



# Tax Collection and Management (Wales) Act 2016

2016 anaw 6

## PART 5

### PENALTIES

#### CHAPTER 3

##### PENALTIES FOR INACCURACIES

VALID FROM 01/04/2018

##### *Potential lost revenue*

#### **134 Meaning of “potential lost revenue”**

In this Chapter, “potential lost revenue” has the meaning given by sections 135 to 138.

#### **Commencement Information**

**11** S. 134 in force at 1.4.2018 by [S.I. 2018/33, art. 3](#)

#### **135 Potential lost revenue: normal rule**

- (1) The “potential lost revenue” in respect of—
- (a) an inaccuracy in a document (including an inaccuracy attributable to a supply of false information or withholding of information), or
  - (b) a failure to notify an under-assessment,

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

is the additional amount payable in respect of a devolved tax [<sup>F1</sup>or tax credit] as a result of correcting the inaccuracy or under-assessment.

- (2) The reference in subsection (1) to the additional amount payable includes a reference to—
- (a) an amount payable to WRA having been erroneously paid by way of repayment of devolved tax, <sup>F2</sup>...
  - (b) an amount which would have been repayable by WRA had the inaccuracy or under-assessment not been corrected, [<sup>F3</sup>and
  - (c) an amount which WRA would have been required to set off against a person's liability to tax, or to pay to a person, had the inaccuracy or under-assessment not been corrected.]

#### Textual Amendments

- F1** Words in s. 135(1) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 32(2)**
- F2** Word in s. 135(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. 32(3)(a)**
- F3** S. 135(2)(c) and word inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 32(3)(b)**

#### Commencement Information

- I2** S. 135 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

### 136 Potential lost revenue: multiple errors

- (1) Where a person is liable to a penalty under section 129 in respect of more than one inaccuracy, and the calculation of potential lost revenue under section 135 in respect of each inaccuracy depends on the order in which they are corrected, careless inaccuracies are to be taken to be corrected before deliberate inaccuracies.
- (2) In calculating potential lost revenue where a person is liable to a penalty under section 129 in respect of one or more understatements in one or more documents relating to a tax period [<sup>F4</sup>, transaction or claim for tax credit], account must be taken of any overstatements in any document given by the person which relate to the same tax period [<sup>F5</sup>, transaction or claim for tax credit].
- (3) In subsection (2)—
  - (a) “understatement” means an inaccuracy that meets condition 1 in section 129, and
  - (b) “overstatement” means an inaccuracy that does not meet that condition.
- (4) For the purposes of subsection (2) overstatements are to be set against understatements in the following order—
  - (a) understatements in respect of which the person is not liable to a penalty,
  - (b) careless understatements, and
  - (c) deliberate understatements.
- (5) In calculating, for the purposes of a penalty under section 129, potential lost revenue in respect of a document given by or on behalf of a person, no account is to be taken of the fact that a potential loss of revenue from a person is or may be balanced by

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a potential overpayment by another person (except to the extent that an enactment requires a person's liability to a devolved tax to be adjusted by reference to another person's liability to a devolved tax).

#### Textual Amendments

- F4** Words in s. 136(2) substituted (1.4.2018) by virtue of [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 33(a)**
- F5** Words in s. 136(2) substituted (1.4.2018) by virtue of [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 33(b)**

#### Commencement Information

- I3** S. 136 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

### 137 Potential lost revenue: losses

- (1) Where an inaccuracy has the result that a loss is wrongly recorded for the purposes of a devolved tax and the loss has been wholly used to reduce the amount payable in respect of that tax, the potential lost revenue is calculated in accordance with section 135.
- (2) Where an inaccuracy has the result that a loss is wrongly recorded for the purposes of a devolved tax and the loss has not been wholly used to reduce the amount payable in respect of that tax, the potential lost revenue is—
- (a) the potential lost revenue calculated in accordance with section 135 in respect of any part of the loss that has been used to reduce the amount payable in respect of that tax, plus
  - (b) 10% of any part that has not.
- (3) Subsections (1) and (2) apply both—
- (a) to a case where no loss would have been recorded but for the inaccuracy, and
  - (b) to a case where a loss of a different amount would have been recorded (but in that case subsections (1) and (2) apply only to the difference between the amount recorded and the true amount).
- (4) The potential lost revenue in respect of a loss is nil where, because of the nature of the loss or the circumstances of the person chargeable to the devolved tax, there is no reasonable prospect of the loss being used to support a claim to reduce any person's liability to that tax.

#### Commencement Information

- I4** S. 137 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

### 138 Potential lost revenue: delayed tax

- (1) Where an inaccuracy resulted in an amount of devolved tax being declared later than it should have been (“the delayed tax”), the potential lost revenue is—
- (a) 5% of the delayed tax for each year of the delay;
  - (b) a percentage of the delayed tax, for each period of delay of less than a year, equating to 5% per year.

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(2) This section does not apply to a case to which section 137 applies.

**Commencement Information**

**I5** S. 138 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

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**Changes to legislation:**

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