



# Wales Act 2014

## 2014 CHAPTER 29

### PART 2

#### FINANCE

##### *Welsh rates of income tax*

#### **8 Welsh rates of income tax**

- (1) Part 4A of GOWA 2006 (as inserted by section 6) is amended as follows.
- (2) In section 116A(1) (overview), after “Part” insert “—
  - (a) Chapter 2 confers on the Assembly power to set rates of income tax to be paid by Welsh taxpayers, and
  - (b)”.
- (3) After Chapter 1 insert—

#### “CHAPTER 2

#### INCOME TAX

##### **116D Power to set Welsh rates for Welsh taxpayers**

- (1) The Assembly may by resolution (a “Welsh rate resolution”) set one or more of the following—
  - (a) a Welsh rate for the purpose of calculating the Welsh basic rate;
  - (b) a Welsh rate for the purpose of calculating the Welsh higher rate;
  - (c) a Welsh rate for the purpose of calculating the Welsh additional rate.
- (2) See section 6B of the Income Tax Act 2007 for provision about the calculation of the Welsh basic, higher and additional rates and section 11B of that Act for provision about the income of Welsh taxpayers charged at those rates.

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- (3) A Welsh rate resolution applies—
  - (a) for only one tax year, and
  - (b) for the whole of that year.
- (4) Any Welsh rate specified must be a whole number or half a whole number.
- (5) A Welsh rate resolution—
  - (a) must specify the tax year for which it applies,
  - (b) must be made before the start of that tax year, and
  - (c) must not be made more than 12 months before the start of that year.
- (6) If a Welsh rate resolution is cancelled before the start of the tax year for which it is to apply—
  - (a) the Income Tax Acts have effect for that year as if the resolution had never been made, and
  - (b) the resolution may be replaced by another Welsh rate resolution.
- (7) The standing orders must provide that only the First Minister or a Welsh Minister appointed under section 48 may move a motion for a Welsh rate resolution.

#### 116E Welsh taxpayers

- (1) For any tax year, a Welsh taxpayer is an individual (T)—
  - (a) who is resident in the UK for income tax purposes for that year (see Schedule 45 to the Finance Act 2013), and
  - (b) who, for that year, meets condition A, B or C.
- (2) T meets condition A if T has a close connection with Wales (see section 116G).
- (3) T meets condition B if—
  - (a) T does not have a close connection with England, Scotland or Northern Ireland (see section 116G), and
  - (b) T spends more days of that year in Wales than in any other part of the UK (see section 116H).
- (4) T meets condition C if, for the whole or any part of the year, T is—
  - (a) a member of Parliament for a constituency in Wales,
  - (b) a member of the European Parliament for Wales, or
  - (c) an Assembly member.
- (5) Subsection (1) does not apply if T is a Scottish parliamentarian for the whole or any part of the year (see section 116F).
- (6) For the purposes of subsection (5) and section 116F, T is a Scottish parliamentarian if T is a member as described in any of paragraphs (a) to (c) of section 80D(4) of the Scotland Act 1998 (definition of a Scottish taxpayer).
- (7) In this Chapter “the UK” means the United Kingdom.

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### **116F Welsh taxpayers: Scottish parliamentarians**

- (1) An individual (T) who is a Scottish parliamentarian for the whole or any part of a tax year is a Welsh taxpayer for that tax year if—
  - (a) T is resident in the UK for income tax purposes for that year (see Schedule 45 to the Finance Act 2013),
  - (b) T meets condition C in section 116E for that year, and
  - (c) T meets either of the following conditions for that year.
- (2) T meets the first condition if—
  - (a) the number of days in that year on which T is a member as described in any of paragraphs (a) to (c) of section 116E(4), exceeds
  - (b) the number of days in that year on which T is a Scottish parliamentarian.
- (3) T meets the second condition if—
  - (a) the number of days in that year mentioned in paragraphs (a) and (b) of subsection (2) are the same, and
  - (b) T meets condition A or B in section 116E for that year.

### **116G Close connection with Wales or another part of the UK**

- (1) To find whether, for any year, T has a close connection with any part of the UK see—
  - (a) subsection (2) (where T has only one place of residence in the UK), or
  - (b) subsection (3) (where T has 2 or more places of residence in the UK).
- (2) T has a close connection with a part of the UK if in that year—
  - (a) T has only one place of residence in the UK,
  - (b) that place of residence is in that part of the UK, and
  - (c) for at least part of the year, T lives at that place.
- (3) T has a close connection with a part of the UK if in that year—
  - (a) T has 2 or more places of residence in the UK,
  - (b) for at least part of the year, T's main place of residence in the UK is in that part of the UK,
  - (c) the times in the year when T's main place of residence is in that part of the UK comprise (in aggregate) more of the year than the times when T's main place of residence is in each other part of the UK (considered separately), and
  - (d) for at least part of the year, T lives at a place of residence in that part of the UK.
- (4) In this section “place” includes a place on board a vessel or other means of transport.

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### 116H Days spent in Wales or another part of the UK

- (1) T spends more days of a year in Wales than in any other part of the UK if (and only if) the number of days in the year on which T is in Wales at the end of the day exceeds each of the following—
  - (a) the number of days in the year on which T is in England at the end of the day;
  - (b) the number of days in the year on which T is in Scotland at the end of the day;
  - (c) the number of days in the year on which T is in Northern Ireland at the end of the day.
- (2) T is treated as not being in the UK at the end of a day if—
  - (a) on that day T arrives in the UK as a passenger,
  - (b) T departs from the UK on the next day, and
  - (c) during the time between arrival and departure T does not engage in activities which are to a substantial extent unrelated to T's passage through the UK.

### 116I Supplemental powers to modify enactments

- (1) The Treasury may by order modify section 11B of the Income Tax Act 2007 (income charged at the Welsh basic, higher and additional rates) for the purpose of altering—
  - (a) the definition of the income which is charged to income tax at the rates provided for under the section, or
  - (b) the application of the section in relation to a particular class of income which is so charged.
- (2) The Treasury may by order modify any enactment not contained in Chapter 2 of Part 2 of the Income Tax Act 2007 (rates at which income tax is charged) so that it makes provision, in relation to a Welsh taxpayer, by reference to the Welsh basic rate, the Welsh higher rate or the Welsh additional rate, instead of the basic rate, the higher rate or the additional rate.
- (3) If the Treasury consider it necessary or expedient to do so, they may by order provide that—
  - (a) a Welsh rate set by the Assembly for a tax year for the purpose of calculating the Welsh basic rate, Welsh higher rate or Welsh additional rate, or
  - (b) the fact that a Welsh rate has not been set by the Assembly for a tax year for any one or more of those purposes,
 does not require any change in the amounts repayable or deductible under PAYE regulations between the beginning of that year and such later date as may be specified in the order.
- (4) The Treasury may by order make such modifications of any enactment as they consider necessary or expedient in consequence of or in connection with an order under subsection (1), (2) or (3).

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- (5) An order under this section may, to the extent that the Treasury consider it to be appropriate, take effect retrospectively from the beginning of the tax year in which the order is made.
- (6) No order is to be made under subsection (1), (2) or (4) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the House of Commons.
- (7) A statutory instrument containing an order under subsection (3) is subject to annulment in pursuance of a resolution of the House of Commons.
- (8) The power under subsection (1) does not include power to provide that any income which is—
  - (a) savings income, or
  - (b) dividend income which would otherwise be charged to income tax at a rate provided for under section 13 of the Income Tax Act 2007,is income which is charged to income tax at a rate provided for under section 11B of that Act.

#### **116J Reimbursement of expenses**

The Welsh Ministers may reimburse any Minister of the Crown or government department for administrative expenses incurred by virtue of this Chapter at any time after the passing of the Wales Act 2014 by the Minister or department.

#### **116K Report by the Comptroller and Auditor General**

- (1) The Comptroller and Auditor General must for each financial year prepare a report on the matters set out in subsection (2).
- (2) Those matters are—
  - (a) the adequacy of any of HMRC's rules and procedures put in place, in consequence of the Welsh rate provisions, for the purpose of ensuring the proper assessment and collection of income tax charged at rates determined under those provisions,
  - (b) whether the rules and procedures described in paragraph (a) are being complied with,
  - (c) the correctness of the sums brought to account by HMRC which relate to income tax which is attributable to a Welsh rate resolution, and
  - (d) the accuracy and fairness of the amounts which are reimbursed to HMRC under section 116J (having been identified by it as administrative expenses incurred as a result of the charging of income tax as mentioned in paragraph (a)).
- (3) “The Welsh rate provisions” are—
  - (a) any provision made by or under this Chapter, and
  - (b) any provision made by or under the Income Tax Acts relating to the Welsh basic rate, the Welsh higher rate or the Welsh additional rate.

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- (4) A report under this section may also include an assessment of the economy, efficiency and effectiveness with which HMRC has used its resources in carrying out relevant functions.
- (5) “Relevant functions” are functions of HMRC in the performance of which HMRC incurs administrative expenses which are reimbursed to HMRC under section 116J (having been identified by it as administrative expenses incurred as a result of the charging of income tax as mentioned in subsection (2)(a)).
- (6) HMRC must give the Comptroller and Auditor General such information as the Comptroller and Auditor General may reasonably require for the purposes of preparing a report under this section.
- (7) A report prepared under this section must be laid before the Assembly not later than 31 January of the financial year following that to which the report relates.
- (8) In this section “HMRC” means Her Majesty's Revenue and Customs.”

#### Commencement Information

**II** S. 8 in force at 24.7.2018 by [S.I. 2018/892](#), [art. 3](#) (with [arts. 5, 6, 8](#))

## 9 Welsh basic, higher and additional rates of income tax

- (1) The Income Tax Act 2007 is amended in accordance with subsections (2) to (11).
- (2) In section 6 (the basic rate, higher rate and additional rate), in subsection (3), before paragraph (a) insert—
  - “(zb) section 6B (Welsh basic, higher and additional rates),”.
- (3) Before section 7 insert—

### “6B The Welsh basic, higher and additional rates

- (1) The Welsh basic rate, the Welsh higher rate and the Welsh additional rate for a tax year are calculated as follows.
  - Step 1* Take the basic rate, higher rate or additional rate.
  - Step 2* Deduct 10 percentage points.
  - Step 3* Add the Welsh rate (if any) set by the National Assembly for Wales for that year for the purpose of calculating the Welsh basic rate, the Welsh higher rate or the Welsh additional rate (as the case may be).
- (2) For provision about the setting of the Welsh rates, see Chapter 2 of Part 4A of the Government of Wales Act 2006.”
- (4) In section 10 (income charged at the basic, higher and additional rates: individuals), in subsection (4), at the appropriate place, insert—
  - “section 11B (income charged at the Welsh basic, higher and additional rates),”.
- (5) Before section 12 insert—

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**“11B Income charged at the Welsh basic, higher and additional rates**

- (1) Income tax is charged at the Welsh basic rate on the income of a Welsh taxpayer which—
  - (a) is non-savings income, and
  - (b) would otherwise be charged at the basic rate.
- (2) Income tax is charged at the Welsh higher rate on the income of a Welsh taxpayer which—
  - (a) is non-savings income, and
  - (b) would otherwise be charged at the higher rate.
- (3) Income tax is charged at the Welsh additional rate on the income of a Welsh taxpayer which—
  - (a) is non-savings income, and
  - (b) would otherwise be charged at the additional rate.
- (4) For the purposes of this section, “non-savings income” means income which is not savings income.
- (5) This section is subject to—

section 13 (income charged at the dividend ordinary, upper and additional rates: individuals), and

any provisions of the Income Tax Acts (apart from section 10) which provide for income of an individual to be charged at different rates of income tax in some circumstances.
- (6) Section 16 has effect for determining the extent to which the non-savings income of a Welsh taxpayer would otherwise be charged at the basic, higher or additional rate.”
- (6) In section 13 (income charged at the dividend ordinary, upper and additional rates)—
  - (a) in subsection (1)(b), before “and” insert “ or the Welsh basic rate, ”,
  - (b) in subsection (2)(b), before “and” insert “ or the Welsh higher rate, ”,
  - (c) in subsection (2A)(b), before “and” insert “ or the Welsh additional rate, ”,
  - (d) in subsection (3), at the end of the words in parentheses, insert “ or 11B ”, and
  - (e) in subsection (4), at the end insert “ or the Welsh basic, higher or additional rate ”.
- (7) In section 16 (savings and dividend income to be treated as highest part of total income), in subsection (1), after paragraph (za) insert—

“(zb) the rate at which income tax would be charged on the non-savings income of a Welsh taxpayer apart from section 11B,”.
- (8) In section 809H (charge on nominated income of long-term UK resident), after subsection (3A) insert—

“(3B) If the individual is a Welsh taxpayer for the relevant tax year, the individual is to be treated for the purpose of calculating income tax charged by virtue of subsection (2) as if the individual were not a Welsh taxpayer for that year.”

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- (9) In section 828B (conditions to be met for exemption where individual resident but not domiciled in the UK), in subsection (5), before “or the starting rate” insert “, the Welsh basic rate”.
- (10) In section 989 (definitions for the purposes of the Income Tax Acts), at the appropriate place, insert—
- ““Welsh additional rate” means the rate of income tax of that name calculated in accordance with section 6B,”
- ““Welsh basic rate” means the rate of income tax of that name calculated in accordance with section 6B,”
- ““Welsh higher rate” means the rate of income tax of that name calculated in accordance with section 6B,”
- ““Welsh taxpayer” has the same meaning as in Chapter 2 of Part 4A of the Government of Wales Act 2006”.
- (11) In Schedule 4 (index of defined expressions), at the appropriate place, insert—

“Welsh additional rate	section 6B (as applied by section 989)”
“Welsh basic rate	section 6B (as applied by section 989)”
“Welsh higher rate	section 6B (as applied by section 989)”
“Welsh taxpayer	section 989”

- (12) In section 7 of the Taxes Management Act 1970 (notice of liability to income tax and capital gains tax), in subsection (6), before “the dividend ordinary rate” insert “ the Welsh basic rate, ”.
- (13) The Taxation of Chargeable Gains Act 1992 is amended in accordance with subsections (14) and (15).
- (14) In section 4 (rates of capital gains tax), in subsections (4) and (5), before “or the dividend” insert “, the Welsh higher rate”.
- (15) In section 4A (section 4: special cases), in subsection (5), before “or the dividend” insert “, the Welsh higher rate”.

#### Commencement Information

**12** S. 9 in force at 24.7.2018 by S.I. 2018/892, art. 3 (with arts. 5, 6, 8)

PROSPECTIVE

## 10 Welsh taxpayers for social security or child support purposes

After section 155 of GOWA 2006 insert—



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### **“155A Welsh taxpayers for social security or child support purposes**

- (1) The Secretary of State may by order provide for individuals of any specified description to be treated as if they were, or were not, Welsh taxpayers for all or specified purposes of—
  - (a) social security, or
  - (b) child support.
- (2) The Secretary of State may by order provide in relation to any year of assessment that the Welsh basic rate, Welsh higher rate or Welsh additional rate in relation to the income of Welsh taxpayers is to be treated as being a specified rate for all or specified purposes of—
  - (a) social security, or
  - (b) child support.
- (3) An order under subsection (1) or (2) may apply in respect of any individuals whether or not they have a close connection with Wales.
- (4) An order under subsection (1) or (2) may make such modifications of any enactment, or any other instrument or document, as the Secretary of State considers appropriate in connection with the provision made by the order.
- (5) No order is to be made under subsection (1) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (6) No order under subsection (2) which contains a provision making modifications of an enactment contained in an Act is to be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (7) A statutory instrument containing an order under subsection (2) is (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section—
  - “specified” means specified in the order;
  - “Welsh basic rate”, “Welsh higher rate” and “Welsh additional rate” have the same meaning as in the Income Tax Acts;
  - “Welsh taxpayer” has the same meaning as in Chapter 2 of Part 4A of this Act.”

## **11 Amendments to the definition of a Scottish taxpayer**

- (1) Chapter 2 of Part 4A of the Scotland Act 1998 (Scottish rate of income tax) is amended as follows.
- (2) Section 80D (Scottish taxpayers) is amended in accordance with subsections (3) to (5).
- (3) In subsection (1)—
  - (a) for “In” substitute “For ”;

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- (b) in paragraph (a), after “purposes” insert “ for that year (see Schedule 45 to the Finance Act 2013) ”.
- (4) In subsection (3)(a), for “any part of the UK other than Scotland” substitute “ England, Wales or Northern Ireland ”.
- (5) After subsection (4), insert—
  - “(4A) Subsection (1) does not apply if T is a Welsh parliamentarian for the whole or any part of the year (see section 80DA).
  - (4B) For the purposes of subsection (4A) and section 80DA, T is a Welsh parliamentarian if T is a member as described in any of paragraphs (a) to (c) of section 116E(4) of the Government of Wales Act 2006 (definition of a Welsh taxpayer).”
- (6) After section 80D insert—

**“80DA Scottish taxpayers: Welsh parliamentarians**

- (1) An individual (T) who is a Welsh parliamentarian for the whole or any part of a tax year is a Scottish taxpayer for that tax year if—
  - (a) T is resident in the UK for income tax purposes for that year (see Schedule 45 to the Finance Act 2013),
  - (b) T meets condition C in section 80D for that year, and
  - (c) T meets either of the following conditions for that year.
- (2) T meets the first condition if—
  - (a) the number of days in that year on which T is a member as described in any of paragraphs (a) to (c) of section 80D(4), exceeds
  - (b) the number of days in that year on which T is a Welsh parliamentarian.
- (3) T meets the second condition if—
  - (a) the number of days in that year mentioned in paragraphs (a) and (b) of subsection (2) are the same, and
  - (b) T meets condition A or B in section 80D for that year.”
- (7) In section 80E (close connection with Scotland or another part of the UK), in subsection (3)(c)—
  - (a) for “at least as much of the year as” substitute “ more of the year than ”;
  - (b) for “any one other part of the UK” substitute “ each other part of the UK (considered separately) ”.
- (8) In section 80F (days spent in Scotland or another part of the UK)—
  - (a) in subsection (1), for the words from “if”— to the end substitute “if) the number of days in the year on which T is in Scotland at the end of the day exceeds each of the following—
    - (a) the number of days in the year on which T is in England at the end of the day;
    - (b) the number of days in the year on which T is in Wales at the end of the day;
    - (c) the number of days in the year on which T is in Northern Ireland at the end of the day.”;

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- (b) in subsection (2), for “But T is not to be treated as” substitute “ T is treated as not ”.

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**Commencement Information**

- I3** S. 11 partly in force; s. 11 not in force at Royal Assent; s. 11(1)-(4)(7)(b)(8)(b) in force 17.2.2015, see s. 29(2)(b)(4)
- I4** S. 11(5)(6)(7)(a)(8)(a) in force at 24.7.2018 by S.I. 2018/892, **art. 4** (with **art. 7**)

**Status:**

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