

SCHEDULE 23

AMENDMENTS TO THE TAX COLLECTION AND MANAGEMENT (WALES) ACT 2016

63 After section 181 insert—

“CHAPTER 3A

PAYMENT AND RECOVERY OF DEVOLVED TAX SUBJECT TO REVIEW OR APPEAL

181A Review or appeal not to affect requirement to pay

The fact that a person to whom an appealable decision applies has—

- (a) requested a review of the decision, or
- (b) appealed against it,

does not affect any requirement on the person to pay an amount of devolved tax (and interest on that amount).

181B Postponement requests

- (1) This section applies where a person—
 - (a) gives a notice of request to review an appealable decision, or
 - (b) makes an appeal against such a decision.
- (2) If the person thinks that an excessive amount of devolved tax has been charged on the person in consequence of the decision, the person may make a request to WRA to postpone the recovery of the amount of devolved tax that the person thinks is excessive (and interest on that amount) (a “postponement request”).
- (3) A postponement request must specify—
 - (a) the amount of devolved tax in respect of which the request is made, and
 - (b) the reasons why the person making the request thinks the amount is excessive.
- (4) If WRA thinks that the person making the postponement request has reasonable grounds for thinking that the amount of devolved tax to which the request relates is excessive, WRA may grant the postponement request.
- (5) If WRA thinks that it is only in respect of part of the amount that the person has reasonable grounds for thinking the amount is excessive it may grant the request in respect of that part only.
- (6) WRA may make the grant of the postponement request (in whole or in part) conditional on the provision of adequate security.
- (7) WRA must issue a notice of its decision to the person who made the postponement request.

Changes to legislation: There are currently no known outstanding effects for the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017, Paragraph 63. (See end of Document for details)

181C Time limit for making a postponement request

- (1) A postponement request connected to a review must be made by giving notice of the request to WRA before the end of the period specified in section 174 for requesting the review.
- (2) But if a late request for a review is made under section 175, the postponement request must be made at the same time as the late request.
- (3) A postponement request connected to an appeal must be made by giving notice to WRA before the end of the period specified in section 179 for making the appeal.
- (4) But if the tribunal gives permission under section 180 for a late appeal to be made, the postponement request must be made at the same time as permission is sought for the late appeal.
- (5) Subsections (1) and (3) are subject to section 181D.

181D Late postponement request

- (1) Where a person—
 - (a) requests a review before the end of the period specified in section 174, and
 - (b) makes a postponement request connected to the review after the end of that period,

WRA may consider the postponement request only if it is satisfied that the conditions in subsection (3) are met.
- (2) Where a person—
 - (a) makes an appeal before the end of the period specified in section 179, and
 - (b) makes a postponement request connected to the appeal after the end of that period,

WRA may consider the postponement request only if it is satisfied that the conditions in subsection (3) are met.
- (3) The conditions are that the person making the postponement request —
 - (a) had a reasonable excuse for not making the request during the period specified in section 174 or 179, as the case may be, and
 - (b) subsequently made the request without unreasonable delay.

181E Application for tribunal review of decision on a postponement request

- (1) A person who makes a postponement request may, within the period of 30 days beginning with the date WRA issues the notice of its decision on the request, apply to the tribunal for a review of WRA's decision.
- (2) The tribunal may determine that WRA's decision is to be—
 - (a) affirmed,
 - (b) cancelled, or
 - (c) replaced by another decision that WRA could have made.

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181F Variation after postponement request granted

- (1) This section applies where—
 - (a) a postponement request has been granted by WRA or the tribunal,
 - (b) there is a subsequent change in circumstances, and
 - (c) in consequence of that change, either WRA or the person who made the request thinks—
 - (i) that the amount of devolved tax in respect of which the request was granted should be varied;
 - (ii) where the grant of the request is conditional on the provision of adequate security, that the condition should be varied.
- (2) Either party may seek the agreement of the other by issuing a notice to the other party specifying the proposed variation.
- (3) If an agreement is reached, WRA must issue a notice to the person confirming the variation.
- (4) The variation has effect from the date WRA issues the notice under subsection (3).
- (5) If no agreement is reached within the period of 21 days beginning with the date the notice is issued under subsection (2), either party may apply to the tribunal for a determination.
- (6) The tribunal may determine such an application by—
 - (a) confirming the proposed variation,
 - (b) refusing the proposed variation, or
 - (c) making such other variation as the tribunal thinks appropriate.

181G Effect of postponement

- (1) WRA must not take any action to recover a postponed amount during the postponement period.
- (2) A postponed amount means—
 - (a) an amount of devolved tax specified in a postponement request (unless the request is a late request made in accordance with section 181C(2) or (4) or section 181D), or
 - (b) an amount of devolved tax in respect of which a postponement request is granted by WRA or the tribunal.
- (3) In the case of a postponed amount falling within subsection (2)(a), the postponement period for the amount—
 - (a) begins with the day on which the postponement request is made, and
 - (b) ends—
 - (i) if the request is granted, with the day on which it is granted,
 - (ii) if the request is not granted and no application is made to the tribunal for a review of that decision, with the first day after the end of the period for making such an application, or

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- (iii) if the request is not granted and an application is made to the tribunal for a review of that decision, with the day on which the tribunal makes its determination.
- (4) In the case of a postponed amount falling within subsection (2)(b) the postponement period for the amount—
 - (a) begins with the date on which the postponement request is granted by WRA or the tribunal, and
 - (b) ends—
 - (i) if the postponement request was made in connection with a review of an appealable decision, with the day on which WRA issues a notice of the conclusions of the review, or
 - (ii) if the postponement request was made in connection with an appeal against an appealable decision, with the day on which the tribunal determines the appeal.
- (5) Where a postponed amount falling within subsection (2)(b) is varied under section 181F, the varied amount is to be treated as the postponed amount from the date of the variation.
- (6) In this section, references to a postponement request being granted include cases where the request is granted in part.

181H Postponement requests relating to further appeals

- (1) Where a person makes (in accordance with TCEA) a further appeal against the tribunal's determination of an appeal against an appealable decision, sections 181B, 181C, 181E, 181F and 181G apply to the further appeal as they apply to an appeal, but as if the following modifications were made.
- (2) Section 181B has effect as if for subsections (3), (4) and (5), there were substituted—
- “(3) A postponement request must specify—
 - (a) the amount of devolved tax in respect of which the request is made,
 - (b) the reasons why the person making the request thinks the amount is excessive, and
 - (c) the reasons why the person thinks that recovery of the amount (and interest on the amount) would cause the person serious financial hardship.
- (4) If WRA—
 - (a) thinks that the person making the postponement request has reasonable grounds for thinking that the amount of devolved tax to which the request relates is excessive, and
 - (b) has reason to believe that recovery of the amount (and interest on the amount) would cause the person serious financial hardship,
 WRA may grant the request.
- (5) But if WRA—
 - (a) thinks that it is only in respect of part of the amount that the person has reasonable grounds for thinking that the amount is excessive,
 or

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- (b) has reason to believe that it is only in respect of part of the amount (and interest on that part) that recovery would cause the person serious financial hardship,
WRA may grant the request in respect of such part of the amount as it thinks appropriate.”
- (3) Section 181C has effect as if—
 - (a) in subsection (3), for ““before the end of the period specified in section 179 for making the appeal”” there were substituted “ on or before the day on which the further appeal is made ”, and
 - (b) subsection (4) were omitted.
- (4) Section 181F has effect as if, in subsection (1), for paragraph (a) there were substituted—
 - “(a) a postponement request has been granted by—
 - (i) the Upper Tribunal where the request relates to a further appeal made under section 11 of TCEA, or
 - (ii) the relevant appellate court specified under subsection (11) of section 13 of TCEA where the request relates to a further appeal made under that section,”
- (5) Section 181G has effect as if—
 - (a) in subsection (2)(a) the words ““(unless the request is a late request made in accordance with section 181C(2) or (4) or section 181D)”” were omitted, and
 - (b) for subsection (4)(b) there were substituted—
 - “(b) ends on the day on which the further appeal is determined.”.
- (6) The references in sections 181E(1) and (2), 181F(5) and (6) and 181G(2), (3) and (4) to ““the tribunal”” are to be read as references to—
 - (a) the Upper Tribunal in a case where the further appeal is made under section 11 of TCEA, or
 - (b) the relevant appellate court specified under subsection (11) of section 13 of TCEA in a case where the further appeal is made under that section.

181I No further appeal or review of tribunal decisions relating to postponement requests

- (1) In section 11(5) of TCEA (decisions excluded from right of appeal to Upper Tribunal), after paragraph (cb) (as inserted by section 116(1) of this Act) insert—
 - “(cc) any decision of the First-tier Tribunal under section 181E or 181F of that Act (appeals relating to postponement requests),”.
- (2) In section 13(8) of TCEA (decisions excluded from right of appeal to Court of Appeal etc.), after paragraph (bb) (as inserted by section 116(2) of this Act) insert—

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“(bc) any decision of the Upper Tribunal under section 181E or 181F of that Act (appeals relating to postponement requests),”.”

Commencement Information

II [Sch. 23 para. 63](#) in force at 1.4.2018 by [S.I. 2018/34](#), [art. 3](#)

Changes to legislation:

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