



Tax Collection and Management (Wales) Act 2016

2016 anaw 6

PART 5

PENALTIES

CHAPTER 5

PENALTIES RELATING TO INVESTIGATIONS

Further penalties for continuing failure to comply or obstruction

150 Increased daily default penalty for failure to comply with information notice

- (1) This section applies if—
 - (a) a penalty under section 147 is assessed under section 153 in respect of a person's failure to comply with an unidentified third party notice,
 - (b) the failure continues for more than 30 days beginning with the day on which notice of the penalty was issued, and
 - (c) the person has been told that an application may be made under this section for an increased daily penalty to be imposed.
- (2) WRA may make an application to the tribunal for an increased daily penalty to be imposed on the person.
- (3) But WRA may not make such an application if a decision relating to a penalty under section 146 or 147 in respect of the failure is the subject of—
 - (a) a review for which notice of the conclusions has not yet been issued, or
 - (b) an appeal which has not yet been finally determined or withdrawn.

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- (4) If the tribunal decides that an increased daily penalty should be imposed, then for each applicable day on which the failure continues—
 - (a) the person is not liable to a penalty under section 147 for the failure, and
 - (b) the person is liable instead to a penalty under this section of an amount determined by the tribunal.
- (5) The tribunal may not determine an amount exceeding £1,000 for each applicable day.
- (6) In determining the amount the tribunal must have regard to—
 - (a) the likely cost to the person of complying with the notice,
 - (b) any benefits to the person of not complying with it, and
 - (c) any benefits to anyone else resulting from the person’s non-compliance.
- (7) If a person becomes liable to a penalty under this section, WRA must issue to the person notice of that fact.
- (8) The notice must state the first day on which the increased penalty is to apply.
- (9) That day and any subsequent day on which the failure continues is an “applicable day” for the purposes of this section and section 153(4).

151 Tax-related penalty for failure to comply with information notice or obstruction

- (1) This section applies where—
 - (a) a person becomes liable to a penalty under section 146,
 - (b) the failure or obstruction continues after the day on which a penalty notice is issued under section 153(1)(b) in respect of the penalty,
 - (c) WRA has reason to believe that, as a result of the failure or obstruction, the amount of devolved tax that the person has paid, or is likely to pay, is significantly less than it would otherwise have been,
 - (d) before the end of the period of 12 months beginning with the relevant date, WRA makes an application to the Upper Tribunal for an additional penalty to be imposed on the person (see subsection (6)) and gives notice of the application to the person, and
 - (e) the Upper Tribunal decides that it is appropriate for an additional penalty to be imposed.
- (2) The person is liable to a penalty of an amount determined by the Upper Tribunal.
- (3) In determining the amount, the Upper Tribunal must have regard to the amount of devolved tax which has not been, or is not likely to be, paid by the person.
- (4) Any penalty under this section is in addition to the penalty or penalties under section 146 or 147.
- (5) In subsection (1)(d), the “relevant date” means—
 - (a) in a case involving an information notice against which a person may appeal, the latest of—
 - (i) the day on which the person became liable to the penalty under section 146,
 - (ii) if no appeal against the information notice is made, the end of the period in which such an appeal could have been made, and

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- (iii) if such an appeal is made, the day on which the appeal is finally determined or withdrawn, and
 - (b) in any other case, the day on which the person became liable to the penalty under section 146.
- (6) WRA may not make an application of the kind mentioned in subsection (1)(d) if a decision relating to a penalty under section 146, 147 or 150 in respect of the failure or obstruction is the subject of—
 - (a) a review for which notice of the conclusions has not yet been issued, or
 - (b) an appeal which has not yet been finally determined or withdrawn.