



Tax Collection and Management (Wales) Act 2016

2016 anaw 6

PART 3

TAX RETURNS, ENQUIRIES AND ASSESSMENTS

CHAPTER 6

WRA ASSESSMENTS

Assessment of loss of tax or of excessive repayment

54 Assessment where loss of tax

If WRA comes to the view that—

- (a) an amount of devolved tax that ought to have been assessed as devolved tax chargeable on a person has not been assessed,
- (b) an assessment of the devolved tax chargeable on a person is or has become insufficient, or
- (c) relief in respect of a devolved tax has been claimed or given that is or has become excessive,

WRA may make an assessment of the amount or further amount that ought in its opinion to be charged in order to make good the loss of devolved tax.

55 Assessment to recover excessive repayment of tax

- (1) If an amount of a devolved tax has been, but ought not to have been, repaid to a person that amount may be assessed and recovered as if it were unpaid devolved tax.
- (2) If the repayment was made with interest, the amount assessed and recovered may include the amount of interest that ought not to have been paid.

56 References to “WRA assessment”

In this Act, “WRA assessment” means an assessment under section 54 or 55.

Making WRA assessments

57 References to the “taxpayer”

In sections 58 to 61, “taxpayer” means—

- (a) in relation to a WRA assessment under section 54, the person chargeable to the devolved tax,
- (b) in relation to a WRA assessment under section 55, the person mentioned there.

58 Conditions for making WRA assessments

- (1) A WRA assessment—
 - (a) may be made only in the two cases specified in subsections (2) and (3), and
 - (b) may not be made in the circumstances specified in subsection (4).
- (2) The first case is where the situation mentioned in section 54 or 55 was brought about carelessly or deliberately by—
 - (a) the taxpayer,
 - (b) a person acting on the taxpayer’s behalf, or
 - (c) a person who was a partner in the same partnership as the taxpayer.
- (3) The second case is—
 - (a) where WRA has ceased to be entitled to issue a notice of enquiry into a tax return, or has completed its enquiries into a tax return, and
 - (b) at the time when it 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 it before that time.
- (4) No WRA assessment may be made if—
 - (a) the situation mentioned in section 54 or 55 is attributable to a mistake in the tax return as to the basis on which the devolved tax liability ought to have been calculated, and
 - (b) the mistake occurred because the tax return was made on the basis prevailing, or in accordance with the practice generally prevailing, at the time it was made.

59 Time limits for WRA assessments

- (1) No WRA assessment may be made more than 4 years after the relevant date.
- (2) But a WRA assessment of a taxpayer in any case involving a situation mentioned in section 54 or 55 brought about carelessly by the taxpayer or a related person may be made up to 6 years after the relevant date.
- (3) And a WRA assessment of a taxpayer in any case involving a situation mentioned in section 54 or 55 brought about deliberately by the taxpayer or a related person may be made up to 20 years after the relevant date.

Status: This is the original version (as it was originally enacted).

- (4) A WRA assessment under section 55 is not out of time if it is made within the period of 12 months beginning with the day on which the repayment in question was made.
- (5) If the taxpayer has died—
 - (a) any WRA assessment on the personal representatives must be made before the end of the period of 4 years beginning with the date of the death, and
 - (b) a WRA assessment is not to be made in respect of a relevant date more than 6 years before that date.
- (6) Any objection to the making of a WRA assessment on the ground that the time limit for making it has expired can only be made on a review of or appeal against the assessment.
- (7) In this section—
 - “related person” (“*person cysylltiedig*”), in relation to the taxpayer, means—
 - (a) a person acting on the taxpayer’s behalf, or
 - (b) a person who was a partner in the same partnership as the taxpayer;
 - “relevant date” (“*dyddiad perthnasol*”) means—
 - (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.

60 Situations brought about carelessly or deliberately

- (1) This section applies for the purposes of sections 58 and 59.
- (2) A situation is brought about carelessly by a person if the person fails to take reasonable care to avoid bringing about that situation.
- (3) Where—
 - (a) information is provided to WRA,
 - (b) the person who provided the information, or the person on whose behalf it was provided, discovers some time later that the information was inaccurate, and
 - (c) that person fails to take reasonable steps to inform WRA,any situation brought about by the inaccuracy is to be treated as having been brought about carelessly by that person.
- (4) References to a situation brought about deliberately by a person include a situation brought about as a result of a deliberate inaccuracy in a document given to WRA.

61 Assessment procedure

- (1) Notice of a WRA assessment must be issued to the taxpayer.
- (2) The amount payable in accordance with a WRA assessment must be paid before the end of the period of 30 days beginning with the day on which the notice of the assessment is issued.
- (3) After notice of the assessment has been issued to the taxpayer, the assessment may not be altered except in accordance with the express provisions of any enactment.