



# Tax Collection and Management (Wales) Act 2016

2016 anaw 6

## PART 4

### INVESTIGATORY POWERS OF WRA

#### 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.

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#### Commencement Information

**II** S. 86 in force at 25.1.2018 by [S.I. 2018/33](#), art. 2(c)

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*Changes to legislation: There are currently no known outstanding effects for the Tax Collection and Management (Wales) Act 2016, CHAPTER 2. (See end of Document for details)*

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## 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.

### Commencement Information

**I2** S. 87 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

## 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,

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- (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.

**Commencement Information**

**I3** S. 88 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

**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.

*Changes to legislation: There are currently no known outstanding effects for the Tax Collection and Management (Wales) Act 2016, CHAPTER 2. (See end of Document for details)*

#### Commencement Information

**I4** S. 89 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

### 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 [<sup>F1</sup>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 [<sup>F2</sup>sections 1161 and 1162 of, and Schedule 7 to, the Companies Act 2006 (c. 46), but in the application of this section in relation to land transaction tax, section 1161(1)(b) of that 2006 Act has effect as if the words ““carrying on a trade or business, with or without a view to profit”” were omitted.]

#### Textual Amendments

- F1** Words in s. 90(1) substituted (25.1.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 35\(a\)](#); [S.I. 2018/34](#), art. 2(b)(i)
- F2** Words in s. 90(4) substituted (25.1.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 35\(b\)](#); [S.I. 2018/34](#), art. 2(b)(i)

#### Commencement Information

**I5** S. 90 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

### 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,

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- (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.

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

- C1** S. 91 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(6)**; S.I. 2018/34, art. 3

**Commencement Information**

- I6** S. 91 in force at 25.1.2018 by [S.I. 2018/33](#), art. 2(e)

**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).

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- (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).

**Commencement Information**

**I7** S. 92 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(c)**

**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, <sup>F3</sup>...
  - (d) interest on a penalty relating to devolved tax,
  - [<sup>F4</sup>(e) a payment in respect of a tax credit, or
  - (f) interest on a payment in respect of a tax credit,]
- 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.

**Textual Amendments**

- F3** Word in [s. 93\(2\)](#) omitted (1.4.2018) by virtue of [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), [reg. 1\(2\)](#), **Sch. para. 20(a)**
- F4** [S. 93\(2\)\(e\)\(f\)](#) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), [reg. 1\(2\)](#), **Sch. para. 20(b)**

*Changes to legislation: There are currently no known outstanding effects for the Tax Collection and Management (Wales) Act 2016, CHAPTER 2. (See end of Document for details)*

#### Commencement Information

**I8** S. 93 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

### 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.

#### Commencement Information

**I9** S. 94 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

### 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 [<sup>F5</sup>(or such longer period as may be agreed to by WRA and the person)], 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.

#### Textual Amendments

**F5** Words in [s. 95\(1\)\(a\)](#) inserted (25.1.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), [s. 81\(2\)\(3\)](#), [Sch. 23 para. 36](#); [S.I. 2018/34](#), [art. 2\(b\)\(i\)](#)

#### Commencement Information

**I10** S. 95 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

### 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.

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- (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.

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**Commencement Information**

**III** S. 96 in force at 25.1.2018 by [S.I. 2018/33](#), **art. 2(c)**



**Changes to legislation:**

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