



# Tax Collection and Management (Wales) Act 2016

2016 anaw 6

## PART 3

### TAX RETURNS, ENQUIRIES AND ASSESSMENTS

#### CHAPTER 8

##### PROCEDURE FOR MAKING CLAIMS ETC.

#### **68 Making claims**

- (1) A claim under section 62 or 63 must be made in such form as WRA may determine.
- (2) The form of claim must provide for a declaration to the effect that all the particulars given in the form are correctly stated to the best of the claimant's information and belief.
- (3) The form of claim may require—
  - (a) a statement of the amount of devolved tax that will be required to be discharged or repaid in order to give effect to the claim;
  - (b) such information as is reasonably required for the purpose of determining whether and, if so, the extent to which the claim is correct;
  - (c) the delivery with the claim of such statements and documents, relating to the information contained in the claim, as are reasonably required for the purpose mentioned in paragraph (b).
- (4) A claim for repayment of devolved tax may not be made unless the claimant has documentary evidence that the devolved tax has been paid.
- (5) A claim under section 63 may not be made by being included in a tax return.

## **69 Duty to keep and preserve records**

- (1) A person making a claim under section 62 or 63 must—
  - (a) have kept any records that are needed to enable the person to make a correct and complete claim, and
  - (b) preserve those records in accordance with this section.
- (2) The records must be preserved until the latest of the following—
  - (a) (except where paragraph (b) or (c) applies) the end of the period of 12 months beginning with the day on which the claim was made;
  - (b) where there is an enquiry into the claim, or into an amendment of the claim, the day on which the enquiry is completed;
  - (c) where the claim is amended and there is no enquiry into the amendment, the day on which WRA ceases to have power to enquire into the amendment.
- (3) The Welsh Ministers may by regulations—
  - (a) provide that the records required to be kept and preserved under this section include, or do not include, records of a description prescribed by the regulations;
  - (b) prescribe descriptions of supporting documents that are required to be kept under this section.
- (4) Regulations under this section may make provision by reference to things specified in a notice published by WRA in accordance with the regulations (and not withdrawn by a subsequent notice).
- (5) “Supporting documents” includes accounts, books, deeds, contracts, vouchers and receipts.

## **70 Preservation of information etc.**

The duty under section 69 to preserve records may be satisfied—

- (a) by preserving them in any form and by any means, or
- (b) by preserving the information contained in them in any form and by any means, subject to any conditions or exceptions prescribed by regulations made by the Welsh Ministers.

## **71 Amendment of claim by claimant**

- (1) A person who has made a claim under section 62 or 63 may amend the claim by giving notice to WRA.
- (2) No such amendment may be made—
  - (a) more than 12 months after the day on which the claim was made, or
  - (b) if WRA issues a notice under section 74, during the period—
    - (i) beginning with the day on which the notice is issued, and
    - (ii) ending with the day on which the enquiry under that section is completed.

## **72 Correction of claim by WRA**

- (1) WRA may by issuing notice to the claimant amend a claim so as to correct obvious errors or omissions in the claim (whether errors of principle, arithmetical mistakes or otherwise).
- (2) No such correction may be made—
  - (a) more than 9 months after the day on which the claim was made, or
  - (b) if WRA issues a notice under section 74, during the period—
    - (i) beginning with the day on which notice is issued, and
    - (ii) ending with the day on which the enquiry under that section is completed.
- (3) A correction under this section has no effect if, within the period of 3 months beginning with the day following that on which the notice of correction is issued, the claimant gives a notice to WRA rejecting the correction.

## **73 Giving effect to claims and amendments**

- (1) As soon as practicable after a claim is made, amended or corrected—
  - (a) WRA must issue notice of its decision to the claimant, and
  - (b) where WRA decides to give effect to the claim or amendment (whether in part or in full), it must do so by discharge or repayment of devolved tax.
- (2) Where WRA enquires into a claim or amendment—
  - (a) subsection (1) does not apply until a closure notice is issued under section 75, and then it applies subject to section 77, but
  - (b) WRA may at any time before then give effect to the claim or amendment, on a provisional basis, to such extent as it thinks fit.

## **74 Notice of enquiry**

- (1) WRA may enquire into a person's claim or amendment of a claim if it issues to the claimant notice of its intention to do so (a "notice of enquiry") before the end of the period of 12 months beginning with the day after the day on which the claim or amendment was made.
- (2) A claim or amendment that has been the subject of one notice of enquiry may not be the subject of another.

## **75 Completion of enquiry**

- (1) An enquiry is completed when WRA issues a notice (a "closure notice") to the claimant stating—
  - (a) that the enquiry is complete, and
  - (b) the conclusions reached in the enquiry.
- (2) A closure notice must either—
  - (a) state that in the opinion of WRA no amendment of the claim is required, or
  - (b) if in WRA's opinion the claim is insufficient or excessive, amend the claim so as to make good or eliminate the deficiency or excess.

- (3) In the case of an enquiry into an amendment of a claim, subsection (2)(b) applies only so far as the deficiency or excess is attributable to the amendment.

**76 Direction to complete enquiry**

- (1) The claimant 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 issuing a closure notice within the specified period.

**77 Giving effect to amendments under section 75**

- (1) Within 30 days after the day on which a notice under section 75(2)(b) is issued WRA must give effect to the amendment by making such adjustment as may be necessary, whether—
- (a) by way of assessment on the claimant, or
  - (b) by discharge or repayment of devolved tax.
- (2) An assessment made under subsection (1) is not out of time if it is made within the time mentioned in that subsection.

**78 Time limit for making claims**

A claim under section 62 or 63 must be made within the period of 4 years beginning with the day after the filing date for the tax return to which the payment by way of devolved tax, or the assessment or determination, relates.

**79 The claimant: partnerships**

- (1) This section is about the application of section 63 in a case where either—
- (a) (in a case falling within section 63(1)(a)) the person paid the amount in question in the capacity of a partner in a partnership, or
  - (b) (in a case falling within section 63(1)(b)) the assessment was made on, or the determination related to the liability of, the person in such a capacity.
- (2) In such a case, only a relevant person who has been nominated to do so by all of the relevant persons may make a claim under section 63 in respect of the amount in question.
- (3) The relevant persons are the persons who would have been liable as partners to pay the amount in question had the payment been due or (in a case falling within section 63(1)(b)) had the assessment or determination been correctly made.

**80 Assessment of claimant in connection with claim**

- (1) This section applies where—
- (a) a claim is made under section 63,
  - (b) the grounds for giving effect to the claim also provide grounds for a WRA assessment on the claimant in respect of the devolved tax, and
  - (c) such an assessment could be made but for a relevant restriction.

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

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- (2) In a case falling within section 79(1)(a) or (b), the reference to the claimant in subsection (1)(b) of this section includes any relevant person (as defined in section 79(3)).
- (3) The following are relevant restrictions—
  - (a) section 58;
  - (b) the end of a time limit for making a WRA assessment.
- (4) Where this section applies—
  - (a) the relevant restrictions are to be disregarded, and
  - (b) the WRA assessment is not out of time if it is made before the final determination of the claim.
- (5) A claim is not finally determined until—
  - (a) the claim, or
  - (b) the amount to which it relates,can no longer be varied (whether on review, appeal or otherwise).

## **81 Contract settlements**

- (1) In section 63(1)(a), the reference to an amount paid by a person by way of devolved tax includes an amount paid by a person under a contract settlement in connection with devolved tax believed to be payable.
- (2) The following provisions apply if the person who paid the amount under the contract settlement (“the payer”) and the person by whom the devolved tax was payable (“the taxpayer”) are not the same person.
- (3) In relation to a claim under section 63 in respect of that amount—
  - (a) the references to the claimant in section 67(5), (6) and (8) have effect as if they included the taxpayer, and
  - (b) the references to the claimant in sections 67(9) and 80(1)(b) have effect as if they were references to the taxpayer.
- (4) In relation to a claim under section 63 in respect of that amount, references to devolved tax in sections 68, 73 and 77 include the amount paid under the contract settlement.
- (5) Where the grounds for giving effect to a claim by the payer in respect of the amount also provide grounds for a WRA assessment on the taxpayer in respect of the devolved tax—
  - (a) WRA may set any amount repayable to the payer as a result of the claim against any amount payable by the taxpayer as a result of the assessment, and
  - (b) the obligations of WRA and the taxpayer are discharged to the extent of the set-off.