



Revenue Scotland and Tax Powers Act 2014

2014 asp 16

PART 6

TAX RETURNS, ENQUIRIES AND ASSESSMENTS

CHAPTER 2

TAXPAYER DUTIES TO KEEP AND PRESERVE RECORDS

Penalties for failing to keep and preserve records

76 Penalty for failure to keep and preserve records

- (1) A person (“P”) who fails to comply with section 74 in relation to a devolved tax is liable to a penalty not exceeding £3,000, subject to the following exception.
- (2) No penalty is incurred if Revenue Scotland is satisfied that any facts that it reasonably requires to be proved, and that would have been proved by the records, are proved by other documentary evidence provided to Revenue Scotland.

77 Reasonable excuse for failure to keep and preserve records

- (1) If P satisfies Revenue Scotland or (on appeal) the tribunal that there is a reasonable excuse for a failure to comply with section 74, liability to a penalty under section 76 does not arise in relation to that failure.
- (2) For the purposes of subsection (1)—
 - (a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside P’s control,
 - (b) where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the failure, and

Status: This is the original version (as it was originally enacted).

- (c) where P had a reasonable excuse for the failure but the excuse has ceased, P is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

78 Assessment of penalties under section 76

- (1) Where a person becomes liable to a penalty under section 76, Revenue Scotland must—
 - (a) assess the penalty, and
 - (b) notify the person.
- (2) An assessment of a penalty under section 76 must be made within the period of 12 months beginning with the date on which the person became liable to the penalty.

79 Enforcement of penalties under section 76

- (1) A penalty under section 76 must be paid—
 - (a) before the end of the period of 30 days beginning with the date on which the notification under section 78 was issued,
 - (b) if a notice of review against the penalty is given, before the end of the period of 30 days beginning with the date on which the review is concluded,
 - (c) if, following review, mediation is entered into, before the end of the period of 30 days beginning with the date either Revenue Scotland or the person who gave the notice of review gave notice of withdrawal from mediation, or
 - (d) if a notice of an appeal against the penalty is given, before the end of the period of 30 days beginning with the date on which the appeal is determined or withdrawn.
- (2) A penalty under section 76 is to be treated for enforcement purposes as an assessment to tax.

80 Power to change penalty provisions in sections 76 to 79

- (1) The Scottish Ministers may by regulations make provision (or further provision) about penalties under this Chapter.
- (2) Provision under subsection (1) includes provision—
 - (a) about the circumstances in which a penalty is payable,
 - (b) about the amounts of penalties,
 - (c) about the procedure for issuing penalties,
 - (d) about appealing penalties,
 - (e) about enforcing penalties.
- (3) Regulations under subsection (1) may not create criminal offences.
- (4) Regulations under subsection (1) may modify any enactment (including this Act).
- (5) Regulations under subsection (1) do not apply to a failure which began before the date on which the regulations come into force.