

# TAX COLLECTION AND MANAGEMENT (WALES) ACT 2016

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 4 – Investigatory Powers of WRA**

##### *Sections 83-85 – Interpretation*

78. **Section 83** sets out the five different types of notices WRA may use to require a person to provide information or a document. Collectively, they are described in the Act as “information notices”. Subsection (2) provides a general rule that WRA may specify or describe the information or documents being sought, in other words an information notice might require a specific document (e.g. a particular contract document) or WRA might require documents of a particular kind or which contain a particular kind of information (e.g. any document containing information relating to a particular transaction).
79. WRA may only exercise its powers under sections 86, 87, 89 or 92 where the information or document requested is required for the purposes of checking a person’s “tax position”. Section 84 sets out the definition of “tax position” for the purpose of references in this Part of the Act. A tax position can include a person’s past, present and future liability to pay any devolved tax or associated penalties, interest and any other amounts that have been paid or are payable by or to the person relating to devolved tax and also includes claims and notices in connection with the liability to pay any devolved tax. It follows therefore that one of these notices can be used in relation to an ongoing enquiry into a tax return or claim or to help WRA in making a WRA determination (see chapter 5 of Part 6) or a WRA assessment (see chapter 6 of that Part). Checking a person’s potential future liability is likely to be a rare occurrence but it may be relevant, for example, in relation to certain types of land transaction which are staged over a long period and in relation to which a tax return might be made before all the liability to tax arises.
80. **Section 85** sets out the definition of “carrying on a business”, which includes a business whose activity generates income from land; carrying on a profession; a charity; and, the activities of a local authority or any other public authority. This is relevant when WRA exercises its powers under section 92 (power to require information to enable a person’s identity to be ascertained), and section 93 (power to obtain contact details for debtors), which may only be exercised where the recipient of the notice has obtained the information in the course of “carrying on a business”.