



# Tax Collection and Management (Wales) Act 2016

2016 anaw 6

## PART 3

### TAX RETURNS, ENQUIRIES AND ASSESSMENTS

#### CHAPTER 6

##### WRA ASSESSMENTS

###### *Making WRA assessments*

#### **57** References to the “taxpayer”

In sections 58 to 61, “taxpayer” means—

- (a) in relation to a WRA assessment under section 54, the person chargeable to the devolved tax,
- (b) in relation to a WRA assessment under section 55 [<sup>F1</sup>or 55A], the person mentioned there.

#### **Textual Amendments**

- F1** Words in s. 57(b) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 14](#)

#### **Commencement Information**

- I1** S. 57 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

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*Changes to legislation: There are currently no known outstanding effects for the Tax Collection and Management (Wales) Act 2016, Cross Heading: Making WRA assessments. (See end of Document for details)*

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## 58 Conditions for making WRA assessments

- (1) A WRA assessment—
- (a) may be made only in the [<sup>F2</sup>four] cases specified in subsections [<sup>F3</sup>(2), (3)]<sup>F4</sup>, (3A) and (3B)]], and
  - (b) may not be made in the circumstances specified in subsection (4).
- (2) The first case is where the situation mentioned in section 54 or 55 was brought about carelessly or deliberately by—
- (a) the taxpayer,
  - (b) a person acting on the taxpayer's behalf, or
  - (c) a person who was a partner in the same partnership as the taxpayer.
- [<sup>F5</sup>(3) The second case is where—
- (a) a tax return has been made,
  - (b) WRA has ceased to be entitled to issue a notice of enquiry into the return, or has completed its enquiries into it, and
  - (c) at the time when WRA ceased to be so entitled or completed those enquiries, it could not reasonably have been expected to be aware of the situation mentioned in section 54 or 55 on the basis of information made available to WRA before that time.]

[<sup>F6</sup>(3A) The third case is where WRA makes an adjustment under the general anti-avoidance rule (see Part 3A, in particular section 81E).]

[<sup>F7</sup>(3B) The fourth case is where WRA has come to the view that a situation described in section 55A has arisen.]

(4) No WRA assessment may be made [<sup>F8</sup>in the first or second case] if—

    - (a) the situation mentioned in section 54 or 55 is attributable to a mistake in [<sup>F9</sup>a tax return] as to the basis on which the devolved tax liability ought to have been calculated, and
    - (b) the mistake occurred because the tax return was made on the basis prevailing, or in accordance with the practice generally prevailing, at the time it was made.

### Textual Amendments

- F2** Word in s. 58(1)(a) substituted (1.4.2018) by The Landfill Disposals Tax (Administration) (Wales) Regulations 2018 (S.I. 2018/101), reg. 1(2), **Sch. para. 15(2)(a)**
- F3** Words in s. 58(1)(a) substituted (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 18(a)(ii)**; S.I. 2018/34, art. 3
- F4** Words in s. 58(1)(a) substituted (1.4.2018) by The Landfill Disposals Tax (Administration) (Wales) Regulations 2018 (S.I. 2018/101), reg. 1(2), **Sch. para. 15(2)(b)**
- F5** S. 58(3) substituted (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 18(b)**; S.I. 2018/34, art. 3
- F6** S. 58(3A) inserted (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 18(c)**; S.I. 2018/34, art. 3
- F7** S. 58(3B) inserted (1.4.2018) by The Landfill Disposals Tax (Administration) (Wales) Regulations 2018 (S.I. 2018/101), reg. 1(2), **Sch. para. 15(3)**
- F8** Words in s. 58(4) inserted (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 18(d)(i)**; S.I. 2018/34, art. 3

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**F9** Words in s. 58(4)(a) substituted (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 18(d)(ii)**; S.I. 2018/34, art. 3

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

**C1** S. 58 applied (with modifications) (1.4.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 7 para. 43(2)**; S.I. 2018/34, art. 3

**Commencement Information**

**I2** S. 58 in force at 1.4.2018 by S.I. 2018/33, **art. 3**

## 59 Time limits for WRA assessments

- (1) No WRA assessment may be made more than 4 years after the relevant date [<sup>F10</sup> in any case involving a situation mentioned in section 54, 55 or 55A(a) or (b)].
- (2) But a WRA assessment of a taxpayer in any case involving a situation mentioned in section 54 [<sup>F11</sup>, 55 or 55A(a) or (b)] brought about carelessly by the taxpayer or a related person may be made up to 6 years after the relevant date.
- (3) And a WRA assessment of a taxpayer in any case involving a situation mentioned in section 54 [<sup>F12</sup>, 55 or 55A(a) or (b)] brought about deliberately by the taxpayer or a related person may be made up to 20 years after the relevant date.
- (4) A WRA assessment under section 55 is not out of time if it is made within the period of 12 months beginning with the day on which the repayment in question was made.

[<sup>F13</sup>(4A) No WRA assessment may be made in a case involving a situation mentioned in section 55A(c)—

- (a) if WRA has issued a notice to the taxpayer requiring payment of the amount in question, after the period of 12 months beginning with the day after that by which the payment was required, and
  - (b) otherwise, after the period of 12 months beginning with the day on which WRA became aware that the taxpayer was required to pay the amount in question.]
- (5) If the taxpayer has died—
    - (a) any WRA assessment on the personal representatives must be made before the end of the period of 4 years beginning with the date of the death, and
    - (b) a WRA assessment is not to be made in respect of a relevant date more than 6 years before that date.
  - (6) Any objection to the making of a WRA assessment on the ground that the time limit for making it has expired can only be made on a review of or appeal against the assessment.

(7) In this section—

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

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

“relevant date” (“*dyddiad perthnasol*”) [<sup>F14</sup>, in relation to a WRA assessment in a case involving a situation mentioned in section 54 or 55,] means—

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- (za) [<sup>F15</sup>if a tax return has not been made, the date by which WRA believes a tax return was required to be made,]
- (a) if [<sup>F16</sup>a tax return] was made after the filing date, the day on which the tax return was made, or
- (b) otherwise, the filing date.
- <sup>F17</sup>“relevant date” (“*dyddiad perthnasol*”), in relation to a WRA assessment in a case involving a situation mentioned in section 55A(a) or (b), means—
- (a) where the tax credit in question was claimed in a tax return made on or before the filing date, the filing date;
- (b) where the tax credit in question was claimed in a tax return made after the filing date, the day on which the tax return was made;
- (c) where the tax credit in question was claimed by any other means, the day on which the claim was made.]

#### Textual Amendments

- F10** Words in s. 59(1) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 16(2)**
- F11** Words in s. 59(2) substituted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 16(3)**
- F12** Words in s. 59(3) substituted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 16(4)**
- F13** S. 59(4A) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 16(5)**
- F14** Words in s. 59(7) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 16(6)(a)**
- F15** Words in s. 59(7) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 19(a)**; S.I. 2018/34, art. 3
- F16** Words in s. 59(7) substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 19(b)**; S.I. 2018/34, art. 3
- F17** Words in s. 59(7) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 16(6)(b)**

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

- C2** S. 59 applied (with modifications) (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 7 para. 43(3)**; S.I. 2018/34, art. 3

#### Commencement Information

- I3** S. 59 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

## 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,

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- (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.

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**Commencement Information**

**I4** S. 60 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

**61 Assessment procedure**

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

<sup>F18</sup>(3) .....

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**Textual Amendments**

**F18** S. 61(3) omitted (1.4.2018) by virtue of [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 20](#); [S.I. 2018/34](#), [art. 3](#)

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**Commencement Information**

**I5** S. 61 in force at 1.4.2018 by [S.I. 2018/33](#), [art. 3](#)

**Changes to legislation:**

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