



Revenue Scotland and Tax Powers Act 2014

2014 asp 16

PART 6

TAX RETURNS, ENQUIRIES AND ASSESSMENTS

CHAPTER 6

REVENUE SCOTLAND ASSESSMENTS

Assessment of loss of tax or of excessive repayment

98 Assessment where loss of tax

- (1) This section applies if a designated officer comes to the view honestly and reasonably that—
- (a) an amount of devolved tax that ought to have been assessed as tax chargeable on a person has not been assessed,
 - (b) an assessment of the tax chargeable on a person is or has become insufficient, or
 - (c) relief has been claimed or given that is or has become excessive.
- (2) The designated officer may make an assessment of the amount, or additional amount, that ought in the officer's opinion to be charged in order to make good to the Crown the loss of tax.

99 Assessment to recover excessive repayment of tax

- (1) If an amount of tax has been, but ought not to have been, repaid to a person that amount may be assessed and recovered as if it were unpaid tax.
- (2) If the repayment was made with interest, the amount assessed and recovered may include the amount of interest that ought not to have been paid.

Status: This is the original version (as it was originally enacted).

100 References to “Revenue Scotland assessment”

In this Act “Revenue Scotland assessment” means an assessment under section 98(2) or 99(1), as the case may be.

101 References to the “taxpayer”

In sections 102 to 105 “taxpayer” means—

- (a) in relation to an assessment under section 98, the person chargeable to the tax,
- (b) in relation to an assessment under section 99, the person mentioned in section 99(1).

Conditions for making Revenue Scotland assessments

102 Conditions for making Revenue Scotland assessments

- (1) A Revenue Scotland assessment may be made only where the situation mentioned in section 98(1) or 99(1) was brought about carelessly or deliberately by—
 - (a) the taxpayer,
 - (b) a person acting on the taxpayer’s behalf, or
 - (c) a person who was a partner of the taxpayer.
- (2) But no Revenue Scotland assessment may be made if—
 - (a) the situation mentioned in section 98(1) or 99(1) is attributable to a mistake in the return as to the basis on which the tax liability ought to have been calculated, and
 - (b) the return was in fact made on the basis prevailing, or in accordance with the practice generally prevailing, at the time it was made.

103 Time limits for Revenue Scotland assessments

- (1) The general rule is that no Revenue Scotland assessment may be made more than 5 years after the relevant date.
- (2) An assessment of a person in any case involving a loss of tax or a situation brought about deliberately by the taxpayer or a related person may be made up to 20 years after the relevant date.
- (3) An assessment under section 99 (assessment to recover excessive repayment of tax) is not out of time if it is made within the period of 12 months beginning with the date on which the repayment in question was made.
- (4) If the taxpayer has died—
 - (a) any assessment on the personal representatives must be made within 3 years after the death, and
 - (b) an assessment is not to be made by virtue of subsection (1) in respect of a relevant date more than 5 years before the death.
- (5) Any objection to the making of an assessment on the ground that the time limit for making it has expired can only be made on a review or appeal against the assessment.
- (6) In this section—

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“related person”, in relation to the taxpayer, means—

- (a) a person acting on the taxpayer's behalf, or
- (b) a person who was the partner of the taxpayer,

“relevant date” means—

- (a) the filing date, or
- (b) the date on which the return was made, if the return was made after the filing date.

104 Losses brought about carelessly or deliberately

- (1) This section applies for the purposes of sections 102 and 103.
- (2) A loss of tax or a situation is brought about carelessly by a person if the person fails to take reasonable care to avoid bringing about that loss or situation.
- (3) Subsection (4) applies where—
 - (a) information is provided to Revenue Scotland,
 - (b) the person who provided the information, or the person on whose behalf the information was provided, discovers some time later that the information was inaccurate, and
 - (c) that person fails to take reasonable steps to inform Revenue Scotland.
- (4) Any loss of tax or situation brought about by the inaccuracy is to be treated as having been brought about carelessly by that person.
- (5) References to a loss of tax or to a situation brought about deliberately by a person include a loss of tax or situation brought about as a result of a deliberate inaccuracy in a document given to Revenue Scotland by or on behalf of that person.

Notice of assessment and other procedure

105 Assessment procedure

- (1) Notice of a Revenue Scotland assessment must be served on the taxpayer.
- (2) The notice must state—
 - (a) the tax due,
 - (b) the date on which the notice is issued,
 - (c) the date by which—
 - (i) the amount, or additional amount, of tax chargeable as a result of the assessment (as mentioned in section 98(2)), or
 - (ii) the amount of tax or interest repaid that ought not to have been (as mentioned in section 99(1)),must be paid, and
 - (d) the time within which any review or appeal against the assessment must be requested.
- (3) The—
 - (a) amount, or additional amount, of tax chargeable as a result of the assessment (as mentioned in section 98(2)), or

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- (b) amount of tax or interest repaid that ought not to have been (as mentioned in section 99(1)),
must be paid before the end of the period of 30 days beginning with the date on which the assessment is issued.
- (4) After notice of the assessment has been served on the taxpayer, the assessment may not be altered except in accordance with the express provisions of this Part or of Part 5.
- (5) Where a designated officer has decided to make an assessment to tax, and has taken all other decisions needed for arriving at the amount of the assessment, the officer may entrust to some other designated officer the responsibility for completing the assessment procedure, whether by means involving the use of a computer or otherwise, including responsibility for serving notice of the assessment.