

TAX COLLECTION AND MANAGEMENT (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5 - Penalties

Sections 129-132 – Penalties for inaccuracies in documents

157. **Section 129** provides that a person is liable to a penalty where they submit certain documents to WRA which contain an inaccuracy, subject to two conditions being met. The first condition is that the inaccuracy amounts or leads to either an understatement of the tax liability, a false or inflated statement of a loss or a false or inflated claim for relief or repayment of tax. The second condition is that in the WRA's judgement the inaccuracy is either deliberate or careless on the part of the person submitting the document (who may be the taxpayer or someone else acting for the taxpayer or who is required to give a document to WRA, for example following an information notice issued under Part 4). A penalty is payable for each error. The documents caught by this penalty will be specified in tax specific legislation.
158. **Section 130** specifies the penalty amount for a deliberate and for a careless inaccuracy, which is calculated as a percentage of the "potential lost revenue" as defined in section 134.
159. **Section 131** empowers the WRA, to suspend all or part of a penalty to which a person is liable to under section 129 as a result of submitting a document to the WRA containing an error and which is due to carelessness. When exercising this power, WRA must issue a notice to the person liable to the penalty, which must specify what part of the penalty is being suspended, and set a period of suspension not exceeding two years and the conditions of suspension with which the person must comply. WRA may suspend all or part of a penalty only if compliance with a condition of suspension would help the person to avoid liability to further penalties incurred for careless inaccuracy. On the expiry of the period of suspension, the suspended penalty (all or part) is cancelled if WRA is satisfied that the conditions are met, otherwise the suspended period (all or part) becomes payable. A suspended penalty becomes payable where the person becomes liable for another devolved tax penalty during the period of a suspension.
160. **Section 132** provides that a person (A) is liable to a penalty where another person (B) submits a document to WRA containing an inaccuracy, and that inaccuracy is attributable to A either deliberately supplying B with false information or deliberately withholding information from them with the intention of creating an inaccuracy. Where this happens and there is either an understatement in the tax liability or a false or inflated claim for loss or repayment of tax, A is liable to pay a penalty which is 100% of the "potential lost revenue". For example a taxpayer who deliberately gives an inaccurate document to his or her agent would be caught by this penalty when the agent then submits the inaccurate document to WRA on the taxpayer's behalf. The agent may also

*These notes refer to the Tax Collection and Management (Wales)
Act 2016 (c.6) which received Royal Assent on 25 April 2016*

be liable under section 129 and whether the agent acted deliberately or carelessly would depend on the facts of the case.