



Tax Collection and Management (Wales) Act 2016

2016 anaw 6

[^{F1}PART 3A

GENERAL ANTI-AVOIDANCE RULE

[^{F1}Counteracting tax advantages

Textual Amendments

F1 Pt. 3A inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), **ss. 66, 81(2)(3)**; S.I. 2018/34, art. 3

81E Adjustments to counteract tax advantages

- (1) WRA may make such adjustments as it considers just and reasonable to counteract a tax advantage that would (ignoring this Part) arise from an artificial tax avoidance arrangement.
- (2) An adjustment may be made in respect of the devolved tax in question or any other devolved tax.
- (3) An adjustment must be made—
 - (a) where the adjustment relates to a tax return in respect of which an enquiry is in progress, by amending the return in a closure notice issued under section 50;
 - (b) otherwise by means of a WRA assessment.
- (4) WRA may not make an adjustment unless it has complied with the requirements of sections 81F and 81G.

Changes to legislation: There are currently no known outstanding effects for the Tax Collection and Management (Wales) Act 2016, Cross Heading: Counteracting tax advantages. (See end of Document for details)

81F Notice of proposed counteraction

- (1) WRA may issue a notice (a “proposed counteraction notice”) to a taxpayer if WRA considers—
 - (a) that a tax advantage has arisen to a person from an artificial tax avoidance arrangement, and
 - (b) that the tax advantage should be counteracted by means of an adjustment under section 81E.
- (2) A proposed counteraction notice must—
 - (a) specify the tax avoidance arrangement and the tax advantage,
 - (b) explain why WRA considers that a tax advantage has arisen from an artificial tax avoidance arrangement,
 - (c) set out the adjustment that WRA proposes to make in order to counteract the tax advantage,
 - (d) specify any amount that the taxpayer will be required to pay in accordance with the proposed WRA assessment, and
 - (e) inform the taxpayer—
 - (i) that a final counteraction notice is to be issued after the expiry of the period of 45 days beginning with the day on which the proposed counteraction notice is issued,
 - (ii) that the taxpayer may request that WRA extend that 45 day period, and
 - (iii) that the taxpayer may make written representations to WRA at any time before the final counteraction notice is issued.

81G Final counteraction notice

- (1) WRA must, after the expiry of the 45 day period mentioned in section 81F(2)(e)(i) or such longer period as WRA has agreed to, issue a notice (a “final counteraction notice”) to the taxpayer.
- (2) A final counteraction notice must state whether the tax advantage arising from the tax avoidance arrangement is to be counteracted by means of an adjustment under section 81E.
- (3) In determining whether the tax advantage is to be counteracted WRA must have regard to any written representations made by the taxpayer.
- (4) If a final counteraction notice states that a tax advantage is to be counteracted by means of an adjustment the notice must also—
 - (a) specify the adjustment required to give effect to the counteraction,
 - (b) where the adjustment relates to a tax return in respect of which an enquiry is in progress, specify the amendment of the return which is to be included in the closure notice issued under section 50 when WRA reaches its conclusions in the enquiry,
 - (c) where paragraph (b) does not apply—
 - (i) be accompanied by the WRA assessment which gives effect to the adjustment, or
 - (ii) where a WRA assessment giving effect to the adjustment has been made, specify that assessment, and
 - (d) specify any amount that the taxpayer—

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- (i) will be required to pay as a result of the amendment specified under paragraph (b), or
 - (ii) is required to pay in accordance with the WRA assessment mentioned in paragraph (c).
- (5) If a final counteraction notice states that a tax advantage is not to be counteracted it must state the reasons for WRA's decision.]

Changes to legislation:

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