



# 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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*Changes to legislation: There are currently no known outstanding effects for the Wales Act 2014, Section 8. (See end of Document for details)*

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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.”

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**Commencement Information**

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

**Changes to legislation:**

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