



# Tax Collection and Management (Wales) Act 2016

2016 anaw 6

## PART 3

### TAX RETURNS, ENQUIRIES AND ASSESSMENTS

#### CHAPTER 4

#### WRA ENQUIRIES

##### *Notice and scope of enquiry*

#### **43 Notice of enquiry**

- (1) WRA may enquire into a tax return if it issues notice of the intention to do so (a “notice of enquiry”) to the person who made the tax return before the end of the period of 12 months beginning with the relevant date.
- (2) The relevant date is—
  - (a) if the tax return was made after the filing date, the day on which the tax return was made, or
  - (b) otherwise, the filing date,but if the tax return is amended under section 41, the relevant date is the day on which the amendment was made.
- (3) A tax return that has been the subject of one notice under this section may not be the subject of another, except a notice issued in consequence of an amendment of the tax return under section 41.

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#### **44 Scope of enquiry**

- (1) An enquiry into a tax return extends to anything contained in the tax return, or required to be contained in the tax return, that relates—
  - (a) to the question whether the person who made the tax return is chargeable to the devolved tax to which the tax return relates, or
  - (b) to the amount of devolved tax chargeable on the person who made the tax return.
- (2) But if a notice of enquiry is issued as a result of the amendment of a tax return under section 41 after an enquiry into the tax return has been completed, the enquiry is limited to—
  - (a) matters to which the amendment relates, and
  - (b) matters affected by the amendment.

#### *Amendment of tax return during enquiry*

#### **45 Amendment of tax return during enquiry to prevent loss of tax**

- (1) If, during the period when an enquiry into a tax return is in progress, WRA forms the opinion—
  - (a) that the amount stated in the tax return as the amount of devolved tax payable is insufficient, and
  - (b) that, unless the return is immediately amended, there is likely to be a loss of devolved tax,

WRA may by notice issued to the person who made the return amend it to make good the insufficiency.
- (2) If the enquiry is one that is limited by section 44(2) to matters arising from an amendment of the tax return, subsection (1) applies only so far as the insufficiency is attributable to the amendment.
- (3) Where a notice is issued under subsection (1), the person who made the tax return may no longer amend it under section 41.
- (4) The person who made the tax return must pay any amount, or additional amount, of devolved tax payable as a result of the amendment before the end of the period of 30 days beginning with the day on which notice of the amendment is issued.
- (5) For the purposes of this section and section 46 the period during which an enquiry into a tax return is in progress is the whole of the period—
  - (a) beginning with the day on which notice of enquiry into the tax return is issued, and
  - (b) ending with the day on which the enquiry is completed (see section 50).

#### *Referral during enquiry*

#### **46 Referral of questions to tribunal during enquiry**

- (1) At any time when an enquiry is in progress the person who made the tax return and WRA may jointly refer any question arising in connection with the subject-matter of the tax return to the tribunal.

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- (2) The tribunal must determine any question referred to it.
- (3) More than one referral may be made under this section in relation to an enquiry.

#### **47 Withdrawal of referral**

WRA or the person who made the tax return may withdraw a referral made under section 46.

#### **48 Effect of referral on enquiry**

- (1) While proceedings on a referral under section 46 are in progress in relation to an enquiry—
  - (a) no closure notice may be issued in relation to the enquiry (see section 50), and
  - (b) no application may be made for a direction to issue a closure notice (see section 51).
- (2) Proceedings on a referral are in progress where—
  - (a) a referral has been made and has not been withdrawn, and
  - (b) the question referred has not been finally determined.

#### **49 Effect of determination**

- (1) A determination under section 46 is binding on the parties to the referral in the same way, and to the same extent, as a decision on a preliminary issue in an appeal.
- (2) WRA must take the determination into account—
  - (a) in reaching conclusions on the enquiry, and
  - (b) in the formulation of any amendments of the tax return that may be required to give effect to those conclusions.
- (3) The question determined may not be reopened on an appeal, except to the extent that it could be reopened if it had been determined as a preliminary issue in an appeal.

#### *Completion of enquiry*

#### **50 Completion of enquiry**

- (1) An enquiry is completed when WRA issues a notice (a “closure notice”) to the person who made the tax return stating—
  - (a) that the enquiry is complete, and
  - (b) the conclusions reached in the enquiry.
- (2) A closure notice must either—
  - (a) state that in WRA’s opinion no amendment of the tax return is required, or
  - (b) make the amendments of the tax return required to give effect to WRA’s conclusions.
- (3) Where a closure notice is issued which makes amendments of a tax return, the person who made the tax return may no longer amend it under section 41.

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- (4) The person who made the tax return must pay an amount, or additional amount, of devolved tax chargeable as a result of an amendment made by a closure notice before the end of the period of 30 days beginning with the day on which the notice is issued.

**51 Direction to complete enquiry**

- (1) The person who made the tax return may make an application to the tribunal for a direction that a closure notice is to be issued within a specified period.
- (2) The tribunal must give a direction unless satisfied that WRA has reasonable grounds for not giving a closure notice within that period.