



# Revenue Scotland and Tax Powers Act 2014

2014 asp 16

## PART 6

### TAX RETURNS, ENQUIRIES AND ASSESSMENTS

## CHAPTER 6

### REVENUE SCOTLAND ASSESSMENTS

#### *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.

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*Status: This is the original version (as it was originally enacted).*

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- (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—
  - “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.