

# **TAX COLLECTION AND MANAGEMENT (WALES) ACT 2016**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 3 – Tax Returns, Enquiries and Assessments**

##### ***Sections 62-67 – Relief in case of excessive assessment or overpaid tax***

63. **Section 62** provides that a taxpayer can make a claim to the WRA for relief if they believe they have been assessed more than once for the same matter.
64. **Section 63** provides that a taxpayer may make a claim to the WRA for repayment where they have paid tax that they believe was not chargeable. It also provides that, if an assessment or determination is made that a person is chargeable to an amount of tax and they believe the tax is not chargeable, they can make a claim for the tax liability to be discharged (i.e. they will not have to pay).
65. **Section 64** provides that the WRA may reject a claim for relief on the basis that paying it would unjustly enrich the person making the claim. The circumstances when this might happen could include where a person making payment of the devolved tax was not the person who ultimately bore the cost of the tax. For example, in the case of landfill tax the tax is paid by the landfill site operator, yet the cost is generally borne by those charged for depositing waste at the landfill site.
66. **Section 65** provides for circumstances where devolved tax is to be repaid or discharged where the payment was originally made by a person other than the taxpayer or that other person ultimately bore the cost of the tax payment (e.g. as a customer of the taxpayer who had the cost of the tax liability passed on to them as part of the cost of goods or services they paid the taxpayer for). Loss or damage related to mistaken assumptions about tax made by a taxpayer should be excluded from consideration of whether a taxpayer would be unjustly enriched except to the extent that the taxpayer is able to show that the taxpayer actually incurred a quantifiable amount of loss or damage for those mistaken assumptions which could be compensated for.
67. **Section 66** provides that for the purposes of WRA determining whether a repayment or discharge of an amount would unjustly enrich a claimant (this being the basis for rejecting a claim pursuant to section 64), regulations can be made that provide for reimbursement arrangements to be put in place. The arrangements that these regulations would put in place would be designed to prevent the taxpayer from being unjustly enriched and a claim for relief would not be allowed if those regulations were not complied with.
68. **Section 67** provides a list of situations (other than unjust enrichment) in which the WRA does not need to give effect to a claim for relief under section 63.