



# Revenue Scotland and Tax Powers Act 2014

2014 asp 16

## PART 11

### REVIEWS AND APPEALS

#### CHAPTER 2

##### REVIEWS

###### *Review of appealable decisions*

#### **234 Right to request review**

- (1) A person aggrieved by an appealable decision (the “appellant”) may request Revenue Scotland to review the decision.
- (2) An appellant may not request review if subsection (3), (4) or (5) applies.
- (3) This subsection applies where—
  - (a) the decision which the appellant seeks to review is a decision of Revenue Scotland to amend a self-assessment under section 87 while an enquiry is in progress, and
  - (b) the enquiry has not been completed.
- (4) This subsection applies where—
  - (a) the appellant has given notice of appeal in relation to the same matter in question, or
  - (b) the tribunal has determined the matter in question under section 244.
- (5) This subsection applies where the appellant has entered into a settlement agreement with Revenue Scotland in relation to the same matter in question and has not withdrawn from the agreement under section 246(4).

- (6) This section does not prevent the matter in question from being dealt with in accordance with section 246(1) and (2) (settling matters in question by agreement).

### **235 Notice of review**

- (1) Notice of review under section 234 must be given—
- (a) within 30 days after the specified date,
  - (b) to Revenue Scotland.
- (2) In subsection (1) “specified date” means—
- (a) the date on which the appellant was notified of the appealable decision,
  - (b) in a case to which section 234(3) applies—
    - (i) the date the appellant was given notice that the enquiry was completed, or
    - (ii) no such notice having been given, the date the enquiry is completed by virtue of section 93(1)(b), or
  - (c) where the appellant and Revenue Scotland entered into a settlement agreement but the appellant withdrew from the agreement, the date of that withdrawal.
- (3) The notice of review must specify the grounds of review.

### **236 Late notice of review**

- (1) This section applies in a case where—
- (a) notice of review may be given to Revenue Scotland under this Part, but
  - (b) no notice is given before the relevant time limit.
- (2) Notice may be given after the relevant time limit if—
- (a) Revenue Scotland agrees, or
  - (b) where Revenue Scotland does not agree, the tribunal gives permission.
- (3) Revenue Scotland must agree to notice being given after the relevant time limit if the appellant has requested that Revenue Scotland does so and Revenue Scotland is satisfied—
- (a) that there was reasonable excuse for not giving the notice before the relevant time limit, and
  - (b) that the request has been made without unreasonable delay.
- (4) If a request of the kind referred to in subsection (3) is made, Revenue Scotland must notify the appellant whether or not Revenue Scotland agrees to the request.
- (5) In this section “relevant time limit”, in relation to notice of review, means the time before which the notice is to be given (but for this section).

### **237 Duty of Revenue Scotland to carry out review**

- (1) If the appellant gives Revenue Scotland notice of review, Revenue Scotland must—
- (a) notify the appellant of Revenue Scotland's view of the matter in question within the relevant period, and
  - (b) review the matter in question in accordance with section 238.

- (2) Subsection (1) does not apply if—
  - (a) the appellant has already given notice of review under section 235 in relation to the same matter in question, or
  - (b) Revenue Scotland has concluded a review of the matter in question.
- (3) In this section “relevant period” means—
  - (a) the period of 30 days beginning with the day on which Revenue Scotland receives the notice of review, or
  - (b) such longer period as is reasonable.

### **238 Nature of review etc.**

- (1) This section applies if Revenue Scotland is required by section 237 to review the matter in question.
- (2) The nature and extent of the review are to be such as appear appropriate to Revenue Scotland in the circumstances.
- (3) For the purpose of subsection (2), Revenue Scotland must, in particular, have regard to steps taken before the beginning of the review—
  - (a) by Revenue Scotland in deciding the matter in question, and
  - (b) by any person in seeking to resolve disagreement about the matter in question.
- (4) The review must take account of any representations made by the appellant at a stage which gives Revenue Scotland a reasonable opportunity to consider them.
- (5) The review may conclude that Revenue Scotland's view of the matter in question is to be—
  - (a) upheld,
  - (b) varied, or
  - (c) cancelled.

### **239 Notification of conclusions of review**

- (1) Revenue Scotland must notify the appellant of the conclusions of the review and its reasoning within—
  - (a) the period of 45 days beginning with the relevant day, or
  - (b) such other period as may be agreed.
- (2) In subsection (1) “relevant day” means the day when Revenue Scotland notified the appellant of Revenue Scotland's view of the matter in question.
- (3) Where Revenue Scotland is required to undertake a review but does not give notice of the conclusions within the period specified in subsection (1), the review is treated as having concluded that Revenue Scotland's view of the matter in question (see section 237(1)) is upheld.
- (4) If subsection (3) applies, Revenue Scotland must notify the appellant of the conclusions which the review is treated as having reached.

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

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## **240 Effect of conclusions of review**

- (1) If Revenue Scotland gives notice of the conclusions of a review (see section 239)—
  - (a) the conclusions are to be treated as if they were contained in a settlement agreement (see section 246(2)), but
  - (b) section 246(4) (withdrawal from agreement) does not apply in relation to that notional agreement.
- (2) Subsection (1) does not apply to the matter in question if, or to the extent that—
  - (a) the appellant and Revenue Scotland enter into mediation and conclude that mediation by entering into a settlement agreement, or
  - (b) the appellant gives notice of appeal under section 242.