



Tax Collection and Management (Wales) Act 2016

2016 anaw 6

PART 3

TAX RETURNS, ENQUIRIES AND ASSESSMENTS

CHAPTER 7

RELIEF IN CASE OF EXCESSIVE ASSESSMENT OR OVERPAID TAX

Unjustified enrichment

64 [F1] Disallowing claims for relief due to unjustified enrichment

WRA need not give effect to a claim for relief made under section 63 [F2 or 63A] if, or to the extent that, repayment or discharge of the amount would unjustly enrich the claimant.

Textual Amendments

- F1** S. 64 heading substituted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 25\(2\)](#); S.I. 2018/34, art. 3
- F2** Words in s. 64 inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 25\(1\)\(a\)](#); S.I. 2018/34, art. 3

Modifications etc. (not altering text)

- C1** S. 64 modified (1.4.2018) by [The Tax Collection and Management \(Reimbursement Arrangements\) \(Wales\) Regulations 2018 \(S.I. 2018/88\)](#), regs. 1(2), 3

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

Commencement Information

II S. 64 in force at 1.4.2018 by [S.I. 2018/33, art. 3](#)

65 Unjustified enrichment: further provision

- (1) This section applies where—
- (a) there is an amount paid by way of a devolved tax which (apart from section 64) would fall to be repaid or discharged to any person (“the taxpayer”), and
 - (b) the whole or a part of the cost of the payment of that amount to WRA has, for practical purposes, been borne by a person other than the taxpayer.
- (2) Where, in a case to which this section applies, loss or damage has been or may be incurred by the taxpayer as a result of mistaken assumptions made in the taxpayer’s case about the operation of any provisions relating to a devolved tax, that loss or damage is to be disregarded, except to the extent of the quantified amount, in the making of any determination—
- (a) of whether or to what extent the repayment or discharge of an amount to the taxpayer would enrich the taxpayer, or
 - (b) of whether or to what extent any enrichment of the taxpayer would be unjust.
- (3) In subsection (2) “the quantified amount” means the amount (if any) which is shown by the taxpayer to constitute the amount that would appropriately compensate the taxpayer for loss or damage shown by the taxpayer to have resulted to the taxpayer from the making of the mistaken assumptions.
- (4) The reference in subsection (2) to provisions relating to a devolved tax is a reference to any provisions of—
- (a) any enactment or [^{F3}[^{F4}assimilated direct] legislation] (whether or not still in force) which relates to the devolved tax or to any matter connected with it, or
 - (b) any notice published by WRA under or for the purposes of any such enactment.

Textual Amendments

- F3** Words in s. 65(4)(a) substituted (31.12.2020) by [The Welsh Tax Acts \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/833\)](#), regs. 1(2), **5(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in s. 65(4)(a) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Wales\) Regulations 2023 \(S.I. 2023/1332\)](#), regs. 1(2), **4**

Commencement Information

I2 S. 65 in force at 1.4.2018 by [S.I. 2018/33, art. 3](#)

66 Unjustified enrichment: reimbursement arrangements

- (1) The Welsh Ministers may by regulations make provision for reimbursement arrangements made by any person to be disregarded for the purposes of section 64 except where the arrangements—
- (a) contain such provision as may be prescribed by the regulations, and
 - (b) are supported by such undertakings to comply with the provisions of the arrangements as may be required by the regulations to be given to WRA.

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

- (2) In this section, “reimbursement arrangements” means any arrangements for the purposes of a claim under section 63 [^{F5}or 63A] which—
- (a) are made by any person for the purpose of securing that the person is not unjustly enriched by the repayment or discharge of any amount in pursuance of the claim, and
 - (b) provide for the reimbursement of persons who have for practical purposes borne the whole or any part of the cost of the original payment of that amount to WRA.
- (3) The provision that may be prescribed by regulations under this section to be contained in reimbursement arrangements includes in particular—
- (a) provision requiring a reimbursement for which the arrangements provide to be made within such period after the repayment to which it relates as may be specified in the regulations;
 - (b) provision for the repayment of amounts to WRA where those amounts are not reimbursed in accordance with the arrangements;
 - (c) provision requiring interest paid by WRA on any amount repaid by it to be treated in the same way as that amount for the purposes of any requirement under the arrangements to make reimbursement or to repay WRA;
 - (d) provision requiring such records relating to the carrying out of the arrangements as may be described in the regulations to be kept and produced to WRA.
- (4) Regulations under this section may impose obligations on persons specified in the regulations—
- (a) to make the repayments to WRA that they are required to make in pursuance of any provisions contained in any reimbursement arrangements by virtue of subsection (3)(b) or (c);
 - (b) to comply with any requirements contained in any such arrangements by virtue of subsection (3)(d).
- (5) Regulations under this section may make provision for the form and manner in which, and the times at which, undertakings are to be given to WRA in accordance with the regulations and any such provision may allow for those matters to be determined by WRA in accordance with the regulations.
- (6) Regulations under this section may make provision for penalties where a person breaches an obligation imposed by virtue of subsection (4).
- (7) The regulations may in particular make provision—
- (a) about the circumstances in which liability to a penalty is incurred;
 - (b) about the amounts of penalties;
 - (c) for fixed penalties, daily penalties and penalties calculated by reference to the amount of repayments which the person would have been liable to make to WRA if the obligation had been breached;
 - (d) about the procedure for assessing penalties;
 - (e) about reviews of or appeals against penalties;
 - (f) about enforcing penalties.
- (8) But the regulations may not create criminal offences.

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

- (9) Regulations made by virtue of subsection (6) may amend any enactment (including this Act).
- (10) Regulations so made do not apply to a failure beginning before the day on which the regulations come into force.

Textual Amendments

- F5** Words in s. 66(2) inserted (1.4.2018) by [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(anaw 1\)](#), s. 81(2)(3), [Sch. 23 para. 27\(a\)](#); S.I. 2018/34, art. 3

Commencement Information

- I3** S. 66 in force at 18.10.2017 by [S.I. 2017/954](#), [art. 2](#)

Changes to legislation:

There are currently no known outstanding effects for the Tax Collection and Management (Wales) Act 2016, Cross Heading: Unjustified enrichment.