



Revenue Scotland and Tax Powers Act 2014

2014 asp 16

PART 6

TAX RETURNS, ENQUIRIES AND ASSESSMENTS

CHAPTER 4

REVENUE SCOTLAND ENQUIRIES

Notice and scope of enquiry

85 Notice of enquiry

- (1) A designated officer may enquire into a tax return if subsection (2) has been complied with.
- (2) Notice of the intention to make an enquiry must be given—
 - (a) to the person by whom or on whose behalf the return was made (“the relevant person”),
 - (b) before the end of the period of 3 years after the relevant date.
- (3) The relevant date is—
 - (a) the filing date, if the return was made on or before that date, or
 - (b) the date on which the return was made, if the return was made after the filing date.
- (4) A return that has been the subject of one notice under this section may not be the subject of another, except a notice given in consequence of an amendment of the return under section 83.
- (5) A notice under this section is referred to as a “notice of enquiry”.

Status: This is the original version (as it was originally enacted).

86 Scope of enquiry

- (1) An enquiry extends to anything contained in the tax return, or required to be contained in the return, that relates—
 - (a) to the question whether the relevant person is chargeable to the devolved tax to which the return relates, or
 - (b) to the amount of tax chargeable on the relevant person.
- (2) Subsection (3) applies if the notice of enquiry is given as a result of the amendment of a return under section 83 after an enquiry into the return has been completed.
- (3) The enquiry is limited to—
 - (a) matters to which the amendment relates, and
 - (b) matters affected by the amendment.

Amendment of return during enquiry

87 Amendment of self-assessment during enquiry to prevent loss of tax

- (1) If, at a time when an enquiry is in progress into a tax return, a designated officer forms the opinion—
 - (a) that the amount stated in the self-assessment contained in the return as the amount of tax payable is insufficient, and
 - (b) that unless the assessment is immediately amended there is likely to be a loss of tax to the Crown,the officer may by notice to the relevant person amend the assessment to make good the deficiency.
- (2) If the enquiry is one that is limited by section 86(2) and (3) to matters arising from an amendment of the return, subsection (1) applies only so far as the deficiency is attributable to the amendment.
- (3) Where a designated officer gives notice under subsection (1), section 83 does not apply.
- (4) The taxpayer must pay any amount, or additional amount, of tax chargeable as a result of an amendment under this section immediately on receipt of notice of the amendment.
- (5) For the purposes of this section and section 88 the period during which an enquiry is in progress is the whole of the period—
 - (a) beginning with the day on which the notice of enquiry is given, and
 - (b) ending with the day on which the enquiry is completed.

Referral during enquiry

88 Referral of questions to appropriate tribunal during enquiry

- (1) At any time when an enquiry is in progress into a tax return any question arising in connection with the subject-matter of the return may be referred to the appropriate tribunal for determination.

- (2) Notice of the referral must be given to the appropriate tribunal jointly by the relevant person and a designated officer.
- (3) More than one notice of referral may be given under this section in relation to an enquiry.

89 Withdrawal of notice of referral

A designated officer or the relevant person may withdraw a notice of referral under section 88.

90 Effect of referral on enquiry

- (1) While proceedings on a referral under section 88 are in progress in relation to an enquiry—
 - (a) no closure notice may be given in relation to the enquiry, and
 - (b) no application may be made for a direction to give a closure notice.
- (2) Proceedings on a referral are “in progress” where—
 - (a) notice of referral has been given and has not been withdrawn, and
 - (b) the question referred has not been finally determined.
- (3) A question referred has been “finally determined” when—
 - (a) it has been determined by the appropriate tribunal, and
 - (b) there is no further possibility of the determination being varied or set aside (disregarding any power to grant permission to appeal out of time).

91 Effect of determination

- (1) A determination under section 88 is binding on the parties to the referral in the same way, and to the same extent, as a decision on a preliminary plea in an appeal.
- (2) The designated officer conducting the enquiry must take the determination into account—
 - (a) in reaching conclusions on the enquiry, and
 - (b) in the formulation of any amendments of the tax return that may be required to give effect to those conclusions.
- (3) The question determined may not be reopened on an appeal, except to the extent that it could be reopened if it had been determined as a preliminary plea in that appeal.

92 “Appropriate tribunal”

- (1) Where the question to be referred under section 88 is of the market value of any land, the appropriate tribunal is the Lands Tribunal for Scotland.
- (2) In any other case a referral under section 88 is to be made to—
 - (a) the First-tier Tribunal,
 - (b) where determined by or under tribunal rules, the Upper Tribunal, or
 - (c) any other court or tribunal specified by the Scottish Ministers by order.

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

- (3) References to the “appropriate tribunal” in sections 88 and 90 are to be read accordingly.

Completion of enquiry

93 Completion of enquiry

- (1) An enquiry under section 85 is completed—
 - (a) when a designated officer informs the relevant person by a notice (a “closure notice”) that the enquiry is complete and states the conclusions reached in the enquiry, or
 - (b) no closure notice having been given, 3 years after the relevant date.
- (2) A closure notice must be given no later than 3 years after the relevant date.
- (3) A closure notice must either—
 - (a) state that in the officer's opinion no amendment of the tax return is required, or
 - (b) make the amendments of the return required to give effect to the officer's conclusions.
- (4) Where a closure notice is given which makes amendments of a return as mentioned in subsection (3)(b), section 83 does not apply.
- (5) A closure notice takes effect when it is issued.
- (6) The taxpayer must pay any amount, or additional amount, of tax chargeable as a result of an amendment made by a closure notice before the end of the period of 30 days beginning with the day on which the notice is given.
- (7) In subsections (1) and (2) “relevant date” has the same meaning as in section 85.

94 Direction to complete enquiry

- (1) The relevant person may apply to the tribunal for a direction that a closure notice is to be given within a specified period.
- (2) The tribunal hearing the application must give a direction unless satisfied that Revenue Scotland has reasonable grounds for not giving a closure notice within that period.
- (3) In this paragraph “the tribunal” means—
 - (a) the First-tier Tribunal, or
 - (b) where determined by or under tribunal rules, the Upper Tribunal.