

# REVENUE SCOTLAND AND TAX POWERS ACT 2014

---

## EXPLANATORY NOTES

### THE ACT

#### **Part 6 – Tax Returns, Enquiries and Assessments**

#### *Chapter 6 — Revenue Scotland Assessments*

#### **Assessment of loss of tax or of excessive repayments**

#### *Section 98 – Assessment where loss of tax*

137. This section provides a designated officer with the power to make an assessment to make good a loss of tax where an amount that should have been assessed has not been, an amount assessed is less than it should be or relief that has been given is or has become excessive.

#### *Section 99 – Assessment to recover excessive repayment of tax*

138. This section provides for an assessment to be made to recover an excessive repayment of tax including any interest that may have been paid.

#### *Section 100 – References to “Revenue Scotland assessment”*

139. This section provides for references to “Revenue Scotland assessment” in the Act to mean assessments made under section 98 or 99.

#### *Section 101 – References to the “taxpayer”*

140. This section provides that, in sections 102 to 105, references to the “taxpayer” in relation to an assessment under section 98 mean the chargeable person and, in relation to an assessment under section 99, mean the person to whom the excessive repayment of tax was made.

#### **Conditions for making Revenue Scotland assessments**

#### *Section 102 – Conditions for making Revenue Scotland assessments*

141. This section limits the circumstances in which a Revenue Scotland assessment can be made under section 98 or 99 to situations which arose because of careless or deliberate behaviour by the taxpayer, a person acting on behalf of the taxpayer or a person who was a partner of the taxpayer at the relevant time. It also prohibits a Revenue Scotland assessment being made under those provisions if the situation was attributable to a mistake in the calculation of the tax liability that was in accordance with generally prevailing practice at the time the return was made.

***Section 103 – Time limits for Revenue Scotland assessments***

142. This section provides the time limits under which a Revenue Scotland assessment may be made. The general time limit for the making of a Revenue Scotland assessment is five years from the “relevant date”. This time limit is extended to 20 years where the loss of tax is attributable to deliberate behaviour by the taxpayer or a “related person”. A Revenue Scotland assessment to recover excessive repayment of tax is not late if it is made within 12 months of that repayment. If a taxpayer has died, a Revenue Scotland assessment may be made on a taxpayer’s personal representatives within three years of death and is limited to “relevant dates” within five years before the death. It also sets out how any objection to a Revenue Scotland assessment on the basis of the time limits can be made and defines “relevant date” and “related person”.

***Section 104 – Losses brought about carelessly or deliberately***

143. This section provides the definition of a loss of tax or situation brought about carelessly or deliberately by or on behalf of a person for the purposes of sections 102 and 103.

**Notice of assessment and other procedure**

***Section 105 – Assessment procedure***

144. This section provides the procedure for serving notice of a Revenue Scotland assessment on a taxpayer and also specifying what the notice of such an assessment must state (such as the amount of tax due, the date on which the notice is issued, the date by which the amount must be paid and the date by which any notice of review or appeal against the assessment must be given – see sections 235 and 242 for the relevant time limits relating to notices of review and appeal). The amount, or further amount, of tax chargeable (or tax or interest that is to be repaid) must be paid within 30 days of the date on which the assessment is issued.