

*Status: Point in time view as at 01/04/2015.*

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## SCHEDULE 1

(introduced by section 2(3))

### REVENUE SCOTLAND

#### *Membership*

- 1 (1) Revenue Scotland is to consist of no fewer than 5 and no more than 9 members appointed by the Scottish Ministers.
- (2) Ministers are to appoint one of the members to chair Revenue Scotland (“the Chair”).
- (3) Ministers may by order amend sub-paragraph (1) so as to substitute a different number for the minimum or maximum number of members for the time being specified there.
- (4) Membership of Revenue Scotland is for such period and on such terms as Ministers may determine.
- (5) A member may resign by giving notice in writing to Ministers.
- (6) A person who is (or who has been) a member may be reappointed.

#### **Commencement Information**

**II** Sch. 1 para. 1 in force at 1.1.2015 by S.S.I. 2014/370, art. 2, sch.

#### *Disqualification*

- 2 (1) A person may not be appointed as a member of Revenue Scotland (and may not continue as a member) if that person—
  - (a) is (or becomes)—
    - (i) a member of the Scottish Parliament,
    - (ii) a member of the House of Commons,
    - (iii) a member of the National Assembly for Wales,
    - (iv) a member of the Northern Ireland Assembly,
    - (v) a member of the European Parliament,
    - (vi) a councillor of any local authority,
    - (vii) a member of the Scottish Government,
    - (viii) a Minister of the Crown,
    - (ix) an office-holder of the Crown in right of Her Majesty's Government in the United Kingdom,
    - (x) an office-holder in the Scottish Administration,
    - (xi) a civil servant,
  - (b) is (or has been) insolvent,
  - (c) is (or has been) disqualified as a company director under the Company Directors Disqualification Act 1986 (c.46) (or any analogous disqualification provision, anywhere in the world), or
  - (d) is (or has been) disqualified as a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005 (asp 10) (or any analogous disqualification provision, anywhere in the world).

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- (2) For the purposes of sub-paragraph (1)(b) a person is (or has been) insolvent if—
- (a) the person's estate is or has been sequestrated,
  - (b) the person has granted a trust deed for creditors or has made a composition or arrangement with creditors,
  - (c) the person is (or has been) the subject of any other kind of arrangement analogous to those described in paragraphs (a) and (b), anywhere in the world.

**Commencement Information**

**I2** Sch. 1 para. 2 in force at 1.1.2015 by S.S.I. 2014/370, art. 2, sch.

*Removal of members*

- 3 The Scottish Ministers may, by giving notice in writing, remove a member if—
- (a) any of sub-paragraphs (1)(a) to (d) of paragraph 2 apply to the member,
  - (b) the member has been absent from meetings of Revenue Scotland for a period longer than 6 months without permission from Revenue Scotland, or
  - (c) Ministers consider that the member is otherwise unfit to be a member or is unable to carry out the member's functions.

**Commencement Information**

**I3** Sch. 1 para. 3 in force at 1.1.2015 by S.S.I. 2014/370, art. 2, sch.

*Remuneration and expenses*

- 4 (1) Revenue Scotland may pay to—
- (a) its members, and
  - (b) the members of any committee established by it,
- such remuneration as it may, with the approval of the Scottish Ministers, determine.
- (2) Revenue Scotland may pay to—
- (a) its members, and
  - (b) the members of any committee established by it,
- such sums as it may, with the approval of Ministers, determine by way of reimbursement of expenses incurred by them in carrying out their functions.

**Commencement Information**

**I4** Sch. 1 para. 4 in force at 1.1.2015 by S.S.I. 2014/370, art. 2, sch.

*Committees*

- 5 (1) Revenue Scotland may establish committees for any purpose relating to its functions.
- (2) Revenue Scotland may determine the composition of its committees.

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- (3) Revenue Scotland may appoint persons who are not members of Revenue Scotland to be members of a committee, but those persons are not entitled to vote at meetings of the committee.

**Commencement Information**

**I5** Sch. 1 para. 5 in force at 1.1.2015 by S.S.I. 2014/370, art. 2, sch.

*Procedure*

- 6 (1) Revenue Scotland may regulate its own procedure (including quorum) and that of any committee.
- (2) The validity of any proceedings or acts of Revenue Scotland (or of any committee) is not affected by—
- (a) any vacancy in its membership,
  - (b) any defect in the appointment of a member, or
  - (c) disqualification of a person as a member after appointment.

**Commencement Information**

**I6** Sch. 1 para. 6 in force at 1.1.2015 by S.S.I. 2014/370, art. 2, sch.

*Internal delegation by Revenue Scotland*

- 7 (1) Revenue Scotland may authorise—
- (a) a member,
  - (b) a committee, or
  - (c) the chief executive or any other member of staff,
- to exercise such of its functions (and to such extent) as it may determine.
- (2) Sub-paragraph (1) does not affect Revenue Scotland's responsibility for the exercise of its functions.

**Commencement Information**

**I7** Sch. 1 para. 7 in force at 1.1.2015 by S.S.I. 2014/370, art. 2, sch.

*Chief executive and other staff*

- 8 (1) Revenue Scotland is to employ a chief executive.
- (2) The person employed as chief executive may not be a member of Revenue Scotland.
- (3) The first person employed as chief executive is to be appointed by the Scottish Ministers on such terms as they may determine.
- (4) Before appointing the first chief executive, Ministers must consult the Chair (if a person holds that position).

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- (5) Each subsequent chief executive is to be appointed by Revenue Scotland on such terms as it may, with the approval of Ministers, determine.
- (6) Revenue Scotland may appoint other members of staff on such terms as it may, with the approval of Ministers, determine.

#### Commencement Information

**I8** Sch. 1 para. 8 in force at 1.1.2015 by S.S.I. 2014/370, art. 2, sch.

#### Powers

- 9 In addition to any other powers it has, Revenue Scotland may do anything which it considers—
- (a) necessary or expedient in connection with the exercise of its functions,
  - (b) incidental or conducive to the exercise of those functions.

#### Commencement Information

**I9** Sch. 1 para. 9 in force at 1.1.2015 by S.S.I. 2014/370, art. 2, sch.

## SCHEDULE 2

*(introduced by section 26(4))*

### THE SCOTTISH TAX TRIBUNALS

#### PART 1

##### APPOINTMENT OF MEMBERS

#### *President of the Tax Tribunals: eligibility for appointment*

- 1 (1) A person is eligible for appointment as President of the Tax Tribunals only if the person—
- (a) has the qualifications, experience and training in relation to tax law and practice that the Scottish Ministers consider appropriate, and
  - (b) meets the criteria in either sub-paragraph (2) or (3).
- (2) A person meets the criteria in this sub-paragraph if the person is practising, and has practised for a period of not less than 10 years, as a solicitor or advocate in Scotland.
- (3) The person meets the criteria in this sub-paragraph if the person falls within a description specified by the Scottish Ministers by regulations.

#### Commencement Information

**I10** Sch. 2 para. 1 in force at 24.2.2015 for specified purposes by S.S.I. 2015/18, art. 2, sch. 2

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**I11** Sch. 2 para. 1 in force at 1.4.2015 in so far as not already in force by S.S.I. 2015/110, art. 2(1)

*First-tier Tribunal: ordinary members*

- 2
- (1) The Scottish Ministers must appoint persons as ordinary members of the First-tier Tribunal.
  - (2) Before appointing a person as an ordinary member, the Scottish Ministers must consult the Lord President.
  - (3) A person is eligible for appointment only if the person meets the criteria as to qualifications, experience and training that the Scottish Ministers prescribe by regulations.

**Commencement Information**

**I12** Sch. 2 para. 2(1)(2) in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

**I13** Sch. 2 para. 2(3) in force at 7.11.2014 for specified purposes by S.S.I. 2014/278, art. 2, sch.

**I14** Sch. 2 para. 2(3) in force at 1.4.2015 in so far as not already in force by S.S.I. 2015/110, art. 2(1)

*First-tier Tribunal: legal members*

- 3
- (1) The Scottish Ministers must appoint persons as legal members of the First-tier Tribunal.
  - (2) Before appointing a person as a legal member, the Scottish Ministers must consult the Lord President.
  - (3) A person is eligible for appointment only if the person—
    - (a) has the qualifications, experience and training in relation to tax law and practice that the Scottish Ministers consider appropriate, and
    - (b) meets the criteria in either sub-paragraph (1) or (2) of paragraph 4.

**Commencement Information**

**I15** Sch. 2 para. 3 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

- 4
- (1) A person meets the criteria in this sub-paragraph if the person is practising, and has practised for a period of not less than 5 years, as a solicitor or advocate in Scotland.
  - (2) The person meets the criteria in this sub-paragraph if the person falls within a description specified by the Scottish Ministers in regulations.

**Commencement Information**

**I16** Sch. 2 para. 4 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Upper Tribunal: legal members*

- 5
- (1) The Scottish Ministers must appoint persons as legal members of the Upper Tribunal.

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- (2) Before appointing a person as a legal member, the Scottish Ministers must consult the Lord President.
- (3) A person is eligible for appointment only if the person—
- (a) has the qualifications, experience and training in relation to tax law and practice that the Scottish Ministers consider appropriate, and
  - (b) meets the criteria in either sub-paragraph (1) or (2) of paragraph 6.

**Commencement Information**

**I17** Sch. 2 para. 5 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

- 6 (1) A person meets the criteria in this sub-paragraph if the person is practising, and has practised for a period of not less than 10 years, as a solicitor or advocate in Scotland.
- (2) The person meets the criteria in this sub-paragraph if the person falls within a description specified by the Scottish Ministers in regulations.

**Commencement Information**

**I18** Sch. 2 para. 6 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Disqualification from office*

- 7 A person is disqualified from appointment, and from holding a position, as President of the Tax Tribunals or as a member of the Tax Tribunals if the person is or becomes—
- (a) a member of the House of Commons,
  - (b) a member of the Scottish Parliament,
  - (c) a member of the National Assembly for Wales,
  - (d) a member of the Northern Ireland Assembly,
  - (e) a member of the European Parliament,
  - (f) a Minister of the Crown,
  - (g) a member of the Scottish Government,
  - (h) a civil servant.

**Commencement Information**

**I19** Sch. 2 para. 7 in force at 24.2.2015 for specified purposes by S.S.I. 2015/18, art. 2, sch. 2

**I20** Sch. 2 para. 7 in force at 1.4.2015 in so far as not already in force by S.S.I. 2015/110, art. 2(1)

*Eligibility under regulations*

- 8 (1) Regulations under paragraph 4(2) may describe a person by reference to the matters mentioned in sub-paragraph (3), (4) or (8).
- (2) Regulations under paragraph 1(3) or 6(2) may describe a person by reference to the matters mentioned in sub-paragraph (5), (6) or (8).
- (3) The matter mentioned in this sub-paragraph (referred to in sub-paragraph (1)) is—

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- (a) current practice as a solicitor or barrister in England and Wales or Northern Ireland, and
  - (b) engagement in practice as such for a period of not less than 5 years.
- (4) The matters mentioned in this sub-paragraph (also referred to in sub-paragraph (1)) are—
- (a) previous practice for a period of not less than 5 years as—
    - (i) a solicitor or advocate in Scotland, or
    - (ii) a solicitor or barrister in England, Wales or Northern Ireland, and
  - (b) subsequent engagement in any of the activities listed in sub-paragraph (7).
- (5) The matter mentioned in this sub-paragraph (referred to in sub-paragraph (2)) is—
- (a) current practice as a solicitor or barrister in England and Wales or Northern Ireland, and
  - (b) engagement in practice as such for a period of not less than 10 years.
- (6) The matters mentioned in this sub-paragraph (also referred to in sub-paragraph (2)) are—
- (a) previous practice for a period of not less than 10 years as—
    - (i) a solicitor or advocate in Scotland, or
    - (ii) a solicitor or barrister in England, Wales or Northern Ireland, and
  - (b) subsequent engagement in any of the activities listed in sub-paragraph (7).
- (7) The activities referred to in sub-paragraph (4)(b) and (6)(b) are—
- (a) exercising judicial functions in any court or tribunal,
  - (b) practice or employment as a lawyer of any kind,
  - (c) whether or not in the course of practice or employment as a lawyer—
    - (i) advising on the application of the law,
    - (ii) drafting documents intended to affect rights or obligations under the law,
    - (iii) assisting persons involved in a legal or other process for the resolution of disputes as to the law,
    - (iv) acting as a mediator or arbitrator for the purpose of resolving disputes that are (or could be) the matter of legal proceedings,
  - (d) teaching or researching law at or for an educational institution.
- (8) The matters mentioned in this sub-paragraph (also referred to in sub-paragraphs (1) and (2)) are suitability attributable to experience in law through current or previous engagement in—
- (a) any of the activities listed in sub-paragraph (7), or
  - (b) an activity that is of a broadly similar nature to any of the activities listed in that sub-paragraph.

#### **Commencement Information**

**I21** Sch. 2 para. 8 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

- 9 (1) The Scottish Ministers may by regulations make provision—
- (a) as regards the calculation of the 5-year period mentioned in paragraph 4(1) or 8(3) or (4)(a) (for example, by reference to recent or continuous time),

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- (b) as regards the calculation of the 10-year period mentioned in paragraph 1(2), 6(1) or 8(5) or (6)(a) (for example, by reference to recent or continuous time),
- (c) to which paragraph 8(4)(a) or 8(6)(a) is subject (for example, by reference to debarment from practice),
- (d) for the purpose of paragraph 8(8), about—
  - (i) the criteria for suitability (for example, by reference to equivalence to past or present practice as a solicitor),
  - (ii) the nature of experience required (for example, by reference to engagement for a particular period of time (within the United Kingdom or elsewhere)).

(2) The Scottish Ministers may by regulations modify the list in paragraph 8(7).

#### Commencement Information

**I22** Sch. 2 para. 9 in force at 7.11.2014 for specified purposes by S.S.I. 2014/278, art. 2, sch.

**I23** Sch. 2 para. 9 in force at 1.4.2015 in so far as not already in force by S.S.I. 2015/110, art. 2(1)

## PART 2

### CONDITIONS OF MEMBERSHIP ETC.

#### *Application of this Part*

- 10 (1) This Part of this schedule applies in relation to the positions of ordinary member and legal member of the Tax Tribunals (but not the position of judicial member of the tribunals).
- (2) The following paragraphs of this Part also apply in relation to the position of President of the Tax Tribunals—
- (a) paragraph 16 (with the modification that the reference in paragraph 16(c) to the President of the Tax Tribunals is to be read as a reference to the Scottish Ministers),
  - (b) paragraph 17.

#### Commencement Information

**I24** Sch. 2 para. 10(1) in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

**I25** Sch. 2 para. 10(2) in force at 24.2.2015 for specified purposes by S.S.I. 2015/18, art. 2, sch. 2

**I26** Sch. 2 para. 10(2) in force at 1.4.2015 in so far as not already in force by S.S.I. 2015/110, art. 2(1)

#### *Initial period of office*

- 11 A person who is appointed to a position as a member of the Tax Tribunals holds the position for the period of 5 years beginning with the date of the appointment.

#### Commencement Information

**I27** Sch. 2 para. 11 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)



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### Reappointment

- 12 (1) Unless sub-paragraph (3) applies, a member of the Tax Tribunals is to be reappointed as such at the end of each period for which the position is held.
- (2) Reappointment under sub-paragraph (1) is to the position for the period of 5 years beginning with the date of the reappointment.
- (3) This sub-paragraph applies if—
- (a) the member has declined to be reappointed,
  - (b) the member is ineligible for reappointment,
  - (c) the President of the Tax Tribunals has recommended to the Scottish Ministers that the member should not be reappointed.
- (4) In sub-paragraph (1) the reference to the period for which a position is held is to—
- (a) the period for which the position is held in accordance with paragraph 11, or
  - (b) any further period for which the position is held by virtue of reappointment in accordance with sub-paragraphs (1) and (2).

#### Commencement Information

**I28** Sch. 2 para. 12 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

- 13 For the purpose of paragraph 12(3)(b), a member is ineligible for reappointment only if the member would not be eligible for appointment to the position in accordance with the relevant provisions of Part 1 of this schedule were the member being appointed to the position for the first time.

#### Commencement Information

**I29** Sch. 2 para. 13 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

- 14 For the purpose of paragraph 12(3)(c), the President of the Tax Tribunals may recommend to the Scottish Ministers that a member should not be reappointed only if satisfied that—
- (a) the member has failed to comply with—
    - (i) any of the relevant terms and conditions of membership, or
    - (ii) any other requirement imposed on the member by or under this Act, or
  - (b) the tribunal concerned no longer requires—
    - (i) a member with the qualifications, experience and training of that member, or
    - (ii) the same number of members for the efficient disposal of its business.

#### Commencement Information

**I30** Sch. 2 para. 14 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

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### *Appointment to position of President*

- 15 (1) Sub-paragraph (2) applies where a legal member of the First-tier Tribunal or of the Upper Tribunal becomes by appointment President of the Tax Tribunals.
- (2) The appointment mentioned in sub-paragraph (1) supersedes the earlier appointment as a legal member.

#### **Commencement Information**

**I31** Sch. 2 para. 15 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

### *Termination of appointment*

- 16 A member of the Tax Tribunals ceases to hold the position to which the member was appointed if the member—
- (a) becomes disqualified from holding the position (see paragraph 7),
  - (b) is removed from the position under paragraph 41, or
  - (c) resigns the position by giving notice in writing to the President of the Tax Tribunals.

#### **Commencement Information**

**I32** Sch. 2 para. 16 in force at 24.2.2015 for specified purposes by S.S.I. 2015/18, art. 2, sch. 2

### *Pensions etc.*

- 17 (1) The Scottish Ministers may make arrangements as to—
- (a) the payment of pensions, allowances and gratuities to or in respect of members of the Tax Tribunals or former members,
  - (b) contributions or other payment towards provision for such pensions, allowances and gratuities.
- (2) Under sub-paragraph (1), such arrangements may (in particular)—
- (a) include provision relating to payment of compensation for loss of office,
  - (b) make different provision for different types of member or other different purposes.

#### **Commencement Information**

**I33** Sch. 2 para. 17 in force at 24.2.2015 for specified purposes by S.S.I. 2015/18, art. 2, sch. 2

### *Oaths*

- 18 (1) Each of the members of the Tax Tribunals must take the required oaths in the presence of the President of the Tax Tribunals.
- (2) In this paragraph, “the required oaths” means the oath of allegiance and the judicial oath as set out in the Promissory Oaths Act 1868 (c.72).

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**Commencement Information**

**I34** Sch. 2 para. 18 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Other conditions*

- 19 (1) Other than as provided for elsewhere in this Act or under it, the Scottish Ministers may determine the terms and conditions on which the members of the Tax Tribunals hold their positions.
- (2) Under sub-paragraph (1), a determination may (in particular)—
- (a) include provision for sums to be payable by way of remuneration, allowances and expenses,
  - (b) make different provision for different types of member or other different purposes.

**Commencement Information**

**I35** Sch. 2 para. 19 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

**PART 3**

CONDUCT AND DISCIPLINE

*Application of this Part*

- 20 (1) This Part of this schedule applies in relation to the positions of ordinary member and legal member of the Tax Tribunals (but not the position of judicial member of the tribunals).
- (2) Paragraphs 21 to 23 also apply to the position of the President of the Tax Tribunals.

**Commencement Information**

**I36** Sch. 2 para. 20 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Conduct Rules*

- 21 The Scottish Ministers are responsible for making and maintaining appropriate arrangements for the things for which rules under paragraph 22(1) may make provision.

**Commencement Information**

**I37** Sch. 2 para. 21 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

- 22 (1) The Scottish Ministers may make rules for the purposes of or in connection with—
- (a) the investigation and determination of any matter concerning the conduct of members of the Tax Tribunals,

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- (b) the review of any such determination.
- (2) Rules under sub-paragraph (1) may include provision about (in particular)—
- (a) the circumstances in which an investigation must or may be undertaken,
  - (b) the making of a complaint by any person,
  - (c) the steps that are to be taken by a person making a complaint before it is to be investigated,
  - (d) the carrying out of an investigation (including any steps to be taken by the member whom it concerns or by any other person),
  - (e) the time limits for taking steps and procedures for extending such time limits,
  - (f) the person by whom an investigation (or part of an investigation) is to be carried out,
  - (g) the matters to be determined by the person carrying out an investigation (or part of an investigation), the President of the Tax Tribunals or any other person,
  - (h) the making of recommendations by the person carrying out an investigation (or part of one),
  - (i) the obtaining of information relating to a complaint,
  - (j) the keeping of a record of an investigation,
  - (k) the confidentiality of communications or proceedings,
  - (l) the publication of information or its supply to any person.

#### Commencement Information

**I38** Sch. 2 para. 22 in force at 7.11.2014 for specified purposes by S.S.I. 2014/278, art. 2, sch.

**I39** Sch. 2 para. 22 in force at 1.4.2015 in so far as not already in force by S.S.I. 2015/110, art. 2(1)

- 23 Rules under paragraph 22(1)—
- (a) may make different provision for different purposes,
  - (b) are to be published in such manner as the Scottish Ministers may determine.

#### Commencement Information

**I40** Sch. 2 para. 23 in force at 1.1.2015 by S.S.I. 2014/370, art. 2, sch.

#### *Reprimand etc.*

- 24 (1) Where the condition in sub-paragraph (2) is met in relation to a member of the Tax Tribunals, the President of the Tax Tribunals may, for disciplinary purposes, give the member—
- (a) formal advice,
  - (b) a formal warning, or
  - (c) a reprimand.
- (2) The condition is that—
- (a) an investigation has been carried out with respect to the member in accordance with rules made under paragraph 22(1), and
  - (b) the person carrying out the investigation has recommended that the President exercise the power conferred by sub-paragraph (1).

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**Commencement Information**

**I41** Sch. 2 para. 24 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

- 25 Paragraph 24 does not limit what the President of the Tax Tribunals may do—
- (a) informally,
  - (b) for other purposes, or
  - (c) where no advice or warning is given in a particular case.

**Commencement Information**

**I42** Sch. 2 para. 25 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Suspension of membership*

- 26 (1) If the President of the Tax Tribunals considers that it is necessary for the purpose of maintaining public confidence in the Tax Tribunals, the President may suspend a member of the tribunals.
- (2) Suspension under sub-paragraph (1)—
- (a) is for such period as the President may specify when suspending the member,
  - (b) may be revoked or extended subsequently by the President.

**Commencement Information**

**I43** Sch. 2 para. 26 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

- 27 Suspension under paragraph 26(1) does not affect any remuneration payable to, or in respect of, the member concerned during the period of suspension.

**Commencement Information**

**I44** Sch. 2 para. 27 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Judicial Complaints Reviewer*

- 28 (1) The Judicial Complaints Reviewer has the functions mentioned in sub-paragraph (2).
- (2) The functions are—
- (a) on the request of a relevant person, to review the handling of an investigation carried out in accordance with rules made under paragraph 22(1) to consider whether the investigation has been carried out in accordance with the rules,
  - (b) in any case where the Reviewer considers that such an investigation has not been carried out in accordance with such rules, to refer the case to the Scottish Ministers,
  - (c) as directed by the Scottish Ministers, to prepare and publish reports on the investigations carried out in pursuance of such rules, and

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- (d) to make written representations to the Scottish Ministers about procedures for handling the investigation of matters concerning the conduct of members of the Tax Tribunals.
- (3) The Scottish Ministers are to have regard to any written representations made under sub-paragraph (2)(d).
- (4) In sub-paragraph (2)(a) “relevant person” means—
- (a) the person whose complaint led to the carrying out of the investigation, or
  - (b) the member of the Tax Tribunals with respect to whom the investigation has been carried out.

#### Commencement Information

**I45** Sch. 2 para. 28 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

- 29 (1) Sub-paragraph (2) applies where a case is referred to the Scottish Ministers by the Judicial Complaints Reviewer under paragraph 28(2)(b).
- (2) The Scottish Ministers may—
- (a) vary or revoke wholly or partly the determination made in the case to which the investigation relates,
  - (b) cause a fresh investigation to be carried out,
  - (c) confirm the determination in the case, or
  - (d) deal with the referral in such other way as the Scottish Ministers consider appropriate.

#### Commencement Information

**I46** Sch. 2 para. 29 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

## PART 4

### FITNESS AND REMOVAL

#### *Application of this Part*

- 30 (1) This Part of this schedule applies in relation to the positions of ordinary member and legal member of the Tax Tribunals (but not the position of judicial member of the tribunals).
- (2) This Part also applies to the position of the President of the Tax Tribunals subject to the modifications mentioned in paragraph 42.

#### Commencement Information

**I47** Sch. 2 para. 30 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Status: Point in time view as at 01/04/2015.*

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### *Constitution and procedure*

- 31 (1) The Scottish Ministers must constitute a fitness assessment tribunal when requested to do so by the President of the Tax Tribunals.
- (2) The Scottish Ministers may constitute a fitness assessment tribunal—
- (a) in such other circumstances as they think fit, and
  - (b) following consultation with the President.
- (3) The function of a fitness assessment tribunal is to investigate and report on whether a member of the Tax Tribunals is unfit to hold the position of member of the tribunals.

#### **Commencement Information**

**I48** Sch. 2 para. 31 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

- 32 (1) The Scottish Ministers may make rules as to the procedure to be followed in proceedings at a fitness assessment tribunal.
- (2) Rules under sub-paragraph (1) are to be published in such manner as the Scottish Ministers may determine.

#### **Commencement Information**

**I49** Sch. 2 para. 32 in force at 7.11.2014 for specified purposes by S.S.I. 2014/278, art. 2, sch.

**I50** Sch. 2 para. 32 in force at 1.4.2015 in so far as not already in force by S.S.I. 2015/110, art. 2(1)

### *Composition and remuneration*

- 33 (1) A fitness assessment tribunal is to consist of—
- (a) one person who is, or has been—
    - (i) a judge of the Court of Session (except a temporary judge), or
    - (ii) a sheriff (except a part-time sheriff),
  - (b) one person who is—
    - (i) where the member under investigation is an ordinary member, another ordinary member,
    - (ii) where the member under investigation is a legal member, another legal member, and
  - (c) one person who does not fall (and has never fallen) within a category of person referred to in paragraph (a) or (b).
- (2) The selection of persons to be members of the fitness assessment tribunal is to be made by the Scottish Ministers with the agreement of the Lord President.

#### **Commencement Information**

**I51** Sch. 2 para. 33 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

- 34 (1) The Scottish Ministers—
- (a) must pay such expenses as they consider are reasonably required to be incurred to enable a fitness assessment tribunal to carry out its functions,

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(b) may pay such remuneration to, and expenses of, any member of such a tribunal as they think fit.

(2) Sub-paragraph (1)(b) does not apply in relation to such a member if the member is a sheriff or a judge of the Court of Session.

#### Commencement Information

**I52** Sch. 2 para. 34 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

#### *Proceedings before fitness assessment tribunal*

- 35 (1) A fitness assessment tribunal may require any person—
- (a) to attend its proceedings for the purpose of giving evidence,
  - (b) to produce documents in the person's custody or under the person's control.
- (2) A person on whom such a requirement is imposed is not obliged to answer any question or produce any document which the person would be entitled to refuse to answer or produce in a court of law in Scotland.

#### Commencement Information

**I53** Sch. 2 para. 35 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

- 36 (1) Sub-paragraph (2) applies where a person on whom a requirement has been imposed under paragraph 35(1)—
- (a) refuses or fails, without reasonable excuse—
    - (i) to comply with the requirement,
    - (ii) while attending the tribunal proceedings to give evidence, to answer any question,
  - (b) deliberately alters, conceals or destroys any document which the person is required to produce.
- (2) The Court of Session may, on an application made to it by the tribunal—
- (a) make such order for enforcing compliance or otherwise as it thinks fit, or
  - (b) deal with the matter as if it were a contempt of the Court.

#### Commencement Information

**I54** Sch. 2 para. 36 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

#### *Suspension during investigation*

- 37 (1) Sub-paragraph (2) applies if the President of the Tax Tribunals requests the Scottish Ministers to constitute a fitness assessment tribunal to investigate whether a member of the Tax Tribunals is unfit to hold the position of member of the tribunals.
- (2) The President may suspend the member from the position at any time before the fitness assessment tribunal submits its report as required by paragraph 40(2).
- (3) Suspension under sub-paragraph (2) lasts until (whichever is earlier)—



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- (a) the President revokes it, or
- (b) the report is laid as required by paragraph 40(3).

**Commencement Information**

**I55** Sch. 2 para. 37 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

- 38 (1) Sub-paragraph (2) applies if a fitness assessment tribunal—
- (a) recommends that a member of the Tax Tribunals who is subject to its investigation should be suspended from the position as member of the tribunals,
  - (b) does so in writing at any time before the fitness assessment tribunal submits its report as required by paragraph 40(2).
- (2) The Scottish Ministers may suspend the member from the position at any time before laying the report as required by paragraph 40(3).
- (3) Suspension under sub-paragraph (2) lasts until (whichever is earlier)—
- (a) the Scottish Ministers revoke it, or
  - (b) the report is laid as required by paragraph 40(3).

**Commencement Information**

**I56** Sch. 2 para. 38 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

- 39 Suspension under paragraph 37(2) or 38(2) does not affect any remuneration payable to, or in respect of, the member concerned during the period of suspension.

**Commencement Information**

**I57** Sch. 2 para. 39 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Report and removal*

- 40 (1) A report by a fitness assessment tribunal must—
- (a) be in writing, and
  - (b) contain reasons for its conclusions.
- (2) As soon as reasonably practicable after it is completed, such a report must be submitted by the fitness assessment tribunal to—
- (a) the Scottish Ministers, and
  - (b) the President of the Tax Tribunals.
- (3) The Scottish Ministers must lay before the Scottish Parliament each report submitted under sub-paragraph (2).

**Commencement Information**

**I58** Sch. 2 para. 40 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Status: Point in time view as at 01/04/2015.*

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- 41 (1) If the relevant condition is met, the Scottish Ministers may remove a member of the Tax Tribunals from the position of member of the tribunals.
- (2) The relevant condition is that a fitness assessment tribunal has submitted a report under paragraph 40(2) concluding that the member is unfit to hold the position of member of the Tax Tribunals.

**Commencement Information**

**I59** Sch. 2 para. 41 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Application of this Part to the President of the Tax Tribunals*

- 42 (1) This Part of this schedule applies in relation to the President of the Tax Tribunals with the following modifications.
- (2) In paragraph 31, sub-paragraphs (1) and (2)(b) do not apply.
- (3) Paragraph 33 is to apply in relation to a fitness assessment tribunal constituted to investigate and report on whether the President is unfit to hold that position as it applies to a legal member of the Tax Tribunals.
- (4) In paragraph 37—
- (a) sub-paragraph (1) does not apply,
  - (b) the references in sub-paragraphs (2) and (3)(a) to the President are to be read as references to the Scottish Ministers.
- (5) Paragraph 40(2)(b) does not apply.

**Commencement Information**

**I60** Sch. 2 para. 42 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Interpretation*

- 43 In this Part of this schedule, the references to unfitness to hold the position of member of the Tax Tribunals are to unfitness by reason of inability, neglect of duty or misbehaviour.

**Commencement Information**

**I61** Sch. 2 para. 43 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Status: Point in time view as at 01/04/2015.*

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## SCHEDULE 3

(introduced by section 114)

### CLAIMS FOR RELIEF FROM DOUBLE ASSESSMENT AND FOR REPAYMENT

#### *Introduction*

- 1 This schedule applies to a claim under section 106, 107 or 108.

#### **Commencement Information**

**I62** Sch. 3 para. 1 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

#### *Making of claims*

- 2 (1) A claim must be made in such form as Revenue Scotland may determine.
- (2) The form of claim must provide for a declaration to the effect that all the particulars given in the form are correctly stated to the best of the claimant's information and belief.
- (3) The form of claim may require—
- (a) a statement of the amount of tax that will be required to be discharged or repaid in order to give effect to the claim,
  - (b) such information as is reasonably required for the purpose of determining whether and, if so, the extent to which the claim is correct,
  - (c) the delivery with the claim of such statements and documents, relating to the information contained in the claim, as are reasonably required for the purpose mentioned in paragraph (b).
- (4) A claim for repayment of tax may not be made unless the claimant has documentary evidence that the tax has been paid.

#### **Commencement Information**

**I63** Sch. 3 para. 2 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

#### *Duty to keep and preserve records*

- 3 (1) A person who wishes to make a claim must—
- (a) keep such records as may be needed to enable the person to make a correct and complete claim, and
  - (b) preserve those records in accordance with this paragraph.
- (2) The records must be preserved until the latest of the following times—
- (a) the end of the period of 3 years beginning with the day on which the claim was made,
  - (b) where there is an enquiry into the claim, or into an amendment of the claim, the time when the enquiry is completed,
  - (c) where the claim is amended and there is no enquiry into the amendment, the time when Revenue Scotland no longer has power to enquire into the amendment.

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- (3) The Scottish Ministers may by regulations—
- (a) provide that the records required to be kept and preserved under this paragraph include, or do not include, records specified in the regulations, and
  - (b) provide that those records include supporting documents so specified.
- (4) Regulations under this paragraph may make provision by reference to things specified in a notice published by Revenue Scotland in accordance with the regulations (and not withdrawn by a subsequent notice).
- (5) “Supporting documents” includes accounts, books, deeds, contracts, vouchers and receipts.

**Commencement Information**

**I64** Sch. 3 para. 3 in force at 7.11.2014 for specified purposes by S.S.I. 2014/278, art. 2, sch.

**I65** Sch. 3 para. 3 in force at 1.4.2015 in so far as not already in force by S.S.I. 2015/110, art. 2(1)

*Preservation of information etc.*

- 4 The duty under paragraph 3 to preserve records may be satisfied—
- (a) by preserving them in any form and by any means, or
  - (b) by preserving the information contained in them in any form and by any means, subject to any conditions or exceptions specified by Revenue Scotland.

**Commencement Information**

**I66** Sch. 3 para. 4 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Penalty for failure to keep and preserve records*

- 5 (1) A person (“P”) who fails to comply with paragraph 3 in relation to a claim that the person makes 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 it.

**Commencement Information**

**I67** Sch. 3 para. 5 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Reasonable excuse for failure to keep and preserve records*

- 6 (1) If P satisfies Revenue Scotland or (on appeal) the tribunal that there is a reasonable excuse for a failure to comply with paragraph 3, liability to a penalty under paragraph 5 does not arise in relation to that failure.
- (2) For the purposes of sub-paragraph (1)—

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- (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
- (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.

**Commencement Information**

**I68** Sch. 3 para. 6 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Assessment of penalties under paragraph 5*

- 7 (1) Where a person becomes liable for a penalty under paragraph 5, Revenue Scotland must—
- (a) assess the penalty, and
  - (b) notify the person.
- (2) An assessment of a penalty under paragraph 5 must be made within the period of 12 months beginning with the date on which the person became liable to the penalty.

**Commencement Information**

**I69** Sch. 3 para. 7 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Enforcement of penalties under paragraph 5*

- 8 (1) A penalty under paragraph 5 must be paid—
- (a) before the end of the period of 30 days beginning with the date on which the notification under paragraph 7 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 paragraph 5 is to be treated for enforcement purposes as an assessment to tax.

**Commencement Information**

**I70** Sch. 3 para. 8 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

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*Power to change penalty provisions in paragraphs 5 to 8*

- 9 (1) The Scottish Ministers may by regulations make provision (or further provision) about penalties under paragraphs 5 to 8.
- (2) Regulations under sub-paragraph (1) may include 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 sub-paragraph (1) may not create criminal offences.
- (4) Regulations under sub-paragraph (1) may modify any enactment (including this Act).
- (5) Regulations under sub-paragraph (1) do not apply to a failure which began before the date on which the regulations come into force.

**Commencement Information**

**I71** Sch. 3 para. 9 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Amendment of claim by claimant*

- 10 (1) The claimant may amend the claim by notice to Revenue Scotland.
- (2) No such amendment may be made—
- (a) more than 12 months after the day on which the claim was made, or
  - (b) if Revenue Scotland gives notice under paragraph 13 (notice of enquiry), during the period—
    - (i) beginning with the day on which notice is given, and
    - (ii) ending with the day on which the enquiry under that paragraph is completed.

**Commencement Information**

**I72** Sch. 3 para. 10 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Correction of claim by Revenue Scotland*

- 11 (1) Revenue Scotland may by notice to the claimant amend a claim so as to correct obvious errors or omissions in the claim (whether errors of principle, arithmetical mistakes or otherwise).
- (2) No such correction may be made—
- (a) more than 9 months after the day on which the claim was made, or
  - (b) if Revenue Scotland gives notice under paragraph 13 (notice of enquiry), during the period—
    - (i) beginning with the day on which notice is given, and

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- (ii) ending with the day on which the enquiry under that paragraph is completed.
- (3) A correction under this paragraph is of no effect if, within 3 months from the date of issue of the notice of correction, the claimant gives notice rejecting the correction.
- (4) Notice under sub-paragraph (3) must be given to Revenue Scotland.

**Commencement Information**

**I73** Sch. 3 para. 11 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Giving effect to claims and amendments*

- 12 (1) As soon as practicable after a claim is made, amended or corrected under paragraph 10 or 11, Revenue Scotland must give effect to the claim or amendment by discharge or repayment of tax.
- (2) Where Revenue Scotland enquires into a claim or amendment—
- (a) sub-paragraph (1) does not apply until a closure notice is given under paragraph 14 (completion of enquiry), and then it applies subject to paragraph 16 (giving effect to amendments under paragraph 14), but
  - (b) Revenue Scotland may at any time before then give effect to the claim or amendment, on a provisional basis, to such extent as it thinks fit.

**Commencement Information**

**I74** Sch. 3 para. 12 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Notice of enquiry*

- 13 (1) Revenue Scotland may enquire into a person's claim or amendment of a claim if it gives the claimant notice of its intention to do so (“notice of enquiry”) before the end of the period of 3 years after the day on which the claim was made.
- (2) A claim or amendment that has been the subject of one notice of enquiry may not be the subject of another.

**Commencement Information**

**I75** Sch. 3 para. 13 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Completion of enquiry*

- 14 (1) An enquiry under paragraph 13 is completed—
- (a) when Revenue Scotland by notice (a “closure notice”) informs the claimant that it has completed its enquiries and states its conclusions, or
  - (b) no closure notice having been given, 3 years after the date on which the claim was made.

*Status: Point in time view as at 01/04/2015.*

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- (2) A closure notice must be given no later than 3 years after the date on which the claim was made.
- (3) A closure notice must either—
  - (a) state that in the opinion of Revenue Scotland no amendment of the claim is required, or
  - (b) if in Revenue Scotland's opinion the claim is insufficient or excessive, amend the claim so as to make good or eliminate the deficiency or excess.
- (4) In the case of an enquiry into an amendment of a claim, sub-paragraph (3)(b) applies only so far as the deficiency or excess is attributable to the amendment.
- (5) A closure notice takes effect when it is issued.

**Commencement Information**

**I76** Sch. 3 para. 14 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Direction to complete enquiry*

- 15 (1) The claimant may apply to the tribunal for a direction that Revenue Scotland gives a closure notice within a specified period.
- (2) Any such application is to be subject to the relevant provisions of tribunal rules.
- (3) The tribunal must give a direction unless satisfied that Revenue Scotland has reasonable grounds for not giving a closure notice within a specified period.

**Commencement Information**

**I77** Sch. 3 para. 15 in force at 7.11.2014 for specified purposes by S.S.I. 2014/278, art. 2, sch.

**I78** Sch. 3 para. 15 in force at 1.4.2015 in so far as not already in force by S.S.I. 2015/110, art. 2(1)

*Giving effect to amendments under paragraph 14*

- 16 (1) Within 30 days after the date of issue of a notice under paragraph 14(3)(b) (closure notice that amends claim), Revenue Scotland must give effect to the amendment by making such adjustment as may be necessary, whether—
  - (a) by way of assessment on the claimant, or
  - (b) by discharge or repayment of tax.
- (2) An assessment made under sub-paragraph (1) is not out of time if it is made within the time mentioned in that sub-paragraph.

**Commencement Information**

**I79** Sch. 3 para. 16 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)



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#### *Appeals against amendments under paragraph 14*

- 17 (1) An appeal may be brought against a conclusion stated or amendment made by a closure notice.
- (2) Notice of the appeal must be given—
- (a) within 30 days after the date on which the closure notice was issued,
  - (b) to the tribunal.
- (3) The notice of appeal must specify the grounds of appeal.
- (4) Part 11 (reviews and appeals) applies in relation to an appeal under this paragraph as it applies in relation to an appeal under that Part.
- (5) On an appeal against an amendment made by a closure notice, the tribunal may vary the amendment appealed against whether or not the variation is to the advantage of the appellant.
- (6) Where any such amendment is varied, whether by the tribunal or by the order of a court, paragraph 16 (giving effect to amendments under paragraph 14) applies (with the necessary modifications) in relation to the variation as it applied in relation to the amendment.

#### **Commencement Information**

**I80** Sch. 3 para. 17 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

## SCHEDULE 4

*(introduced by section 256)*

### MINOR AND CONSEQUENTIAL MODIFICATIONS

#### *Debtors (Scotland) Act 1987*

- 1 (1) The Debtors (Scotland) Act 1987 (c.18) is amended as follows.
- (2) In section 1 (time to pay directions)—
- (a) in subsection (5), after paragraph (d) insert—
    - “(da) in an action by or on behalf of Revenue Scotland for payment of any sum recoverable under or by virtue of the Revenue Scotland and Tax Powers Act 2014 (asp 16) or any other enactment in respect of a devolved tax, under a contract settlement or under a settlement agreement,”
  - (b) after subsection (8A) insert—
    - “(8B) In paragraph (da) of subsection (5)—  
“contract settlement” means any agreement made in connection with any person's liability to make a payment to Revenue Scotland under or by virtue of the Revenue Scotland and Tax Powers Act 2014 (asp 16) or any other enactment in respect of a devolved tax,

*Status: Point in time view as at 01/04/2015.*

**Changes to legislation:** Revenue Scotland and Tax Powers Act 2014 is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“devolved tax” has the meaning given by section 80A(4) of the Scotland Act 2012 (c. 46),

“settlement agreement” has the meaning given by section 246(1) of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”.

(3) In section 5 (time to pay orders)—

(a) in subsection (4), after paragraph (d) insert—

“(da) in relation to a debt including any sum recoverable by or on behalf of Revenue Scotland under or by virtue of the Revenue Scotland and Tax Powers Act 2014 (asp 16) or any other enactment in respect of a devolved tax, under a contract settlement or under a settlement agreement,”,

(b) after subsection (8A) insert—

“(8B) In paragraph (da) of subsection (4)—

“contract settlement” means any agreement made in connection with any person's liability to make a payment to Revenue Scotland under or by virtue of the Revenue Scotland and Tax Powers Act 2014 (asp 16) or any other enactment in respect of a devolved tax,

“devolved tax” has the meaning given by section 80A(4) of the Scotland Act 2012 (c. 46),

“settlement agreement” has the meaning given by section 246(1) of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”.

(4) In section 106 (interpretation), in the definition of “summary warrant”, after paragraph (e) insert—

“(f) section 225 of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”.

#### Commencement Information

**181** Sch. 4 para. 1 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

#### *Environment Act 1995*

2 (1) The Environment Act 1995 (c.25) is amended as follows.

(2) In section 51 (provision of information)—

(a) after subsection (1) insert—

“(1A) Nothing in this section authorises the disclosure by SEPA of protected taxpayer information which was obtained by SEPA in connection with a function of Revenue Scotland delegated to it by Revenue Scotland under section 4(1)(b) of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”,

(b) after subsection (5) insert—

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Revenue Scotland and Tax Powers Act 2014 is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

“(6) In subsection (1A), “protected taxpayer information” has the meaning given by section 14 of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”.

(3) In section 113 (disclosure of information)—

(a) after subsection (1) insert—

“(1A) Nothing in this section authorises the disclosure by SEPA to any person of protected taxpayer information which was obtained by SEPA in connection with a function of Revenue Scotland delegated to it by Revenue Scotland under section 4(1)(b) of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”.

(b) in subsection (5), after the definition of “local enforcing authority” insert—

““protected taxpayer information” has the meaning given by section 14 of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”.

**Commencement Information**

**182** Sch. 4 para. 2 in force at 1.1.2015 by S.S.I. 2014/370, art. 2, sch.

*Public Finance and Accountability (Scotland) Act 2000*

3 In section 9(1) of the Public Finance and Accountability (Scotland) Act 2000 (asp 1) (Keeper of the Registers of Scotland: financial arrangements), after “Sums” insert “(other than payments of or in connection with land and buildings transaction tax)”. .

**Commencement Information**

**183** Sch. 4 para. 3 in force at 1.1.2015 by S.S.I. 2014/370, art. 2, sch.

*Ethical Standards in Public Life etc. (Scotland) Act 2000*

4 In the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7), in schedule 3 (devolved public bodies), at the appropriate place in alphabetical order insert— “Revenue Scotland”.

**Commencement Information**

**184** Sch. 4 para. 4 in force at 1.1.2015 by S.S.I. 2014/370, art. 2, sch.

*Freedom of Information (Scotland) Act 2002*

5 In the Freedom of Information (Scotland) Act 2002 (asp 13), in Part 2 of schedule 1 (Scottish public authorities), at the appropriate place in alphabetical order insert— “Revenue Scotland”.

*Status: Point in time view as at 01/04/2015.*

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#### Commencement Information

**I85** Sch. 4 para. 5 in force at 1.1.2015 by S.S.I. 2014/370, art. 2, sch.

#### *Public Appointments and Public Bodies etc. (Scotland) Act 2003*

- 6 In the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4), in schedule 2 (the specified authorities), under the heading “Executive bodies” at the appropriate place in alphabetical order insert— “ Revenue Scotland ”.

#### Commencement Information

**I86** Sch. 4 para. 6 in force at 1.1.2015 by S.S.I. 2014/370, art. 2, sch.

#### *Public Services Reform (Scotland) Act 2010*

- 7 In the Public Services Reform (Scotland) Act 2010 (asp 8), in schedule 8 (listed public bodies), at the appropriate place in alphabetical order insert— “ Revenue Scotland ”.

#### Commencement Information

**I87** Sch. 4 para. 7 in force at 1.1.2015 by S.S.I. 2014/370, art. 2, sch.

#### *Public Records (Scotland) Act 2011*

- 8 In the Public Records (Scotland) Act 2011 (asp 12), in the schedule, under the heading “Scottish Administration” at the appropriate place in alphabetical order insert— “ Revenue Scotland ”.

#### Commencement Information

**I88** Sch. 4 para. 8 in force at 1.1.2015 by S.S.I. 2014/370, art. 2, sch.

#### *Land and Buildings Transaction Tax (Scotland) Act 2013*

- 9 (1) The LBTT(S) Act 2013 is amended as follows.
- (2) In section 10 (substantial performance without completion), after subsection (5) insert—
- “(5A) For the period allowed for amendment of returns, see section 83 of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”.
- (3) In section 11 (contract providing for conveyance to third party), after subsection (6) insert—
- “(6A) For the period allowed for amendment of returns, see section 83 of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”.
- (4) In section 27 (reliefs), after subsection (2) insert—

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- “(2A) For the period allowed for amendment of returns, see section 83 of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”.
- (5) In section 32 (contingency ceases or consideration ascertained: less tax payable)—
- (a) in subsection (2)(b), after “Authority” insert “ under section 107 of the Revenue Scotland and Tax Powers Act 2014 (asp 16) ”,
- (b) after subsection (2) insert—
- “(2A) For the period allowed for amendment of returns, see section 83 of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”.
- (6) In section 35 (form and content of returns), in subsection (1)—
- (a) the word “and” after paragraph (a) is repealed,
- (b) after paragraph (b) insert “, and
- (c) be made in such manner as specified by the Tax Authority.”.
- (7) Section 37 (amendment of returns) is repealed.
- (8) After section 37 insert—
- “37A Communications from taxpayers to the Tax Authority**
- (1) Any notice, application or other thing that a person is required or permitted by provision made in or under this Act to give to the Tax Authority must comply with the requirements set out in subsection (2).
- (2) The requirements are that the thing—
- (a) must be in the form specified by the Tax Authority,
- (b) must contain the information specified by the Tax Authority, and
- (c) must be given in the manner specified by the Tax Authority.
- (3) Subsections (1) and (2) are subject to any different provision made in or under this Act.”.
- (9) In section 41(2) (application to defer payment in case of contingent or uncertain consideration), subsection (2) is repealed.
- (10) In section 48 (joint buyers), after subsection (3) insert—
- “(3A) See also section 247 of the Revenue Scotland and Tax Powers Act 2014 (asp 16) (reviews, appeals etc. where joint buyers).”.
- (11) In section 50 (trusts), after subsection (2) insert—
- “(3) See also section 248 of the Revenue Scotland and Tax Powers Act 2014 (asp 16) (reviews, appeals etc.: trustees).”.
- (12) In section 54 (the Tax Authority)—
- (a) in subsection (1), for “the Scottish Ministers” substitute “ Revenue Scotland ”,
- (b) subsection (2) is repealed.
- (13) Section 55 (delegation of functions to Keeper) is repealed.
- (14) Section 56 (review and appeal) is repealed.

*Status: Point in time view as at 01/04/2015.*

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- (15) In section 63(2)(a) (meaning of “effective date” of transaction), for “settlement” substitute “ completion ”.
- (16) In section 68 (subordinate legislation)—
- (a) in subsection (2), paragraph (h) is repealed,
  - (b) in subsection (3), paragraph (c) is repealed,
  - (c) after subsection (6) insert—
    - “(6A) Subsection (4)(b) is without prejudice to—
    - (a) anything previously done by reference to an order mentioned in subsection (5), or
    - (b) the making of a new order.”.
- (17) In section 70(1) (commencement), “55,” is repealed.
- (18) In schedule 2 (chargeable consideration), in paragraph 16(1)(a)(ii), for “1982” substitute “ 1992 ”.
- (19) In schedule 5 (multiple dwellings relief), in paragraph 18(b), for “effect” substitute “ effective ”.
- (20) In schedule 10 (group relief)—
- (a) in paragraph 1(2), after “withdrawn” insert— “ Part 3A provides for recovery of tax where relief is withdrawn, ”,
  - (b) after paragraph 42 insert—

### “PART 3A

#### RECOVERY OF RELIEF

##### **Recovery of relief**

- 42A This Part applies where—
- (a) relief under this schedule is withdrawn or partially withdrawn and tax is chargeable,
  - (b) the amount so chargeable has been finally determined, and
  - (c) the whole or part of the amount so chargeable is unpaid 6 months after the date on which it became payable.
- 42B The following persons may, by notice under paragraph 42E, be required to pay the unpaid tax—
- (a) the seller,
  - (b) any company that at any relevant time was a member of the same group as the buyer and was above it in the group structure,
  - (c) any person who at any relevant time was a controlling director of the buyer or a company having control of the buyer.
- 42C For the purposes of paragraph 42B(b)—
- (a) a “relevant time” means any time between the effective date of the transaction which was exempt from charge by virtue

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of this schedule and the buyer ceasing to be a member of the same group as the seller, and

- (b) a company (“company A”) is “above” another company (“company B”) in a group structure if company B, or another company that is above company B in the group structure, is a 75% subsidiary of company A.

42D In paragraph 42B(c)—

“director”, in relation to a company, has the meaning given by section 67(1) of the Income Tax (Earnings and Pensions) Act 2003 (c.1) (read with subsection (2) of that section) and includes a person falling within section 452(1) of the Corporation Tax Act 2010 (c.4),

“controlling director”, in relation to a company, means a director of the company who has control of it (construing control in accordance with sections 450 and 451 of the Corporation Tax Act 2010 (c.4)).

#### **Recovery of relief: supplementary**

42E The Tax Authority may give notice to a person within paragraph 42B requiring that person within 30 days of receipt of the notice to pay the amount that remains unpaid.

42F Any such notice must be given before the end of the period of 3 years beginning with the date of the final determination mentioned in paragraph 42A(b).

42G The notice must state the amount required to be paid by the person to whom the notice is given.

42H The notice has effect—

- (a) for the purposes of the recovery from that person of the amount required to be paid and of interest on that amount, and  
(b) for the purpose of appeals,

as if it were a notice of a Revenue Scotland assessment and that amount were an amount of tax due from that person.

42I A person who has paid an amount in pursuance of a notice under paragraph 42E may recover that amount from the buyer.

42J A payment in pursuance of a notice under paragraph 42E is not allowed as a deduction in computing any income, profits or losses for any tax purpose.

42K In paragraph 42H, “Revenue Scotland assessment” has the same meaning as in section 100 of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”.

(21) In schedule 11 (reconstruction relief and acquisition relief)—

- (a) in paragraph 1(2), after “withdrawn” insert— “ Part 4A provides for recovery of tax where relief is withdrawn, ”,  
(b) in paragraph 5, for “(c) and (d)” substitute “ (b) and (c) ”,  
(c) in paragraph 9(a), for second “person” substitute “ persons ”,  
(d) after paragraph 35 insert—

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## “PART 4A

### RECOVERY OF RELIEF

#### Recovery of relief

- 35A This Part applies where—
- (a) relief under Part 2 or Part 3 of this schedule is withdrawn or partially withdrawn,
  - (b) the amount of tax chargeable has been finally determined, and
  - (c) the whole or part of the amount so chargeable is unpaid 6 months after the date on which it became payable.
- 35B The following persons may, by notice under paragraph 35E, be required to pay the unpaid tax—
- (a) any company that at any relevant time was a member of the same group as the acquiring company and was above it in the group structure,
  - (b) any person who at any relevant time was a controlling director of the acquiring company or a company having control of the acquiring company.
- 35C For the purposes of paragraph 35B—
- (a) “relevant time” means any time between the effective date of the relevant transaction and the change of control by virtue of which tax is chargeable, and
  - (b) a company (“company A”) is “above” another company (“company B”) in a group structure if company B, or another company that is above company B in the group structure, is a 75% subsidiary of company A.
- 35D In paragraph 35B(b)—
- “director”, in relation to a company, has the meaning given by section 67(1) of the Income Tax (Earnings and Pensions) Act 2003 (c.1) (read with subsection (2) of that section) and includes a person falling within section 452(1) of the Corporation Tax Act 2010 (c.4),
- “controlling director”, in relation to a company, means a director of the company who has control of it (construing control in accordance with sections 450 and 451 of the Corporation Tax Act 2010 (c.4)).

#### Recovery of relief: supplementary

- 35E The Tax Authority may give notice to a person within paragraph 35B requiring that person within 30 days of receipt of the notice to pay the amount that remains unpaid.
- 35F Any such notice must be given before the end of the period of 3 years beginning with the date of the final determination mentioned in paragraph 35A(b).



*Status: Point in time view as at 01/04/2015.*

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- 35G The notice must state the amount required to be paid by the person to whom the notice is given.
- 35H The notice has effect—
- (a) for the purposes of the recovery from that person of the amount required to be paid and of interest on that amount, and
  - (b) for the purpose of appeals,
- as if it were a notice of a Revenue Scotland assessment and that amount were an amount of tax due from that person.
- 35I A person who has paid an amount in pursuance of a notice under paragraph 35E may recover that amount from the acquiring company.
- 35J A payment in pursuance of a notice under paragraph 35E is not allowed as a deduction in computing any income, profits or losses for any tax purpose.
- 35K In paragraph 35H, “Revenue Scotland assessment” has the same meaning as in section 100 of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”.
- (22) In schedule 17 (partnerships)—
- (a) in paragraph 35 (election by property-investment partnership)—
    - (i) in sub-paragraph (1), for “paragraph” substitute “ Part ”,
    - (ii) after sub-paragraph (3) insert—

“(3A) For the period allowed for amendment of returns, see section 83 of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”
  - (b) in paragraph 38 (application of group relief to certain partnership transactions), in sub-paragraph (4), for “42” substitute “ 42K ”.
- (23) In schedule 19 (leases), in paragraph 25 (agreement for lease substantially performed etc.), after sub-paragraph (7) insert—
- “(7A) For the period allowed for amendment of returns, see section 83 of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”.

#### Commencement Information

- I89** Sch. 4 para. 9 not in force at Royal Assent; Sch. 4 para. 9(12) in force at 25.9.2014, see s. 260(1)
- I90** Sch. 4 para. 9(1) (6) (8) (9) (15) (16)(a) (16)(c) (18) (19) (22)(a)(i) in force at 7.11.2014 by [S.S.I. 2014/278](#), [art. 2](#), [sch.](#)
- I91** Sch. 4 para. 9(2)-(5) (7) (10)(11) (14) (16)(b) in force at 1.4.2015 by [S.S.I. 2015/110](#), [art. 2\(1\)](#)
- I92** Sch. 4 para. 9(13) (17) (21)(b) (21)(c) in force at 1.1.2015 by [S.S.I. 2014/370](#), [art. 2](#), [sch.](#)
- I93** Sch. 4 para. 9(20) (21)(a) (21)(d) (22)(a)(ii) (22)(b) (23) in force at 1.4.2015 by [S.S.I. 2015/110](#), [art. 2\(1\)](#)

#### *Landfill Tax (Scotland) Act 2014*

- 10 (1) The LT(S) Act 2014 is amended as follows.
- (2) In section 15 (weight of materials disposed of)—

*Status: Point in time view as at 01/04/2015.*

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- (a) in subsection (2)(c), for “an authorised person” substitute “ a designated officer ”,
  - (b) in subsection (4), for “an authorised person” substitute “ a designated officer ”,
  - (c) after subsection (6) insert—
    - “(7) The regulations may include provision for penalties where a person fails to comply with a requirement imposed by or under the regulations.”.
- (3) In section 18 (credit: general), after subsection (6) insert—
- “(6A) The regulations may provide for section 107 of the Revenue Scotland and Tax Powers Act 2014 (asp 16) to apply (with or without modifications) to a claim under this section by a person who has ceased to be registrable as it applies to a claim under that section.”.
- (4) In section 22 (registration), in subsection (9), paragraph (b) is repealed.
- (5) In section 23 (information required to keep register up to date), in subsection (2), paragraph (b) is repealed.
- (6) In section 25 (accounting for tax and time for payment), for paragraph (b) substitute—
- “(b) make returns in relation to such accounting periods,”.
- (7) After section 25 insert—

**“25A Form and content of returns**

- (1) A return under this Act must—
  - (a) be in the form specified by the Tax Authority,
  - (b) contain such information specified by the Tax Authority, and
  - (c) be made in such manner as specified by the Tax Authority.
- (2) The Tax Authority may specify different forms and information for different kinds of return.
- (3) A return is treated as containing any information provided by the person making it for the purpose of completing the return.

**25B Communications from taxpayers to the Tax Authority**

- (1) Any notice, application or other thing that a person is required or permitted by provision made in or under this Act to give to the Tax Authority must comply with the requirements set out in subsection (2).
- (2) The requirements are that the thing—
  - (a) must be in the form specified by the Tax Authority,
  - (b) must contain the information specified by the Tax Authority, and
  - (c) must be given in the manner specified by the Tax Authority.
- (3) Subsections (1) and (2) are subject to any different provision made in or under this Act.”.

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: Revenue Scotland and Tax Powers Act 2014 is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (8) Section 26 (time of disposal where invoice issued) is repealed.
- (9) Section 28 (evidence about tax status) is repealed.
- (10) Section 29 (recovery of overpaid tax) is repealed.
- (11) In section 30(3)(a) (information: material at landfill sites), for “an authorised person” substitute “ a designated officer ”.
- (12) In section 31(1) (information: site restoration)—
  - (a) in paragraph (a), “in writing” is repealed,
  - (b) in paragraph (b), “written” is repealed.
- (13) Sections 32 and 33 (record keeping) are repealed.
- (14) In section 34 (the Tax Authority)—
  - (a) in subsection (1), for “the Scottish Ministers” substitute “ Revenue Scotland ”,
  - (b) subsection (2) is repealed.
- (15) Section 35 (delegation of functions to SEPA) is repealed.
- (16) Section 36 (review and appeal) is repealed.
- (17) In section 39 (interpretation), for the definition of “authorised person” substitute—

““designated officer” has the meaning given by section 252 of the Revenue Scotland and Tax Powers Act 2014 (asp 16) (general interpretation),”.
- (18) In section 41 (subordinate legislation)—
  - (a) in subsection (2)—
    - (i) after paragraph (b) insert—

“(ba) regulations under section 15 which make provision of the type mentioned in section 15(7),”
    - (ii) paragraph (d) is repealed,
  - (b) in subsection (7), paragraph (c) is repealed (but not the word “and” immediately following it).
- (19) In section 43 (commencement), “35,” is repealed.

#### **Commencement Information**

- I94** Sch. 4 para. 10 not in force at Royal Assent; Sch. 4 para. 10(14) in force at 25.9.2014, see s. 260(1)
- I95** Sch. 4 para. 10(1)-(8) (11) (12) (17) (18)(a) in force at 7.11.2014 by [S.S.I. 2014/278](#), [art. 2](#), [sch.](#)
- I96** Sch. 4 para. 10(9) (10) (13) (16) (18)(b) in force at 1.4.2015 by [S.S.I. 2015/110](#), [art. 2\(1\)](#)
- I97** Sch. 4 para. 10(15) (19) in force at 1.1.2015 by [S.S.I. 2014/370](#), [art. 2](#), [sch.](#)

#### *Tribunals (Scotland) Act 2014*

- 11 (1) The Tribunals (Scotland) Act 2014 (asp 10) is amended as follows.
- (2) In schedule 1 (listed tribunals), in Part 1, after paragraph 10 (the entry for “A Police Appeals Tribunal”) insert—

“10A The First-tier Tax Tribunal for Scotland

*Status: Point in time view as at 01/04/2015.*

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10B The Upper Tax Tribunal for Scotland”.

(3) In Part 2 of that schedule, after paragraph 13(10) insert—

“(10A) The entries in paragraphs 10A and 10B relate to the functions exercisable by the First-tier Tax Tribunal for Scotland and the Upper Tax Tribunal for Scotland by virtue of the Revenue Scotland and Tax Powers Act 2014 or any other enactment.”.

**Commencement Information**

**I98** Sch. 4 para. 11 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

*Procurement Reform (Scotland) Act 2014*

12 In the Procurement Reform (Scotland) Act 2014 (asp 12), in Part 1 of the schedule (contracting authorities: Scottish Administration and Scottish Parliament), after paragraph 13 (the entry for the Scottish Housing Regulator) insert—

“13A Revenue Scotland”.

**Commencement Information**

**I99** Sch. 4 para. 12 in force at 1.1.2015 by S.S.I. 2014/370, art. 2, sch.

SCHEDULE 5

(introduced by section 253)

INDEX OF DEFINED EXPRESSIONS

**Commencement Information**

**I100** Sch. 5 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

<i>Expression</i>	<i>Interpretation provision</i>
LBTT(S) Act 2013	section 252
LT(S) Act 2014	section 252
appealable decision	section 233
appellant	section 234(1)
business assets	section 141(4)
business documents	section 141(4)
business premises	section 141(4)
carrying on a business	section 121

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*Status: Point in time view as at 01/04/2015.*

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closure notice	section 93(1) (for the purposes of Part 6) and paragraph 14(1) of schedule 3 (for the purposes of that schedule)
contact details	section 227(4)
contract settlement	section 118(8)
designated officer	section 252
devolved taxes	section 3(3)
filing date	section 82
First-tier Tribunal	section 21(5)(a)
general anti-avoidance rule	section 62(2)
information notice	section 131(1)
judicial member	section 61
Keeper	section 4(1)(a)
legal member	section 61
Lord President	section 61
matter in question	section 250(1)
notice of appeal	section 252
notice of enquiry	section 85(5) (for the purposes of Part 6) and paragraph 13(1) of schedule 3 (for the purposes of that schedule)
notice of review	section 252
ordinary member	section 61
protected taxpayer information	section 14(1)
Revenue Scotland assessment	section 100
Revenue Scotland determination	section 252
SEPA	section 4(1)(b)
settlement agreement	section 246(1)
statutory records	section 122
tax position	section 120
Tax Tribunals	section 21(5)(c)
taxpayer notice	section 123(3)
third party	section 227(1)(c)
third party notice	section 124(4)
tribunal	section 252
tribunal rules	section 51(2)
Upper Tribunal	section 21(5)(b)

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**Status:**

Point in time view as at 01/04/2015.

**Changes to legislation:**

Revenue Scotland and Tax Powers Act 2014 is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.