

# REVENUE SCOTLAND AND TAX POWERS ACT 2014

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## EXPLANATORY NOTES

### THE ACT

#### Part 8 – Penalties

##### *Chapter 3 — Penalties Relating to Inaccuracies*

*Section 187 – Potential lost revenue: normal rule, section 188 – Potential lost revenue: multiple errors, section 189 – Potential lost revenue: losses and section 190 – Potential lost revenue: delayed tax*

224. **Section 187** defines “potential lost revenue” (used in the calculation of the penalty amounts in sections 183, 185 and 186) as the additional amount due and payable (either to or from Revenue Scotland) in respect of tax as a result of correcting the inaccuracy (under sections 183 and 185) or under-assessment (under section 186).
225. **Section 188** provides that where a penalty under section 182 is for more than one inaccuracy, if a calculation of potential lost revenue depends on the order in which inaccuracies are corrected then careless inaccuracies are to be corrected before deliberate inaccuracies. In calculating potential lost revenue, account is to be taken of any overstatement in a document given by the same person in the same tax period. When calculating the amount of a penalty under section 182, no account will be taken of a potential overpayment by another person except where specifically allowed for elsewhere in the Act.
226. **Section 189** provides that where an inaccuracy has the result of a loss being recorded and the loss has been wholly used to reduce the amount of tax payable then section 189 will apply in terms of calculating potential lost revenue. Where an inaccuracy has the result of a loss being recorded partially for the purpose of reducing the amount of tax payable then potential lost revenue will be calculated: a) with reference to the part of the loss used to reduce the amount of tax payable; and b) 10% of the loss that has not been used to reduce the amount of tax payable. This applies where no loss would have been recorded apart from the inaccuracy and also to where a different loss would have been recorded because of the inaccuracy. The potential lost revenue is nil where the nature of the loss means there is no reasonable prospect of the loss being used to reduce a tax liability.
227. **Section 190** provides that where an inaccuracy results in an amount of tax being declared later than it should have been, the potential lost revenue is 5% of the delayed tax for each year of the delay. If the delay is less than one year then the potential lost revenue is a percentage equivalent to 5% per year for each separate period of delay. This section does not apply to cases where section 189 applies.