

WALES ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS (AND SCHEDULES)

Part 2: Finance

Section 11: Amendments to the definition of a Scottish taxpayer

118. *Section 11* introduces a number of amendments to the definition of a Scottish taxpayer in the Scotland Act 1998 (“the 1998 Act”). There are broadly two types of changes being made. The first is a series of amendments required as a consequence of the introduction of the Welsh rate of income tax, to ensure that an individual cannot be a Welsh and a Scottish taxpayer in the same year. The second relate to areas where improvements have been identified to the definition to add clarity – these are included in the Welsh rates provisions and parallel amendments are being made to the Scottish provisions so that the terminology used across the two definitions is aligned as far as possible. The former will become operative at the same time as the Welsh rate provisions and the latter will become operative at the same time as the Scottish rate provisions.
119. *Subsections (3) and (4)* make minor changes to the wording in section 80D of the 1998 Act to use the same wording as is being inserted in the equivalent section 116E of GOWA 2006 (inserted by section 8). These changes will be implemented at the time when the Scottish rate is brought into effect.
120. *Subsections (5) and (6)* set out how the rules relating to Scottish taxpayers apply to individuals who have been a Welsh parliamentarian for some or all of a tax year.
121. *Subsection (5)* inserts new subsections (4A) and (4B) into section 80D. These set out that the normal Scottish taxpayer rules do not apply to individuals who have been a Welsh parliamentarian in the tax year and define what is meant by a Welsh parliamentarian by reference to section 116E(4) of GOWA 2006 (inserted by section 8).
122. *Subsection (6)* inserts new section 80DA into the 1998 Act. This is the equivalent provision to section 116F of GOWA 2006 and sets out the circumstances in which a Welsh parliamentarian can be a Scottish taxpayer for a year.
123. The changes made by *subsections (5) and (6)* mean that an individual who is a Welsh parliamentarian in a tax year will be a Welsh taxpayer (and not a Scottish taxpayer) unless they are also a Scottish parliamentarian in the same tax year. If the individual is both a Welsh parliamentarian and a Scottish parliamentarian in the same tax year they will be a Scottish taxpayer if they are a Scottish parliamentarian for more of the year than they are a Welsh parliamentarian. If they are a Scottish parliamentarian and a Welsh parliamentarian for the same number of days in a tax year they will be a Scottish taxpayer if they meet one of the other rules applicable to Scottish taxpayers. These changes will be implemented at the time when the Welsh rate is brought into effect.
124. *Subsection (7)(a)* amends the operation of condition A (the close connection rule) in section 80E of the 1998 Act so that an individual will need to have their main place of residence in Scotland for “more of the year” than in another part of the UK (rather

*These notes refer to the Wales Act 2014 (c.29)
which received Royal Assent on 17 December 2014*

than for “at least as much of the year”) to be a Scottish taxpayer. This change will be implemented at the time when the Welsh rate is brought into effect. *Subsection (7)(b)* makes a minor change to the close connection rule to be clear how this operates in relation to comparisons between the different parts of the UK. This change will be implemented at the time when the Scottish rate is brought into effect.

125. *Subsection (8)(a)* amends condition B (the day counting test) in section 80F of the 1998 Act, so that an individual will need to spend more days in Scotland than another part of the UK to meet this test and also amends the day counting test so that days in Scotland are considered against the other parts of the UK individually (rather than collectively). These changes will be implemented at the time when the Welsh rate is brought into effect. *Subsection (8)(b)* makes a minor change to the day counting test to ensure that the exemption in relation to individuals passing through the UK in transit operates properly. This change will be implemented at the time when the Scottish rate is brought into effect.