



# 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 [<sup>F1</sup>enquiry period (but see subsection (1B)).]

[<sup>F2</sup>(1A) The enquiry period for a tax return is the period of 12 months beginning with the relevant date.

(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).]

(2) [<sup>F3</sup>For the purposes of subsection (1A),] the relevant date is—

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- (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
- [<sup>F4</sup>(a) as a result of an amendment of the tax return under section 41, or
  - (b) by virtue of subsection (1B)].
- [<sup>F5</sup>(4) In subsection (1B), ““further return”” means a further return made under LTTA.]

#### Textual Amendments

- F1** Words in s. 43(1) substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 12(a)**; S.I. 2018/34, art. 3
- F2** S. 43(1A)(1B) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 12(b)**; S.I. 2018/34, art. 3
- F3** Words in s. 43(2) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 12(c)**; S.I. 2018/34, art. 3
- F4** S. 43(3)(a)(b) substituted for words in s. 43(3) (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 12(d)**; S.I. 2018/34, art. 3
- F5** S. 43(4) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 12(e)**; S.I. 2018/34, art. 3

#### Commencement Information

- I1** S. 43 in force at 1.4.2018 by [S.I. 2018/33](#), art. 3

## 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, <sup>F6</sup>...
  - (b) to the amount of devolved tax chargeable on the person who made the tax return,
  - [<sup>F7</sup>(c) to the question whether the person who made the tax return is entitled to a tax credit claimed in the tax return, or
  - (d) to the amount of tax credit to which the person is entitled.]
- (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.

#### Textual Amendments

- F6** Word in s. 44(1) omitted (1.4.2018) by virtue of [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 10(a)**

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**F7** S. 44(1)(c)(d) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 10(b)**

#### Commencement Information

**I2** S. 44 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

### *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 [<sup>F8</sup>chargeable] 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.

[<sup>F9</sup>(1A) If, during the period when an enquiry into a tax return is in progress, WRA forms the opinion—

- (a) that the amount of tax credit claimed in the tax return is excessive, 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 so that the amount claimed is no longer excessive.]

- (2) If the enquiry is one that is limited by section 44(2) to matters arising from an amendment of the tax return,
- [<sup>F10</sup>(a) subsection (1) applies only so far as the insufficiency is attributable to the amendment [<sup>F11</sup>, and
- (b) subsection (1A) applies only so far as the excessive amount is attributable to the amendment.]
- (3) Where a notice is issued under subsection (1) [<sup>F12</sup>or (1A)], 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 [<sup>F13</sup>sections 45A and 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).

#### Textual Amendments

**F8** Word in s. 45(1)(a) substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 13(a)**; [S.I. 2018/34](#), art. 3

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- F9** S. 45(1A) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 11(2)**
- F10** Words in s. 45(2) renumbered as s. 45(2)(a) (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 11(3)(a)**
- F11** S. 45(2)(b) and word inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 11(3)(b)**
- F12** Words in s. 45(3) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 11(4)**
- F13** Words in s. 45(5) substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 13(b)**; S.I. 2018/34, art. 3

**Commencement Information**

- I3** S. 45 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

**[<sup>F14</sup>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.]

**Textual Amendments**

- F14** S. 45A inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 14**; S.I. 2018/34, art. 3

*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.
- (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.

**Commencement Information**

- I4** S. 46 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

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

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

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##### **Commencement Information**

**I5** S. 47 in force at 1.4.2018 by [S.I. 2018/33, art. 3](#)

#### **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.

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##### **Commencement Information**

**I6** S. 48 in force at 1.4.2018 by [S.I. 2018/33, art. 3](#)

#### **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.

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##### **Commencement Information**

**I7** S. 49 in force at 1.4.2018 by [S.I. 2018/33, art. 3](#)

#### *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

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- (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.
- (4) The person who made the tax return must pay an amount, or additional amount, of devolved tax [<sup>F15</sup>payable] 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.

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**Textual Amendments**

**F15** Word in s. 50(4) substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), **Sch. 23 para. 15**; S.I. 2018/34, art. 3

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**Commencement Information**

**I8** S. 50 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

**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.

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**Commencement Information**

**I9** S. 51 in force at 1.4.2018 by [S.I. 2018/33](#), **art. 3**

**Changes to legislation:**

There are currently no known outstanding effects for the Tax Collection and Management (Wales) Act 2016, CHAPTER 4.