

*Status: Point in time view as at 18/10/2017. This version of this schedule contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017, SCHEDULE 23. (See end of Document for details)*

## SCHEDULE 23

(as introduced by section 76)

### AMENDMENTS TO THE TAX COLLECTION AND MANAGEMENT (WALES) ACT 2016

VALID FROM 01/04/2018

1 TCMA is amended as follows.

VALID FROM 01/04/2018

2 In section 1 (overview of Act), after paragraph (b) insert—  
“(ba) Part 3A makes provision about counteracting avoidance arrangements in relation to devolved taxes;”.

VALID FROM 01/04/2018

3 In the Welsh text, in section 37 (overview of Part), in paragraph (f), for ““ymwared”” substitute “ryddhad”.

VALID FROM 01/04/2018

4 In Chapter 2 of Part 3, in the chapter heading omit ““TAXPAYER””.

VALID FROM 01/04/2018

5 In section 38 (duty to keep and preserve records)—  
(a) in subsection (1)—  
(i) in paragraph (a), for the words from ““make”” to the end substitute “demonstrate that the tax return is correct and complete,”;  
(ii) for paragraph (b) substitute—  
“(b) preserve any records that may be needed for that purpose.”;  
(b) in subsection (2)—  
(i) for ““day””, in both places where it occurs, substitute “date”;  
(ii) in paragraph (b), for the words from ““WRA”” to the end substitute “the enquiry period ends (see section 43(1A)).”;  
(c) for subsection (3) substitute—  
“(3) The ““relevant date”” is the sixth anniversary of whichever is the later of—  
(a) the filing date, and  
(b) if the return has been made and subsequently amended under section 41, the date on which notice of amendment is given under that section.

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- (3A) But if WRA specifies an earlier date under this subsection, the  
 ““relevant date”” means the date specified.”;
- (d) in subsection (4)—
- (i) for ““days”” substitute “ dates ”;
- (ii) for ““(3)(b)”” substitute “ (3A) ”;
- (e) for subsection (5) substitute—
- “(5) In this Chapter, ““records”” includes supporting documents  
 (for example, accounts, books, deeds, contracts, vouchers and  
 receipts).”;
- (f) omit subsections (6) to (8);
- (g) the section heading becomes “ Duty to keep and preserve records: cases  
 where a tax return is required ”.

VALID FROM 01/04/2018

6

After section 38 insert—

**“38A Duty to keep and preserve records: land transactions in respect of  
 which no tax return is required.**

- (1) This section applies in relation to a land transaction, other than a  
 transaction of a type listed in section 65(4) of LTТА, in respect of which  
 no tax return is required to be made.
- (2) The buyer in a land transaction in relation to which this section applies  
 must—
- (a) keep any records that may be needed to enable the buyer to  
 demonstrate that no tax return is required to be made, and
- (b) preserve any records that may be needed for that purpose.
- (3) The records must be preserved until the end of the relevant date.
- (4) The ““relevant date”” is the sixth anniversary of the effective date of the  
 transaction.
- (5) But if WRA specifies an earlier date under this subsection, the ““relevant  
 date”” is the date specified.
- (6) Different dates may be specified for different purposes under  
 subsection (5).
- (7) In subsection (4), ““effective date”” has the same meaning as in LTТА.”

VALID FROM 01/04/2018

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In section 39 (preservation of information etc.), after ““38”” insert “ or 38A ”.

8

After section 39 insert—

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### “39A Power to make regulations about records

The Welsh Ministers may by regulations provide that the records required to be kept and preserved under this Chapter do, or do not, include records of a description prescribed by the regulations.”

#### Commencement Information

**II** Sch. 23 para. 8 in force at 18.10.2017 by S.I. 2017/953, art. 2(j)

VALID FROM 01/04/2018

9 In section 40 (meaning of filing date), for ““this Act”” substitute “ the Welsh Tax Acts ”.

VALID FROM 01/04/2018

10 In section 41 (amendment of tax return by taxpayer), for subsection (3) substitute—

“(3) The relevant date is the filing date.

(3A) But if the Welsh Ministers prescribe another date in regulations under this subsection, the relevant date is that date.”

VALID FROM 01/04/2018

11 In section 42 (correction of tax return by WRA)—

(a) after subsection (4) insert—

“(4A) If, as a result of a correction made under this section, an amount, or an additional amount, of devolved tax is payable, the person who made the tax return must pay the amount, or additional amount, before the end of the period of 30 days beginning with the day on which notice of the correction is issued.”;

(b) in subsection (5)(a), after ““return”” insert “ under section 41 ”.

VALID FROM 01/04/2018

12 In section 43 (notice of enquiry)—

(a) in subsection (1), for the words from ““period”” to the end substitute “ enquiry period (but see subsection (1B)). ”;

(b) after subsection (1) insert—

“(1A) The enquiry period for a tax return is the period of 12 months beginning with the relevant date.

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(1B) But WRA may enquire into a tax return after the expiry of the enquiry period if—

- (a) the tax return is made in respect of a land transaction,
- (b) after the tax return is made, a further return is made in respect of the same land transaction,
- (c) WRA has issued a notice of enquiry into the further return, and
- (d) WRA believes it is necessary to enquire into the tax return mentioned in paragraph (a).”;
- (c) in subsection (2), at the beginning insert “ For the purposes of subsection (1A), ”;
- (d) in subsection (3), for the words ““in consequence of an amendment of the tax return under section 41”” substitute—
  - “(a) as a result of an amendment of the tax return under section 41, or
  - (b) by virtue of subsection (1B)”;
- (e) after subsection (3) insert—
  - “(4) In subsection (1B), ““further return”” means a further return made under LTTA.”

VALID FROM 01/04/2018

- 13 In section 45 (amendment of tax return during enquiry to prevent loss of tax)—
- (a) in subsection (1)(a), for ““payable”” substitute “ chargeable ”;
  - (b) in subsection (5), for ““section 46”” substitute “ sections 45A and 46 ”.

VALID FROM 01/04/2018

- 14 After section 45 insert—

**“45A Amendment of tax return by taxpayer when enquiry is in progress**

- (1) This section applies if a person who has made a tax return amends it during the period when an enquiry into the return is in progress.
- (2) For the purposes of section 44 (scope of enquiry), the amendment is to be treated as something contained in the tax return.
- (3) The amendment takes effect on the day on which the enquiry is completed unless WRA states in the closure notice issued under section 50 that—
  - (a) the amendment has been taken into account in formulating the amendments required to give effect to WRA's conclusions, or
  - (b) WRA's conclusion is that the amendment is incorrect.”

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- 15 In section 50 (completion of enquiry), in subsection (4), for ““chargeable””  
 substitute “ payable ”.

VALID FROM 01/04/2018

- 16 In section 52 (determination of tax chargeable if no tax return made), in  
 subsection (5), for ““as a result of ”” substitute “ in accordance with ”.

VALID FROM 01/04/2018

- 17 In the Welsh text, in section 54 (assessment where loss of tax), in paragraph (c),  
 for ““ymwared”” substitute “ rhyddhad ”.

VALID FROM 01/04/2018

- 18 In section 58 (conditions for making WRA assessments)—
- (a) in subsection (1)(a)—
    - (i) for ““two”” substitute “ three ”;
    - (ii) for ““(2) and (3)”” substitute “ (2), (3) and (3A) ”;
  - (b) for subsection (3) substitute—
 

“(3) The second case is where—

    - (a) a tax return has been made,
    - (b) WRA has ceased to be entitled to issue a notice of enquiry into the return, or has completed its enquiries into it, and
    - (c) at the time when WRA ceased to be so entitled or completed those enquiries, it could not reasonably have been expected to be aware of the situation mentioned in section 54 or 55 on the basis of information made available to WRA before that time.”;
  - (c) after subsection (3) insert—
 

“(3A) The third case is where WRA makes an adjustment under the general anti-avoidance rule (see Part 3A, in particular section 81E).”;
  - (d) in subsection (4)—
    - (i) after ““made””, where it first occurs, insert “ in the first or second case ”;
    - (ii) in paragraph (a), for ““the tax return”” substitute “ a tax return ”.

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- 19 In section 59 (time limits for WRA assessments), in subsection (7), in the definition of ““relevant date””—
- (a) before paragraph (a), insert—
    - “(za) if a tax return has not been made, the date by which WRA believes a tax return was required to be made,”;
  - (b) in paragraph (a), for ““the tax return””, in the first place where it occurs, substitute “ a tax return ”.

VALID FROM 01/04/2018

- 20 In section 61 (assessment procedure), omit subsection (3).

VALID FROM 01/04/2018

- 21 In the Welsh text, in the heading to Chapter 7 of Part 3 (relief in case of excessive assessment or overpaid tax) for ““YMWARED”” substitute “ RHYDDHAD ”.

VALID FROM 01/04/2018

- 22 In the Welsh text, in section 62 (claims for relief in case of double assessment)—
- (a) for ““ymwared”” substitute “ ryddhad ”;
  - (b) in the section heading, for ““ymwared”” substitute “ rhyddhad ”.

VALID FROM 01/04/2018

- 23 In section 63 (claims for relief for overpaid tax etc.)—
- (a) in subsection (1)(b), before ““determination”” insert “ WRA ”;
  - (b) in the Welsh text, in subsection (2), for ““ ei ryddhau ohono”” substitute “ ollwng y swm ”;
  - (c) in subsection (3)—
    - (i) in the Welsh text, for ““ymwared”” substitute “ rhyddhad ”;
    - (ii) for ““this Act”” substitute “ the Welsh Tax Acts ”;
  - (d) in subsection (4), for ““64”” substitute “ 63A ”;
  - (e) in the Welsh text, in the section heading, for ““ymwared”” substitute “ rhyddhad ”.

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- 24 After section 63 insert—

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**“63A Claim for relief in respect of land transaction tax: regulations ceasing to have effect**

- (1) If—
  - (a) by virtue of section 26(2) of LTТА the tax bands and tax rates specified in rejected regulations apply to a chargeable transaction, and
  - (b) in consequence, the amount of land transaction tax chargeable in respect of the transaction is greater than the amount that would otherwise have been chargeable,

the buyer in the transaction may make a claim to WRA for the discharge or repayment of the amount of land transaction tax that would not have been chargeable had the rejected regulations not been made.
- (2) Where WRA decides to give effect to a claim under subsection (1) it must also discharge or repay any penalty or interest related to the amount of tax discharged or repaid.
- (3) Any penalty or interest is related to an amount of tax for this purpose to the extent that it—
  - (a) is attributable to the amount, and
  - (b) would not have been incurred but for the application to the transaction in question of the tax bands and tax rates specified in the rejected regulations.
- (4) A claim under subsection (1) must be made before the end of the period of 12 months beginning with the later of—
  - (a) the date on which the rejected regulations cease to have effect, or
  - (b) the filing date for a tax return containing an assessment of tax chargeable calculated using the tax bands and tax rates specified in the rejected regulations.
- (5) A claim under subsection (1) is to be treated as if it were an amendment made under section 41 to the assessment of tax chargeable contained in a tax return.
- (6) In this section—
 

“chargeable transaction” (“*trafodiad trethadwy*”) has the meaning given by section 17 of LTТА;

“rejected regulations” (“*rheoliadau a wrthodir*”) has the meaning given by section 26(1)(a) of that Act.”

VALID FROM 01/04/2018

- 25 (1) In section 64 (disallowing claims for relief due to unjustified enrichment)—
  - (a) after ““63”” insert “ or 63A ”;
  - (b) in the Welsh text—
    - (i) for ““ymwared”” substitute “ ryddhad ”;
    - (ii) for “ryddhau'r” substitute “ ollwng y ”.

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(2) The section heading becomes “ Disallowing claims for relief due to unjustified enrichment ”.

VALID FROM 01/04/2018

- 26 In the Welsh text, in section 65 (unjustified enrichment: further provision)—
- (a) in subsection (1)(a), for “y byddai person o'r fath i'w ryddhau ohono” substitute “i'w ollwng”;
  - (b) in subsection (2)(a), for ““ei ryddhau ohono”” substitute “ ollwng y swm ”.

VALID FROM 01/04/2018

- 27 In section 66 (unjustified enrichment: reimbursement arrangements)—
- (a) in subsection (2), after ““63”” insert “ or 63A ”;
  - (b) in the Welsh text, in subsection (2)(a), for ““ryddhau”” substitute “ ollwng ”.

VALID FROM 01/04/2018

- 28 In section 67 (cases in which WRA need not give effect to a claim)—
- (a) in the Welsh text, in subsection (1), for ““ymwared”” substitute “ ryddhad ”;
  - (b) in subsection (2)(a), after ““claim”” insert “ or election ”;
  - (c) in subsection (2)(b), after ““claim”” insert “ or election ”;
  - (d) after subsection (2) insert—
 

“(2A) In subsection (2), “election” means an election made under paragraph 3, 5 or 12 of Schedule 15 to LTTA (social housing reliefs).”;
  - (e) in the Welsh text, in subsection (3), for ““ymwared”” substitute “ rhyddhad ”;
  - (f) in the Welsh text, in subsection (4), for ““ymwared”” substitute “ rhyddhad ” (in both places where it appears).

VALID FROM 01/04/2018

- 29 In section 68 (making claims)—
- (a) in subsection (1), for ““or 63”” substitute “ , 63 or 63A ”;
  - (b) in the Welsh text, in subsection (3)(a) for ““ryddhau”” substitute “ ollwng ”.



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30	In section 69 (duty to keep and preserve records), in subsection (1), for ““or 63”” substitute “ , 63 or 63A ”.
VALID FROM 01/04/2018	
31	In section 71 (amendment of claim by claimant), in subsection (1), for ““or 63”” substitute “ , 63 or 63A ”.
VALID FROM 01/04/2018	
32	In the Welsh text, in section 73 (giving effect to claims and amendments), in subsection (1)(b) for “ryddhau'r hawlydd o dreth ddatganoledig neu ei had-dalu iddo” substitute “ollwng y swm o dreth ddatganoledig neu ei ad-dalu i'r hawlydd”.
VALID FROM 01/04/2018	
33	In the Welsh text, in section 77 (giving effect to amendments under section 75), in subsection (1)(b) for “ryddhau'r hawlydd ohoni” substitute “ ei gollwng ”.
VALID FROM 01/04/2018	
34	<p>In section 81 (contract settlements)—</p> <p>(a) after subsection (1) insert—</p> <p>“(1A) In section 63A(1), the reference to repayment of an amount of land transaction tax includes repayment of an amount paid by a person under a contract settlement in connection with that amount of land transaction tax.”;</p> <p>(b) in subsection (4), after ““63”” insert “ or 63A ”.</p>
VALID FROM 25/01/2018	
35	<p>In section 90 (requiring information and documents in relation to a group of undertakings)—</p> <p>(a) in subsection (1) for ““another undertaking (a ””subsidiary undertaking”)” substitute “ a subsidiary undertaking ”;</p> <p>(b) in subsection (4) for the words from ““section 1162”” to the end substitute “ sections 1161 and 1162 of, and Schedule 7 to, the Companies Act 2006 (c. 46), but in the application of this section in relation to land transaction tax, section 1161(1)(b) of that 2006 Act has effect as if the words ““carrying on a trade or business, with or without a view to profit”” were omitted. ”</p>

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VALID FROM 25/01/2018

- 36 In section 95 (complying with an information notice), in subsection (1)(a) after ““notice”” insert “ (or such longer period as may be agreed to by WRA and the person) ”.

VALID FROM 25/01/2018

- 37 In the Welsh text, in section 100 (taxpayer notices following a tax return), in subsection (5)(c), for ““ymwared”” substitute “ rhyddhad ”.

VALID FROM 25/01/2018

- 38 In section 116(1) (no review or appeal of tribunal approvals), for ““the Tribunals, Courts and Enforcement Act 2007 (c. 15)”” substitute “ TCEA ”.

VALID FROM 01/04/2018

- 39 In section 118 (penalty for failure to make tax return on or before filing date), after ““A person”” insert “ who is required to make a tax return ”.

VALID FROM 01/04/2018

- 40 In section 119 (penalty for failure to make tax return within 6 months from filing date), in subsection (1), after ““A person”” insert “ who is required to make a tax return ”.

VALID FROM 01/04/2018

- 41 In section 120 (penalty for failure to make tax return within 12 months from filing date)—
- (a) in subsection (1), after ““A person”” insert “ who is required to make a tax return ”, and
  - (b) in subsection (2), for the words from ““the greater of”” to the end substitute “—
    - (a) £300, or
    - (b) a greater amount, not exceeding 95% of the amount of devolved tax to which the person would have been liable if the tax return had been made.”

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- 42 For section 122 substitute—

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### “122 Penalty for failure to pay tax on time

- (1) A person is liable to a penalty if the person has failed to pay an amount of devolved tax on or before the penalty date in respect of that amount.
- (2) The penalty is 5% of the amount of unpaid tax.
- (3) In this section and in section 122A, the penalty date in respect of an amount of devolved tax specified in column 3 of Table A1 is the date specified in column 4.

TABLE A1

Item	Devolved Tax	Amount of Tax	Penalty date
1	Land transaction tax	Amount (or additional amount) payable as a result of a tax return made by the buyer in a land transaction (unless the amount falls within item 8 or 9).	The date falling 30 days after the filing date for the return.
2	Landfill disposals tax	Amount stated in a tax return.	The date falling 30 days after the filing date for the return.
3	Any devolved tax	Amount payable as a result of a WRA determination made in place of a tax return.	The date falling 30 days after the date by which WRA believes the tax return was required to be made.
4	Any devolved tax	Amount payable as a result of a WRA assessment made in place of a tax return (unless the amount falls within item 7).	The date falling 30 days after the date by which WRA believes the tax return was required to be made.
5	Any devolved tax	Amount (or additional amount) payable as a result of a WRA assessment made where a tax return has been made.	The date falling 30 days after the date by which the amount (or additional amount) is required to be paid.
6	Any devolved tax	Amount (or additional amount)	The date falling 30 days after the

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		payable as a result of an amendment or a correction to a tax return.	date by which the amount (or additional amount) is required to be paid.
7	Any devolved tax	Amount (or additional amount) payable as a result of a WRA assessment made for the purposes of making an adjustment to counteract a tax advantage (see Part 3A) in a case where a tax return which WRA has reason to believe was required to be made has not in fact been made.	The date falling 30 days after the date by which the amount (or additional amount) is required to be paid.
8	Land transaction tax	Where a deferral request is made under section 58 of LTТА, a deferred amount required to be paid by virtue of section 61(1) of that Act.	The date falling 30 days after the date by which the deferred amount is required to be paid.
9	Land transaction tax	Where a deferral request is made under section 58 of LTТА, a refused amount within the meaning of section 61(2)(a) of that Act.	The date falling 30 days after the date by which the refused amount is required to be paid.
10	Landfill disposals tax	Amount charged by a charging notice issued under section 48 or 49 of LDТА.	The date falling 30 days after the date by which the amount is required to be paid.
11	Any devolved tax	A postponed amount within the meaning of section 181G(2).	The date falling 30 days after the date on which the postponement period ends (see section 181G as to the calculation

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	of postponement periods).
	<p>(4) In this section, “deferred amount” has the same meaning as in section 58(6)(a) of LTTA.</p> <p>(5) The Welsh Ministers may by regulations modify Table A1.</p>
	<b>122A Further penalties for continuing failure to pay devolved tax</b>
	<p>(1) This section applies where a person is liable to a penalty under section 122 in respect of a failure to pay an amount of devolved tax on or before the penalty date for that amount.</p> <p>(2) If any of the amount remains unpaid after the end of the period of 6 months beginning with the day falling 30 days before the penalty date, the person is liable to a further penalty.</p> <p>(3) The further penalty is 5% of the amount that remains unpaid.</p> <p>(4) If any of the amount remains unpaid after the end of the period of 12 months beginning with the day falling 30 days before the penalty date, the person is liable to a second further penalty.</p> <p>(5) The second further penalty is 5% of the amount that remains unpaid.”</p>
	VALID FROM 01/04/2018
43	Omit sections 123 and 124.
	VALID FROM 01/04/2018
44	<p>In section 125 (special reduction in penalty), after subsection (2) insert—</p> <p>“(2A) But “special circumstances” may include the fact that WRA has agreed that a person may pay an amount of devolved tax in instalments over an agreed period.”</p>
	VALID FROM 01/04/2018
45	In section 126 (reasonable excuse for failure to make tax return or pay tax), in subsection (2), after “section 122” insert “ or 122A ”.
	VALID FROM 01/04/2018
46	<p>In section 127 (assessment of penalties)—</p> <p>(a) in subsection (5), after “section “122”” insert “ or 122A ”, and</p> <p>(b) in subsection (6), after “section 122”” insert “ or 122A ”.</p>

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- 47 In section 128 (time limit for assessment of penalties under Chapter 2)—
- (a) in subsection (1), omit the words ““in respect of any amount””;
  - (b) in subsection (4), for ““122(2)”” substitute “ 122(3) ”;
  - (c) in subsection (5), omit the words ““the later of the following periods””.

VALID FROM 01/04/2018

- 48 In section 130 (amount of penalty for inaccuracy in document given to WRA)—
- (a) in subsection (1), after ““for a deliberate inaccuracy is”” insert “ an amount not exceeding ”, and
  - (b) in subsection (2), after ““for a careless inaccuracy is”” insert “ an amount not exceeding ”.

VALID FROM 01/04/2018

- 49 In section 132 (penalty for deliberate inaccuracy in document given to WRA by another person), in subsection (4), after ““under this section is”” insert “ an amount not exceeding ”.

VALID FROM 01/04/2018

- 50 In section 133 (penalty for failure to notify under-assessment or under-determination), in subsection (3), after ““under this section is”” insert “ an amount not exceeding ”.

VALID FROM 01/04/2018

- 51 In section 141 (assessment of penalties under Chapter 3), in subsection (5), omit the words ““the later of the following periods””.

VALID FROM 01/04/2018

- 52 In the Welsh text, in section 142 (interpretation of Chapter 3), in paragraph (c), for ““ymwared”” substitute “ ryddhad ” (in both places it appears).

VALID FROM 01/04/2018

- 53 In section 143 (penalty for failure to keep and preserve records), in subsection (1), after ““38”” insert “ , 38A ”.

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- 54 In section 144 (reasonable excuse for failure to keep and preserve records), in subsection (1), after ““38”” insert “ , 38A ”.

VALID FROM 01/04/2018

- 55 In section 145 (assessment of penalties under section 143), in subsection (2), after ““38”” insert “ , 38A ”.

VALID FROM 25/01/2018

- 56 After section 154 (payment of penalties) insert—
- “154A Liability of personal representatives**
- (1) If a person liable to a penalty (““P””) has died, any penalty that could have been assessed on P may be assessed on the personal representatives of P.
- (2) Any penalty assessed accordingly is to be paid out of P's estate.”

VALID FROM 25/01/2018

- 57 Omit the italic cross-heading immediately preceding section 157.

VALID FROM 25/01/2018

- 58 For sections 157 and 158 substitute—
- “157 Late payment interest on devolved taxes**
- (1) This section applies to an amount of devolved tax—
- (a) stated in a tax return as—
- (i) the tax chargeable, or
- (ii) if the tax return is a further return made by the buyer in a land transaction, the land transaction tax (or additional land transaction tax) payable;
- (b) payable—
- (i) as a result of an amendment to a tax return under section 41, 45 or 50;
- (ii) as a result of a correction to a tax return under section 42;
- (iii) in accordance with an assessment made in addition to a tax return under section 54 or 55, or
- (c) payable in accordance with—
- (i) a determination under section 52, or
- (ii) an assessment under section 54 or 55,

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made in place of a tax return which was required to be made.

- (2) If the amount is not paid before the late payment interest start date, the amount carries interest (referred to in this Part as “late payment interest”) at the late payment interest rate for the period—
  - (a) beginning with the late payment interest start date, and
  - (b) ending with the date of payment.
- (3) The late payment interest start date is —
  - (a) in the case of an amount falling within subsection (1)(a) or (b), the date after the filing date for the tax return;
  - (b) in the case of an amount falling within subsection (1)(c) the date after the filing date for the tax return which was required to be made.
- (4) But where section 160 applies the late payment interest start date is the date specified in that section.

#### **157A Late payment interest on penalties**

- (1) This section applies to an amount of penalty required to be paid under Part 5 of this Act.
- (2) If the amount is not paid on or before the date by which it is required to be paid, the amount carries interest (referred to in this Part as “late payment interest”) at the late payment interest rate for the period—
  - (a) beginning with the following day, and
  - (b) ending with the date of payment.
- (3) But where section 160 applies, the late payment interest start date is the date specified in that section.

#### **158 Late payment interest: supplementary**

- (1) This section applies for the purposes of sections 157 and 157A.
- (2) Late payment interest is not payable on late payment interest.
- (3) A late payment interest start date may be a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882 (c. 61).
- (4) The date of payment, in relation to an amount, includes the date on which the amount is set off against an amount payable by WRA.
- (5) “Late payment interest rate” has the meaning given by section 163(1).”

VALID FROM 25/01/2018



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VALID FROM 01/04/2018

- 60 In section 169 (proceedings in magistrates' court), after subsection (5) insert—
- “(5A) Where a relevant amount includes an amount of land transaction tax in respect of which WRA has agreed to defer payment, any deferral period in respect of that amount (as determined under Chapter 3 of Part 6 of LTTA) must be ignored in calculating the period of 12 months referred to in subsection (4) or (5).
- (5B) Where a relevant amount includes an amount treated as a postponed amount by virtue of section 181G, any postponement period in respect of that amount (as determined under that section) must be ignored in calculating the period of 12 months referred to in subsection (4) or (5).”

VALID FROM 25/01/2018

- 61 In section 170(1) (enforcement by taking control of goods), for ““the Tribunals, Courts and Enforcement Act 2007 (c. 15)”” substitute “ TCEA ”.

VALID FROM 01/04/2018

- 62 In section 172(2) (list of appealable decisions), after paragraph (e) insert—
- “(f) a decision to issue a notice under paragraph 14 of Schedule 16 to LTTA (recovery of group relief: notice requiring payment by another group company or controlling director);
- (g) a decision to issue a notice under paragraph 9 of Schedule 17 to that Act (recovery of reconstruction or acquisition relief: notice requiring payment by another group company or controlling director).”

VALID FROM 01/04/2018

- 63 After section 181 insert—

### “CHAPTER 3A

#### PAYMENT AND RECOVERY OF DEVOLVED TAX SUBJECT TO REVIEW OR APPEAL

##### **181A Review or appeal not to affect requirement to pay**

The fact that a person to whom an appealable decision applies has—

- (a) requested a review of the decision, or
- (b) appealed against it,

does not affect any requirement on the person to pay an amount of devolved tax (and interest on that amount).

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### **181B Postponement requests**

- (1) This section applies where a person—
  - (a) gives a notice of request to review an appealable decision, or
  - (b) makes an appeal against such a decision.
- (2) If the person thinks that an excessive amount of devolved tax has been charged on the person in consequence of the decision, the person may make a request to WRA to postpone the recovery of the amount of devolved tax that the person thinks is excessive (and interest on that amount) (a “postponement request”).
- (3) A postponement request must specify—
  - (a) the amount of devolved tax in respect of which the request is made, and
  - (b) the reasons why the person making the request thinks the amount is excessive.
- (4) If WRA thinks that the person making the postponement request has reasonable grounds for thinking that the amount of devolved tax to which the request relates is excessive, WRA may grant the postponement request.
- (5) If WRA thinks that it is only in respect of part of the amount that the person has reasonable grounds for thinking the amount is excessive it may grant the request in respect of that part only.
- (6) WRA may make the grant of the postponement request (in whole or in part) conditional on the provision of adequate security.
- (7) WRA must issue a notice of its decision to the person who made the postponement request.

### **181C Time limit for making a postponement request**

- (1) A postponement request connected to a review must be made by giving notice of the request to WRA before the end of the period specified in section 174 for requesting the review.
- (2) But if a late request for a review is made under section 175, the postponement request must be made at the same time as the late request.
- (3) A postponement request connected to an appeal must be made by giving notice to WRA before the end of the period specified in section 179 for making the appeal.
- (4) But if the tribunal gives permission under section 180 for a late appeal to be made, the postponement request must be made at the same time as permission is sought for the late appeal.
- (5) Subsections (1) and (3) are subject to section 181D.

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### **181D Late postponement request**

(1) Where a person—

- (a) requests a review before the end of the period specified in section 174, and
- (b) makes a postponement request connected to the review after the end of that period,

WRA may consider the postponement request only if it is satisfied that the conditions in subsection (3) are met.

(2) Where a person—

- (a) makes an appeal before the end of the period specified in section 179, and
- (b) makes a postponement request connected to the appeal after the end of that period,

WRA may consider the postponement request only if it is satisfied that the conditions in subsection (3) are met.

(3) The conditions are that the person making the postponement request —

- (a) had a reasonable excuse for not making the request during the period specified in section 174 or 179, as the case may be, and
- (b) subsequently made the request without unreasonable delay.

### **181E Application for tribunal review of decision on a postponement request**

(1) A person who makes a postponement request may, within the period of 30 days beginning with the date WRA issues the notice of its decision on the request, apply to the tribunal for a review of WRA's decision.

(2) The tribunal may determine that WRA's decision is to be—

- (a) affirmed,
- (b) cancelled, or
- (c) replaced by another decision that WRA could have made.

### **181F Variation after postponement request granted**

(1) This section applies where—

- (a) a postponement request has been granted by WRA or the tribunal,
- (b) there is a subsequent change in circumstances, and
- (c) in consequence of that change, either WRA or the person who made the request thinks—

- (i) that the amount of devolved tax in respect of which the request was granted should be varied;
- (ii) where the grant of the request is conditional on the provision of adequate security, that the condition should be varied.

(2) Either party may seek the agreement of the other by issuing a notice to the other party specifying the proposed variation.

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- (3) If an agreement is reached, WRA must issue a notice to the person confirming the variation.
- (4) The variation has effect from the date WRA issues the notice under subsection (3).
- (5) If no agreement is reached within the period of 21 days beginning with the date the notice is issued under subsection (2), either party may apply to the tribunal for a determination.
- (6) The tribunal may determine such an application by—
  - (a) confirming the proposed variation,
  - (b) refusing the proposed variation, or
  - (c) making such other variation as the tribunal thinks appropriate.

### **181G Effect of postponement**

- (1) WRA must not take any action to recover a postponed amount during the postponement period.
- (2) A postponed amount means—
  - (a) an amount of devolved tax specified in a postponement request (unless the request is a late request made in accordance with section 181C(2) or (4) or section 181D), or
  - (b) an amount of devolved tax in respect of which a postponement request is granted by WRA or the tribunal.
- (3) In the case of a postponed amount falling within subsection (2)(a), the postponement period for the amount—
  - (a) begins with the day on which the postponement request is made, and
  - (b) ends—
    - (i) if the request is granted, with the day on which it is granted,
    - (ii) if the request is not granted and no application is made to the tribunal for a review of that decision, with the first day after the end of the period for making such an application, or
    - (iii) if the request is not granted and an application is made to the tribunal for a review of that decision, with the day on which the tribunal makes its determination.
- (4) In the case of a postponed amount falling within subsection (2)(b) the postponement period for the amount—
  - (a) begins with the date on which the postponement request is granted by WRA or the tribunal, and
  - (b) ends—
    - (i) if the postponement request was made in connection with a review of an appealable decision, with the day on which WRA issues a notice of the conclusions of the review, or

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(ii) if the postponement request was made in connection with an appeal against an appealable decision, with the day on which the tribunal determines the appeal.

(5) Where a postponed amount falling within subsection (2)(b) is varied under section 181F, the varied amount is to be treated as the postponed amount from the date of the variation.

(6) In this section, references to a postponement request being granted include cases where the request is granted in part.

### **181H Postponement requests relating to further appeals**

(1) Where a person makes (in accordance with TCEA) a further appeal against the tribunal's determination of an appeal against an appealable decision, sections 181B, 181C, 181E, 181F and 181G apply to the further appeal as they apply to an appeal, but as if the following modifications were made.

(2) Section 181B has effect as if for subsections (3), (4) and (5), there were substituted—

“(3) A postponement request must specify—

- (a) the amount of devolved tax in respect of which the request is made,
- (b) the reasons why the person making the request thinks the amount is excessive, and
- (c) the reasons why the person thinks that recovery of the amount (and interest on the amount) would cause the person serious financial hardship.

(4) If WRA—

- (a) thinks that the person making the postponement request has reasonable grounds for thinking that the amount of devolved tax to which the request relates is excessive, and
- (b) has reason to believe that recovery of the amount (and interest on the amount) would cause the person serious financial hardship,

WRA may grant the request.

(5) But if WRA—

- (a) thinks that it is only in respect of part of the amount that the person has reasonable grounds for thinking that the amount is excessive, or
- (b) has reason to believe that it is only in respect of part of the amount (and interest on that part) that recovery would cause the person serious financial hardship,

WRA may grant the request in respect of such part of the amount as it thinks appropriate.”

(3) Section 181C has effect as if—

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- (a) in subsection (3), for ““before the end of the period specified in section 179 for making the appeal”” there were substituted “ or before the day on which the further appeal is made ”, and
  - (b) subsection (4) were omitted.
- (4) Section 181F has effect as if, in subsection (1), for paragraph (a) there were substituted—
- “(a) a postponement request has been granted by—
    - (i) the Upper Tribunal where the request relates to a further appeal made under section 11 of TCEA, or
    - (ii) the relevant appellate court specified under subsection (11) of section 13 of TCEA where the request relates to a further appeal made under that section,”
- (5) Section 181G has effect as if—
- (a) in subsection (2)(a) the words ““(unless the request is a late request made in accordance with section 181C(2) or (4) or section 181D)”” were omitted, and
  - (b) for subsection (4)(b) there were substituted—
    - “(b) ends on the day on which the further appeal is determined.”.
- (6) The references in sections 181E(1) and (2), 181F(5) and (6) and 181G(2), (3) and (4) to ““the tribunal”” are to be read as references to—
- (a) the Upper Tribunal in a case where the further appeal is made under section 11 of TCEA, or
  - (b) the relevant appellate court specified under subsection (11) of section 13 of TCEA in a case where the further appeal is made under that section.

#### **181I No further appeal or review of tribunal decisions relating to postponement requests**

- (1) In section 11(5) of TCEA (decisions excluded from right of appeal to Upper Tribunal ), after paragraph (cb) (as inserted by section 116(1) of this Act) insert—
  - “(cc) any decision of the First-tier Tribunal under section 181E or 181F of that Act (appeals relating to postponement requests),”.
- (2) In section 13(8) of TCEA (decisions excluded from right of appeal to Court of Appeal etc.), after paragraph (bb) (as inserted by section 116(2) of this Act) insert—
  - “(bc) any decision of the Upper Tribunal under section 181E or 181F of that Act (appeals relating to postponement requests),”.

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VALID FROM 25/01/2018

64 In section 182 (payment of penalties in the event of a review or appeal), in subsection (3) after ““176(5)”” insert “ , (6) ”.

VALID FROM 01/04/2018

65 After section 183 insert—

**“183A Suspension of repayment pending further appeal**

(1) This section applies where—

- (a) on an appeal against an appealable decision, the tribunal determines that an amount of devolved tax paid by a person is to be repaid by WRA, and
- (b) WRA applies under section 11(4) or 13(4) of TCEA for permission to make a further appeal.

(2) When applying for permission WRA may request the tribunal's permission to postpone repayment of the amount until—

- (a) the further appeal is determined, or
- (b) WRA obtains adequate security for the amount.

(3) The relevant tribunal or court must grant WRA's request if it—

- (a) gives permission for the further appeal to proceed, and
- (b) thinks that granting the request is necessary to protect the revenue.

(4) If permission to make a further appeal is not given—

- (a) by the First-tier Tribunal on an application under section 11(4) of TCEA, or
- (b) by the Upper Tribunal on an application under section 13(4)(a) of that Act,

the fact that WRA made a request under subsection (2) when making the application for permission does not prevent WRA from making another request under that subsection if WRA applies for permission to make a further appeal under section 11(4)(b) or 13(4)(b) of TCEA.

(5) But otherwise, the decision of the relevant tribunal or court on a request under subsection (2) is final.

(6) In this section—

““relevant tribunal or court”” (“*tribiwnlys neu lys berthnasol*”) means whichever of the following WRA applies to for permission to make a further appeal—

- (a) the First-tier Tribunal;
- (b) the Upper Tribunal;
- (c) the relevant appellate court;

““relevant appellate court”” (“*llys apeliadol perthnasol*”) means the court specified as such under section 13(11) of TCEA.”



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VALID FROM 01/04/2018

- 66 Before section 188 (power to make consequential provision etc.) insert—
- Crown application for the purposes of Land Transaction Tax**
- “187A(1) In so far as the following provisions of this Act apply to land transaction tax, they bind the Crown—
- (a) Part 3;
  - (b) Part 4 (other than Chapter 6);
  - (c) Part 6 (other than sections 157A, 160 and 161(2)(b));
  - (d) Part 7 (other than sections 168, 169 and 170);
  - (e) Part 8 (other than sections 172(1)(d) and (e), (3)(b) and (c), (4), (5) and (6), 182 and 183);
  - (f) sections 190 and 191.
- (2) But Part 4 does not apply to Her Majesty in Her private capacity (within the meaning of section 38(3) of the Crown Proceedings Act 1947 (c. 44)).”

VALID FROM 01/04/2018

- 67 In section 189 (regulations), in subsection (2), after ““18(2)”” insert “ 122(5), ”.

VALID FROM 25/01/2018

- 68 In section 190 (issue of notices by WRA)—
- (a) in subsection (1), for ““this Act, or of regulations made under it,”” substitute “ the Welsh Tax Acts, or of regulations made under them, ”;
  - (b) after subsection (1) insert—
 

“(1A) A notice must specify the day on which it is issued.

(1B) If the person to whom the notice is issued cannot reasonably ascertain the effect of the notice because of a mistake in it or omission from it (including a mistake or omission relating to the person's name), the notice is to be treated as not having been issued.”

VALID FROM 25/01/2018

- 69 In section 191 (giving notices and other documents to WRA)—
- (a) in subsection (1)—
    - (i) for ““this Act, or of regulations made under it”” substitute “ the Welsh Tax Acts, or of regulations made under them, ”;
    - (ii) after ““person”” insert “ to make a tax return or ”;
  - (b) for subsection (2) substitute—



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- “(2) The tax return, notice or other document must—
- (a) be in such form,
  - (b) contain such information,
  - (c) be accompanied by such other documents, and
  - (d) be given in such manner,
- as may be specified by WRA.”;
- (c) in subsection (3), for ““this Act”” substitute “ the Welsh Tax Acts ”.

VALID FROM 25/01/2018

- 70 In section 192(2) (interpretation), in the appropriate places, insert—
- “““buyer”” (“*prynwr*”) has the same meaning as in LTТА;”
- “““land transaction”” (“*trafodiad tir*”) has the same meaning as in LTТА;”
- “““LTТА”” (“*DTTT*”) means the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 0);”
- “““TCEA”” (“*DTLIG*”) means the Tribunals, Courts and Enforcement Act 2007 (c. 15);”
- “““the Welsh Tax Acts”” (“*Deddfau Trethi Cymru*”) means—
- (a) this Act, and
  - (b) LTТА.”

VALID FROM 01/04/2018

- 71 In section 193 (index of defined expressions), in Table 1, at the appropriate places insert the defined expressions in the following table.

Arrangement (in relation to the general antiavoidance rule) (“ <i>trefniant</i> ”)	section 81B(3)A
Artificial (in relation to the general antiavoidance rule) (“ <i>artiffisial</i> ”)	section 81C
Buyer (“ <i>prynwr</i> ”)	section 192(2)
Final counteraction notice (“ <i>hysbysiad gwrthweithio terfynol</i> ”)	section 81G
General anti-avoidance rule (“ <i>rheol gwrthweithio osgoi trethi cyffredinol</i> ”)	section 81A(2)
Land transaction (“ <i>trafodiad tir</i> ”)	section 192(2)
LTТА (“ <i>DTTT</i> ”)	section 192(2)

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Proposed counteraction notice (““hysbysiad gwrthweithio arfaethedig””)	section 81F
Tax advantage (““mantais drethiannol””)	section 81D
Tax avoidance arrangement (““trefniant osgoi trethi””)	section 81B
TCEA (““DTLIG””)	section 192(2)
Welsh Tax Acts (““Deddfau Trethi Cymru””)	section 192(2)

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