



Tax Collection and Management (Wales) Act 2016

2016 anaw 6

PART 8

REVIEWS AND APPEALS

CHAPTER 1

INTRODUCTORY

Overview

171 Overview of Part

- (1) This Part makes provision for reviews of and appeals against certain decisions made by WRA, including provision about—
 - (a) the decisions which are appealable decisions,
 - (b) the right to request WRA to review appealable decisions,
 - (c) the duty of WRA to carry out reviews on request,
 - (d) the effect of review conclusions,
 - (e) the right to appeal to the tribunal against appealable decisions, whether following review or otherwise, and
 - (f) the duty of the tribunal to determine those appeals.
- (2) This Part also makes provision for disputes relating to appealable decisions to be settled by agreement.

*Appealable decisions***172 Appealable decisions**

- (1) A person to whom an appealable decision applies—
 - (a) may request a review of the decision (subject to subsection (4)), and
 - (b) may appeal against the decision,
 in accordance with the following provisions of this Part.
- (2) The following decisions by WRA are appealable decisions—
 - (a) a decision which affects whether a person is chargeable to a devolved tax;
 - (b) a decision which affects the amount of a devolved tax to which a person is chargeable;
 - (c) a decision which affects the day by which an amount of a devolved tax must be paid;
 - (d) a decision about a penalty relating to a devolved tax;
 - (e) a decision to issue an information notice or to include a particular requirement in such a notice.
- (3) But the following decisions are not appealable decisions—
 - (a) a decision to issue a notice of enquiry under section 43 or 74;
 - (b) a decision to issue—
 - (i) a taxpayer notice, or
 - (ii) a third party notice to which section 90(3) applies;
 - (c) a decision to include a particular requirement in—
 - (i) a taxpayer notice, or
 - (ii) a third party notice to which section 90(3) applies.
- (4) Where the tribunal has approved the issuing of an information notice, a person may not request a review of WRA's decision to issue the notice.
- (5) Where a review may be requested, or an appeal made, in respect of a decision to issue an information notice or include a requirement in such a notice, it may be requested or made only on the following grounds—
 - (a) that it is unreasonable to require the person to whom the notice was issued to comply with the notice or requirement;
 - (b) that a provision of sections 97 to 102 prevents the notice from requiring the person to provide the information or produce the document;
 - (c) in the case of an identification notice issued under section 92 or a debtor contact notice issued under section 93, that condition 4 of that section has not been met.
- (6) In the case of a decision to issue an information notice or to include a particular requirement in such a notice, the person to whom the decision applies for the purposes of subsection (1) is the person to whom the notice was issued.
- (7) The Welsh Ministers may by regulations—
 - (a) modify this section to—
 - (i) add a decision to subsection (2) or (3);
 - (ii) vary the description of a decision in either of those subsections;
 - (iii) remove a decision from either of those subsections;

- (b) amend this Part in order to make provision about the grounds on which a review may be requested, or an appeal made, in respect of an appealable decision.

CHAPTER 2

REVIEWS

173 Requesting a review

- (1) A request to review an appealable decision must be made by giving a notice (a “notice of request”) to WRA.
- (2) A notice of request must set out the grounds for review.
- (3) But a person may not give a notice of request if subsection (4), (5) or (6) applies.
- (4) This subsection applies where—
 - (a) the decision which the person wishes WRA to review is a decision to amend the person’s tax return under section 45 while an enquiry is in progress, and
 - (b) the enquiry has not yet been completed.
- (5) This subsection applies where the person has appealed to the tribunal against the decision and the appeal has not been withdrawn.
- (6) This subsection applies where the person—
 - (a) has entered into a settlement agreement in relation to the decision which the person wishes WRA to review, and
 - (b) has not given notice of withdrawal from the agreement under section 184(4).
- (7) This section does not prevent an appealable decision from being dealt with in accordance with section 184.

174 Time limit for requesting a review

- (1) Where a notice of request is given to WRA before the end of the relevant period, WRA must review the decision to which the notice relates.
- (2) Subject to subsection (3), the relevant period is—
 - (a) where the request relates to a decision to amend the person’s tax return under section 45 while an enquiry is in progress, the period of 30 days beginning with the day on which WRA issues a closure notice informing the person that the enquiry is completed;
 - (b) where the request relates to a decision of any other kind, the period of 30 days beginning with the day on which WRA issues the notice informing the person of the decision.
- (3) Where the person—
 - (a) has entered into a settlement agreement in respect of the decision to which the request relates, but
 - (b) has subsequently given notice of withdrawal from the agreement under section 184(4),

the relevant period is the period of 30 days beginning with the day on which the notice of withdrawal is given.

175 Late request for review

- (1) Where a person gives a notice of request to WRA after the relevant period—
 - (a) WRA may review the decision to which the notice relates, and
 - (b) must do so if it is satisfied that the person—
 - (i) had a reasonable excuse for not giving it during the relevant period, and
 - (ii) subsequently gave it to WRA without unreasonable delay.
- (2) WRA must issue a notice to the person indicating whether or not it will review the decision.
- (3) Where WRA issues a notice indicating that it will not review the decision, the person may apply to the tribunal for a direction requiring WRA to carry out the review.
- (4) The tribunal may give such a direction, and must do so if it is satisfied that the applicant—
 - (a) had a reasonable excuse for not giving the notice of request to WRA during the relevant period,
 - (b) subsequently gave it to WRA without unreasonable delay, and then
 - (c) applied to the tribunal without unreasonable delay.
- (5) In this section, “the relevant period” has the same meaning as in section 174.

176 Carrying out a review

- (1) The nature and extent of the review are to be such as appear appropriate to WRA in the circumstances.
- (2) For the purpose of subsection (1), WRA must, in particular, have regard to steps taken before the beginning of the review—
 - (a) by WRA in reaching the decision, and
 - (b) by any person in seeking to resolve disagreement about the decision.
- (3) The review must take account of any representations made by the person who gave the notice of request at a stage which gives WRA a reasonable opportunity to consider them.
- (4) The review may conclude that WRA’s decision is to be—
 - (a) affirmed,
 - (b) varied, or
 - (c) cancelled.
- (5) WRA must issue notice of the conclusions of the review to the person who gave the notice of request—
 - (a) within the period of 45 days beginning with the day on which WRA received the notice of request, or
 - (b) within such other period as WRA and the person may agree.

- (6) But where the tribunal directs WRA to carry out a review, WRA must issue notice of the conclusions of the review—
- (a) within the period of 45 days beginning with the day on which the tribunal gave the direction, or
 - (b) within such other period as WRA and the person may agree.
- (7) If WRA fails to issue notice in accordance with subsection (5) or (6)—
- (a) the review is deemed to have concluded that WRA’s decision is to be upheld, and
 - (b) WRA must issue notice of that to the person who gave the notice of request.

177 Effect of conclusions of review

- (1) Where WRA issues notice under section 176(5), (6) or (7) in relation to a review—
- (a) the conclusions in the notice are to be treated as if the tribunal had determined an appeal against the decision to which the notice relates in the manner set out in the conclusions, but
 - (b) the conclusions are not to be treated as a decision of the tribunal for the purposes of sections 9 to 13 of the [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#) (review of decisions and appeals against decisions).
- (2) But subsection (1) does not apply if, or to the extent that—
- (a) WRA and the person subsequently enter into a settlement agreement in relation to the decision to which the notice relates, or
 - (b) the tribunal subsequently determines an appeal made against the decision to which the notice relates.

CHAPTER 3

APPEALS

178 Making an appeal

- (1) An appeal against an appealable decision must be made to the tribunal.
- (2) But a person may not make an appeal to the tribunal if subsection (3), (4) or (5) applies.
- (3) This subsection applies where—
- (a) the decision which the person wishes to appeal against is a decision of WRA to amend the person’s tax return under section 45 while an enquiry is in progress, and
 - (b) the enquiry has not yet been completed.
- (4) This subsection applies where—
- (a) the person has given WRA notice of a request under section 173 for a review of the decision which the person wishes to appeal against, and
 - (b) the period within which WRA must issue notice of the conclusions of the review under section 176(5) has not yet ended.
- (5) This subsection applies where the person—

- (a) has entered into a settlement agreement in relation to the decision which the person wishes to appeal against, and
 - (b) has not given notice of withdrawal from the agreement under section 184(4).
- (6) This section does not prevent an appealable decision from being dealt with in accordance with section 184.

179 Time limit for making an appeal

- (1) An appeal must be made to the tribunal before the end of the relevant period.
- (2) Subject to subsections (3) and (4), the relevant period is—
- (a) where the appeal relates to a decision to amend the appellant’s tax return under section 45 while an enquiry is in progress, the period of 30 days beginning with the day on which WRA issues a closure notice informing the appellant that the enquiry is completed;
 - (b) where the appeal relates to a decision of any other kind, the period of 30 days beginning with the day on which WRA issues the notice informing the appellant of the decision.
- (3) Subject to subsection (4), where WRA has reviewed the decision to which the appeal relates, the relevant period is the period of 30 days beginning with the day on which notice is issued to the appellant under section 176(5), (6) or (7) in relation to the review.
- (4) Where the appellant has entered into a settlement agreement in relation to the decision to which the appeal relates but has subsequently given notice of withdrawal from the agreement under section 184(4), the relevant period is—
- (a) the period of 30 days beginning with the day on which the notice of withdrawal is given, or
 - (b) if later, the relevant period applicable under subsection (3).

180 Making a late appeal

- (1) An appeal may be made to the tribunal after the relevant period if the tribunal gives permission.
- (2) In this section, “the relevant period” has the same meaning as in section 179.

181 Determining an appeal

- (1) If an appeal against an appealable decision is made to the tribunal in accordance with section 179 or 180 (and not withdrawn), the tribunal must determine the appeal.
- (2) The tribunal may determine that the appealable decision is to be—
- (a) affirmed,
 - (b) varied, or
 - (c) cancelled.

CHAPTER 4

MISCELLANEOUS AND SUPPLEMENTARY

Consequences of reviews and appeals

182 Payment of penalties in the event of a review or appeal

- (1) This section applies to a decision relating to a penalty to which a person may be liable.
- (2) Where WRA carries out a review in respect of the decision, section 154 does not apply to any amount of penalty that is disputed (a “disputed amount”).
- (3) Where the review concludes that a disputed amount is payable, the person must pay that amount before the end of the period of 30 days beginning with the day on which notice is issued to the person under section 176(5) or (7) in relation to the review; but this is subject to subsection (4).
- (4) Where the person makes an appeal in respect of the decision—
 - (a) section 154 does not apply to any disputed amount, and
 - (b) subsection (3) does not apply.
- (5) Where the appeal is withdrawn, the person must pay—
 - (a) any disputed amount, if the decision has not been reviewed, or
 - (b) if the decision has been reviewed, any disputed amount that the review has concluded to be payable,before the end of the period of 30 days beginning with the day of withdrawal.
- (6) Where it is finally determined, as a result of the appeal, that a disputed amount is payable, the person must pay that amount before the end of the period of 30 days beginning with the day on which the appeal is finally determined.

183 Disposal of reviews and appeals in respect of information notices

- (1) Where the conclusions of a review under section 176 affirm or vary a decision to issue an information notice or a requirement in such a notice, the person to whom the notice was issued must comply with the notice or requirement (as affirmed or varied) within such period as WRA may specify.
- (2) Where the tribunal affirms or varies a decision to issue an information notice or include a requirement in such a notice, the person to whom the notice was issued must comply with the notice or requirement (as affirmed or varied)—
 - (a) within the period specified by the tribunal, or
 - (b) if the tribunal does not specify a period, within such period as WRA may specify.

Settlement agreements

184 Settling disputes by agreement

- (1) A “settlement agreement” means an agreement between a person to whom an appealable decision applies (a “relevant person”) and WRA that the decision is to be—

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

- (a) affirmed,
 - (b) varied, or
 - (c) cancelled.
- (2) Where a relevant person and WRA enter into a settlement agreement, the consequences are to be the same as if, at the time that the agreement was entered into, the tribunal had determined an appeal against the appealable decision in the manner set out in the agreement.
- (3) But a settlement agreement is not to be treated as a decision of the tribunal for the purposes of sections 9 to 13 of the [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#) (review of decisions and appeals against decisions).
- (4) Subsection (2) does not apply if, within 30 days from the day on which the settlement agreement was entered into, the relevant person gives notice to WRA that the person wishes to withdraw from the agreement.
- (5) Subsection (2) does not apply to a settlement agreement which is not in writing unless the fact that the agreement was entered into and the terms agreed are confirmed by notice issued by WRA to the relevant person.
- (6) Where a notice is issued in accordance with subsection (5), the references in subsections (2) and (4) to the time at which the settlement agreement is entered into are to be treated as references to the time at which the notice is issued.
- (7) A relevant person and WRA may not enter into a settlement agreement in relation to an appealable decision if an appeal against the decision has been finally determined.