

ACCOMPANYING DOCUMENTS

Explanatory Notes and an Explanatory Memorandum are printed separately.

# Tax Collection and Management (Wales) Bill

[AS PASSED]

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# Tax Collection and Management (Wales) Bill

## [AS PASSED]

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.

**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;
- (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;
- (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.

## 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.

#### *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.
- (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”.

#### **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.

## **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).
- (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.

## **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.

## **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.

### *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 –
- (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.

## **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.

### *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.

## **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.

### *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.

### **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.
- (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.

### **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.

## **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.
- (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).

### *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 with subsection (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.

## **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.
- (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).

## 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, or

(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.

(2) The Welsh Ministers may by regulations amend subsection (1).

## **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.

## **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).

### *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).

## 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
    - (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.

*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.

**24 Rewards**

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

**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.

*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.

*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.

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

## **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.

## **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.

## **31 Audit**

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

### **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.

### **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.

#### *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;”.

**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.”

**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;”.

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 where there is no enquiry;
- (f) claims for relief from double assessment and for repayment of devolved tax;
- (g) the making of claims.

**CHAPTER 2****TAXPAYER DUTIES TO KEEP AND PRESERVE RECORDS****38 Duty to keep and preserve records**

- (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 make a correct and complete tax return, and
  - (b) preserve those records in accordance with this section.
- (2) The records must be preserved until the end of the later of the relevant day and the day on which –
  - (a) an enquiry into the tax return is completed (see section 50), or
  - (b) if there is no enquiry, WRA ceases to have power to enquire into the tax return (see section 43).
- (3) “The relevant day” means –
  - (a) the sixth anniversary of the day on which the tax return is made or, if the tax return is amended, of the day on which notice of the amendment is given under section 41, or
  - (b) any earlier day that may be specified by WRA.
- (4) Different days may be specified for different purposes under subsection (3)(b).
- (5) The records required to be kept and preserved under this section include –
  - (a) details of any relevant transaction (including relevant instruments relating to any transaction: in particular, any contract or conveyance, and any supporting maps, plans or similar documents);
  - (b) details of any activity subject to devolved tax;
  - (c) records of relevant payments, receipts and financial arrangements.
- (6) The Welsh Ministers may by regulations –
  - (a) provide that the records required to be kept and preserved under this section do, 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.
- (7) 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).
- (8) “Supporting documents” includes accounts, books, deeds, contracts, vouchers and receipts.

**39 Preservation of information etc.**

The duty under section 38 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.

### CHAPTER 3

#### TAX RETURNS

##### *Filing date*

#### **40 Meaning of “filing date”**

In this Act, the “filing date”, in relation to a tax return, is the day by which the tax return is required to be made by any enactment.

##### *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”).
- (3) The relevant date is –
  - (a) the filing date, or
  - (b) such other date as the Welsh Ministers may by regulations prescribe.
- (4) This section is subject to sections 45(3) and 50.

#### **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.
- (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 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.

**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 period of 12 months beginning with the relevant date.
- (2) The relevant date is –
  - (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 in consequence of an amendment of the tax return under section 41.

**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, or
  - (b) to the amount of devolved tax chargeable on the person who made the tax return.
- (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.

*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 payable 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.

- (2) If the enquiry is one that is limited by section 44(2) to matters arising from an amendment of the tax return, subsection (1) applies only so far as the insufficiency is attributable to the amendment.
- (3) Where a notice is issued under subsection (1), 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 section 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).

*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.

**47 Withdrawal of referral**

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

**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.

**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.

#### *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 chargeable 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.

### **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.

## **CHAPTER 5**

### **WRA DETERMINATIONS**

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

- (1) This section applies where –
  - (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 as a result of 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.

### 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,

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.

## 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.

**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.

**56 References to “WRA assessment”**

In this Act, “WRA assessment” means an assessment under section 54 or 55.

*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, the person mentioned there.

**58 Conditions for making WRA assessments**

- (1) A WRA assessment –
  - (a) may be made only in the two cases specified in subsections (2) and (3), 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.
- (3) The second case is –
  - (a) where WRA has ceased to be entitled to issue a notice of enquiry into a tax return, or has completed its enquiries into a tax return, and
  - (b) at the time when it 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 it before that time.

- (4) No WRA assessment may be made if—
  - (a) the situation mentioned in section 54 or 55 is attributable to a mistake in the 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.

## 59 Time limits for WRA assessments

- (1) No WRA assessment may be made more than 4 years after the relevant date.
- (2) But a WRA assessment of a taxpayer in any case involving a situation mentioned in section 54 or 55 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 or 55 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.
- (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—

“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”*) means—

  - (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.

## 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.

## **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.
- (3) After notice of the assessment has been issued to the taxpayer, the assessment may not be altered except in accordance with the express provisions of any enactment.

## **CHAPTER 7**

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

#### *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.

#### *Overpaid tax etc.*

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

- (1) This section applies where —
  - (a) a person has paid an amount by way of a devolved tax but believes the devolved tax was not chargeable, or
  - (b) a person has been assessed as chargeable to an amount of a devolved tax, or a 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 this Act.
- (4) For the purposes of this section and sections 64 to 81, an amount paid by one person on behalf of another is treated as paid by the other person.

*Unjustified enrichment***64 Disallowing claims for relief under section 63 due to unjustified enrichment**

WRA need not give effect to a claim for relief made under section 63 if, or to the extent that, repayment or discharge of the amount would unjustly enrich the claimant.

**65 Unjustified enrichment: further provision**

- (1) This section applies where—
  - (a) 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
  - (b) 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—
  - (a) of whether or to what extent the repayment or discharge of an amount to the taxpayer would enrich the taxpayer, or
  - (b) 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.
- (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.

**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 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);
  - (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.

*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, or
  - (b) a mistake consisting of making, or failing to make, a claim.
- (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).

## CHAPTER 8

### PROCEDURE FOR MAKING CLAIMS ETC.

#### 68 Making claims

- (1) A claim under section 62 or 63 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) 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;
  - (b) such information as is reasonably required for the purpose of determining whether and, if so, the extent to which the claim is correct;
  - (c) 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.

#### 69 Duty to keep and preserve records

- (1) A person making a claim under section 62 or 63 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.

## **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.

## **71 Amendment of claim by claimant**

- (1) A person who has made a claim under section 62 or 63 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.

**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.

**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.

**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.

**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.

#### **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.

#### **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.

#### **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.

#### **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.

**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.
- (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).

**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.
- (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 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.

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

**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, interest (including interest on penalties) 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,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.

**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).

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

#### 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.

#### 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
  - (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.

**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,
  - (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.

#### **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 another undertaking (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 section 1162 of, and Schedule 7 to, the Companies Act 2006 (c. 46).

#### **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.

## **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.
- (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).

### **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, or
  - (d) interest on a penalty relating to devolved tax,
- 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
  - (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.

### **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.

**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, 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.
- (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.

**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.

**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.

- (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).

**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.

**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.

**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, or
  - (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.
- (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.

#### **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.

#### **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.
- (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)).

## 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—
  - (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.

**104 Carrying out inspections under section 103: further provision**

- (1) When carrying out an inspection under section 103, WRA has the following powers.
- (2) On entering the business 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.
- (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.

**105 Carrying out inspections under section 103: 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 103 onto the business 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.
- (6) If the inspection, or the use of equipment or materials, has been approved by the tribunal, the notice must state that fact.

#### **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.

#### **107 Producing authorisation to carry out inspections**

If a person carrying out an inspection under section 103 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.

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

- (1) WRA may ask the tribunal to approve—
  - (a) an inspection under section 103 or 106, or
  - (b) the exercise of powers under section 104 or 105 in relation to an inspection under section 103 which has been agreed to by the occupier of the premises.
- (2) The tribunal's approval of an inspection under section 103 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 103 only if—
  - (a) it is satisfied that WRA has grounds for believing that the inspection of the business premises is required for the purpose of checking a person's tax position, 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.
- (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.

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

The powers under sections 103 to 106 include –

- (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.

#### 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.

#### 111 Interpretation of Chapter 4

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.

### 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.

### 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
- (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.

## 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
    - (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).

### **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.
- (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).

## **CHAPTER 7**

### **TRIBUNAL APPROVALS**

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

- (1) In section 11(5) of the Tribunals, Courts and Enforcement Act 2007 (c. 15) (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),”.

## 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,
  - (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.

#### CHAPTER 2

##### PENALTIES FOR FAILURE TO MAKE RETURNS OR PAY TAX

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

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

A person is liable to a penalty of £100 if the person fails to make a tax return on or before the filing date.

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

- (1) A person 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.

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

- (1) A person 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 the greater of—
  - (a) 100% 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.
- (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.

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

- (1) WRA may reduce a penalty under section 118, 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.

*Penalty for failure to pay tax*

**122 Penalty for failure to pay tax**

- (1) A person is liable to a penalty if the person fails to pay, on or before the penalty date, an amount of devolved tax which is payable by that person.
- (2) The “penalty date”, in relation to an amount of devolved tax which is payable, is the date specified in an enactment as the date on or before which the amount must be paid.
- (3) The penalty under this section is the percentage of the amount of unpaid devolved tax which is specified by an enactment as the amount of the penalty in the relevant circumstances.

**123 Suspension of penalty for failure to pay tax during currency of agreement for deferred payment**

- (1) This section applies if—
  - (a) a person by whom an amount of devolved tax is payable has made a request to WRA, on or before the penalty date, to defer payment of the amount, and
  - (b) WRA has agreed, on or before that date, that payment of the amount may be deferred for a period (“the deferral period”).
- (2) If the person would (apart from this subsection) become liable, between the day on which the person makes the request and the end of the deferral period, to a penalty for failing to pay the amount, the person is not liable to that penalty.
- (3) But if—
  - (a) the person breaks the agreement, and
  - (b) WRA issues a notice to the person specifying any penalty to which the person would be liable apart from subsection (2),the person becomes liable to that penalty on the day on which the notice is issued.
- (4) A person breaks an agreement if—
  - (a) the person fails to pay the amount in question when the deferral period ends, or
  - (b) the deferral is subject to a condition (including a condition that part of the amount be paid during the deferral period) and the person fails to comply with it.
- (5) If the agreement mentioned in subsection (1) is varied at any time by a further agreement between the person and WRA, this section applies from that time to the agreement as varied.

*Penalties under Chapter 2: general***124 Interaction of penalties**

- (1) Where a person is liable to more than one penalty under sections 118 to 120 which is determined by reference to a liability to a devolved tax, the aggregate of the amounts of those penalties must not exceed 100% of the liability to the devolved tax.
- (2) Where a person is liable to—
  - (a) a penalty under this Chapter which is determined by reference to a liability to a devolved tax, and
  - (b) any other penalty (other than a penalty under this Chapter) which is determined by reference to the same liability to a devolved tax,the amount of the penalty under this Chapter is to be reduced by the amount of that other penalty.

**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.
- (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 a reference to a penalty include a reference to any interest in relation to a penalty.

**126 Reasonable excuse for failure to make tax return or pay tax**

- (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 section 122 in relation to the failure.
- (3) For the purposes of subsections (1) and (2)—
  - (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.

### **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 or transaction 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 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 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.
- (7) An amendment made under subsection (4) or (6) –
  - (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.

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

- (1) An assessment of a penalty under this Chapter in respect of any amount 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, or
  - (b) in the case of failure to pay a devolved tax, 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.
- (4) In subsection (2)(b), “penalty date” has the meaning given by section 122(2).
- (5) In subsection (3)(a) and (b), “appeal period” means the later of the following periods—
- (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.

### 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
  - (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, or
  - (c) a false or inflated claim to repayment of devolved tax.
- (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.

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

- (1) The penalty for a deliberate inaccuracy is 100% of the potential lost revenue.
- (2) The penalty for a careless inaccuracy is 30% of the potential lost revenue.

**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.

**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, or
  - (c) a false or inflated claim to repayment of devolved tax.

- (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 100% of the potential lost revenue.

*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.
- (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 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.

*Potential lost revenue*

### **134 Meaning of "potential lost revenue"**

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

### **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 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, and
  - (b) an amount which would have been repayable by WRA had the inaccuracy or under-assessment not been corrected.

**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 or transaction, account must be taken of any overstatements in any document given by the person which relate to the same tax period or transaction.
- (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).

**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.

**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.

*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.
- (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, or
  - (c) a failure to disclose an under-assessment in respect of a devolved tax.
- (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.

#### **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.

#### **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 or transaction 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 the later of the following periods –
- (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.

#### *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.

#### **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 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.

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

- (1) If a person who fails to comply with section 38 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.

**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 or 69.

**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.
- (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.

**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.

**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.

**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.
- (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.

*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.
- (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).

**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, the amount of devolved tax that the person has paid, or is likely to pay, 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 the amount of devolved tax 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
    - (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.

*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.

*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.

**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).

**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.

**156 Power to make regulations about penalties**

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

**PART 6****INTEREST****CHAPTER 1****INTEREST ON AMOUNTS PAYABLE TO WRA***Late payment interest***157 Late payment interest on amounts payable to WRA**

- (1) This section applies to –
  - (a) any amount of devolved tax, and
  - (b) any amount of penalty relating to devolved tax,that is payable by a person to WRA.
- (2) If an amount to which this section applies 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 for the amount is the date following that on which the amount becomes payable, subject to sections 159 and 160.
- (4) Subsection (2)(a) applies even if the late interest payment start date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882 (c. 61).
- (5) In this section, “late payment interest rate” has the meaning given by section 163(1).

**158 Late payment interest: supplementary**

- (1) Late payment interest is not payable on late payment interest.

- (2) The date of payment, in relation to an amount to which section 157 applies, includes the date on which it is set off against an amount payable by WRA.

*Late payment interest start date: special rules*

**159 Late payment interest start date: amendments to assessments etc.**

- (1) This section applies to an amount that is payable as a result of—
- (a) an amendment under section 41, 45 or 50, or a correction under section 42, to an assessment (“assessment A”),
  - (b) a WRA assessment made in place of or in addition to an assessment (“assessment A”), or
  - (c) an assessment under section 45 or 50, or a WRA determination, made in place of an assessment (“assessment A”) which ought to have been made by a person chargeable to a devolved tax.
- (2) The late payment interest start date for that amount is the date which would have been the late payment interest start date if—
- (a) assessment A had been complete and accurate and had been made on the date (if any) by which it was required to be made, and
  - (b) accordingly, the amount had been payable as a result of assessment A.

**160 Late payment interest start date: death of taxpayer**

- (1) This section applies if—
- (a) a person chargeable to an amount of devolved tax or penalty relating to devolved tax 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
  - (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.

**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, or
  - (b) an amount of penalty relating to devolved tax.
- (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 (2)(a) or (b), 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).

**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.

**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;
  - (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.

**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.

**165 Relevant amounts payable to WRA**

Any relevant amount that becomes payable (whether under an enactment or contract settlement) is payable to WRA.

**166 Receipts for payment**

When a relevant amount is paid to WRA, WRA must give a receipt if requested to do so.

**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.

*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.

*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.
- (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, 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 or penalty was required to be paid.
- (5) Where a relevant amount consists of interest on devolved tax or on a penalty, 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 or penalty was required to be paid.
- (6) The Welsh Ministers may by regulations increase the amount specified in subsection (1).

**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 the Tribunals, Courts and Enforcement Act 2007 (c. 15) (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 Authority has delegated the function of authorising the use of the procedure);”.

## 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—
- (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.
- (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.
- (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.

**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
  - (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.

**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.

### **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 –
    - (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.

### **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
  - (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.

#### **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.

### **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 –
  - (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.

### **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).

### **180 Making a late appeal**

- (1) An appeal may be made to the tribunal after the relevant period if the tribunal gives permission.
- (2) In this section, "the relevant period" has the same meaning as in section 179.

### **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.

## 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, section 154 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) 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) section 154 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.

#### **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.

*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.
- (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.

**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.
- (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."

### 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 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.”

### 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 –

*“The Welsh Revenue Authority*

16A The Welsh Revenue Authority.”

## PART 10

### FINAL PROVISIONS

#### 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), 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.
- (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.

**190 Issue of notices by WRA**

- (1) This section applies where a provision of this Act, or of regulations made under it, 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)).
- (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.
- (9) This section does not apply to any notice that WRA may –
  - (a) provide to a person under section 103(4) or 105(3), or
  - (b) give to the tribunal.
- (10) In this section “notice” includes a copy of a notice.

**191 Giving notices and other documents to WRA**

- (1) This section applies where a provision of this Act or of regulations made under it requires or permits a person to give a notice or other document to WRA (whether the expression “give” or any other expression is used) (but see subsection (4)).
- (2) The document must –

- (a) be in such form,
  - (b) contain such information, and
  - (c) 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 this Act.
  - (4) This section does not apply to any document given to WRA by the Welsh Ministers or the tribunal.

## 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 –
  - “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;

“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;

“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
- (c) a firm or entity of a similar character formed under the law of a country or territory outside the United Kingdom;

“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;

“the tribunal” (“y tribiwnlys”) means –

- (a) the First-tier Tribunal, or
- (b) where determined by or under Tribunal Procedure Rules, the Upper Tribunal.

### 193 Index of defined expressions

The following Table lists expressions defined or otherwise explained in this Act.

**TABLE 1**

Expression	Section
Appealable decision (“penderfyniad apeladwy”)	section 172(2) and (3)
Business assets (“asedau busnes”)	section 111
Business documents (“dogfennau busnes”)	section 111
Business premises (“mangre busnes”)	section 111
Carrying on a business (“rhedeg busnes”)	section 85
Charity (“elusen”)	section 85(3)
Closure notice (“hysbysiad cau”)	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
Financial year (“ <i>blwyddyn ariannol</i> ”)	section 192(2)
Identification notice (“ <i>hysbysiad adnabod</i> ”)	section 92(1)
Information notice (“ <i>hysbysiad gwybodaeth</i> ”)	section 83
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)
Local authority (“ <i>awdurdod lleol</i> ”)	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
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)
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)
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)
WRA (“ <i>ACC</i> ”)	section 2(2)
WRA assessment (“ <i>asesiad ACC</i> ”)	section 56
WRA determination (“ <i>dyfarniad ACC</i> ”)	section 52(3)

#### 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.