>the normal penalty payment date] does not apply to any disputed amount, and
  - (b) subsection (3) does not apply.
- (5) Where the appeal is withdrawn, the person must pay—
  - (a) any disputed amount, if the decision has not been reviewed, or
  - (b) if the decision has been reviewed, any disputed amount that the review has concluded to be payable,
 before the end of the period of 30 days beginning with the day of withdrawal.
- (6) Where it is finally determined, as a result of the appeal, that a disputed amount is payable, the person must pay that amount before the end of the period of 30 days beginning with the day on which the appeal is finally determined.
- [<sup>F216</sup>(7) In this section, the “normal penalty payment date” means the date by which a penalty must be paid under—
  - (a) section 154, or
  - (b) section 70 of LDTA.]

**Annotations:**

**Amendments (Textual)**

**F213** Words in s. 182(2) substituted (1.4.2018) by [Landfill Disposals Tax \(Wales\) Act 2017](#) (anaw 3), s. 97(2), [Sch. 4 para. 17\(a\)](#); S.I. 2018/35, art. 3

*Status: Point in time view as at 01/04/2018.*

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- F214** Word in s. 182(3) inserted (25.1.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 64**; S.I. 2018/34, art. 2(b)(iv)
- F215** Words in s. 182(4)(a) substituted (1.4.2018) by Landfill Disposals Tax (Wales) Act 2017 (anaw 3), s. 97(2), **Sch. 4 para. 17(b)**; S.I. 2018/35, art. 3
- F216** S. 182(7) inserted (1.4.2018) by Landfill Disposals Tax (Wales) Act 2017 (anaw 3), s. 97(2), **Sch. 4 para. 17(c)**; S.I. 2018/35, art. 3

#### Commencement Information

- I176** S. 182 in force at 25.1.2018 by S.I. 2018/33, **art. 2(i)**

### 183 Disposal of reviews and appeals in respect of information notices

- (1) Where the conclusions of a review under section 176 affirm or vary a decision to issue an information notice or a requirement in such a notice, the person to whom the notice was issued must comply with the notice or requirement (as affirmed or varied) within such period as WRA may specify.
- (2) Where the tribunal affirms or varies a decision to issue an information notice or include a requirement in such a notice, the person to whom the notice was issued must comply with the notice or requirement (as affirmed or varied)—
  - (a) within the period specified by the tribunal, or
  - (b) if the tribunal does not specify a period, within such period as WRA may specify.

#### Annotations:

#### Commencement Information

- I177** S. 183 in force at 25.1.2018 by S.I. 2018/33, **art. 2(i)**

### [<sup>F217</sup>183] Suspension of repayment pending further appeal

- (1) This section applies where—
  - (a) on an appeal against an appealable decision, the tribunal determines that [<sup>F218</sup>(i) an amount of devolved tax paid by a person is to be repaid by WRA,]<sup>F219</sup>or  
(ii) an amount paid by a person in respect of a tax credit is to be repaid by WRA,] and
  - (b) WRA applies under section 11(4) or 13(4) of TCEA for permission to make a further appeal.
- (2) When applying for permission WRA may request the tribunal's permission to postpone repayment of the amount until—
  - (a) the further appeal is determined, or
  - (b) WRA obtains adequate security for the amount.
- (3) The relevant tribunal or court must grant WRA's request if it—
  - (a) gives permission for the further appeal to proceed, and
  - (b) thinks that granting the request is necessary to protect the revenue.
- (4) If permission to make a further appeal is not given—
  - (a) by the First-tier Tribunal on an application under section 11(4)(a) of TCEA, or

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- (b) by the Upper Tribunal on an application under section 13(4)(a) of that Act, the fact that WRA made a request under subsection (2) when making the application for permission does not prevent WRA from making another request under that subsection if WRA applies for permission to make a further appeal under section 11(4)(b) or 13(4)(b) of TCEA.
- (5) But otherwise, the decision of the relevant tribunal or court on a request under subsection (2) is final.
- (6) In this section—
- “relevant tribunal or court” (“*tribiwnlys neu lys berthnasol*”) means whichever of the following WRA applies to for permission to make a further appeal—
- (a) the First-tier Tribunal;
  - (b) the Upper Tribunal;
  - (c) the relevant appellate court;
- “relevant appellate court” (“*llys apeliadol perthnasol*”) means the court specified as such under section 13(11) of TCEA.]

**Annotations:**

**Amendments (Textual)**

- F217** S. 183A inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 65**; S.I. 2018/34, art. 3
- F218** Words in s. 183A(1)(a) renumbered as s. 183A(1)(a)(i) (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 46(a)**
- F219** S. 183A(1)(a)(ii) and word inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 46(b)**

*Settlement agreements*

**184 Settling disputes by agreement**

- (1) A “settlement agreement” means an agreement between a person to whom an appealable decision applies (a “relevant person”) and WRA that the decision is to be—
- (a) affirmed,
  - (b) varied, or
  - (c) cancelled.
- (2) Where a relevant person and WRA enter into a settlement agreement, the consequences are to be the same as if, at the time that the agreement was entered into, the tribunal had determined an appeal against the appealable decision in the manner set out in the agreement.
- (3) But a settlement agreement is not to be treated as a decision of the tribunal for the purposes of sections 9 to 13 of the Tribunals, Courts and Enforcement Act 2007 (c. 15) (review of decisions and appeals against decisions).
- (4) Subsection (2) does not apply if, within 30 days from the day on which the settlement agreement was entered into, the relevant person gives notice to WRA that the person wishes to withdraw from the agreement.

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- (5) Subsection (2) does not apply to a settlement agreement which is not in writing unless the fact that the agreement was entered into and the terms agreed are confirmed by notice issued by WRA to the relevant person.
- (6) Where a notice is issued in accordance with subsection (5), the references in subsections (2) and (4) to the time at which the settlement agreement is entered into are to be treated as references to the time at which the notice is issued.
- (7) A relevant person and WRA may not enter into a settlement agreement in relation to an appealable decision if an appeal against the decision has been finally determined.

**Annotations:**

**Commencement Information**

**1178** S. 184 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(i\)](#)

## PART 9

### INVESTIGATION OF CRIMINAL OFFENCES

#### 185 Powers to investigate criminal offences

- (1) After section 114 of the Police and Criminal Evidence Act 1984 (c. 60) (application of Act to Revenue and Customs) insert—

**“114ZA Application of Act to Welsh Revenue Authority**

- (1) The Welsh Ministers may by regulations—
  - (a) direct that any provision of this Act which relates to investigations of offences conducted by police officers or to the detention of persons by the police is to apply, subject to such modifications as the regulations may specify, to investigations of offences conducted by the Welsh Revenue Authority (“WRA”) or to the detention of persons by WRA in connection with such investigations;
  - (b) make provision permitting a person exercising a function conferred on WRA by the regulations to use reasonable force in the exercise of such a function;
  - (c) specify that where premises are searched by WRA in reliance on a warrant under section 8 of, or paragraph 12 of Schedule 1 to, this Act (as applied by regulations under paragraph (a)) persons found on the premises may be searched—
    - (i) in such cases and circumstances as are specified in the regulations, and
    - (ii) subject to any conditions specified in the regulations.
- (2) Regulations under subsection (1) may—
  - (a) make provision that applies generally or only in specified cases,
  - (b) make different provision for different cases or circumstances, and
  - (c) may, in modifying a provision, in particular impose conditions on the exercise of a function.



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- (3) The power to make regulations under subsection (1) is exercisable by statutory instrument.
  - (4) A statutory instrument containing regulations under subsection (1) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.”
- (2) After section 67 of the Criminal Justice and Police Act 2001 (c. 16) (application of Part 2 to officers of Revenue in Customs) insert—

**“67A Application to Welsh Revenue Authority**

- (1) The Welsh Ministers may by regulations—
  - (a) direct that any provision of this Part is to apply, subject to such modifications as the regulations may specify, to investigations of offences conducted by the Welsh Revenue Authority;
  - (b) make provision permitting a person exercising a function conferred on the Welsh Revenue Authority by the regulations to use reasonable force in the exercise of such a function.
- (2) Regulations under subsection (1) may—
  - (a) make provision that applies generally or only in specified cases,
  - (b) make different provision for different cases or circumstances, and
  - (c) may, in modifying a provision, in particular impose conditions on the exercise of a function.
- (3) The power to make regulations under subsection (1) is exercisable by statutory instrument.
- (4) A statutory instrument containing regulations under subsection (1) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.”

**Annotations:**

**Commencement Information**

**I179** S. 185 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(j\)](#)

**186 Proceeds of crime**

- (1) The Proceeds of Crime Act 2002 (c. 29) is amended as follows.
- (2) In section 72 (compensation), in subsection (9)(f), after “(c)” insert “, (da) ”.
- (3) In section 302 (compensation), after subsection (7A)(d) insert—
  - “(da) in the case of an investigator who was exercising a function of the Welsh Revenue Authority, it is to be paid by the Welsh Revenue Authority.”.
- (4) In section 453 (references to financial investigators), after subsection (1) insert—
  - “(1A) The Welsh Ministers may by order provide that a specified reference in this Act to an accredited financial investigator includes a reference to a person

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exercising a function of the Welsh Revenue Authority who falls within a specified description.”

(5) In section 459 (orders and regulations)—

(a) in subsection (4), after paragraph (a) insert—

“(aa) an order made by the Welsh Ministers under section 453(1A);”, and

(b) after that subsection insert—

“(4A) A statutory instrument containing an order under section 453(1A) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”

**Annotations:**

**Commencement Information**

**I180** S. 186 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(j\)](#)

**187 Regulation of investigatory powers**

(1) The Regulation of Investigatory Powers Act 2000 (c. 23) is amended as follows.

(2) In section 30 (persons entitled to grant authorisations for directed surveillance and covert human intelligence)—

(a) in subsection (6), after “prejudice to” insert “ subsection (6A) and ”, and

(b) after that subsection insert—

“(6A) The power in subsection (1) to make an order under this section prescribing individuals as persons designated for the purposes of sections 28 and 29 is exercisable by the Welsh Ministers for the purposes of prescribing persons exercising Welsh Revenue Authority functions of such description or holding such offices, ranks or positions as may be prescribed.

(6B) Any such order made by the Welsh Ministers may—

(a) make different provision for different cases;

(b) contain such incidental, supplemental, consequential and transitional provision as the Welsh Ministers think fit.

(6C) The Welsh Ministers' power to make such an order is exercisable by statutory instrument.

(6D) A statutory instrument containing such an order is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”

(3) In Schedule 1 (relevant public authorities), after paragraph 16 insert—

16A The Welsh Revenue Authority.”

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**Annotations:**

**Commencement Information**

**1181** S. 187 in force at 25.1.2018 by [S.I. 2018/33, art. 2\(j\)](#)

## PART 10

### FINAL PROVISIONS

#### [<sup>F220</sup>187A] **Crown application for the purposes of Land Transaction Tax**

- (1) In so far as the following provisions of this Act apply to land transaction tax, they bind the Crown—
- (a) Part 3;
  - (b) Part 4 (other than Chapter 6);
  - (c) Part 6 (other than sections 157A, 160 and 161(2)(b));
  - (d) Part 7 (other than sections 168, 169 and 170);
  - (e) Part 8 (other than sections 172(1)(d) and (e), (3)(b) and (c), (4), (5) and (6), 182 and 183);
  - (f) sections 190 and 191.
- (2) But Part 4 does not apply to Her Majesty in Her private capacity (within the meaning of section 38(3) of the Crown Proceedings Act 1947 (c. 44)).]

**Annotations:**

**Amendments (Textual)**

**F220** S. 187A inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 66](#); [S.I. 2018/34, art. 3](#)

#### **188 Power to make consequential etc. provision**

- (1) The Welsh Ministers may by regulations make such incidental, consequential or supplemental provision as they think appropriate for the purposes of, or in connection with, this Act.
- (2) Regulations under this section may amend, revoke or repeal any enactment (including any provision of this Act).

#### **189 Regulations**

- (1) Any power to make regulations under this Act—
- (a) is exercisable by statutory instrument, and
  - (b) includes power to make different provision for different purposes.
- (2) A statutory instrument containing regulations under section 18(2), [<sup>F221</sup>122(5),] 156 or 172(7) (whether alone or with any other provision) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

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- (3) Any other statutory instrument containing regulations under this Act is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

**Annotations:**

**Amendments (Textual)**

**F221** Word in s. 189(2) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 67**; S.I. 2018/34, art. 3

**190 Issue of notices by WRA**

- (1) This section applies where a provision of [<sup>F222</sup>the Welsh Tax Acts, or of regulations made under them,] authorises or requires WRA to issue a notice to a person (whether the expression “issue” or any other expression is used) (but see subsection (9)).

[<sup>F223</sup>(1A) A notice must specify the day on which it is issued.

- (1B) If the person to whom the notice is issued cannot reasonably ascertain the effect of the notice because of a mistake in it or omission from it (including a mistake or omission relating to the person's name), the notice is to be treated as not having been issued.]

- (2) The notice may be issued to the person—

- (a) by being delivered personally to the person,
- (b) by leaving it at the person's proper address,
- (c) by being sent by post to the person's proper address, or
- (d) where subsection (3) applies, by sending it electronically to an address provided for that purpose.

- (3) This subsection applies where the person to whom the notice is to be issued has agreed in writing that it may be sent electronically.

- (4) For the purposes of subsection (2)(a), a notice may be delivered personally to a body corporate by giving it to the secretary or clerk of that body.

- (5) Where WRA issues a notice in the manner mentioned in subsection (2)(b), the notice is to be treated as having been received at the time it was left at the person's proper address unless the contrary is shown.

- (6) For the purposes of subsection (2)(b) and (c), the proper address of a person is—

- (a) in the case of a body corporate, the address of the registered or principal office of the body;
- (b) in the case of a person acting in his or her capacity as a partner in a partnership, the address of the principal office of the partnership;
- (c) in any other case, the last known address of the person.

- (7) Where WRA issues a notice in the manner mentioned in subsection (2)(c) by sending it to an address in the United Kingdom, the notice is to be treated as having been received 48 hours after it is sent unless the contrary is shown.

- (8) Where WRA issues a notice in the manner mentioned in subsection (2)(d), the notice is to be treated as having been received 48 hours after it is sent unless the contrary is shown.

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- (9) This section does not apply to any notice that WRA may—
- (a) provide to a person under section 103(4) or 105(3) [<sup>F224</sup>(including any notice provided under section 103(4) as applied by sections 103A(4) and 103B(5))] , or
  - (b) give to the tribunal.
- (10) In this section “notice” includes a copy of a notice.

**Annotations:**

**Amendments (Textual)**

- F222** Words in s. 190(1) substituted (25.1.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 68(a)**; S.I. 2018/34, art. 2(b)(v)
- F223** S. 190(1A)(1B) inserted (25.1.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 68(b)**; S.I. 2018/34, art. 2(b)(v)
- F224** Words in s. 190(9)(a) inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), **Sch. 4 para. 18**; S.I. 2018/35, art. 2(z)(iii)

**191 Giving notices and other documents to WRA**

- (1) This section applies where a provision of [<sup>F225</sup>the Welsh Tax Acts, or of regulations made under them,] requires or permits a person [<sup>F226</sup>to make a tax return or] to give a notice or other document to WRA (whether the expression “give” or any other expression is used) (but see subsection (4)).
- [<sup>F227</sup>(2) The tax return, notice or other document must—
- (a) be in such form,
  - (b) contain such information,
  - (c) be accompanied by such other documents, and
  - (d) be given in such manner,
- as may be specified by WRA.]
- (3) But subsection (2) is subject to any different provision made in or under [<sup>F228</sup>the Welsh Tax Acts] .
- (4) This section does not apply to any document given to WRA by the Welsh Ministers or the tribunal.

**Annotations:**

**Amendments (Textual)**

- F225** Words in s. 191(1) substituted (25.1.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 69(a)(i)**; S.I. 2018/34, art. 2(b)(v)
- F226** Words in s. 191(1) inserted (25.1.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 69(a)(ii)**; S.I. 2018/34, art. 2(b)(v)
- F227** S. 191(2) substituted (25.1.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 69(b)**; S.I. 2018/34, art. 2(b)(v)
- F228** Words in s. 191(3) substituted (25.1.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 69(c)**; S.I. 2018/34, art. 2(b)(v)

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## 192 Interpretation

- (1) For the purposes of this Act, an appeal or referral is finally determined when—
- (a) it has been determined, and
  - (b) there is no further possibility of the determination being varied or set aside (disregarding any power to grant permission to appeal out of time).
- (2) In this Act—
- [<sup>F229</sup>“buyer” (“*prynwr*”) has the same meaning as in LTТА;]
- “contract settlement” (“*setliad contract*”) means an agreement made in connection with any person's liability to make a payment to WRA under any enactment;
- “devolved tax” (“*treth ddatganoledig*”) has the meaning given by section 116A(4) of the Government of Wales Act 2006 (c. 32);
- “devolved taxpayer” (“*trethdalwr datganoledig*”) means a person liable to pay a devolved tax;
- “enactment” (“*deddfiad*”) means an enactment (whenever enacted or made) which is, or is contained in—
- (a) an Act of Parliament,
  - (b) an Act or a Measure of the National Assembly for Wales, or
  - (c) subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)) made under—
    - (i) an Act of Parliament, or
    - (ii) an Act or a Measure of the National Assembly for Wales;
- “financial year” (“*blwyddyn ariannol*”) means—
- (a) the period beginning with the establishment of WRA and ending with 31 March in the following year, and
  - (b) each subsequent period of a year ending with 31 March;
- [<sup>F230</sup>“landfill disposals tax” (“*treth gwarediadau tirlenwi*”) has the same meaning as in LDТА;]
- [<sup>F229</sup>“land transaction” (“*trafodiad tir*”) has the same meaning as in LTТА;]
- [<sup>F230</sup>“LDТА” (“*DTGT*”) means the Landfill Disposals Tax (Wales) Act 2017 (anaw 3);]
- “local authority” (“*awdurdod lleol*”) means—
- (a) a county council or county borough council in Wales,
  - (b) a district council or county council in England, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly,
  - (c) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39), or
  - (d) a district council in Northern Ireland;
- [<sup>F229</sup>“LTТА” (“*DТТТ*”) means the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 0);]
- “notice” (“*hysbysiad*”) means notice in writing;
- “partnership” (“*partneriaeth*”) means—
- (a) a partnership within the Partnership Act 1890 (c. 39),
  - (b) a limited partnership registered under the Limited Partnerships Act 1907 (c. 24), or

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- (c) a firm or entity of a similar character formed under the law of a country or territory outside the United Kingdom;
- [<sup>F231</sup>“tax credit” (“*credyd treth*”) means a tax credit under regulations made under section 54 of LDТА;]
- “tax period” (“*cyfnod treth*”) means a period in respect of which a devolved tax is charged;
- “tax return” (“*ffurflen dreth*”) means a return relating to a devolved tax;
- [<sup>F229</sup>“TCEA” (“*DTLIG*”) means the Tribunals, Courts and Enforcement Act 2007 (c. 15);]
- “the tribunal” (“*y tribiwnlys*”) means—
- (a) the First-tier Tribunal, or
- (b) where determined by or under Tribunal Procedure Rules, the Upper Tribunal.
- [<sup>F229</sup>“the Welsh Tax Act” (“*Deddfau Trethi Cymru*”) means—
- (a) this Act, <sup>F232</sup> ...
- (b) LTТА][<sup>F233</sup> , and
- (c) LDТА.]

#### Annotations:

#### Amendments (Textual)

- F229** Words in s. 192(2) inserted (25.1.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 70**; S.I. 2018/34, art. 2(b)(v)
- F230** Words in s. 192(2) inserted (25.1.2018) by Landfill Disposals Tax (Wales) Act 2017 (anaw 3), s. 97(2), **Sch. 4 para. 19(a)**; S.I. 2018/35, art. 2(z)(iii)
- F231** Words in s. 192(2) inserted (1.4.2018) by The Landfill Disposals Tax (Administration) (Wales) Regulations 2018 (S.I. 2018/101), reg. 1(2), **Sch. para. 47**
- F232** Word in s. 192(2) omitted (25.1.2018) by virtue of Landfill Disposals Tax (Wales) Act 2017 (anaw 3), s. 97(2), **Sch. 4 para. 19(b)(i)**; S.I. 2018/35, art. 2(z)(iii)
- F233** Words in s. 192(2) inserted (25.1.2018) by Landfill Disposals Tax (Wales) Act 2017 (anaw 3), s. 97(2), **Sch. 4 para. 19(b)(ii)**; S.I. 2018/35, art. 2(z)(iii)

## 193 Index of defined expressions

The following Table lists expressions defined or otherwise explained in this Act.

TABLE 1

Expression	Section
Appealable decision (“ <i>penderfyniad apeladwy</i> ”)	section 172(2) and (3)
[ <sup>F234</sup> Arrangement (in relation to the general anti-avoidance rule) (“ <i>trefniant</i> ”)]	[ <sup>F234</sup> section 81B(3)A]
[ <sup>F234</sup> Artificial (in relation to the general anti-avoidance rule) (“ <i>artiffisial</i> ”)]	[ <sup>F234</sup> section 81C]
Business assets (“ <i>asedau busnes</i> ”)	section 111

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Business documents (“ <i>dogfennau busnes</i> ”)	section 111
Business premises (“ <i>mangre busnes</i> ”)	section 111
[ <sup>F234</sup> Buyer (“ <i>prynwr</i> ”)]	[ <sup>F234</sup> section 192(2)]
Carrying on a business (“ <i>rhedeg busnes</i> ”)	section 85
Charity (“ <i>elusen</i> ”)	section 85(3)
Closure notice (“ <i>hysbysiad cau</i> ”)	section 50(1) (in relation to an enquiry into a tax return) and section 75(1) (in relation to an enquiry into a claim)
Contract settlement (“ <i>setliad contract</i> ”)	section 192(2)
Debtor contact notice (“ <i>hysbysiad cyswllt dyledwr</i> ”)	section 93(1)
Devolved tax (“ <i>treth ddatganoledig</i> ”)	section 192(2)
Devolved taxpayer (“ <i>trethdalwr datganoledig</i> ”)	section 192(2)
Elected executive member (“ <i>aelod gweithredol etholedig</i> ”)	section 3(4)(c)
Enactment (“ <i>deddfiad</i> ”)	section 192(2)
Executive member (“ <i>aelod gweithredol</i> ”)	section 3(4)(b)
Filing date (“ <i>dyddiad ffeilio</i> ”)	section 40
[ <sup>F234</sup> Final counteraction notice (“ <i>hysbysiad gwrthweithio terfynol</i> ”)]	[ <sup>F234</sup> section 81G]
Financial year (“ <i>blwyddyn ariannol</i> ”)	section 192(2)
[ <sup>F234</sup> General anti-avoidance rule (“ <i>rheol gwrthweithio osgoi trethi cyffredinol</i> ”)]	[ <sup>F234</sup> section 81A(2)]
Identification notice (“ <i>hysbysiad adnabod</i> ”)	section 92(1)
Information notice (“ <i>hysbysiad gwybodaeth</i> ”)	section 83
[ <sup>F235</sup> Landfill disposals tax (“ <i>treth gwarediadau tirlenwi</i> ”)]	[ <sup>F235</sup> section 192(2)]
[ <sup>F234</sup> Land transaction (“ <i>trafodiad tir</i> ”)]	[ <sup>F234</sup> section 192(2)]
Late payment interest (“ <i>llog taliadau hwyr</i> ”)	section 157(2)
Late payment interest rate (“ <i>cyfradd llog taliadau hwyr</i> ”)	section 163(1)
Late payment interest start date (“ <i>dyddiad dechrau llog taliadau hwyr</i> ”)	sections 157(3), 159(2) and 160(2)
[ <sup>F235</sup> LDTA (“ <i>DTGT</i> ”)]	[ <sup>F235</sup> section 192(2)]
Local authority (“ <i>awdurdod lleol</i> ”)	section 192(2)



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[ <sup>F234</sup> LTTA (“DTTT”)]	[ <sup>F234</sup> section 192(2)]
Non-executive member (“ <i>aelod anweithredol</i> ”)	section 3(4)(a)
Notice (“ <i>hysbysiad</i> ”)	section 192(2)
Notice of enquiry (“ <i>hysbysiad ymholiad</i> ”)	section 43(1) (in relation to a tax return) and section 74(1) (in relation to a claim)
Notice of request (“ <i>hysbysiad am gais</i> ”)	section 173(1)
Partnership (“ <i>partneriaeth</i> ”)	section 192(2)
Penalty date (“ <i>dyddiad cosbi</i> ”)	section 122(2)
Potential lost revenue (“ <i>refeniw posibl a gollir</i> ”)	section 134
Premises (“ <i>mangre</i> ”)	section 111
[ <sup>F234</sup> Proposed counteraction notice (“ <i>hysbysiad gwrthweithio arfaethedig</i> ”)]	[ <sup>F234</sup> section 81F]
Protected taxpayer information (“ <i>gwybodaeth warchoddedig am drethdalwr</i> ”)	section 17(3) and (4)
Relevant official (“ <i>swyddog perthnasol</i> ”)	section 17(2)
Repayment interest (“ <i>llog ad-daliadau</i> ”)	section 161(3)
Repayment interest rate (“ <i>cyfradd llog ad-daliadau</i> ”)	section 163(2)
Repayment interest start date (“ <i>dyddiad dechrau llog ad-daliadau</i> ”)	section 161(4)
Settlement agreement (“ <i>cytundeb setlo</i> ”)	section 184(1)
[ <sup>F234</sup> Tax advantage (“ <i>mantais drethiannol</i> ”)]	[ <sup>F234</sup> section 81D]
[ <sup>F234</sup> Tax avoidance arrangement (“ <i>trefniant osgoi trethi</i> ”)]	[ <sup>F234</sup> section 81B]
[ <sup>F236</sup> Tax credit (“ <i>credyd treth</i> ”)]	[ <sup>F236</sup> section 192(2)]
Tax period (“ <i>cyfnod treth</i> ”)	section 192(2)
Tax position (“ <i>sefyllfa dreth</i> ”)	section 84
Tax return (“ <i>ffurflen dreth</i> ”)	section 192(2)
Taxpayer notice (“ <i>hysbysiad trethdalwr</i> ”)	section 86(1)
[ <sup>F234</sup> TCEA (“DTLIG”)]	[ <sup>F234</sup> section 192(2)]
Third party notice (“ <i>hysbysiad trydydd parti</i> ”)	section 87(1)
The tribunal (“ <i>y tribiwnlys</i> ”)	section 192(2)
Unidentified third party notice (“ <i>hysbysiad trydydd parti anhysbys</i> ”)	section 89(1)

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[ <sup>F234</sup> Welsh Tax Acts (“ <i>Deddfau Trethi Cymru</i> ”)]	[ <sup>F234</sup> section 192(2)]
WRA (“ <i>ACC</i> ”)	section 2(2)
WRA assessment (“ <i>asesiad ACC</i> ”)	section 56
WRA determination (“ <i>dyfarniad ACC</i> ”)	section 52(3)

**Annotations:**

**Amendments (Textual)**

- F234** Words in s. 193 inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 71**; S.I. 2018/34, art. 3
- F235** Words in s. 193 inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), **Sch. 4 para. 20**; S.I. 2018/35, art. 2(z)(iii)
- F236** Words in s. 193 inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 48**

**194 Coming into force**

- (1) The following provisions of this Act come into force on the day after the day on which this Act receives Royal Assent—
- (a) Part 1;
  - (b) sections 37, 82, 117 and 171;
  - (c) this Part.
- (2) The remaining provisions of this Act come into force on such day as the Welsh Ministers may appoint by order made by statutory instrument.
- (3) An order under this section may appoint different days for different purposes.

**195 Short title**

The short title of this Act is the Tax Collection and Management (Wales) Act 2016.

**Status:**

Point in time view as at 01/04/2018.

**Changes to legislation:**

Tax Collection and Management (Wales) Act 2016 is up to date with all changes known to be in force on or before 24 May 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.