

TAX COLLECTION AND MANAGEMENT (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 – Investigatory Powers of WRA

Sections 101-102 - Protection for privileged communications between legal advisers and clients and for tax advisers and auditors

112. **Section 101** provides that information notices do not require a person to provide or produce information or documents that are legally privileged. This refers to information or documents that benefit from the confidentiality that arises between a professional legal adviser and a client. The Welsh Ministers have a power to make provision by regulations for the tribunal to resolve disputes as to whether or not information or documents are privileged. Such regulations are subject to the negative procedure.
113. **Section 102(1)** provides that an information notice does not require a tax adviser to provide information or documents about tax advice given to a client.
114. Subsection (2) defines “relevant communication” and “tax adviser” for the purposes of this section. A person is a “tax adviser” where that person gives advice to another person about their “tax affairs” (whether or not that tax is a “devolved tax”).
115. Subsection (3) provides that an information notice does not require a person appointed as an auditor under any piece of legislation to provide certain information or documents related to that function.
116. However, these provisions are subject to subsections (4) to (7), which limits the scope of the protection in some circumstances. Subsection (4) provides that WRA may require a tax accountant to provide explanatory material which has been provided to a client in connection with information or documents provided to WRA. Subsection (5) provides that the protection does not apply to requests made under section 89 for information showing the identity or address of the unknown person.