Revenue Scotland and Tax Powers Act 2014

2014 asp 16

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 19th August 2014 and received Royal Assent on 24th September 2014

An Act of the Scottish Parliament to establish Revenue Scotland; to establish Scottish tax tribunals; to put in place a general anti-avoidance rule; to make provision about the collection and management of devolved taxes; and for connected purposes.

PART 1

OVERVIEW OF ACT

1 Overview of Act

This Act is arranged as follows—

Part 2 establishes Revenue Scotland and provides for its general functions and responsibilities,

Part 3 makes provision about the use and protection of taxpayer and other information,

Part 4 establishes the Scottish Tax Tribunals,

Part 5 puts in place a general anti-avoidance rule,

Part 6 contains provisions on the self-assessment system, the checking of tax returns by Revenue Scotland and claims for repayment of tax,

Part 7 makes provision for Revenue Scotland's investigatory powers,

Part 8 sets out the matters in relation to which penalties may be imposed,

Part 9 makes provision about the interest payable on unpaid tax, on penalties and on tax repayments,

Part 10 contains provisions on debt enforcement by Revenue Scotland,

Part 11 sets out the system for the review, mediation and appeal of Revenue Scotland decisions, and

Part 12 contains general and final provisions.

PART 2

REVENUE SCOTLAND

Establishment of Revenue Scotland

2 Revenue Scotland

(1) There is established a body corporate to be known as Revenue Scotland.

(2) In Gaelic, Revenue Scotland is to be known as Teachd-a-steach Alba.

(3) Schedule 1 makes further provision about the membership, procedures and staffing of Revenue Scotland.

Functions of Revenue Scotland

3 Functions of Revenue Scotland

(1) Revenue Scotland's general function is the collection and management of the devolved taxes.

(2) Revenue Scotland has the following particular functions—

(a) providing information, advice and assistance to the Scottish Ministers relating to tax,

(b) providing information and assistance to taxpayers, their agents and other persons relating to the devolved taxes,

(c) efficiently resolving disputes relating to the devolved taxes (including by mediation),

(d) protecting the revenue against tax fraud and tax avoidance.

(3) "Devolved taxes" has the meaning given by section 80A(4) of the Scotland Act 1998 (c.46).

Delegation of Revenue Scotland functions

4 Delegation of functions by Revenue Scotland

(1) Revenue Scotland may delegate—

(a) any of its functions relating to land and buildings transaction tax to the Keeper of the Registers of Scotland ("the Keeper"),

(b) any of its functions relating to Scottish landfill tax to the Scottish Environment Protection Agency ("SEPA").

(2) Revenue Scotland may give directions to the Keeper or to SEPA as to how a delegated function is to be exercised and the Keeper and SEPA must comply with any such direction.

(3) Delegations or directions under this section may be varied or revoked at any time.

(4) Revenue Scotland must publish information about—

(a) delegations under this section, and

(b) directions given under this section.

(5) Revenue Scotland must lay before the Scottish Parliament a copy of information published under subsection (4).

(6) Subsections (4) and (5) do not apply to the extent that Revenue Scotland considers that publication of the information would prejudice the effective exercise of its functions.

(7) Delegation of a function under this section does not affect—

(a) Revenue Scotland's ability to exercise that function,

(b) Revenue Scotland's responsibility for that function.

(8) Revenue Scotland may reimburse the Keeper or SEPA for any expenditure incurred which is attributable to the exercise by the Keeper or SEPA of functions delegated under this section.

Money

5 Payments into the Scottish Consolidated Fund

(1) Revenue Scotland must pay money received in the exercise of its functions into the Scottish Consolidated Fund.

(2) But Revenue Scotland may do so after deduction of payments in connection with repayments, including payments of interest on—

(a) repayments, or

(b) payments treated as repayments.

6 Rewards

Revenue Scotland may pay a reward to a person in return for a service which relates to a function of Revenue Scotland.

Independence of Revenue Scotland

7 Independence of Revenue Scotland

(1) The Scottish Ministers must not—

(a) give directions relating to, or

(b) otherwise seek to control,

the exercise by Revenue Scotland of its functions.

(2) This section is subject to any contrary provision made by or under this Act or any other enactment.

Ministerial guidance

8 Ministerial guidance

(1) The Scottish Ministers may give guidance to Revenue Scotland about the exercise of its functions.

(2) Revenue Scotland must have regard to any guidance given by Ministers.

(3) Ministers must publish any guidance given to Revenue Scotland under this section as they consider appropriate.

(4) The Scottish Ministers must lay before the Scottish Parliament a copy of guidance published under subsection (3).

(5) Subsections (3) and (4) do not apply to the extent that Ministers consider that publication of the guidance would prejudice the effective exercise by Revenue Scotland of its functions.

Provision of information, advice or assistance to Ministers

9 Provision of information, advice or assistance to the Scottish Ministers

(1) Revenue Scotland must provide the Scottish Ministers with such information, advice or assistance relating to its functions as Ministers may from time to time require.

(2) The information, advice or assistance must be provided in such form as Ministers determine.

Charter of standards and values

10 Charter of standards and values

(1) Revenue Scotland must prepare a Charter.

(2) The Charter must include—
   (a) standards of behaviour and values which Revenue Scotland is expected to adhere to when dealing with taxpayers, their agents and other persons in the exercise of its functions, and
   (b) standards of behaviour and values which Revenue Scotland expects taxpayers, their agents and other persons to adhere to when dealing with Revenue Scotland.

(3) Revenue Scotland must—
   (a) publish the Charter as it considers appropriate,
   (b) review the Charter from time to time, and
   (c) revise the Charter when it considers it appropriate to do so.

(4) Before publishing or revising the Charter, Revenue Scotland must consult such persons as it considers appropriate.

(5) Revenue Scotland must lay the first Charter and any revised Charter before the Scottish Parliament.

Corporate plan

11 Corporate plan

(1) Revenue Scotland must, before the beginning of each planning period, prepare a corporate plan and submit it for approval by the Scottish Ministers.

(2) The corporate plan must set out—
- (a) Revenue Scotland's main objectives for the planning period,
- (b) the outcomes by reference to which the achievement of the main objectives may be measured, and
- (c) the activities which Revenue Scotland expects to undertake during the planning period.

(3) Ministers may approve the corporate plan subject to such modifications as may be agreed between them and Revenue Scotland.

(4) If Ministers approve a corporate plan, Revenue Scotland must—
- (a) publish the plan as Revenue Scotland considers appropriate, and
- (b) lay a copy of the plan before the Scottish Parliament.

(5) During the planning period to which a corporate plan relates, Revenue Scotland may review the plan and submit a revised corporate plan to Ministers for approval.

(6) Subsections (2) to (4) apply to a revised corporate plan as they apply to a corporate plan.

(7) "Planning period" means—
- (a) a first period specified by the Scottish Ministers by order, and
- (b) each subsequent period of 3 years.

(8) The Scottish Ministers may by order substitute for the period for the time being specified in subsection (7)(b) such other period as they consider appropriate.

Annual report

12 Annual report

(1) As soon as possible after the end of each financial year, Revenue Scotland must—
- (a) prepare and publish a report on the exercise of its functions during that year,
- (b) send a copy of the report to the Scottish Ministers, and
- (c) lay a copy of the report before the Scottish Parliament.

(2) "Financial year" means—
- (a) the period beginning with the establishment of Revenue Scotland and ending on 31 March in the following year, and
- (b) each subsequent period of a year ending on 31 March.

(3) Revenue Scotland may publish such other reports and information on matters relevant to its functions as it considers appropriate.

PART 3

INFORMATION

Use of information by Revenue Scotland etc.

13 Use of information by Revenue Scotland and other persons

(1) A relevant person may use information held by the person in connection with a function in connection with any other function.

(2) In this section and section 14 "relevant person" means any or all of the following persons—
- (a) Revenue Scotland,
- (b) a member of Revenue Scotland,
- (c) a committee of Revenue Scotland (and a member of any committee),
- (d) the chief executive or any other member of staff of Revenue Scotland,
- (e) a person to whom Revenue Scotland has delegated any of its functions,
- (f) a member of staff of a person mentioned in paragraph (e).

(3) In this section and section 14 references to a "function" are references to—
- (a) a function of any of the persons mentioned in subsection (2)(a) to (d),
- (b) in the case of a person mentioned in subsection (2)(e)—
  - (i) a function which Revenue Scotland has delegated to the person, and
  - (ii) a function under any other enactment,
- (c) in the case of a member of staff of a person mentioned in subsection (2)(e)—
  - (i) a function which Revenue Scotland has delegated to the person and which the member of staff is exercising, and
  - (ii) a function of the person under any other enactment which the member of staff is exercising.

Protected taxpayer information

14 Protected taxpayer information

(1) "Protected taxpayer information" means information relating to a person—
- (a) which is held by a relevant person in connection with a function of Revenue Scotland, and
- (b) by which a person may be identified.

(2) Subsection (1)(a) does not apply to information about internal administrative arrangements of Revenue Scotland or of a person to whom Revenue Scotland has delegated any of its functions (whether the information relates to members or staff of Revenue Scotland or of such a person or to other persons).

(3) For the purposes of subsection (1)(b) a person may be identified by information if—
- (a) the person's identity is specified in the information, or
- (b) the person's identity can be deduced from the information (whether from that information on its own or from that information taken together with other information disclosed by or on behalf of Revenue Scotland).

15 Confidentiality of protected taxpayer information

(1) A relevant official must not disclose protected taxpayer information unless the disclosure is permitted by subsection (3).

(2) In this section and section 16 "relevant official" means any individual who is or was—
- (a) a member of Revenue Scotland,
- (b) a member of a committee of Revenue Scotland,
- (c) the chief executive or any other member of staff of Revenue Scotland,
- (d) exercising functions on behalf of Revenue Scotland.

(3) A disclosure is permitted by this subsection if—
- (a) it is made with the consent of each person to whom the information relates,
- (b) it is made in accordance with any provision made by or under this Act or any other enactment requiring or permitting the disclosure,
- (c) it is made for the purposes of obtaining services in connection with a function of Revenue Scotland,
- (d) it is made for the purposes of civil proceedings,
- (e) it is made for the purposes of a criminal investigation or criminal proceedings or for the purposes of the prevention or detection of crime,
- (f) it is made in pursuance of an order of a court or tribunal,
- (g) it is made to a person exercising functions on behalf of Revenue Scotland (other than a person to whom Revenue Scotland has delegated any of its functions) for the purposes of those functions.

16 Protected taxpayer information: declaration of confidentiality

(1) Each relevant official must make a declaration acknowledging the obligation of confidentiality under section 15.

(2) A declaration must be made—
- (a) as soon as reasonably practicable following the person's appointment, and
- (b) in such form and manner as Revenue Scotland may determine.

(3) For the purposes of subsection (2)(a)—
- (a) the renewal of a fixed term appointment is not to be treated as an appointment,
- (b) a person mentioned in section 15(2)(d) is to be treated as appointed when the person begins to exercise functions on behalf of Revenue Scotland.

Other limits on use and disclosure of information

17 Disclosure of information prohibited or restricted by statute or agreement

Sections 13(1) and 15(3) are subject to any provision which prohibits or restricts the use of information and which is contained in—
- (a) this Act,
- (b) any other enactment,
- (c) an international or other agreement to which the United Kingdom, Her Majesty's Government or the Scottish Ministers is or are party.

18 Protected taxpayer information: use by the Keeper

(1) This section applies to information that—

(a) is held by the Keeper in connection with a function which Revenue Scotland has delegated to the Keeper, and

(b) is protected taxpayer information.

(2) The Keeper may not use that information in connection with the Keeper's functions under section 108 of the Land Registration etc. (Scotland) Act 2012 (asp 5).

Offence of wrongful disclosure

19 Wrongful disclosure of protected taxpayer information

(1) A person commits an offence if the person discloses protected taxpayer information contrary to section 15(1).

(2) It is a defence for a person charged with an offence under subsection (1) to prove that the person reasonably believed—

(a) that the disclosure was lawful under section 15, or

(b) that the information had already lawfully been made available to the public.

(3) A person who commits an offence under subsection (1) is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both),

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

(4) This section does not affect the pursuit of any remedy or the taking of any action in relation to a contravention of section 15(1).

PART 4

THE SCOTTISH TAX TRIBUNALS

CHAPTER 1

INTRODUCTORY

20 Overview

This Part makes provision establishing tribunals to exercise functions in relation to devolved taxes and about—

(a) the leadership of those tribunals,

(b) the appointment, conduct, fitness and removal of members of those tribunals,

(c) the taking of decisions by and composition of those tribunals,

(d) appeals to and from, and other proceedings before, those tribunals, and

(e) the procedure before and administration of those tribunals (including the making of tribunal rules).

CHAPTER 2

ESTABLISHMENT AND LEADERSHIP

Establishment

21 The First-tier Tax Tribunal for Scotland and the Upper Tax Tribunal for Scotland

(1) There is established a tribunal to be known as the First-tier Tax Tribunal for Scotland.

(2) The First-tier Tax Tribunal for Scotland is to exercise the functions conferred on it by or under this Act.

(3) There is also established a tribunal to be known as the Upper Tax Tribunal for Scotland.

(4) The Upper Tax Tribunal for Scotland is to exercise the functions conferred on it by or under this Act.

(5) In this Act—

(a) the First-tier Tax Tribunal for Scotland is referred to as the First-tier Tribunal,

(b) the Upper Tax Tribunal for Scotland is referred to as the Upper Tribunal, and

(c) collectively, they are referred to as the Tax Tribunals.

Leadership

22 President of the Tax Tribunals

(1) The Scottish Ministers must appoint a person as President of the Tax Tribunals.

(2) Before appointing such a person, the Scottish Ministers must consult the Lord President.

(3) The President of the Tax Tribunals is appointed on such terms and conditions as the Scottish Ministers may determine.

23 Functions of the President of the Tax Tribunals

(1) The President of the Tax Tribunals is the senior member of the Tax Tribunals.

(2) The President has the functions exercisable by him or her by or under this Act.

24 Business arrangements

(1) The President of the Tax Tribunals is responsible for making and maintaining appropriate arrangements for securing the efficient disposal of business in the Tax Tribunals.

(2) The President is responsible for ensuring that appropriate arrangements are made and maintained as to the welfare of the members of the tribunals.

25 Temporary President

(1) If there is a vacancy in the presidency of the Tax Tribunals, the Scottish Ministers may appoint a person as Temporary President during the vacancy.

(2) Before appointing such a person, the Scottish Ministers must consult the Lord President.

(3) A person is eligible to be appointed as Temporary President only if the person is—
  (a) a legal member of the Tax Tribunals, or
  (b) eligible to be appointed as such a member.

(4) The functions of the President of the Tax Tribunals are exercisable by the Temporary President.

(5) Except where the context otherwise requires, a reference in or under this Part to the President includes the Temporary President.

(6) For the purposes of subsection (1) "vacancy" includes where the President of the Tax Tribunals has been suspended under paragraph 37(2) or 38(2) of schedule 2 (by virtue of paragraphs 30(2) and 42 of that schedule).

CHAPTER 3

MEMBERSHIP

Membership of Tax Tribunals

26 Members

(1) The First-tier Tribunal is to consist of its ordinary and legal members.

(2) The Upper Tribunal is to consist of its legal and judicial members.

(3) The President of the Tax Tribunals is, by virtue of holding that position, a member of both the First-tier Tribunal and the Upper Tribunal.

(4) Schedule 2 contains the following further provision about members of the Tax Tribunals—
  (a) Part 1 contains provisions about the eligibility for and appointment to—
    (i) the position of President of the Tax Tribunals,
    (ii) ordinary and legal membership of the First-tier Tribunal,
    (iii) legal membership of the Upper Tribunal,
  (b) Part 2 contains provision about the terms and conditions on which members of the tribunals hold their positions,
  (c) Part 3 contains provision about investigation of members' conduct and imposition of disciplinary measures, and
  (d) Part 4 contains provision about the assessment of members' fitness and removal from position.

Judicial members

27 Judicial members

(1) A judge of the Court of Session (including a temporary judge but not the Lord President) is, by reason of holding judicial office, eligible to act as a member of the Upper Tribunal.

(2) Such a judge may act as a member of the Upper Tribunal only if authorised by the President of the Tax Tribunals to do so.

(3) An authorisation for the purpose of subsection (2) requires—
  (a) the Lord President's approval (including as to the judge to be authorised), and
  (b) the agreement of the judge concerned.

(4) An authorisation for the purpose of subsection (2) remains in effect until such time as the President of the Tax Tribunals may determine (with the same approval and agreement requirements as are mentioned in subsection (3) applying accordingly).

Status and capacity

28 Status and capacity of members

(1) A member of either of the Tax Tribunals, whether that membership is as an ordinary or as a legal member, has judicial status and capacity for the purpose mentioned in subsection (3).

(2) For the avoidance of doubt, a judicial member of the Upper Tribunal has judicial status and capacity for the purpose mentioned in subsection (3) by reason of holding judicial office.

(3) The purpose referred to in subsections (1) and (2) is the purpose of holding the position and acting as member of the First-tier Tribunal or (as the case may be) the Upper Tribunal.

CHAPTER 4

DECISION-MAKING AND COMPOSITION

Decision-making and composition: general

29 Decisions in the First-tier Tribunal

(1) The First-tier Tribunal's function of deciding any matter in a case before the tribunal is to be exercised by—
  (a) two or more members of the tribunal, one of whom must be a legal member, or
  (b) a legal member sitting alone.

(2) The member or members are to be chosen by the President of the Tax Tribunals (who may choose himself or herself).

(3) The President's discretion in choosing the member or members is subject to—

(a) any relevant provisions in regulations made under section 31(1),
(b) any relevant directions given by virtue of section 35(5)(b).

30 Decisions in the Upper Tribunal

(1) The Upper Tribunal's function of deciding any matter in a case before the tribunal is to be exercised by one or more members chosen by the President of the Tax Tribunals (who may choose himself or herself).

(2) The President's discretion in choosing the member or members is subject to—
(a) any relevant provisions in regulations made under section 31(1),
(b) any relevant directions given by virtue of section 37(5)(b).

31 Composition of the Tribunals

(1) The Scottish Ministers may by regulations make provision for determining the composition of—
(a) the First-tier Tribunal,
(b) the Upper Tribunal,
when convened to decide any matter in a case before the tribunal.

(2) Regulations under subsection (1) may treat separately the tribunal's decision-making functions—
(a) at first instance,
(b) on appeal.

Decisions by two or more members

32 Voting for decisions

The Scottish Ministers may by regulations make provision for the purposes of sections 29(1) and 30(1) in so far as a matter in a case before the First-tier Tribunal or the Upper Tribunal is to be decided by two or more members of the tribunal, including—
(a) for a decision to be made unanimously or by majority,
(b) where a decision is to be made by majority, for the chairing member to have a casting vote in the event of a tie.

33 Chairing members

(1) Tribunal rules may make provision for determining the question as to who is to be the chairing member where a matter in a case before the First-tier Tribunal or the Upper Tribunal is to be decided by two or more members of the tribunal.

(2) Rules making provision as described in subsection (1) may (in particular)—
(a) allow the President of the Tax Tribunals to determine the question,
(b) specify criteria as against which the question is to be determined (including by reference to type of member or particular expertise).

CHAPTER 5

APPEAL OF DECISIONS

Appeal from First-tier Tribunal

34 Appeal from the First-tier Tribunal

(1) A decision of the First-tier Tribunal in any matter in a case before the tribunal may be appealed to the Upper Tribunal.

(2) An appeal under this section is to be made—
- (a) by a party in the case,
- (b) on a point of law only.

(3) An appeal under this section requires the permission of—
- (a) the First-tier Tribunal, or
- (b) if the First-tier Tribunal refuses its permission, the Upper Tribunal.

(4) Such permission may be given in relation to an appeal under this section only if the First-tier Tribunal or (as the case may be) the Upper Tribunal is satisfied that there are arguable grounds for the appeal.

(5) This section is subject to section 39(2) and to sections 131(4), 147(6), 154(5) and 243(5).

35 Disposal of an appeal under section 34

(1) In an appeal under section 34, the Upper Tribunal may uphold or quash the decision on the point of law in question.

(2) If the Upper Tribunal quashes the decision, it may—
- (a) re-make the decision,
- (b) remit the case to the First-tier Tribunal, or
- (c) make such other order as the Upper Tribunal considers appropriate.

(3) In re-making the decision, the Upper Tribunal may—
- (a) do anything that the First-tier Tribunal could do if re-making the decision,
- (b) reach such findings in fact as the Upper Tribunal considers appropriate.

(4) In remitting the case, the Upper Tribunal may give directions for the First-tier Tribunal's reconsideration of the case.

(5) Such directions may relate to—
- (a) issues of law or fact (including the Upper Tribunal's opinion on any relevant point),
- (b) procedural issues (including as to the members to be chosen to reconsider the case).

Appeal from Upper Tribunal

36 Appeal from the Upper Tribunal

(1) A decision of the Upper Tribunal in any matter in a case before the tribunal may be appealed to the Court of Session (sitting as the Court of Exchequer).

(2) An appeal under this section is to be made—
  (a) by a party in the case,
  (b) on a point of law only.

(3) An appeal under this section requires the permission of—
  (a) the Upper Tribunal, or
  (b) if the Upper Tribunal refuses its permission, the Court of Session.

(4) Such permission may be given in relation to an appeal under this section only if the Upper Tribunal or (as the case may be) the Court of Session is satisfied that there are arguable grounds for the appeal.

(5) This section is subject to section 39(2) and to sections 131(4), 147(6), 154(5) and 243(5).

37 Disposal of an appeal under section 36

(1) In an appeal under section 36, the Court of Session may uphold or quash the decision on the point of law in question.

(2) If the Court quashes the decision, it may—
  (a) re-make the decision,
  (b) remit the case to the Upper Tribunal, or
  (c) make such other order as the Court considers appropriate.

(3) In re-making the decision, the Court may—
  (a) do anything that the Upper Tribunal could do if re-making the decision,
  (b) reach such findings in fact as the Court considers appropriate.

(4) In remitting the case, the Court may give directions for the Upper Tribunal's reconsideration of the case.

(5) Such directions may relate to—
  (a) issues of law or fact (including the Court's opinion on any relevant point),
  (b) procedural issues (including as to the member to be chosen to reconsider the case).

38 Procedure on second appeal

(1) Section 36(4) is subject to subsections (3) and (4) as regards a second appeal.

(2) Section 37 is subject to subsections (5) and (6) as regards a second appeal.

(3) For the purpose of subsection (1), the Upper Tribunal or (as the case may be) the Court of Session may not give its permission to the making of a second appeal unless also satisfied that subsection (4) applies.

(4) This subsection applies where, in relation to the matter in question—
  (a) a second appeal would raise an important point of principle or practice, or
  (b) there is some other compelling reason for allowing a second appeal to proceed.

(5) For the purpose of subsection (2), subsections (2)(b) and (3)(a) of section 37 have effect in relation to a second appeal as if the references in them to the Upper Tribunal include, as alternative references, references to the First-tier Tribunal.

(6) Where, in exercising the choice arising by virtue of subsection (5) (and instead of re-making the decision in question), the Court of Session remits the case to the Upper Tribunal rather than the First-tier Tribunal—
  (a) the Upper Tribunal, instead of reconsidering the case itself, may remit the case to the First-tier Tribunal,
  (b) if the Upper Tribunal does so, it must send to the First-tier Tribunal any directions accompanying the Court's remittal of the case to the Upper Tribunal.

(7) In this section "second appeal" means appeal under section 36 against a decision in an appeal under section 34.

Further provision on permission to appeal

39 Process for permission

(1) The Scottish Ministers may by regulations specify a time limit within which the permission required by section 34(3) or 36(3) must be sought.

(2) A refusal to give the permission required by section 34(3) or 36(3) is not appealable under section 34 or 36.

CHAPTER 6

SPECIAL JURISDICTION

40 Judicial review cases

(1) Subsection (2) applies where a petition is made to the Court of Session for judicial review.

(2) The Court may by order remit the petition to the Upper Tribunal if—
  (a) both of conditions A and B are met, and
  (b) having regard to the functions and expertise of the Tribunal in relation to the subject-matter of the petition, the Court considers that it is appropriate to do so.

(3) Condition A is that the petition does not seek anything other than the exercise of the Court's judicial review function.

(4) Condition B is that the petition falls within a category specified by an Act of Sederunt made by the Court for the purpose of this subsection.

41 Procedural steps where petition remitted

(1) This section applies where the Court of Session remits a petition for judicial review under section 40(2).

(2) It is for the Upper Tribunal to determine—

(a) whether the petition has been made timeously, and

(b) whether to grant permission for the petition to proceed under section 27B of the Court of Session Act 1988 ("the 1988 Act") (requirement for permission).

(3) Accordingly—

(a) the Upper Tribunal has the same powers in relation to the petition as the Court of Session would have had in relation to it under sections 27A to 27C of the 1988 Act,

(b) sections 27C and 27D of that Act apply in relation to a decision of the Upper Tribunal under section 27B(1) of that Act as they apply in relation to such a decision of the Court of Session.

(4) The references in section 27C(3) and (4) of the 1988 Act (oral hearings where permission refused) to a different Lord Ordinary from the one who refused or granted permission are to be read as references to different members of the Tribunal from those of whom it was composed when it refused or granted permission.

42 Decision on remittal

(1) The Upper Tribunal is to determine the issues raised in each petition remitted to it under section 40.

(2) In relation to a petition so remitted, the Upper Tribunal—

(a) has the same powers as the Court of Session has on a petition to it for judicial review,

(b) is to apply the same principles as the Court applies in the exercise of its judicial review function.

(3) An order made by the Upper Tribunal on a petition so remitted has the same effect as an order made by the Court of Session on a petition for judicial review (and the order is therefore enforceable accordingly).

(4) Subsection (3) does not limit the operation of section 36 in connection with a determination under subsection (1).

43 Additional matters

(1) Where a petition is remitted to the Upper Tribunal under section 40, any order made or step taken by the Court of Session in relation to the petition is to be treated as if made or taken by the tribunal (except the order by which the petition is so remitted (or an associated step)).

(2) Tribunal rules may make further provision with respect to the exercise by the Upper Tribunal of its functions under this Chapter.

44 Meaning of judicial review

In this Chapter—

(a) a reference to a petition to the Court of Session for judicial review is to an application to the supervisory jurisdiction of the Court,

(b) a reference to the exercise of the Court of Session's judicial review function is to the exercise of the Court's supervisory jurisdiction (and includes the making of any order in connection with or in consequence of the exercise of that function).

CHAPTER 7

POWERS AND ENFORCEMENT

45 Venue for hearings

(1) Each of the First-tier Tribunal and the Upper Tribunal may be convened at any time and place in Scotland to hear or decide a case or for any other purpose relating to its functions.

(2) Subsection (1) is subject to any provision made by tribunal rules as to the question of when and where in Scotland the Tax Tribunals are to be convened (and such rules may allow the President of the Tax Tribunals to determine the question).

46 Conduct of cases

(1) In relation to the things mentioned in subsection (3), each of the First-tier Tribunal and the Upper Tribunal has such powers, rights, privileges and other authority with respect to any case before it as are provided for in tribunal rules.

(2) Rules making provision for the purpose of subsection (1) may (in particular) do so in relation to any kind of authority by reference to any authority of a relevant description exercisable by the sheriff or the Court of Session.

(3) The things are—

(a) the attendance or examination of witnesses,

(b) the recovery, production or inspection of relevant materials,

(c) the commissioning of reports of any relevant type,

(d) other procedural, evidential or similar measures.

(4) In subsection (3)(b) "materials" means documents and other items.

47 Enforcement of decisions

(1) A decision made by the First-tier Tribunal or the Upper Tribunal in any matter in a case before it is enforceable by the means provided for in tribunal rules.

(2) Subsection (1) applies to a decision—

(a) on the merits of such a case,

(b) as to—

(i) payment of a sum of money, or

(ii) expenses by virtue of section 48, or

(c) otherwise affecting the rights, obligations or interests of a party in such a case.

(3) Rules making provision for the purpose of subsection (1) may (in particular) do so in relation to a relevant order by reference to the means of enforcing an order of the sheriff or the Court of Session.

(4) In subsection (3) "relevant order" means an order of either of the Tax Tribunals giving effect to a decision to which subsection (1) applies.

48 Award of expenses

(1) In connection with proceedings in a case before the First-tier Tribunal or the Upper Tribunal, the tribunal may award expenses so far as allowed in accordance with tribunal rules.

(2) Where such expenses are awarded, the awarding tribunal is to specify by and to whom they are to be paid (and to what extent).

(3) Tribunal rules may make provision—

(a) for scales or rates of awardable expenses,

(b) for—

(i) such expenses to be set-off against any relevant sums,

(ii) interest at the specified rate to be chargeable on such expenses where unpaid,

(c) stating the general or particular factors to be taken into account when exercising discretion as to such expenses,

(d) about such expenses in other respects.

(4) Tribunal rules may make provision—

(a) for disallowing any wasted expenses,

(b) for requiring a person who has given rise to any wasted expenses to meet them.

(5) Rules making provision as described in subsection (3) or (4) may also prescribe meanings for "relevant sums", "specified rate" and "wasted expenses" as used in this section.

49 Additional powers

(1) The Scottish Ministers may by regulations confer on the First-tier Tribunal and the Upper Tribunal such additional powers as are necessary or expedient for the proper exercise of their functions.

(2) Regulations under subsection (1) may include provision—

(a) relying on the effect of an Act of Sederunt made by the Court of Session,

(b) causing Part 1 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 (asp 3) to apply to the making of a relevant Act of Sederunt as it does to the making of tribunal rules.

50 Offences in relation to proceedings

(1) The Scottish Ministers may by regulations make provision, in relation to proceedings before the First-tier Tribunal or the Upper Tribunal—

(a) for offences and penalties—

(i) for making a false statement in an application in a case,

(ii) for failure by a person to attend, or give evidence in, such proceedings when required to do so in accordance with tribunal rules,

(iii) for alteration, concealment or destruction by a person of, or failure by a person to produce, something that is required to be produced in such proceedings in accordance with tribunal rules,

(b) about the circumstances in which a person need not give evidence or produce something (for example, where a person could not be compelled to give evidence or produce something in proceedings in a case before the sheriff or in the Court of Session).

(2) The maximum penalties that may be provided for in regulations under subsection (1) are—

(a) for an offence triable summarily only, imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale (or both),

(b) for an offence triable either summarily or on indictment—

(i) on summary conviction, imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both),

(ii) on conviction on indictment, imprisonment for a term not exceeding 2 years or a fine (or both).

(3) Before making regulations under subsection (1), the Scottish Ministers must obtain the Lord President's approval.

CHAPTER 8

PRACTICE AND PROCEDURE

Tribunal rules: general

51 Tribunal rules

(1) There are to be rules—

(a) regulating the practice and procedure to be followed in proceedings at—

(i) the First-tier Tribunal,

(ii) the Upper Tribunal, and

(b) containing provision of other sorts appropriate with respect to the Tax Tribunals (including in relation to the exercise by them of their functions).

(2) Rules of the kind mentioned in subsection (1) are to be known as Scottish Tax Tribunal Rules (and in this Act they are referred to as tribunal rules).

(3) Tribunal rules are to be made by the Scottish Ministers by regulations.

(4) Before making regulations under subsection (3), the Scottish Ministers must consult—

(a) the President of the Scottish Tribunals, and

(b) such other persons as they consider appropriate.

52 Exercise of functions

(1) Tribunal rules may, in relation to any functions exercisable by the members of the Tax Tribunals—

(a) state—

(i) how a function is to be exercised,

(ii) who is to exercise a function,

(b) cause something to require further authorisation,

(c) permit something to be done on a person's behalf,

(d) allow a specified person to make a decision about any of those matters.

(2) Tribunal rules may make provision relying on the effect of directions issued, or to be issued, under section 57.

53 Extent of rule-making

(1) Tribunal rules may make—

(a) provision applying—

(i) equally to both of the First-tier Tribunal and the Upper Tribunal, or

(ii) specifically to one of them,

(b) particular provision for each of them about the same matter.

(2) Tribunal rules may make particular provision for different types of proceedings.

(3) Tribunal rules may make different provision for different purposes in any other respects.

(4) The generality of section 51 is not limited by—

(a) sections 54 to 56, or

(b) any other provisions of this Act about the content of tribunal rules.

Particular matters

54 Proceedings and steps

(1) Tribunal rules may make provision about proceedings in a case before the Tax Tribunals.

(2) Rules making provision as described in subsection (1) may (in particular)—

(a) provide for the form and manner in which a case is to be brought,

(b) allow for the withdrawal of a case (with or without restrictions on subsequent proceedings as respects the same matter),

(c) set time limits for—

(i) making applications,

(ii) taking particular steps,

(d) enable two or more applications to be conjoined in certain circumstances,

(e) specify circumstances in which the tribunals may take particular steps on their own initiative.

55 Hearings in cases

(1) Tribunal rules may make provision about hearings in a case before the Tax Tribunals.

(2) Rules making provision as described in subsection (1) may (in particular)—

(a) provide for certain matters to be dealt with—

(i) without a hearing,

(ii) at a private hearing,

(iii) at a public hearing,

(b) require notice to be given of a hearing (and for the timing of such notice),

(c) specify persons who may—

(i) appear on behalf of a party in a case,

(ii) attend a hearing in order to provide support to a party or witness in a case,

(d) specify circumstances in which particular persons may appear or be represented at a hearing,

(e) specify circumstances in which a hearing may go ahead—

(i) at the request of a party in a case despite no notice of it having been given to another party in the case,

(ii) in the absence of a particular member chosen to exercise the function of deciding any matter in a case,

(f) enable two or more sets of proceedings to be taken concurrently at a hearing in certain circumstances,

(g) allow for an adjournment of a hearing for the purpose of giving the parties in a case an opportunity to use a process of negotiation or mediation for resolving a dispute to which the case relates,

(h) allow for the imposition of reporting restrictions for particular reasons arising in a case.

56 Evidence and decisions

(1) Tribunal rules may, in connection with proceedings before the Tax Tribunals—

(a) make provision about the giving of evidence and the administering of oaths,

(b) modify the application of any other rules relating to either of those matters so far as they would otherwise apply to such proceedings.

(2) Tribunal rules may, in connection with proceedings before the Tax Tribunals, provide for the payment of expenses and allowances to a person who—

(a) gives evidence,

(b) produces a document, or

(c) attends such proceedings (or is required to do so).

(3) Tribunal rules may, in connection with proceedings before the Tax Tribunals, make provision by way of presumption (for example, as to the serving of something on somebody).

(4) Tribunal rules may make provision about decisions of the Tax Tribunals, including as to—

(a) the manner in which such decisions are to be made,

(b) the incorporation in such decisions of findings in fact,

(c) the recording, issuing, and publication of such decisions.

Issuing directions

57 Practice directions

(1) The President of the Tax Tribunals may issue directions as to the practice and procedure to be followed in proceedings at—
(a) the First-tier Tribunal,
(b) the Upper Tribunal.

(2) Directions under subsection (1) may include instruction or guidance on the manner of making of any decision in a case.

(3) Directions under subsection (1) may—
(a) vary or revoke earlier such directions,
(b) make different provision for different purposes (in the same respects as tribunal rules).

(4) Directions under subsection (1) must be published in such manner as the President of the Tax Tribunals considers appropriate.

CHAPTER 9

ADMINISTRATION

58 Administrative support

(1) The Scottish Ministers must ensure that the Tax Tribunals are provided with such property, services and personnel as the Scottish Ministers consider to be reasonably required for the proper operation of the tribunals.

(2) The Scottish Ministers must have regard to any representations made to them by the President of the Tax Tribunals in relation to the fulfilment of the duty under subsection (1).

(3) In fulfilling the duty under subsection (1), the Scottish Ministers may—
(a) fund or supply property, services and personnel for use by the tribunals,
(b) appoint persons as members of staff of the tribunals.

(4) The Scottish Ministers may make arrangements as to—
(a) the payment of remuneration or expenses to or in respect of persons so appointed,
(b) the payment of pensions, allowances and gratuities to or in respect of persons so appointed,
(c) contributions or other payments towards provision of such pensions, allowances and gratuities.

(5) The references in subsection (4) to pensions, allowances and gratuities include pensions, allowances and gratuities to be paid by way of compensation for loss of office.

59 Guidance

(1) The President of the Tax Tribunals may issue such guidance about the administration of the Tax Tribunals as appears to the President to be necessary or expedient for the purpose of securing that the functions of the tribunals are exercised efficiently and effectively.

(2) The following persons are to have regard to any guidance issued under subsection (1) —

(a) members of the Tax Tribunals,
(b) members of staff of the tribunals,
(c) personnel supplied under section 58 for use by the tribunals.

(3) The President of the Tax Tribunals must publish any guidance issued under subsection (1) as the President considers appropriate.

(4) Subsection (3) does not apply to the extent that the President considers that publication of the guidance would prejudice the effective exercise by the Tax Tribunals of their functions.

60 Annual reporting

(1) The President of the Tax Tribunals is to prepare an annual report about the operation and business of the Tax Tribunals.

(2) An annual report is to be given to the Scottish Ministers at the end of each financial year.

(3) An annual report—

(a) must explain how the Tax Tribunals have exercised their functions during the financial year,
(b) may contain such other information as—
(i) the President of the Tax Tribunals considers appropriate, or
(ii) the Scottish Ministers require to be covered.

(4) The Scottish Ministers must—

(a) publish each annual report in a manner suitable for bringing it to the attention of persons having an interest in the operation and business of the Tax Tribunals,
(b) before so publishing it, lay a copy of the report before the Scottish Parliament.

CHAPTER 10

INTERPRETATION

61 Interpretation

In this Part—

a reference to—

(a) a legal member of the Tax Tribunals is to a person who is appointed under paragraph 3(1) or 5(1) of schedule 2,

(b) a judicial member of the Upper Tribunal is to a person who is authorised for the purpose of section 27(2),

(c) an ordinary member of the First-tier Tribunal is to a person who is appointed under paragraph 2(1) of schedule 2,

the "Lord President" means the Lord President of the Court of Session.

PART 5

THE GENERAL ANTI-AVOIDANCE RULE

Introductory

62 The general anti-avoidance rule: introductory

(1) This Part has effect for the purpose of counteracting tax advantages arising from tax avoidance arrangements that are artificial.

(2) The rules in this Part are collectively to be known as "the general anti-avoidance rule".

Artificial tax avoidance arrangements

63 Tax avoidance arrangements

(1) An arrangement (or series of arrangements) is a tax avoidance arrangement if, having regard to all the circumstances, it would be reasonable to conclude that obtaining a tax advantage is the main purpose, or one of the main purposes, of the arrangement.

(2) An "arrangement"—

(a) includes any transaction, scheme, action, operation, agreement, grant, understanding, promise, undertaking or event (whether legally enforceable or not), and

(b) may comprise one or more stages or parts.

64 Meaning of "artificial"

(1) A tax avoidance arrangement is artificial if condition A or B is met.

(2) Condition A is met if the entering into or carrying out of the arrangement is not a reasonable course of action in relation to the tax provisions in question having regard to all the circumstances, including—

(a) whether the substantive results of the arrangement are consistent with—

(i) any principles on which those provisions are based (whether express or implied), and

(ii) the policy objectives of those provisions,

(b) whether the arrangement is intended to exploit any shortcomings in those provisions.

(3) Condition B is met if the arrangement lacks economic or commercial substance.

(4) Each of the following is an example of something which might indicate that a tax avoidance arrangement lacks economic or commercial substance—
   (a) whether the arrangement is carried out by a person in a manner which would not normally be employed in reasonable business conduct,
   (b) whether the legal characterisation of the steps in the arrangement is inconsistent with the legal substance of the arrangement as a whole,
   (c) whether the arrangement includes elements which have the effect of offsetting or cancelling each other,
   (d) whether transactions are circular in nature,
   (e) whether the arrangement results in a tax advantage that is not reflected in the business risks undertaken by the taxpayer.

(5) The fact that—
   (a) a tax avoidance arrangement accords with established practice, and
   (b) Revenue Scotland had, at the time the arrangement was entered into, indicated its acceptance of that practice,

   is an example of something that might indicate that the arrangement is not artificial.

(6) The examples given in subsections (4) and (5) are not exhaustive.

(7) Where a tax avoidance arrangement forms part of any other arrangements, regard must also be had to those other arrangements.

65 Meaning of "tax advantage"

(1) A "tax advantage" includes in particular—
   (a) relief or increased relief from tax,
   (b) repayment or increased repayment of tax,
   (c) avoidance or reduction of a charge to tax or an assessment to tax,
   (d) avoidance of a possible assessment to tax, and
   (e) deferral of a payment of tax or advancement of a repayment of tax.

(2) In determining whether a tax avoidance arrangement has resulted in a tax advantage, regard may be had to the amount of tax that would have been payable in the absence of the arrangement.

Counteracting tax advantages

66 Counteracting tax advantages

(1) Revenue Scotland may make such adjustments as it considers just and reasonable to counteract the tax advantages that would (ignoring this Part) arise from a tax avoidance arrangement that is artificial.

(2) The adjustments may be made in respect of the tax in question or any other devolved tax.

(3) The adjustments that may be made include (but are not restricted to) those that impose or increase a liability to tax in any case where (ignoring this Part) there would be no liability or a smaller liability, and tax is to be charged in accordance with any such adjustment.

(4) Any adjustments required to be made under this section (whether by Revenue Scotland or the person to whom the tax advantage would arise) may be made by—
  (a) the amendment of a return (see sections 83, 87 and 93),
  (b) the correction of a return (see section 84),
  (c) the making of a Revenue Scotland determination (see section 95),
  (d) the making of a tax return (see section 97),
  (e) the making of a Revenue Scotland assessment (see section 100),
  (f) the entering into of a contract settlement (see section 118), or
  (g) such other method as Revenue Scotland considers appropriate.

(5) No steps may be taken by Revenue Scotland unless the procedural requirements of sections 68 and 69 have been complied with.

(6) The power to make adjustments by virtue of this section is subject to any time limit imposed by or under Part 6, any other provision of this Act or any other enactment.

67 Proceedings in connection with the general anti-avoidance rule

(1) In proceedings before a court or tribunal in connection with the general anti-avoidance rule, Revenue Scotland must show—
  (a) that there is a tax avoidance arrangement that is artificial, and
  (b) that the adjustments made to counteract the tax advantages arising from the tax avoidance arrangement are just and reasonable.

(2) In determining any issue in connection with the general anti-avoidance rule, a court or tribunal must take into account any guidance published by Revenue Scotland about the general anti-avoidance rule (at the time the tax avoidance arrangement was entered into).

(3) In determining any issue in connection with the general anti-avoidance rule, a court or tribunal may take into account—
  (a) guidance, statements or other material (whether by Revenue Scotland or anyone else) that was in the public domain at the time the tax avoidance arrangement was entered into, and
  (b) evidence of established practice at that time.

68 Notice to taxpayer of proposed counteraction of tax advantage

(1) If a designated officer considers—
  (a) that a tax advantage has arisen to a person ("the taxpayer") from a tax avoidance arrangement that is artificial, and
  (b) that the advantage should be counteracted under section 66,

  the officer must give the taxpayer a notice to that effect.

(2) The notice must—
  (a) specify the tax avoidance arrangement and the tax advantage,
  (b) explain why the officer considers that a tax advantage has arisen to the taxpayer from a tax avoidance arrangement that is artificial,
  (c) set out the counteraction that the officer considers should be taken, and

(d) inform the taxpayer of the period under subsection (4) for making representations.

(3) The notice may set out the steps that the taxpayer may take to avoid the proposed counteraction.

(4) If a notice is given to a taxpayer under subsection (1), the taxpayer has 45 days beginning with the day on which the notice is given to send representations to the designated officer in response to the notice.

(5) The designated officer may, on a request made by the taxpayer, extend the period during which representations may be made.

(6) The designated officer must take into account any representations made by the taxpayer.

69 Final notice to taxpayer of counteraction of tax advantage

(1) The designated officer must, after the expiry of the period in which representations may be made under section 68, give the taxpayer a notice setting out whether the tax advantage arising from the tax avoidance arrangement is to be counteracted under the general anti-avoidance rule.

(2) If the notice states that a tax advantage is to be counteracted, the notice must also set out—

(a) the adjustments required to give effect to the counteraction, and

(b) if relevant, any steps that the taxpayer is required to take to give effect to it and the period within which those steps must be taken.

70 Counteraction of tax advantages: payment of tax charged etc.

(1) This section applies where—

(a) a designated officer gives a taxpayer a notice under section 69, and

(b) the notice sets out the adjustments required to give effect to the counteraction of a tax advantage.

(2) The taxpayer must pay any amount, or additional amount, of tax chargeable or penalty or interest imposed as a result of the adjustments before the end of the period of 30 days beginning with the date on which the notice is issued.

(3) Subsection (2) applies in place of any other provision of this Act or any other enactment which specifies a time limit for the payment of tax, penalty or interest.

71 Assumption of tax advantage

(1) A designated officer may give a notice under section 68 or 69 where the officer considers that a tax advantage might have arisen to the taxpayer.

(2) Accordingly, any notice given by a designated officer under section 68 or 69 may be expressed to be given on the assumption that the tax advantage does arise (without agreeing that it does).

General anti-avoidance rule: commencement and transitional provision

72 General anti-avoidance rule: commencement and transitional provision

(1) The general anti-avoidance rule has effect in relation to any tax avoidance arrangement entered into on or after the date on which this Part comes into force.

(2) Where the tax avoidance arrangement forms part of any other arrangements entered into before that day, those other arrangements are to be ignored for the purposes of section 64(7), subject to subsection (3).

(3) Account is to be taken of those other arrangements if, as a result, the tax avoidance arrangement would not be artificial.

PART 6

TAX RETURNS, ENQUIRIES AND ASSESSMENTS

CHAPTER 1

OVERVIEW

73 Overview

This Part makes provision about the assessment of devolved taxes including—

(a) taxpayers' duties in relation to tax records,
(b) the timing of tax returns,
(c) amendment and correction of tax returns by taxpayers and Revenue Scotland,
(d) enquiries by Revenue Scotland into taxpayers' self-assessments,
(e) determination by Revenue Scotland of tax due where no return is made,
(f) assessment by Revenue Scotland of tax due outwith enquiries where tax losses or other situations are brought about by taxpayers carelessly or deliberately, and
(g) claims for relief from double assessment and for repayment of tax.

CHAPTER 2

TAXPAYER DUTIES TO KEEP AND PRESERVE RECORDS

Duties to keep records

74 Duty to keep and preserve records

(1) A person who is required to make a tax return in relation to a devolved tax must—

(a) keep any records that may be needed to enable the person to make a correct and complete return, and
(b) preserve those records in accordance with this section.

(2) The records mentioned in subsection (1) must be preserved until the end of the later of the relevant day and the date on which—
  (a) an enquiry into the return is completed, or
  (b) if there is no enquiry, a designated officer no longer has power to enquire into the return.

(3) A person who is liable to be registered for tax (a "registrable person") must—
  (a) keep any records that may be needed to enable the registrable person to comply with a requirement to notify Revenue Scotland of the person's intention—
    (i) to carry out taxable activities, or
    (ii) to cease to carry out taxable activities,
  (b) make records relating to material at a landfill site or part of a landfill site, and
  (c) preserve those records in accordance with this section.

(4) The records mentioned in subsection (3) must be preserved until the end of the relevant day.

(5) "The relevant day" in relation to records mentioned in subsection (1) means—
  (a) the fifth anniversary of the day on which the return is made or, if the return is amended, the day notice of the amendment is given under section 83, or
  (b) any earlier day that may be specified by Revenue Scotland.

(6) The "relevant day" in relation to records mentioned in subsection (3) means—
  (a) in the case of records mentioned in subsection (3)(a), the fifth anniversary of the day on which the notice was given,
  (b) in the case of records mentioned in subsection (3)(b), the fifth anniversary of the day on which the record was made, or
  (c) in either case, any earlier day that may be specified by Revenue Scotland.

(7) Different days may be specified for different purposes under subsection (5)(b) or (6)(c).

(8) The records required to be kept and preserved under subsection (1) include—
  (a) details of any relevant transaction (including relevant instruments relating to any transaction, in particular, any contract or conveyance, and any supporting maps, plans or similar documents),
  (b) details of any relevant taxable activity,
  (c) records of relevant payments, receipts and financial arrangements.

(9) The Scottish Ministers may by regulations—
  (a) provide that the records required to be kept and preserved under this section do, or do not, include records specified in the regulations, and
  (b) specify supporting documents that are required to be kept under this section.

(10) Regulations under this section 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).

(11) "Supporting documents" includes accounts, books, deeds, contracts, vouchers and receipts.

75 Preservation of information etc.

The duty under section 74 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 prescribed by the Scottish Ministers by regulations.

Penalties for failing to keep and preserve records

76 Penalty for failure to keep and preserve records

(1) A person ("P") who fails to comply with section 74 in relation to a devolved tax is liable to a penalty not exceeding £3,000, subject to the following exception.

(2) No penalty is incurred if Revenue Scotland is satisfied that any facts that it reasonably requires to be proved, and that would have been proved by the records, are proved by other documentary evidence provided to Revenue Scotland.

77 Reasonable excuse for failure to keep and preserve records

(1) If P satisfies Revenue Scotland or (on appeal) the tribunal that there is a reasonable excuse for a failure to comply with section 74, liability to a penalty under section 76 does not arise in relation to that failure.

(2) For the purposes of subsection (1)—

(a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside P's control,

(b) where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the failure, and

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

78 Assessment of penalties under section 76

(1) Where a person becomes liable to a penalty under section 76, Revenue Scotland must—

(a) assess the penalty, and

(b) notify the person.

(2) An assessment of a penalty under section 76 must be made within the period of 12 months beginning with the date on which the person became liable to the penalty.

79 Enforcement of penalties under section 76

(1) A penalty under section 76 must be paid—

(a) before the end of the period of 30 days beginning with the date on which the notification under section 78 was issued,

(b) if a notice of review against the penalty is given, before the end of the period of 30 days beginning with the date on which the review is concluded,

(c) if, following review, mediation is entered into, before the end of the period of 30 days beginning with the date either Revenue Scotland or the person who gave the notice of review gave notice of withdrawal from mediation, or

(d) if a notice of an appeal against the penalty is given, before the end of the period of 30 days beginning with the date on which the appeal is determined or withdrawn.

(2) A penalty under section 76 is to be treated for enforcement purposes as an assessment to tax.

80 Power to change penalty provisions in sections 76 to 79

(1) The Scottish Ministers may by regulations make provision (or further provision) about penalties under this Chapter.

(2) Provision under subsection (1) includes provision—

(a) about the circumstances in which a penalty is payable,

(b) about the amounts of penalties,

(c) about the procedure for issuing penalties,

(d) about appealing penalties,

(e) about enforcing penalties.

(3) Regulations under subsection (1) may not create criminal offences.

(4) Regulations under subsection (1) may modify any enactment (including this Act).

(5) Regulations under subsection (1) do not apply to a failure which began before the date on which the regulations come into force.

Duty to keep and preserve records: further provision

81 Further provision: land and buildings transaction tax

(1) This section applies in relation to land and buildings transaction tax.

(2) The Scottish Ministers may by regulations make provision for the keeping and preservation of records in relation to land transactions that are not notifiable.

(3) Regulations under this section may require the buyer in a land transaction which is not notifiable to—

(a) keep such records as may be needed to enable the buyer to demonstrate that the transaction is not notifiable, and

(b) preserve those records in accordance with the regulations.

(4) The regulations may apply sections 74 to 79 (with or without modifications) to a buyer mentioned in subsection (3) as those sections apply to a person mentioned in section 74(1).

(5) Expressions used in this section and in the LBTT(S) Act 2013 have the meanings given in that Act.

CHAPTER 3

TAX RETURNS

Filing dates

82 Meaning of "filing date"

In this Act "the filing date" in relation to a tax return is the date by which that return requires to be made by or under any enactment.

Amendment and correction of returns

83 Amendment of return by taxpayer

(1) A person (the "taxpayer") who has made a tax return may amend the return by notice to Revenue Scotland.

(2) An amendment under this section must be made by the end of the period of 12 months beginning with the relevant date (the "amendment period").

(3) The relevant date is—
  (a) the filing date, or
  (b) such other date as the Scottish Ministers may by order prescribe.

(4) This section is subject to sections 87(3) and 93(4).

84 Correction of return by Revenue Scotland

(1) Revenue Scotland may correct any obvious error or omission in a tax return.

(2) A correction under this section—
  (a) is made by notice to the taxpayer, and
  (b) is regarded as effecting an amendment of the return.

(3) The reference in subsection (1) to an error includes, for instance, an arithmetical mistake or an error of principle.

(4) A correction under this section must be made by the end of the period of 12 months beginning with the day on which the return was made.

(5) A correction under this section has no effect if the taxpayer rejects it by—
  (a) during the amendment period, amending the return so as to reject the correction, or
  (b) after that period, giving a notice rejecting the correction.

(6) A notice under subsection (5)(b) must be given to Revenue Scotland before the end of the period of 3 months beginning with the date of issue of the notice of correction.

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".

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.

(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.

CHAPTER 5

REVENUE SCOTLAND DETERMINATIONS

95 Determination of tax chargeable if no return made

(1) This section applies where—
  (a) Revenue Scotland has reason to believe that a person ("P") is chargeable to a devolved tax,
  (b) P has not made a tax return in relation to that liability, and
  (c) the relevant filing date has passed.

(2) "The relevant filing date" means the date by which Revenue Scotland believes a return was required to be made.

(3) Revenue Scotland may make a determination (a "Revenue Scotland determination") to the best of its information and belief of the amount of tax to which P is chargeable.

(4) Notice of the determination must be given to P and must state the date on which it is issued.

(5) P must pay the tax chargeable as a result of the determination immediately on receipt of notice of the determination.

(6) No Revenue Scotland determination may be made more than 5 years after the relevant date.

(7) The relevant date is—
  (a) the relevant filing date, or
  (b) such other date as the Scottish Ministers may by order prescribe.

96 Determination to have effect as a self-assessment

(1) A Revenue Scotland determination has effect for enforcement purposes as if it were a self-assessment made by P.

(2) In subsection (1) "for enforcement purposes" means for the purposes of Part 10.

(3) Nothing in this section affects any liability of a person to a penalty for failure to make a tax return.

97 Determination superseded by actual self-assessment

(1) If, after a Revenue Scotland determination has been made, P makes a tax return with respect to the tax in question, the self-assessment included in that return supersedes the determination.

(2) Subsection (1) does not apply to a return made—

(a) more than 5 years after the power to make the determination first became exercisable, or

(b) more than 3 months after the date of the determination,

whichever is the later.

(3) Where—

(a) proceedings have been begun for the recovery of any tax charged by a Revenue Scotland determination, and

(b) before the proceedings are concluded the determination is superseded by a self-assessment,

the proceedings may be continued as if they were proceedings for the recovery of so much of the tax charged by the self-assessment as is due and payable and has not yet been paid.

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.

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—

"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

(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.

CHAPTER 7

RELIEF IN CASE OF EXCESSIVE ASSESSMENT OR OVERPAID TAX

Double assessment

106 Relief in case of double assessment

A person who believes that tax has been assessed on that person more than once in respect of the same matter may make a claim to Revenue Scotland for relief against any double charge.

Overpaid tax etc.

107 Claim for relief for overpaid tax etc.

(1) This section applies where—

(a) a person has paid an amount by way of tax but believes the tax was not chargeable, or

(b) a person has been assessed as chargeable to an amount of tax, or a determination has been made that a person is chargeable to an amount of tax, but the person believes the tax is not chargeable.

(2) The person may make a claim to Revenue Scotland for the amount to be repaid or discharged.

(3) Where this section applies, Revenue Scotland is not liable to give relief, except as provided in this Part or by or under any other provision of this Act.

(4) For the purposes of this section and sections 109 to 118, an amount paid by one person on behalf of another is treated as paid by the other person.

Order changing tax basis not approved

108 Claim for repayment if order changing tax basis not approved

(1) This section applies where a relevant order has ceased to have effect by virtue of a relevant provision and—

(a) a person has paid an amount by way of tax that would not have been payable but for the order, or

(b) a person has been assessed as chargeable to an amount of tax, or a determination has been made that a person is chargeable to an amount of tax, that would not have been chargeable but for the order.

(2) The person may make a claim to Revenue Scotland—

(a) for the amount of tax, and

(b) any related penalty or interest,

to be repaid or discharged to the extent that it was paid, or assessed or determined as chargeable, in consequence of the relevant order.

(3) A "relevant order" is an order mentioned in column 1, and a "relevant provision", in relation to such an order, is the provision mentioned in the corresponding entry in column 2, of the following table.

Relevant orders	*Relevant provisions*
Under the LBTT(S) Act 2013— (a) a second or subsequent order under section 24(1), (b) a second or subsequent order under paragraph 3(1) of schedule 19.	Section 68(4)(b) of that Act
Under the LT(S) Act 2014— (a) an order under section 5(5) providing for anything which would otherwise not be a disposal of material by way of landfill to be such a disposal, (b) an order under section 6(1) which produces the result that a landfill site activity which would otherwise not be prescribed for the purposes of section 6 is so prescribed, (c) a second or subsequent order under section 13(2) or (5), (d) an order under section 13(4), (e) an order under section 14(7) other than one which provides only that an earlier order under section 14(7) is not to apply to material.	Section 41(3)(b) of that Act

(4) A penalty or interest is related to an amount of tax to the extent that it—

(a) is attributable to the amount, and

(b) would not have been incurred but for the relevant order.

(5) A claim for repayment must be made before the end of the period of 2 years after the relevant date.

(6) The relevant date is—
  (a) the filing date, or
  (b) the date on which the tax return was made, if the return was made after the filing date.

(7) For the purposes of this section and sections 109 to 112, 114, 116 and 118, an amount paid by one person on behalf of another is treated as paid by the other person.

(8) Expressions used in this section and in the LT(S) Act 2014 have the meanings given in that Act.

Defence of unjustified enrichment

109 Defence to certain claims for relief under section 107 or 108

It is a defence to a claim for relief made under section 107 or 108 that repayment or, as the case may be, discharge of the amount would unjustly enrich the claimant.

110 Unjustified enrichment: further provision

(1) This section applies where—
  (a) there is an amount paid by way of tax which (apart from section 109) would fall to be repaid or discharged to any person ("the taxpayer"), and
  (b) the whole or a part of the cost of the payment of that amount to Revenue Scotland has, for practical purposes, been borne by a person other than the taxpayer.

(2) Where, in a case to which this section applies, loss or damage has been or may be incurred by the taxpayer as a result of mistaken assumptions made in the taxpayer's case about the operation of any provisions relating to a tax, that loss or damage is to be disregarded, except to the extent of the quantified amount, in the making of any determination—
  (a) of whether or to what extent the repayment or discharge of an amount to the taxpayer would enrich the taxpayer, or
  (b) of whether or to what extent any enrichment of the taxpayer would be unjust.

(3) In subsection (2) "the quantified amount" means the amount (if any) which is shown by the taxpayer to constitute the amount that would appropriately compensate the taxpayer for loss or damage shown by the taxpayer to have resulted, for any business carried on by the taxpayer, from the making of the mistaken assumptions.

(4) The reference in subsection (2) to provisions relating to a tax is a reference to any provisions of—
  (a) any enactment, subordinate legislation or EU legislation (whether or not still in force) which relates to that tax or to any matter connected with it, or
  (b) any notice published by Revenue Scotland under or for the purposes of any such enactment or subordinate legislation.

111 Unjustified enrichment: reimbursement arrangements

(1) The Scottish Ministers may by regulations make provision for reimbursement arrangements made by any person to be disregarded for the purposes of section 109 except where the arrangements—

(a) contain such provision as may be required by the regulations, and

(b) are supported by such undertakings to comply with the provisions of the arrangements as may be required by the regulations to be given to Revenue Scotland.

(2) In this section "reimbursement arrangements" means any arrangements for the purposes of a claim under section 107 or 108 which—

(a) are made by any person for the purpose of securing that the person is not unjustly enriched by the repayment or discharge of any amount in pursuance of the claim, and

(b) provide for the reimbursement of persons who have for practical purposes borne the whole or any part of the cost of the original payment of that amount to Revenue Scotland.

(3) Without prejudice to the generality of subsection (1) above, the provision that may be required by regulations under this section to be contained in reimbursement arrangements includes—

(a) provision requiring a reimbursement for which the arrangements provide to be made within such period after the repayment to which it relates as may be specified in the regulations,

(b) provision for the repayment of amounts to Revenue Scotland where those amounts are not reimbursed in accordance with the arrangements,

(c) provision requiring interest paid by Revenue Scotland on any amount repaid by it to be treated in the same way as that amount for the purposes of any requirement under the arrangements to make reimbursement or to repay Revenue Scotland,

(d) provision requiring such records relating to the carrying out of the arrangements as may be described in the regulations to be kept and produced to Revenue Scotland, or to a designated officer.

(4) Regulations under this section may impose obligations on such persons as may be specified in the regulations—

(a) to make the repayments to Revenue Scotland that they are required to make in pursuance of any provisions contained in any reimbursement arrangements by virtue of subsection (3)(b) or (c),

(b) to comply with any requirements contained in any such arrangements by virtue of subsection (3)(d).

(5) Regulations under this section may make provision for the form and manner in which, and the times at which, undertakings are to be given to Revenue Scotland in accordance with the regulations and any such provision may allow for those matters to be determined by Revenue Scotland in accordance with the regulations.

112 Reimbursement arrangements: penalties

(1) Regulations under section 111 may make provision for penalties where a person breaches an obligation imposed by virtue of section 111(4).

(2) The regulations may in particular make provision including provision—
- (a) about the circumstances in which a penalty is payable,
- (b) about the amounts of penalties,
- (c) for fixed penalties, daily penalties and penalties calculated by reference to the amount of repayments which the person would have been liable to make to Revenue Scotland if the obligation had been breached,
- (d) about the procedure for issuing penalties,
- (e) about appealing penalties,
- (f) about enforcing penalties.

(3) But the regulations may not create criminal offences.

(4) Regulations made by virtue of this section may amend any enactment (including this Act).

Other defences to claims

113 Cases in which Revenue Scotland need not give effect to a claim

(1) Revenue Scotland need not give effect to a claim under section 107 if or to the extent that the claim falls within a case described in this section.

(2) Case A is where the amount of tax paid, or liable to be paid, is excessive because of—
- (a) a mistake in a claim, or
- (b) a mistake consisting of making, or failing to make, a claim.

(3) Case B is where the claimant is or will be able to seek relief by taking other steps under this Part of this Act.

(4) Case C is where the claimant—
- (a) could have sought relief by taking such steps within a period that has now expired, and
- (b) knew or ought reasonably to have known, before the end of that period, that such relief was available.

(5) Case D is where the claim is made on grounds that—
- (a) have been put to a court or tribunal in the course of an appeal by the claimant relating to the amount paid or liable to be paid, or
- (b) have been put to Revenue Scotland in the course of a review or appeal by the claimant relating to that amount that is treated as having been determined by the tribunal by virtue of section 246 (settling matters in question by agreement).

(6) Case E is where the claimant knew, or ought reasonably to have known, of the grounds for the claim before the latest of the following—
- (a) the date on which a relevant appeal in the course of which the ground could have been put forward was determined by a court or tribunal (or is treated as having been so determined),
- (b) the date on which the claimant withdrew a relevant appeal to a court or tribunal,

(c) the end of the period in which the claimant was entitled to make a relevant appeal to a court or tribunal.

(7) In subsection (6) "relevant appeal" means an appeal by the claimant relating to the amount paid or liable to be paid.

(8) Case F is where the amount in question was paid or is liable to be paid—

(a) in consequence of proceedings enforcing the payment of that amount brought against the claimant by Revenue Scotland, or

(b) in accordance with an agreement between the claimant and Revenue Scotland settling such proceedings.

(9) Case G is where—

(a) the amount paid, or liable to be paid, is excessive by reason of a mistake in calculating the claimant's liability to tax, and

(b) liability was calculated in accordance with the practice generally prevailing at the time.

(10) Case G does not apply where the amount paid, or liable to be paid, is tax which has been charged contrary to EU law.

(11) For the purposes of subsection (10), an amount of tax is charged contrary to EU law if, in the circumstances in question, the charge to tax is contrary to—

(a) the provisions relating to the free movement of goods, persons, services and capital in Titles II and IV of Part 3 of the Treaty on the Functioning of the European Union, or

(b) the provisions of any subsequent treaty replacing the provisions mentioned in paragraph (a).

Procedure for making claims

114 Procedure for making claims etc.

Schedule 3 applies in relation to claims under sections 106 to 108.

115 Time-limit for making claims

(1) A claim under section 106 or 107 must be made within the period of 5 years after the date by which the tax return, to which the payment by way of tax, or the assessment or determination relates, required to be made.

(2) A claim under section 107 may not be made by being included in a return.

116 The claimant: partnerships

(1) This section is about the application of sections 107 and 108 in a case where either—

(a) (in a case falling within section 107(1)(a) or 108(1)(a)) the person paid the amount in question in the capacity of a responsible partner or representative partner, or

(b) (in a case falling within section 107(1)(b) or 108(1)(b)) the assessment was made on, or the determination related to the liability of, the person in such a capacity.

(2) In such a case, only a relevant person who has been nominated to do so by all of the relevant persons may make a claim under section 107 or 108 in respect of the amount in question.

(3) The relevant persons are all the persons who would have been liable as responsible partners to pay the amount in question had the payment been due or (in a case falling within section 107(1)(b) or 108(1)(b)) had the assessment or determination been correctly made.

117 Assessment of claimant in connection with claim

(1) This section applies where—
- (a) a claim is made under section 107,
- (b) the grounds for giving effect to the claim also provide grounds for a Revenue Scotland assessment on the claimant in respect of the tax, and
- (c) such an assessment could be made but for a relevant restriction.

(2) In a case falling within section 116(1)(a) or (b), the reference to the claimant in subsection (1)(b) of this section includes any relevant person (as defined in section 116(3)).

(3) The following are relevant restrictions—
- (a) the restrictions in section 102 (conditions for assessment where return has been delivered),
- (b) the expiry of a time limit for making a Revenue Scotland assessment.

(4) Where this section applies—
- (a) the relevant restrictions are to be disregarded,
- (b) the Revenue Scotland assessment is not out of time if it is made before the final determination of the claim.

(5) A claim is not finally determined until it, or the amount to which it relates, can no longer be varied (whether on review, appeal or otherwise).

Contract settlements

118 Contract settlements

(1) In sections 107(1)(a) and 108(1)(a) the reference to an amount paid by a person by way of tax includes an amount paid by a person under a contract settlement in connection with tax believed to be due.

(2) Subsections (3) to (7) apply if the person who paid the amount under the contract settlement ("the payer") and the person from whom the tax was due ("the taxpayer") are not the same person.

(3) In relation to a claim under section 107 in respect of that amount—
- (a) the references to the claimant in section 113(5), (6) and (8) (Cases D, E and F) have effect as if they included the taxpayer,
- (b) the reference to the claimant in section 113(9) (Case G) has effect as if it were a reference to the taxpayer, and

(c) the reference to the claimant in section 117(1)(b) has effect as if it were a reference to the taxpayer.

(4) In relation to a claim under section 107 or 108 in respect of that amount, references to tax in schedule 3 (as it applies to a claim under section 107 or 108) include the amount paid under the contract settlement.

(5) Subsection (6) applies where the grounds for giving effect to a claim by the payer in respect of the amount also provide grounds for a Revenue Scotland assessment on the taxpayer in respect of the tax.

(6) Revenue Scotland may set any amount repayable to the payer as a result of the claim against any amount payable by the taxpayer as a result of the assessment.

(7) The obligations of Revenue Scotland and the taxpayer are discharged to the extent of any set-off under subsection (6).

(8) "Contract settlement" means an agreement made in connection with any person's liability to make a payment to Revenue Scotland by or under this Act or any other enactment.

PART 7

INVESTIGATORY POWERS OF REVENUE SCOTLAND

CHAPTER 1

INVESTIGATORY POWERS: INTRODUCTORY

Overview

119 Investigatory powers of Revenue Scotland: overview

This Part is arranged as follows—

(a) Chapter 2 sets out Revenue Scotland's investigatory powers in relation to information and documents,

(b) Chapter 3 contains restrictions on the powers in Chapter 2,

(c) Chapter 4 sets out Revenue Scotland's investigatory powers in relation to premises and other property,

(d) Chapter 5 sets out further investigatory powers,

(e) Chapter 6 is about reviews and appeals against information notices, and

(f) Chapter 7 sets out offences relating to information notices.

Interpretation

120 Meaning of "tax position"

(1) In this Part unless otherwise stated "tax position", in relation to a person, means the person's position as regards any devolved tax, including the person's position as regards—

(a) past, present and future liability to pay any devolved tax,
(b) penalties and other amounts that have been paid, or are or may be payable, by or to the person in connection with any devolved tax, and
(c) claims, elections, applications and notices that have been or may be made or given in connection with the person's liability to pay any devolved tax,

(and references to a person's position as regards a particular tax (however expressed) are to be interpreted accordingly).

(2) References in this Part to the tax position of a person include the tax position of—
(a) an individual who has died,
(b) a company that has ceased to exist.

(3) References in this Part to a person's tax position are to the person's tax position at any time or in relation to any period, unless otherwise stated.

(4) References to checking a person's tax position include carrying out an investigation or enquiry of any kind.

121 Meaning of "carrying on a business"

(1) In this Part references to carrying on a business include—
(a) the letting of property,
(b) the activities of a charity, and
(c) the activities of a local authority and any other public authority.

(2) The Scottish Ministers may by regulations provide that for the purposes of this Part—
(a) the carrying on of an activity specified in the regulations, or
(b) the carrying on of such an activity (or any activity) by a person specified in the regulations,

is or is not to be treated as the carrying on of a business.

122 Meaning of "statutory records"

(1) For the purposes of this Part information or a document forms part of a person's statutory records if it is information or a document which the person is required to keep and preserve by or under this Act, subject to subsections (2) and (3).

(2) To the extent that any information or document that is required to be kept and preserved by or under this Act—
(a) does not relate to the carrying on of a business, and
(b) is not also required to be kept or preserved by or under any other enactment relating to devolved tax,

it forms part of a person's statutory records only to the extent that any accounting period or periods to which it relates has or have ended.

(3) Information and documents cease to form part of a person's statutory records when the period for which they are required to be preserved by or under this Act has expired.

CHAPTER 2

INVESTIGATORY POWERS: INFORMATION AND DOCUMENTS

123 Power to obtain information and documents from taxpayer

(1) If the condition in subsection (2) is met, a designated officer may by notice require a person ("the taxpayer")—
  (a) to provide information, or
  (b) to produce a document.

(2) That condition is that—
  (a) the information or document is reasonably required by the officer for the purpose of checking the taxpayer's tax position, and
  (b) it is reasonable for the taxpayer to be required to provide the information or to produce the document.

(3) In this Part "taxpayer notice" means a notice under this section.

124 Power to obtain information and documents from third party

(1) If the condition in subsection (2) is met, a designated officer may by notice require a person—
  (a) to provide information, or
  (b) to produce a document.

(2) That condition is that—
  (a) the information or document is reasonably required by the officer for the purpose of checking the tax position of another person whose identity is known to the officer ("the taxpayer"), and
  (b) it is reasonable for the person to be required to provide the information or to produce the document.

(3) A notice under this section must name the taxpayer to whom it relates, unless the tribunal has approved the giving of the notice and disapplied this requirement under section 125.

(4) In this Part "third party notice" means a notice under this section.

125 Approval of taxpayer notices and third party notices

(1) A designated officer may not give a third party notice without—
  (a) the agreement of the taxpayer, or
  (b) the approval of the tribunal.

(2) A designated officer may ask for the approval of the tribunal to the giving of any taxpayer notice or third party notice (and for the effect of obtaining such approval see sections 152 and 155).

(3) An application for approval under this section may be made without notice (except as required under subsection (4)).

(4) The tribunal may not approve the giving of a taxpayer notice or third party notice unless—

(a) the tribunal is satisfied that, in the circumstances, the officer giving the notice is justified in doing so,

(b) the person to whom the notice is to be addressed has been told that the information or documents referred to in the notice are required and has been given a reasonable opportunity to make representations to a designated officer,

(c) the tribunal has been given a summary of any representations made by that person, and

(d) in the case of a third party notice, the taxpayer has been given a summary of the reasons why a designated officer requires the information and documents.

(5) Paragraphs (b) to (d) of subsection (4) do not apply to the extent that the tribunal is satisfied that taking the action specified in those paragraphs might prejudice the assessment or collection of tax.

(6) Where the tribunal approves the giving of a third party notice under this paragraph, it may also disapply the requirement to name the taxpayer in the notice if it is satisfied that the designated officer has reasonable grounds for believing that naming the taxpayer might seriously prejudice the assessment or collection of tax.

126 Copying third party notice to taxpayer

(1) A designated officer who gives a third party notice must give a copy of the notice to the taxpayer to whom it relates, unless the tribunal has disapplied this requirement.

(2) The tribunal may not disapply that requirement unless the tribunal is satisfied that the officer applying has reasonable grounds for believing that giving a copy of the notice to the taxpayer might prejudice the assessment or collection of tax.

127 Power to obtain information and documents about persons whose identity is not known

(1) If the conditions in subsection (2) are met, a designated officer may by notice require a person—

(a) to provide information, or

(b) to produce a document.

(2) Those conditions are—

(a) that the information or document is reasonably required by the officer for the purpose of checking the tax position of—

(i) a person whose identity is not known to the officer, or

(ii) a class of persons whose individual identities are not known to the officer, and

(b) the tribunal has approved the giving of the notice.

(3) An application for approval may be made without notice.

(4) The tribunal may not approve the giving of a notice under this section unless it is satisfied that—

(a) the notice would meet the condition in subsection (2)(a),

(b) there are reasonable grounds for believing that the person or any of the class of persons to whom the notice relates may have failed or may fail to comply with any provision of the law relating to a devolved tax,

(c) any such failure is likely to have led or to lead to serious prejudice to the assessment or collection of tax, and

(d) the information or document to which the notice relates is not readily available from another source.

128 Third party notices and notices under section 127: groups of undertakings

(1) This section applies where an undertaking is a parent undertaking in relation to another undertaking (a "subsidiary undertaking").

(2) Where a third party notice is given to any person for the purpose of checking the tax position of the parent undertaking and any of its subsidiary undertakings—

(a) section 124(3) only requires the notice to state this and name the parent undertaking, and

(b) the references in section 125(6) to naming the taxpayer are to making that statement and naming the parent undertaking.

(3) In relation to such a notice—

(a) in sections 125 and 126 (approval of notices and copying third party notices), the references to the taxpayer have effect as if they were references to the parent undertaking, but

(b) in section 152(2)(b) (no review or appeal in relation to taxpayer's statutory records), the reference to the taxpayer has effect as if it were a reference to the parent undertaking and each of its subsidiary undertakings.

(4) Where a third party notice is given to the parent undertaking for the purpose of checking the tax position of more than one subsidiary undertaking—

(a) section 124(3) only requires the notice to state this, and

(b) the references in section 125(6) to naming the taxpayer are to making that statement.

(5) In relation to such a notice—

(a) in section 125 (approval of notices), subsections (1) and (4)(d) do not apply,

(b) section 126(1) (copying third party notices to taxpayer) does not apply,

(c) section 137 (restriction on giving taxpayer notice following a tax return) applies as if the notice was a taxpayer notice or taxpayer notices given to each subsidiary undertaking (or, if the notice names the subsidiary undertakings to which it relates, to each of those undertakings), and

(d) in section 152(2)(b) (no review or appeal in relation to a taxpayer's statutory records), the reference to the taxpayer has effect as if it were a reference to the parent undertaking or any of its subsidiary undertakings.

(6) In this section "parent undertaking", "subsidiary undertaking" and "undertaking" have the meanings given in sections 1161 and 1162 of, and schedule 7 to, the Companies Act 2006 (c.46).

129 Third party notices and notices under section 127: partnerships

(1) This section applies where a business is carried on by two or more persons in partnership.

(2) Where, in respect of a taxable event entered into or undertaken by or on behalf of the members of the partnership, any partner has made a tax return, section 137 has effect as if that return had been made by each of the partners.

(3) Where a third party notice is given for the purpose of checking the tax position of more than one of the partners (in their capacity as such)—

(a) section 124(3) only requires the notice to state this and give a name by which the partnership is known or under which it is registered for any purpose, and

(b) the references in section 125(6) to naming the taxpayer are to making that statement and naming the partnership.

(4) In relation to such a notice given to a person other than one of the partners—

(a) in sections 125 and 126 (approval of notices and copying third party notices), the references to the taxpayer have effect as if they were references to at least one of the partners, and

(b) in section 152(2)(b) (no review or appeal in relation to taxpayer's statutory records), the reference to the taxpayer has effect as if it were a reference to any of the partners in the partnership.

(5) In relation to a third party notice given to one of the partners for the purpose of checking the tax position of one or more of the other partners (in their capacity as such)—

(a) in section 125 (approval of notices), subsections (1) and (4)(d) do not apply,

(b) section 126(1) (copying third party notices to taxpayer) does not apply, and

(c) in section 152(2)(b) (no review or appeal in relation to a taxpayer's statutory records), the reference to the taxpayer has effect as if it were a reference to any of the partners in the partnership.

130 Power to obtain information about persons whose identity can be ascertained

(1) A designated officer may by notice require a person ("P") to provide relevant information about another person ("the taxpayer") if the tribunal approves the giving of the notice.

(2) The tribunal may not approve the giving of a notice under this section unless satisfied that conditions A to D are met.

(3) Condition A is that the information is reasonably required by the officer for the purpose of checking the tax position of the taxpayer.

(4) Condition B is that—

(a) the taxpayer's identity is not known to the officer, but

(b) the officer holds information from which the taxpayer's identity can be ascertained.

(5) Condition C is that the officer has reason to believe that—

(a) P will be able to ascertain the taxpayer's identity from the information held by the officer, and

(b) P obtained relevant information about the taxpayer in the course of carrying on a business.

(6) Condition D is that the taxpayer's identity cannot readily be ascertained by other means from the information held by the officer.

(7) "Relevant information" means all or any of the following—

(a) name,

(b) last known address, and

(c) date of birth (in the case of an individual).

(8) This section applies for the purpose of checking the tax position of a class of persons as for the purpose of checking the tax position of a single person (and references to "taxpayer" are to be read accordingly).

131 Notices

(1) In this Part "information notice" means a notice under section 123, 124, 127 or 130.

(2) An information notice may specify or describe the information or documents to be provided or produced.

(3) If an information notice is given with the approval of the tribunal, it must state that it is given with that approval.

(4) A decision of the tribunal under section 125, 126, 127 or 130 is final.

132 Complying with information notices

(1) Where a person is required by an information notice to provide information or produce a document, the person must do so—

(a) within such period, and

(b) at such time, by such means and in such form (if any), as is reasonably specified or described in the notice.

(2) Where an information notice requires a person to produce a document, it must be produced—

(a) at a place agreed to by that person and a designated officer, or

(b) at such place as a designated officer may reasonably specify.

(3) A designated officer must not specify for the purposes of subsection (2)(b) a place that is used solely as a dwelling.

(4) The production of a document in compliance with an information notice is not to be regarded as breaking any lien claimed on the document.

133 Producing copies of documents

(1) Where an information notice requires a person to produce a document, the person may comply with the notice by producing a copy of the document, subject to any conditions or exceptions set out in regulations made by the Scottish Ministers.

(2) Subsection (1) does not apply where—

(a) the notice requires the person to produce the original document, or

(b) a designated officer subsequently makes a request to the person for the original document.

(3) Where a designated officer requests a document under subsection (2)(b), the person to whom the request is made must produce the document—
(a) within such period, and
(b) at such time and by such means (if any),
as is reasonably requested by the designated officer.

134 Further provision about powers relating to information notices

The Scottish Ministers may by regulations make further provision about—
(a) the form and content of information notices,
(b) the time periods for complying with information notices, and
(c) the manner of complying with information notices.

CHAPTER 3

RESTRICTIONS ON POWERS IN CHAPTER 2

135 Information notices: general restrictions

(1) An information notice requires a person to produce a document only if it is in the person's possession or power.

(2) An information notice may not require a person to produce a document if the whole of the document originates more than 5 years before the date of the notice, unless the notice is given with the approval of the tribunal.

(3) An information notice given for the purposes of checking the tax position of a person who has died may not be given more than 3 years after the person's death.

136 Types of information

(1) An information notice does not require a person to provide or produce—
(a) information that relates to the conduct of a pending review or appeal relating to tax (or any part of a document containing such information), or
(b) journalistic material (or information contained in such material).

(2) In subsection (1)(b) "journalistic material" means material acquired or created for the purposes of journalism.

(3) Material is to be treated as journalistic material if it is in the possession of someone who acquired or created it for the purposes of journalism.

(4) A person who receives material from someone who intends that the recipient will use it for the purposes of journalism is to be taken to have acquired it for those purposes.

(5) An information notice does not require a person to provide or produce personal records or information contained in such records, subject to subsection (7).

(6) In subsection (5) "personal records" means documentary and other records concerning an individual ("P") (whether living or dead) who can be identified from them and relating—
  (a) to P's physical or mental health,
  (b) to spiritual counselling or assistance given or to be given to P, or
  (c) to counselling or assistance given or to be given to P, for the purposes of P's personal welfare, by any voluntary organisation or by any individual who—
    (i) by reason of an office or occupation has responsibilities for P's personal welfare, or
    (ii) by reason of an order of a court has responsibilities for P's supervision.

(7) An information notice may require a person—
  (a) to produce documents (or copies of documents) that are personal records, omitting any information whose inclusion (whether alone or with other information) makes the original documents personal records ("personal information"), and
  (b) to provide any information contained in such records that is not personal information.

137 Taxpayer notices following a tax return

(1) Where a person has made a tax return in relation to a devolved tax in relation to an accounting period, a taxpayer notice may not be given for the purpose of checking that person's tax position in relation to that tax in relation to that accounting period.

(2) Where a person has made a tax return in relation to a devolved tax in relation to a transaction, a taxpayer notice may not be given for the purpose of checking that person's tax position in relation to that transaction.

(3) Subsections (1) and (2) do not apply where (or to the extent that) either of condition A or B is met.

(4) Condition A is that a notice of enquiry has been given in respect of—
  (a) the return, or
  (b) a claim or election (or an amendment of a claim or election) made by the person in relation to—
    (i) the accounting period in respect of the tax (or one of the taxes) to which the return relates ("relevant tax"), or
    (ii) the transaction to which the return relates,

and the enquiry has not been completed.

(5) Condition B is that, as regards the person, a designated officer has reason to suspect that—
  (a) an amount that ought to have been assessed to relevant tax for the accounting period or, as the case may be, the transaction may not have been assessed,
  (b) an assessment to relevant tax for the accounting period or, as the case may be, the transaction may be or have become insufficient, or
  (c) relief from relevant tax given for the accounting period or, as the case may be, the transaction may be or have become excessive.

(6) References in this section to the person who made the return are only to that person in the capacity in which the return was made.

138 Protection for privileged communications between legal advisers and clients

(1) An information notice does not require a person—
  (a) to provide privileged information, or
  (b) to produce any part of a document that is privileged.

(2) For the purposes of this Part, information or a document is privileged if it is information or a document in respect of which a claim to confidentiality of communications as between client and professional legal adviser could be maintained in legal proceedings.

(3) The Scottish Ministers may by regulations make provision for the resolution by the tribunal of disputes as to whether any information or document is privileged.

(4) The regulations may, in particular, make provision as to the custody of a document while its status is being decided.

139 Protection for auditors

(1) An information notice does not require a person who has been appointed as an auditor for the purpose of an enactment—
  (a) to provide information held in connection with the performance of the person's functions under that enactment, or
  (b) to produce documents which are that person's property and which were created by that person or on that person's behalf for or in connection with the performance of those functions.

(2) Subsection (1) has effect subject to section 140.

140 Auditors: supplementary

(1) Section 139(1) does not have effect in relation to—
  (a) information explaining any information or document which the person to whom the notice is given has, as tax accountant, assisted any client in preparing for, or delivering to, Revenue Scotland, or
  (b) a document which contains such information.

(2) In the case of a notice given under section 127, section 139(1) does not have effect in relation to—
  (a) any information giving the identity or address of a person to whom the notice relates or of a person who has acted on behalf of such a person, or
  (b) a document which contains such information.

(3) Section 139 is not disapplied by subsection (1) or (2) if the information in question has already been provided, or a document containing the information has already been produced, to a designated officer.

(4) Where section 139 is disapplied in relation to a document by subsection (1) or (2), an information notice that requires the document to be produced has effect as if it

required any part or parts of the document containing the information mentioned in subsection (1) or (2) to be produced.

CHAPTER 4

INVESTIGATORY POWERS: PREMISES AND OTHER PROPERTY

Inspection of business premises

141 Power to inspect business premises

(1) If the condition in subsection (2) is met, a designated officer may enter a person's business premises and inspect—

(a) the premises,

(b) business assets that are on the premises,

(c) business documents that are on the premises.

(2) That condition is that the designated officer has reason to believe that the inspection is reasonably required for the purpose of checking the person's tax position.

(3) The powers under this section do not include power to enter or inspect any part of the premises that is used solely as a dwelling.

(4) In this Chapter—

"business assets" means assets that a designated officer has reason to believe are owned, leased or used in connection with the carrying on of a business by any person (but does not include documents),

"business documents" means documents or copies of documents—

(a) that relate to the carrying on of a business by any person, and

(b) that form part of any person's statutory records,

"business premises", in relation to a person, means premises (or any part of premises) that a designated officer has reason to believe are (or is) used in connection with the carrying on of a business by or on behalf of the person,

"premises" includes any building or structure, any land and any means of transport.

142 Power to inspect business premises of involved third parties

(1) If the condition in subsection (2) is met, a designated officer may enter business premises of an involved third party and inspect—

(a) the premises,

(b) business assets that are on the premises, and

(c) relevant documents that are on the premises.

(2) That condition is that the designated officer has reason to believe that the inspection is reasonably required for the purpose of checking the position of any person or class of persons as regards a relevant devolved tax.

(3) In this section—

"involved third party" means a person who is, or a category of persons who are, specified by the Scottish Ministers by order,

"relevant documents" means such documents as may be so specified,

"relevant devolved tax" means such devolved tax as may be so specified.

(4) The powers under this section may be exercised whether or not the identity of that person is, or the individual identities of those persons are, known to the designated officer.

(5) The powers under this section do not include power to enter or inspect any part of the premises that is used solely as a dwelling.

143 Carrying out inspections under section 141 or 142

(1) An inspection under section 141 or 142 may be carried out only—

(a) at a time agreed to by the occupier of the premises, or

(b) if subsection (2) is satisfied, at any reasonable time.

(2) This subsection is satisfied if—

(a) the occupier of the premises has been given at least 7 days' notice in writing of the time of the inspection, or

(b) the officer has reasonable grounds for believing that giving notice of the inspection would seriously prejudice the assessment or collection of tax.

(3) A designated officer seeking to carry out an inspection under subsection (2)(b) must provide a notice in writing as follows—

(a) if the occupier of the premises is present at the time the inspection is to begin, the notice must be provided to the occupier,

(b) if the occupier of the premises is not present but a person who appears to the officer to be in charge of the premises is present, the notice must be provided to that person,

(c) in any other case, the notice must be left in a prominent place on the premises.

(4) The notice referred to in subsection (2)(a) or (3) must state the possible consequences of obstructing the designated officer in the exercise of the power.

(5) If a notice referred to in subsection (2)(a) or (3) is given in respect of an inspection approved by the tribunal (see section 147), it must state that the inspection has been so approved.

144 Carrying out inspections under section 141 or 142: further provision

(1) A designated officer carrying out an inspection under section 141 or 142 has the following powers.

(2) On entering the premises, the officer may take any person authorised by the officer and, if the officer has reasonable cause to apprehend any serious obstruction in the execution of the inspection, a constable.

(3) Subject to subsection (9), on entering the premises, the officer or a person authorised by the officer may take any equipment or materials required for any purpose for which the inspection is being carried out.

(4) The officer may make such examination or investigation the officer considers to be necessary in the circumstances.

(5) The officer may direct that the premises or any part of them, or anything in them, be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any such examination or investigation.

(6) The officer or a person authorised by the officer may take samples of material on the premises.

(7) The power to take samples mentioned in subsection (6) includes power—
   (a) to carry out experimental borings or other works on the premises, and
   (b) to install, keep or maintain monitoring and other apparatus there.

(8) Any sample taken under subsections (6) and (7) is to be disposed of in such manner as Revenue Scotland may determine.

(9) An officer or authorised person may exercise the power mentioned in subsection (3) only—
   (a) at a time agreed to by the occupier of the premises, or
   (b) if subsection (10) is satisfied, at any reasonable time.

(10) This subsection is satisfied if—
   (a) in a case where notice was given under section 143(2)(a), that the notice informed the occupier of the premises that the officer or authorised person intended to exercise the power mentioned in subsection (3), or
   (b) the officer has reasonable grounds for believing that giving notice of the exercise of that power would seriously prejudice the assessment or collection of tax.

(11) Section 143(3) to (5) apply to the exercise of the power mentioned in subsection (3) by virtue of subsection (10)(b) as they apply to an inspection carried out by virtue of section 143(2)(b).

Inspection for valuation etc.

145 Power to inspect property for valuation etc.

(1) A designated officer may enter and inspect premises for the purpose of valuing the premises if the valuation is reasonably required for the purpose of checking any person's tax position.

(2) A designated officer may enter premises and inspect—
   (a) the premises,
   (b) any other property on the premises,

   for the purpose of valuing, measuring or determining the character of the premises or property.

(3) Subsection (2) only applies if the valuation, measurement or determination is reasonably required for the purposes of checking any person's tax position.

(4) A person who the designated officer considers is needed to assist with the valuation, measurement or determination may enter and inspect the premises or property with the officer.

146 Carrying out inspections under section 145

(1) An inspection under section 145 may be carried out only if condition A or B is met.

(2) Condition A is that—
- (a) the inspection is carried out at a time agreed to by a relevant person, and
- (b) the relevant person has been given notice in writing of the agreed time of the inspection.

(3) "Relevant person" means—
- (a) the occupier of the premises, or
- (b) if the occupier cannot be identified or the premises are vacant, a person who controls the premises.

(4) Condition B is that—
- (a) the inspection has been approved by the tribunal, and
- (b) any relevant person specified by the tribunal has been given at least 7 days' notice in writing of the time of the inspection.

(5) A notice under subsection (4)(b) must state the possible consequences of obstructing the officer in the exercise of the power.

(6) If a notice is given under this section in respect of an inspection approved by the tribunal (see section 147), it must state that the inspection has been so approved.

(7) A designated officer seeking to carry out an inspection under section 145 must produce evidence of authority to carry out the inspection if asked to do so by—
- (a) the occupier of the premises, or
- (b) any other person who appears to the officer to be in charge of the premises or property.

Approval of tribunal for premises inspections

147 Approval of tribunal for premises inspections

(1) A designated officer may ask the tribunal—
- (a) to approve an inspection under section 141, 142 or 145, or
- (b) to approve the exercise, in relation to an inspection under section 141 or 142, of any of the powers mentioned in section 144,

(and for the effect of obtaining such approval see section 195 (penalties for failure to comply or obstruction)).

(2) An application for approval under this section may be made without notice (except as required under subsection (4)).

(3) The tribunal may not approve an inspection under section 141 or 142 unless the tribunal is satisfied that, in the circumstances, the inspection is justified.

(4) The tribunal may not approve an inspection under section 145 unless—
- (a) the person whose tax position is the subject of the proposed inspection has been given a reasonable opportunity to make representations to the designated officer about that inspection,
- (b) the occupier of the premises has been given a reasonable opportunity to make such representations,
- (c) the tribunal has been given a summary of any representations made, and
- (d) the tribunal is satisfied that, in the circumstances, the inspection is justified.

(5) Subsection (4)(b) does not apply if the tribunal is satisfied that the occupier of the premises cannot be identified.

(6) A decision of the tribunal under this section is final.

Other powers in relation to premises

148 Power to mark assets and to record information

The powers under sections 141 to 146 include—
- (a) power to mark business assets, and anything containing business assets, for the purpose of indicating that they have been inspected, and
- (b) power to obtain and record information (whether electronically or otherwise) relating to the premises, property, assets and documents that have been inspected.

Restriction on inspection of documents

149 Restriction on inspection of documents

A designated officer may not inspect a document under this Chapter if (or to the extent that), by virtue of Chapters 2 and 3, an information notice given at the time of the inspection to the occupier of the premises could not require the occupier to produce the document.

CHAPTER 5

FURTHER INVESTIGATORY POWERS

150 Power to copy and remove documents

(1) Where a document is produced to, or inspected by, a designated officer, the officer may take copies of, or make extracts from, the document.

(2) Where a document is produced to, or inspected by, a designated officer, the officer may—
- (a) remove the document at a reasonable time, and
- (b) retain it for a reasonable period, if it appears to the officer to be necessary to do so.

(3) Where a document is removed in accordance with subsection (2), the person who produced the document may request—
  (a) a receipt for the document, and
  (b) a copy of the document.

(4) A designated officer must comply with a request under subsection (3) without charge.

(5) The removal of a document under this section is not to be regarded as breaking any lien claimed on the document.

(6) Where a document removed under this section is lost or damaged, Revenue Scotland is liable to compensate the owner of the document for any expenses reasonably incurred in replacing or repairing the document.

(7) In this section references to a document include a copy of a document.

151 Computer records

(1) This section applies to any provision of this Part or Part 8 (penalties) that—
  (a) requires a person to produce a document or cause a document to be produced,
  (b) requires a person to permit a designated officer—
    (i) to inspect a document, or
    (ii) to make or take copies of or extracts from or remove a document,
  (c) makes provision about penalties or offences in connection with the production or inspection of documents, including with the failure to produce or permit the inspection of documents, or
  (d) makes any other provision in connection with a requirement mentioned in paragraph (a) or (b).

(2) A provision to which this section applies has effect as if—
  (a) any reference in the provision to a document were a reference to anything in which information of any description is recorded, and
  (b) any reference in the provision to a copy of a document were a reference to anything onto which information recorded in the document has been copied, by whatever means and whether directly or indirectly.

(3) A designated officer may, at any reasonable time, obtain access to, inspect and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with a relevant document.

(4) In subsection (3) "relevant document" means a document that a person has been, or may be, required by or under a provision of this Part—
  (a) to produce or cause to be produced, or
  (b) to permit a designated officer—
    (i) to inspect,
    (ii) to make or take copies of or extracts from, or
    (iii) to remove.

(5) A designated officer may require—
  (a) the person by whom or on whose behalf the computer is or has been so used, or
  (b) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,

to provide the designated officer with such reasonable assistance as may be required for the purposes of subsection (3).

(6) A person who—
  (a) obstructs the exercise of a power conferred by this section, or
  (b) fails to comply within a reasonable time with a requirement under subsection (5),

is liable to a penalty of £300.

(7) Sections 201 to 203 (assessment and enforcement of penalties) apply in relation to a penalty under this section as they apply in relation to a penalty under section 195.

CHAPTER 6

REVIEWS AND APPEALS AGAINST INFORMATION NOTICES

152 Review or appeal against information notices

(1) This section applies where a person seeks, under Part 11, to have a decision in relation to the giving of an information notice or in relation to any requirement in such a notice reviewed or appealed.

(2) The following are not appealable decisions for the purposes of section 233(1)(h)—
  (a) a decision to give a taxpayer notice or third party notice if the tribunal approved the giving of the notice under section 125,
  (b) a decision to include a requirement in such a notice if it is a requirement to provide any information, or produce any document, that forms part of a taxpayer's statutory records.

(3) A person may give notice of review or notice of appeal in relation to a decision to give a third party notice, or in relation to a requirement in such a notice, only on the ground that it would be unduly onerous to comply with the notice or the requirement in it.

(4) But in a case to which section 128(4) or 129(5) applies, a notice of review or notice of appeal may be given on any grounds.

(5) A person may give notice of review or notice of appeal in relation to a decision to give a notice under section 127 or 130, or in relation to a requirement in such a notice, only on the ground that it would be unduly onerous to comply with the notice or the requirement in it.

(6) But in a case to which subsection (7) applies—
  (a) a notice of review or notice of appeal may be given on any grounds,
  (b) a notice of review or notice of appeal may not be given in relation to a decision to include a requirement in a notice under section 127—
    (i) if it is a requirement to provide any information, or produce any document, that forms part of the statutory records of the parent undertaking or any of its subsidiary undertakings, or
    (ii) if it is a requirement to provide any information, or produce any document, that forms part of the partner's statutory records.

(7) This subsection applies where notice is given under section 127—

(a) to a parent undertaking for the purposes of checking the tax position of one or more subsidiary undertakings whose identities are not known to the officer giving the notice, or

(b) to one or more partners for the purpose of checking the tax position of one or more of the other partners whose identities are not known to the officer giving the notice.

(8) In this section "parent undertaking", "subsidiary undertaking" and "undertaking" have the same meanings as in section 128.

153 Power to modify section 152

The Scottish Ministers may by order modify section 152(2) to (8) to provide for certain decisions in relation to the giving of information notices or in relation to any requirement in such notices—

(a) to be appealable for the purposes of section 233(1)(h),

(b) to be appealable for the purposes of that paragraph on certain grounds or in certain circumstances only,

(c) to not be appealable.

154 Disposal of reviews and appeals in relation to information notices

(1) This section applies where a person gives notice of review or notice of appeal in relation to a decision relating to an information notice or a requirement in it.

(2) Where the conclusions of the review under section 238 uphold or vary the information notice or requirement, the person to whom the information notice was given must comply with the notice or requirement within such period as is reasonably specified by a designated officer.

(3) But subsection (2) does not apply where section 240(2) applies (conclusions of review not to have effect of settlement agreement if mediation entered into or notice of appeal given).

(4) Where the tribunal, under section 244 (disposal of appeals), upholds or varies the information notice or requirement, the person to whom the information notice was given must comply with the notice or requirement—

(a) within the period specified by the tribunal, or

(b) if the tribunal does not specify a period, within such period as is reasonably specified by a designated officer following the tribunal's decision.

(5) A decision of the tribunal on an appeal to which this section applies is final.

CHAPTER 7

OFFENCES RELATING TO INFORMATION NOTICES

155 Offence of concealing etc. documents following information notice

(1) A person commits an offence if—

(a) the person is required to produce a document by an information notice the giving of which was approved by the tribunal, and

(b) the person conceals, destroys or otherwise disposes of (or arranges for the concealment, destruction or disposal of) that document.

(2) Subsection (1) does not apply if the person acts after the document has been produced to a designated officer in accordance with the information notice, unless a designated officer has notified the person that the document must continue to be available for inspection (and has not withdrawn the notification).

(3) Subsection (1) does not apply, in a case to which section 133 applies, if the person acts after the expiry of the period of 6 months beginning with the day on which a copy of the document was so produced unless, before the expiry of that period, a designated officer made a request for the original document under section 133(2)(b).

(4) A person who commits an offence under subsection (1) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum,

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

156 Offence of concealing etc. documents following information notification

(1) A person commits an offence if the person conceals, destroys or otherwise disposes of (or arranges for the concealment, destruction or disposal of) a document after the person has been notified by a designated officer that—

(a) the document is to be, or is likely to be, the subject of an information notice addressed to that person, and

(b) a designated officer either intends, under section 125, or is required, under section 127 or 130, to seek the approval of the tribunal to the giving of the notice in respect of the document.

(2) A person does not commit an offence under this section if the person acts after—

(a) at least 6 months has expired since the person was (or was last) so informed, or

(b) an information notice has been given to the person requiring the document to be produced.

(3) A person who commits an offence under subsection (1) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum,

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

PART 8

PENALTIES

CHAPTER 1

PENALTIES: INTRODUCTORY

Overview

157 Penalties: overview

This Part is arranged as follows—

Chapter 2 sets out penalties relating to failure to make tax returns or to pay tax,

Chapter 3 sets out penalties relating to inaccuracies,

Chapter 4 sets out penalties relating to investigations, and

Chapter 5 sets out other administrative penalties.

Double jeopardy

158 Double jeopardy

A person is not liable to a penalty under this Act in respect of anything in respect of which the person has been convicted of an offence.

CHAPTER 2

PENALTIES FOR FAILURE TO MAKE RETURNS OR PAY TAX

Penalties for failure to make returns

159 Penalty for failure to make returns

(1) A penalty is payable by a person ("P") where P fails to make a tax return specified in the table below on or before the filing date (see section 82).

	Tax to which return relates	*Return*
1.	Land and buildings transaction tax	(a) Return under section 29, 31, 33 or 34 of the LBTT(S) Act 2013. (b) Return under paragraph 10, 11, 20, 22 or 30 of Schedule 19 to the LBTT(S) Act 2013.
2.	Scottish landfill tax	Return under regulations made under section 25 of the LT(S) Act 2014.

(2) If P's failure falls within more than one provision of this section or of sections 160 to 167, P is liable to a penalty under each of those provisions.

(3) But where P is liable for a penalty under more than one provision of this section or of sections 160 to 167 which is determined by reference to a liability to tax, the aggregate of the amounts of those penalties must not exceed 100% of the liability to tax.

(4) In sections 160 to 167 "penalty date", in relation to a return, means the day after the filing date.

(5) Sections 160 to 163 apply in the case of a return falling within item 1 of the table.

(6) Sections 164 to 167 apply in the case of a return falling within item 2 of the table.

Amounts of penalties for failure to make returns: LBTT

160 Land and buildings transaction tax: first penalty for failure to make return

(1) This section applies in the case of a failure to make a return falling within item 1 of the table in section 159.

(2) P is liable to a penalty under this section of £100.

161 Land and buildings transaction tax: 3 month penalty for failure to make return

(1) P is liable to a penalty under this section if (and only if)—
  (a) P's failure continues after the end of the period of 3 months beginning with the penalty date,
  (b) Revenue Scotland decides that such a penalty should be payable, and
  (c) Revenue Scotland gives notice to P specifying the date from which the penalty is payable.

(2) The penalty under this section is £10 for each day that the failure continues during the period of 90 days beginning with the date specified in the notice given under subsection (1)(c).

(3) The date specified in the notice under subsection (1)(c)—
  (a) may be earlier than the date on which the notice is given, but
  (b) may not be earlier than the end of the period mentioned in subsection (1)(a).

162 Land and buildings transaction tax: 6 month penalty for failure to make return

(1) P is liable to a penalty under this section if (and only if) P's failure continues after the end of the period of 6 months beginning with the penalty date.

(2) The penalty under this section is the greater of—
  (a) 5% of any liability to tax which would have been shown in the return in question, and
  (b) £300.

163 Land and buildings transaction tax: 12 month penalty for failure to make return

(1) P is liable to a penalty under this section if (and only if) P's failure continues after the end of the period of 12 months beginning with the penalty date.

(2) Where, by failing to make the return, P deliberately withholds information which would enable or assist Revenue Scotland to assess P's liability to tax, the penalty under this section is the greater of—
  (a) 100% of any liability to tax which would have been shown in the return in question, and
  (b) £300.

(3) In any case not falling within subsection (2), the penalty under this section is the greater of—
  (a) 5% of any liability to tax which would have been shown in the return in question, and
  (b) £300.

Amounts of penalties for failure to make returns: Scottish landfill tax

164 Scottish landfill tax: first penalty for failure to make return

(1) This section applies in the case of a failure to make a return falling within item 2 of the table in section 159.

(2) P is liable to a penalty under this section of £100.

(3) In addition, a penalty period begins to run on the penalty date for the return.

(4) The penalty period ends with the day 12 months after the filing date for the return, unless it is extended under section 165(2)(c).

165 Scottish landfill tax: multiple failures to make return

(1) This section applies if—
  (a) a penalty period has begun under section 164 because P has failed to make a return ("return A"), and
  (b) before the end of the period, P fails to make another return ("return B") falling within the same item in the table as return A.

(2) In such a case—
  (a) section 164(2) and (3) do not apply to the failure to make return B,
  (b) P is liable to a penalty under this section for that failure, and
  (c) the penalty period that has begun is extended so that it ends with the day 12 months after the filing date for return B.

(3) The amount of the penalty under this section is determined by reference to the number of returns that P has failed to make during the penalty period.

(4) If the failure to make return B is P's first failure to make a return during the penalty period, P is liable, at the time of the failure, to a penalty of £200.

(5) If the failure to make return B is P's second failure to make a return during the penalty period, P is liable, at the time of the failure, to a penalty of £300.

(6) If the failure to make return B is P's third or subsequent failure to make a return during the penalty period, P is liable, at the time of the failure, to a penalty of £400.

(7) For the purposes of this section, in accordance with subsection (1)(b), the references in subsections (3) to (6) to a return are references to a return falling within the same item in the table as returns A and B.

(8) A penalty period may be extended more than once under subsection (2)(c).

166 Scottish landfill tax: 6 month penalty for failure to make return

(1) P is liable to a penalty under this section if (and only if) P's failure continues after the end of the period of 6 months beginning with the penalty date.

(2) The penalty under this section is the greater of—
  (a) 5% of any liability to tax which would have been shown in the return in question, and
  (b) £300.

167 Scottish landfill tax: 12 month penalty for failure to make return

(1) P is liable to a penalty under this section if (and only if) P's failure continues after the end of the period of 12 months beginning with the penalty date.

(2) Where, by failing to make the return, P deliberately withholds information which would enable or assist Revenue Scotland to assess P's liability to tax, the penalty under this section is the greater of—
  (a) 100% of any liability to tax which would have been shown in the return in question, and
  (b) £300.

(3) In any case not falling within subsection (2), the penalty under this section is the greater of—
  (a) 5% of any liability to tax which would have been shown in the return in question, and
  (b) £300.

Penalties for failure to pay tax

168 Penalty for failure to pay tax

(1) A penalty is payable by a person ("P") where P fails to pay an amount of tax mentioned in column 3 of the following table on or before the date mentioned in column 4 of the table.

	Tax to which payment relates	*Amount of tax payable*	*Date after which penalty incurred*
1.	Land and buildings transaction tax	(a) Amount payable under section 40 of the LBTT(S) Act 2013. (b) Additional amount payable as a result of an adjustment under section 66 of this Act. (c) Additional amount payable as a result of an amendment under section 83 of this Act. (d) Additional amount payable as a result of an amendment under section 87 of this Act. (e) Additional amount payable as a result of an amendment under section 93 of this Act. (f) Amount assessed under section 95 of this Act in the absence of a return. (g) Amount payable as a result of an assessment under section 98 of this Act.	(a), (d) and (f) The date falling 30 days after the date by which the amount must be paid. (b), (c), (e) and (g) The date by which the amount must be paid.
2.	Scottish landfill tax	(a) Amount payable under regulations made under section 25 of the LT(S) Act 2014. (b) Additional amount payable as a result of an adjustment	(a), (b), (c), (e) and (g) The date by which the amount must be paid. (d) and (f) The date falling 30 days after the date by which the amount must be paid.

	Tax to which payment relates	*Amount of tax payable*	*Date after which penalty incurred*
		under section 66 of this Act. (c) Additional amount payable as a result of an amendment under section 83 of this Act. (d) Additional amount payable as a result of an amendment under section 87 of this Act. (e) Additional amount payable as a result of an amendment under section 93 of this Act. (f) Amount assessed under section 95 of this Act in the absence of a return. (g) Amount payable as a result of an assessment under section 98 of this Act.	

(2) If P's failure falls within more than one provision of this section or of sections 169 to 173, P is liable to a penalty under each of those provisions.

(3) In sections 169 to 173 "penalty date", in relation to an amount of tax, means the day after the date mentioned in or for the purposes of column 4 of the table in relation to that amount.

(4) Section 169 applies in the case of a payment falling within item 1 of the table.

(5) Sections 170 to 173 apply in the case of a payment falling within item 2 of the table.

Amounts of penalties for failure to pay tax: LBTT

169 Land and buildings transaction tax: amounts of penalties for failure to pay tax

(1) This section applies in the case of a payment of tax falling within item 1 of the table in section 168.

(2) P is liable to a penalty of 5% of the unpaid tax.

(3) If any amount of the tax is unpaid after the end of the period of 5 months beginning with the penalty date, P is liable to a penalty of 5% of that amount.

(4) If any amount of the tax is unpaid after the end of the period of 11 months beginning with the penalty date, P is liable to a penalty of 5% of that amount.

Amounts of penalties for failure to pay tax: Scottish landfill tax

170 Scottish landfill tax: first penalty for failure to pay tax

(1) This section applies in the case of a payment of tax falling within item 2 of the table in section 168.

(2) P is liable to a penalty of 1% of the unpaid tax.

(3) In addition, a penalty period begins to run on the penalty date for the payment of tax.

(4) The penalty period ends with the day 12 months after the date specified in or for the purposes of column 4 of the table in section 168 for the payment, unless it is extended under section 171(2)(c).

171 Scottish landfill tax: penalties for multiple failures to pay tax

(1) This section applies if—
  (a) a penalty period has begun under section 170 because P has failed to make a payment ("payment A"), and
  (b) before the end of the period, P fails to make another payment ("payment B") falling within the same item in the table in section 168 as payment A.

(2) In such a case—
  (a) section 170(2) and (3) do not apply to the failure to make payment B,
  (b) P is liable to a penalty under this section for that failure, and
  (c) the penalty period that has begun is extended so that it ends with the day 12 months after the date specified in or for the purposes of column 4 for payment B.

(3) The amount of the penalty under this section is determined by reference to the number of defaults that P has made during the penalty period.

(4) If the default is P's first default during the penalty period, P is liable, at the time of the default, to a penalty of 2% of the amount of the default.

(5) If the default is P's second default during the penalty period, P is liable, at the time of the default, to a penalty of 3% of the amount of the default.

(6) If the default is P's third or subsequent default during the penalty period, P is liable, at the time of the default, to a penalty of 4% of the amount of the default.

(7) For the purposes of this section—
  (a) P makes a default when P fails to pay an amount of tax in full on or before the date on which it becomes due and payable,

(b) in accordance with subsection (1)(b), the references in subsections (3) to (6) to a default are references to a default in relation to the tax to which payments A and B relate,

(c) a default counts for the purposes of those subsections if (but only if) the period to which the payment relates is less than 6 months,

(d) the amount of a default is the amount which P fails to pay.

(8) A penalty period may be extended more than once under subsection (2)(c).

172 Scottish landfill tax: 6 month penalty for failure to pay tax

If any amount of tax is unpaid after the end of the period of 6 months beginning with the penalty date, P is liable to a penalty of 5% of that amount.

173 Scottish landfill tax: 12 month penalty for failure to pay tax

If any amount of tax is unpaid after the end of the period of 12 months beginning with the penalty date, P is liable to a penalty of 5% of that amount.

Penalties under Chapter 2: general

174 Interaction of penalties under Chapter 2 with other penalties

Where P is liable to a penalty under this Chapter which is determined by reference to a liability to tax, the amount of that penalty is to be reduced by the amount of any other penalty incurred by P (other than a penalty under this Chapter or section 209), if the amount of the penalty is determined by reference to the same liability to tax.

175 Reduction in penalty under sections 159 to 167 for disclosure

(1) Revenue Scotland may reduce a penalty under sections 159 to 167 where P discloses information which has been withheld by a failure to make a return ("relevant information").

(2) P discloses relevant information by—

(a) telling Revenue Scotland about it,

(b) giving Revenue Scotland reasonable help in quantifying any tax unpaid by reason of its having been withheld, and

(c) allowing Revenue Scotland access to records for the purpose of checking how much tax is so unpaid.

(3) Reductions under this section may reflect—

(a) whether the disclosure was prompted or unprompted, and

(b) the quality of the disclosure.

(4) Disclosure of relevant information—

(a) is "unprompted" if made at a time when P has no reason to believe that Revenue Scotland has discovered or is about to discover the relevant information, and

(b) otherwise, is "prompted".

(5) In relation to disclosure, "quality" includes timing, nature and extent.

176 Suspension of penalty under sections 168 to 173 during currency of agreement for deferred payment

(1) This section applies if—

(a) P fails to pay an amount of tax when it becomes due and payable,

(b) P makes a request to Revenue Scotland that payment of the amount of tax be deferred, and

(c) Revenue Scotland agrees that payment of that amount may be deferred for a period ("the deferral period").

(2) If P would (ignoring this subsection) become liable, between the date on which P makes the request and the end of the deferral period, to a penalty under sections 168 to 173 for failing to pay that amount, P is not liable to that penalty.

(3) But if—

(a) P breaks the agreement, and

(b) Revenue Scotland serves on P a notice specifying any penalty to which P would become liable (ignoring subsection (2)),

P becomes liable to that penalty at the date of the notice.

(4) P breaks an agreement if—

(a) P fails to pay the amount of tax in question when the deferral period ends, or

(b) the deferral is subject to P complying with a condition (including a condition that part of the amount be paid during the deferral period) and P fails to comply with it.

(5) If the agreement mentioned in subsection (1)(c) is varied at any time by a further agreement between P and Revenue Scotland, this section applies from that time to the agreement as varied.

177 Special reduction in penalty under Chapter 2

(1) Revenue Scotland may reduce a penalty under this Chapter if it thinks it right to do so because of special circumstances.

(2) In subsection (1) "special circumstances" does not include—

(a) ability to pay, or

(b) the fact that a potential loss of revenue from one taxpayer is balanced by a potential over-payment by another.

(3) In subsection (1) the reference to reducing a penalty includes a reference to—

(a) remitting a penalty entirely,

(b) suspending a penalty, and

(c) agreeing a compromise in relation to proceedings for a penalty.

(4) In this section references to a penalty include references to any interest in relation to the penalty.

(5) The powers in this section also apply after a decision of a tribunal or a court in relation to the penalty.

178 Reasonable excuse for failure to make return or pay tax

(1) If P satisfies Revenue Scotland or (on appeal) the tribunal that there is a reasonable excuse for a failure to make a return, liability to a penalty under sections 159 to 167 does not arise in relation to that failure.

(2) If P satisfies Revenue Scotland or (on appeal) the tribunal that there is a reasonable excuse for a failure to make a payment, liability to a penalty under sections 168 to 173 does not arise in relation to that failure.

(3) For the purposes of subsections (1) and (2)—

(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.

179 Assessment of penalties under Chapter 2

(1) Where P becomes liable to a penalty under this Chapter, Revenue Scotland must—

(a) assess the penalty,

(b) notify the person, and

(c) state in the notice the period, or the transaction, in respect of which the penalty is assessed.

(2) A penalty under this Chapter must be paid before the end of the period of 30 days beginning with the day on which notification of the penalty is issued.

(3) An assessment of a penalty under this Chapter—

(a) is to be treated for enforcement purposes as an assessment to tax, and

(b) may be combined with an assessment to tax.

(4) In relation to penalties under sections 159 to 167—

(a) a supplementary assessment may be made in respect of a penalty if an earlier assessment operated by reference to an underestimate of the liability to tax which would have been shown in a return,

(b) a replacement assessment may be made in respect of a penalty if an earlier assessment operated by reference to an overestimate of the liability to tax which would have been shown in a return.

(5) In relation to penalties under sections 168 to 173—

(a) a supplementary assessment may be made in respect of a penalty if an earlier assessment operated by reference to an underestimate of an amount of tax which was owing,

(b) if an assessment in respect of a penalty is based on an amount of tax owing that is found by Revenue Scotland to be excessive, Revenue Scotland may by notice to P amend the assessment so that it is based on the correct amount.

(6) An amendment made under subsection (5)(b)—

(a) does not affect when the penalty must be paid,

(b) may be made after the last day on which the assessment in question could have been made under section 180.

180 Time limit for assessment of penalties under Chapter 2

(1) An assessment of a penalty under this Chapter in respect of any amount must be made on or before the later of date A and (where it applies) date B.

(2) Date A is the last day of the period of 2 years beginning with—
- (a) in the case of failure to make a return, the filing date, or
- (b) in the case of failure to pay tax, the last date on which payment may be made without paying a penalty.

(3) Date B is the last day of the period of 12 months beginning with—
- (a) in the case of failure to make a return—
  - (i) the end of the appeal period for the assessment of the liability to tax which would have been shown in the return, or
  - (ii) if there is no such assessment, the date on which that liability is ascertained or it is ascertained that the liability is nil, or
- (b) in the case of failure to pay tax—
  - (i) the end of the appeal period for the assessment of the amount of tax in respect of which the penalty is assessed, or
  - (ii) if there is no such assessment, the date on which that amount of tax is ascertained.

(4) In subsection (3)(a)(i) and (b)(i) "appeal period" means the period during which—
- (a) an appeal could be brought, or
- (b) an appeal that has been brought has not been determined or withdrawn.

181 Power to change penalty provisions in Chapter 2

(1) The Scottish Ministers may by regulations make provision (or further provision) about penalties under this Chapter.

(2) Provision under subsection (1) includes provision—
- (a) about the circumstances in which a penalty is payable,
- (b) about the amounts of penalties,
- (c) about the procedure for issuing penalties,
- (d) about appealing penalties,
- (e) about enforcing penalties.

(3) Regulations under subsection (1) may not create criminal offences.

(4) Regulations under subsection (1) may modify any enactment (including this Act).

(5) Regulations under subsection (1) do not apply to a failure which began before the date on which the regulations come into force.

CHAPTER 3

PENALTIES RELATING TO INACCURACIES

Penalties for inaccuracies in taxpayer documents

182 Penalty for inaccuracy in taxpayer document

(1) A penalty is payable by a person ("P") where—
  (a) P gives Revenue Scotland a document of a kind mentioned in the table below, and
  (b) conditions A and B below are met.

(2) Condition A is that the document contains an inaccuracy which amounts to, or leads to—
  (a) an understatement of a liability to tax,
  (b) a false or inflated statement of a loss, exemption or relief, or
  (c) a false or inflated claim for relief or to repayment of tax.

(3) Condition B is that the inaccuracy was—
  (a) deliberate on P's part ("a deliberate inaccuracy"), or
  (b) careless on P's part ("a careless inaccuracy").

(4) An inaccuracy is careless if it is due to a failure by P to take reasonable care.

(5) An inaccuracy in a document given by P to Revenue Scotland, which was neither deliberate nor careless on P's part when the document was given, is to be treated as careless if P—
  (a) discovered the inaccuracy at some later time, and
  (b) did not take reasonable steps to inform Revenue Scotland.

(6) Where a document contains more than one inaccuracy, a penalty is payable for each inaccuracy.

	Tax	*Document*
1.	Land and buildings transaction tax	(a) Return under section 29, 31, 33 or 34 of the LBTT(S) Act 2013. (b) Return under paragraph 10, 11, 20, 22 or 30 of Schedule 19 to the LBTT(S) Act 2013. (c) Application under section 41 of the LBTT(S) Act 2013. (d) Amended return under section 83 of this Act. (e) Claim under section 106, 107 or 108 of this Act.

	Tax	*Document*
2.	Scottish landfill tax	(a) Return under regulations made under section 25 of the LT(S) Act 2014. (b) Amended return under section 83 of this Act. (c) Claim under section 106, 107 or 108 of this Act.

(7) Section 183 applies in the case of a document falling within item 1 or 2 of the table.

183 Amount of penalty for inaccuracy in taxpayer document

(1) This section sets out the penalty payable under section 182.

(2) For a deliberate inaccuracy, the penalty is 100% of the potential lost revenue.

(3) For a careless inaccuracy, the penalty is 30% of the potential lost revenue.

(4) In this section and sections 185 and 186 "potential lost revenue" has the meaning given in sections 187 to 190.

184 Suspension of penalty for careless inaccuracy under section 182

(1) Revenue Scotland may suspend all or part of a penalty for a careless inaccuracy under section 182 by notice to P.

(2) A notice must specify—
- (a) what part of the penalty is to be suspended,
- (b) a period of suspension not exceeding 2 years, and
- (c) conditions of suspension to be complied with by P.

(3) Revenue Scotland may suspend all or part of a penalty only if compliance with a condition of suspension would help P to avoid becoming liable to further penalties under section 182 for careless inaccuracy.

(4) A condition of suspension may specify—
- (a) action to be taken,
- (b) a period within which it may be taken.

(5) On the expiry of the period of suspension—
- (a) if P satisfies Revenue Scotland that the conditions of suspension have been complied with, the suspended penalty or part is cancelled, and
- (b) otherwise, the suspended penalty or part becomes payable.

(6) If, during the period of suspension of all or part of a penalty under section 182, P becomes liable for another penalty under that section, the suspended penalty or part becomes payable.

Penalty for inaccuracy attributable to another person

185 Penalty for inaccuracy in taxpayer document attributable to another person

(1) A penalty is payable by a person ("T") where—

(a) another person ("P") gives Revenue Scotland a document of a kind mentioned in the table in section 182,

(b) the document contains a relevant inaccuracy, and

(c) the inaccuracy was attributable—

(i) to T deliberately supplying false information to P (whether directly or indirectly), or

(ii) to T deliberately withholding information from P,

with the intention of the document containing the inaccuracy.

(2) A "relevant inaccuracy" is an inaccuracy which amounts to, or leads to—

(a) an understatement of a liability to tax,

(b) a false or inflated statement of a loss, exemption or relief, or

(c) a false or inflated claim for relief or to repayment of tax.

(3) A penalty is payable by T under this section in respect of an inaccuracy whether or not P is liable to a penalty under section 182 in respect of the same inaccuracy.

(4) The penalty payable under this section is 100% of the potential lost revenue.

Penalty for failure to notify under-assessment

186 Penalty for failure to notify under-assessment

(1) A penalty is payable by a person ("P") where—

(a) a Revenue Scotland assessment understates P's liability to a devolved tax, and

(b) P has failed to take reasonable steps to notify Revenue Scotland, within the period of 30 days beginning with the date of the assessment, that it is an under-assessment.

(2) In deciding what steps (if any) were reasonable, Revenue Scotland must consider—

(a) whether P knew, or should have known, about the under-assessment, and

(b) what steps it would have been reasonable to take to notify Revenue Scotland.

(3) The penalty payable under this section is 30% of the potential lost revenue.

(4) In this section—

(a) "Revenue Scotland assessment" includes "Revenue Scotland determination", and

(b) accordingly, references to an under-assessment include an under-determination.

Penalties under Chapter 3: general

187 Potential lost revenue: normal rule

(1) The "potential lost revenue" in respect of—

(a) an inaccuracy in a document (including an inaccuracy attributable to a supply of false information or withholding of information), or

(b) a failure to notify an under-assessment,

is the additional amount due and payable in respect of tax as a result of correcting the inaccuracy or under-assessment.

(2) The reference in subsection (1) to the additional amount due and payable includes a reference to—

(a) an amount payable to Revenue Scotland having been erroneously paid by way of repayment of tax, and

(b) an amount which would have been repayable by Revenue Scotland had the inaccuracy or assessment not been corrected.

188 Potential lost revenue: multiple errors

(1) Where P is liable to a penalty under section 182 in respect of more than one inaccuracy, and the calculation of potential lost revenue under section 187 in respect of each inaccuracy depends on the order in which they are corrected, careless inaccuracies are to be taken to be corrected before deliberate inaccuracies.

(2) In calculating potential lost revenue where P is liable to a penalty under section 182 in respect of one or more understatements in one or more documents relating to a tax period, account is to be taken of any overstatement in any document given by P which relates to the same tax period.

(3) In subsection (2)—

(a) "understatement" means an inaccuracy that meets condition A in section 182, and

(b) "overstatement" means an inaccuracy that does not meet that condition.

(4) For the purpose of subsection (2) overstatements are to be set against understatements in the following order—

(a) understatements in respect of which P is not liable to a penalty,

(b) careless understatements,

(c) deliberate understatements.

(5) In calculating for the purposes of a penalty under section 182 potential lost revenue in respect of a document given by or on behalf of P, no account is to be taken of the fact that a potential loss of revenue from P is or may be balanced by a potential over-payment by another person (except to the extent than an enactment requires or permits a person's tax liability to be adjusted by reference to P's).

189 Potential lost revenue: losses

(1) Where an inaccuracy has the result that a loss is wrongly recorded for purposes of a devolved tax and the loss has been wholly used to reduce the amount due and payable in respect of tax, the potential lost revenue is calculated in accordance with section 187.

(2) Where an inaccuracy has the result that a loss is wrongly recorded for purposes of a devolved tax and the loss has not been wholly used to reduce the amount due and payable in respect of tax, the potential lost revenue is—

(a) the potential lost revenue calculated in accordance with section 187 in respect of any part of the loss that has been used to reduce the amount due and payable in respect of tax, plus

(b) 10% of any part that has not.

(3) Subsections (1) and (2) apply both—

(a) to a case where no loss would have been recorded but for the inaccuracy, and

(b) to a case where a loss of a different amount would have been recorded (but in that case subsections (1) and (2) apply only to the difference between the amount recorded and the true amount).

(4) The potential lost revenue in respect of a loss is nil where, because of the nature of the loss or P's circumstances, there is no reasonable prospect of the loss being used to support a claim to reduce a tax liability (of any person).

190 Potential lost revenue: delayed tax

(1) Where an inaccuracy resulted in an amount of tax being declared later than it should have been ("the delayed tax"), the potential lost revenue is—

(a) 5% of the delayed tax for each year of the delay, or

(b) a percentage of the delayed tax, for each separate period of delay of less than a year, equating to 5% per year.

(2) This section does not apply to a case to which section 189 applies.

191 Special reduction in penalty under this Chapter

(1) Revenue Scotland may reduce a penalty under this Chapter if it thinks it right to do so because of special circumstances.

(2) In subsection (1) "special circumstances" does not include—

(a) ability to pay, or

(b) the fact that a potential loss of revenue from one taxpayer is balanced by a potential over-payment by another.

(3) In subsection (1) the reference to reducing a penalty includes a reference to—

(a) remitting a penalty entirely,

(b) suspending a penalty, and

(c) agreeing a compromise in relation to proceedings for a penalty.

(4) In this section references to a penalty include references to any interest in relation to the penalty.

(5) The powers in this section also apply after a decision of a tribunal or a court in relation to the penalty.

192 Reduction in penalty under this Chapter for disclosure

(1) Revenue Scotland may reduce a penalty under this Chapter where a person makes a qualifying disclosure.

(2) A "qualifying disclosure" means disclosure of—

(a) an inaccuracy,

(b) a supply of false information or withholding of information, or
(c) a failure to disclose an under-assessment.

(3) A person makes a qualifying disclosure by—
(a) telling Revenue Scotland about it,
(b) giving Revenue Scotland reasonable help in quantifying the inaccuracy, the inaccuracy attributable to the supply of false information or withholding of information, or the under-assessment, and
(c) allowing Revenue Scotland access to records for the purpose of ensuring that the inaccuracy, the inaccuracy attributable to the supply of false information or withholding of information, or the under-assessment is fully corrected.

(4) Reductions under this section may reflect—
(a) whether the disclosure was prompted or unprompted, and
(b) the quality of the disclosure.

(5) Disclosure of relevant information—
(a) is "unprompted" if made at a time when the person making it has no reason to believe that Revenue Scotland has discovered or is about to discover the inaccuracy, the supply of false information or withholding of information, or the under-assessment, and
(b) otherwise, is "prompted".

(6) In relation to disclosure, "quality" includes timing, nature and extent.

193 Assessment of penalties under this Chapter

(1) Where a person becomes liable to a penalty under this Chapter, Revenue Scotland must—
(a) assess the penalty,
(b) notify the person, and
(c) state in the notice the period in respect of which the penalty is assessed.

(2) A penalty under this Chapter must be paid before the end of the period of 30 days beginning with the day on which notification of the penalty is issued.

(3) An assessment of a penalty under this Chapter—
(a) is to be treated for enforcement purposes as an assessment to tax, and
(b) may be combined with an assessment to tax.

(4) An assessment of a penalty under section 182 or 185 must be made before the end of the period of 12 months beginning with—
(a) the end of the appeal period for the decision correcting the inaccuracy, or
(b) if there is no assessment to the tax concerned within paragraph (a), the date on which the inaccuracy is corrected.

(5) An assessment of a penalty under section 186 must be made before the end of the period of 12 months beginning with—
(a) the end of the appeal period for the assessment of tax which corrected the understatement, or
(b) if there is no assessment within paragraph (a), the date on which the understatement is corrected.

(6) In subsections (4) and (5) "appeal period" means the period during which—
  (a) an appeal could be brought, or
  (b) an appeal that has been brought has not been determined or withdrawn.

(7) Subject to subsections (4) and (5), a supplementary assessment may be made in respect of a penalty if an earlier assessment operated by reference to an underestimate of potential lost revenue.

194 Power to change penalty provisions in Chapter 3

(1) The Scottish Ministers may by regulations make provision (or further provision) about penalties under this Chapter.

(2) Provision under subsection (1) includes provision—
  (a) about the circumstances in which a penalty is payable,
  (b) about the amounts of penalties,
  (c) about the procedure for issuing penalties,
  (d) about appealing penalties,
  (e) about enforcing penalties.

(3) Regulations under subsection (1) may not create criminal offences.

(4) Regulations under subsection (1) may modify any enactment (including this Act).

(5) Regulations under subsection (1) do not apply to—
  (a) a failure which began before the date on which the regulations come into force, and
  (b) an inaccuracy in any information or document provided to Revenue Scotland before that date.

CHAPTER 4

PENALTIES RELATING TO INVESTIGATIONS

Penalties for failure to comply or obstruction

195 Penalties for failure to comply or obstruction

(1) This section applies to a person who—
  (a) fails to comply with an information notice, or
  (b) deliberately obstructs a designated officer or a person authorised by the officer in the course of an inspection or in the exercise of a power that has been approved by the tribunal under section 147.

(2) The person is liable to a penalty of £300.

(3) The reference to a person who fails to comply with an information notice includes a person who conceals, destroys or otherwise disposes of (or arranges for the concealment, destruction or disposal of) a document in breach of section 198 or 199.

196 Daily default penalties for failure to comply or obstruction

(1) This section applies if the failure or obstruction mentioned in section 195(1) continues after the date on which a penalty is imposed under that section in respect of the failure or obstruction.

(2) The person is liable to a further penalty or penalties not exceeding £60 for each subsequent day on which the failure or obstruction continues.

Penalties for inaccurate information or documents

197 Penalties for inaccurate information or documents

(1) This section applies if—
  (a) in complying with an information notice, a person provides inaccurate information or produces a document that contains an inaccuracy, and
  (b) condition A, B or C is met.

(2) Condition A is that the inaccuracy is careless or deliberate.

(3) An inaccuracy is careless if it is due to a failure by the person to take reasonable care.

(4) Condition B is that the person knows of the inaccuracy at the time the information is provided or the document produced but does not inform Revenue Scotland at that time.

(5) Condition C is that the person—
  (a) discovers the inaccuracy some time later, and
  (b) fails to take reasonable steps to inform Revenue Scotland.

(6) The person is liable to a penalty not exceeding £3,000.

(7) Where the information or document contains more than one inaccuracy, a penalty is payable for each inaccuracy.

Penalties for concealing, destroying etc. documents

198 Concealing, destroying etc. documents following information notice

(1) A person must not conceal, destroy or otherwise dispose of (or arrange for the concealment, destruction or disposal of) a document that is the subject of an information notice addressed to the person, unless subsection (2) or (3) applies.

(2) Subsection (1) does not apply if the person acts after the document has been produced to a designated officer in accordance with the information notice, unless a designated officer has notified the person that the document must continue to be available for inspection (and has not withdrawn the notification).

(3) Subsection (1) does not apply, in a case to which section 133 applies, if the person acts after the expiry of the period of 6 months beginning with the day on which a copy of the document was produced in accordance with that section unless, before the expiry of that period, a designated officer made a request for the original document under section 133(2)(b).

199 Concealing, destroying etc. documents following information notification

(1) A person must not conceal, destroy or otherwise dispose of (or arrange for the concealment, destruction or disposal of) a document if a designated officer has notified the person that the document is to be, or is likely to be, the subject of an information notice addressed to that person, unless subsection (2) applies.

(2) Subsection (1) does not apply if the person acts after—
- (a) at least 6 months has expired since the person was (or was last) so notified, or
- (b) an information notice has been given to the person requiring the document to be produced.

Penalties: failure to comply with time limit

200 Failure to comply with time limit

A failure by a person to do anything required to be done within a limited period of time does not give rise to liability to a penalty under section 195 or 196 if the person did it within such further time (if any) as a designated officer may have allowed.

Penalties under Chapter 4: general

201 Reasonable excuse for failure to comply or obstruction

(1) Liability to a penalty under section 195 or 196 does not arise if the person satisfies Revenue Scotland or (on appeal) the tribunal that there is a reasonable excuse for the failure or the obstruction of a designated officer or of a person authorised by the officer.

(2) For the purposes of this section—
- (a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside the person's control,
- (b) where the person relies on another person to do anything, that is not a reasonable excuse unless the first person took reasonable care to avoid the failure or obstruction, and
- (c) where the person had a reasonable excuse for the failure or obstruction but the excuse has ceased, the person is to be treated as having continued to have the excuse if the failure is remedied, or the obstruction stops, without unreasonable delay after the excuse ceased.

202 Assessment of penalties under sections 195, 196 and 197

(1) Where a person becomes liable for a penalty under section 195, 196 or 197 Revenue Scotland must—
- (a) assess the penalty, and
- (b) notify the person.

(2) An assessment of a penalty under section 195 or 196 must be made within the period of 12 months beginning with the date on which the person became liable to the penalty, subject to subsection (3).

(3) In a case involving an information notice against which a person may appeal, an assessment of a penalty under section 195 or 196 must be made within the period of 12 months beginning with the latest of the following—

(a) the date on which the person became liable to the penalty,

(b) the end of the period in which notice of an appeal against the information notice could have been given, and

(c) if notice of such an appeal is given, the date on which the appeal is determined or withdrawn.

(4) An assessment of a penalty under section 197 must be made—

(a) within the period of 12 months beginning with the date on which the inaccuracy first came to the attention of a designated officer, and

(b) within the period of 6 years beginning with the date on which the person became liable to the penalty.

203 Enforcement of penalties under sections 195, 196 and 197

(1) A penalty under section 195, 196 or 197 must be paid—

(a) before the end of the period of 30 days beginning with the date on which the notification under section 202 was issued,

(b) if a notice of review against the penalty is given, before the end of the period of 30 days beginning with the date on which the review is concluded,

(c) if, following review, mediation is entered into, before the end of the period of 30 days beginning with the date either Revenue Scotland or the person who gave the notice of review gave notice of withdrawal from mediation, or

(d) if a notice of an appeal against the penalty is given, before the end of the period of 30 days beginning with the date on which the appeal is determined or withdrawn.

(2) A penalty under section 195, 196 or 197 is to be treated for enforcement purposes as an assessment to tax.

204 Increased daily default penalty

(1) This section applies if—

(a) a penalty under section 196 is assessed under section 202 in respect of a person's failure to comply with a notice under section 127,

(b) the failure continues for more than 30 days beginning with the date on which notification of that assessment was issued, and

(c) the person has been told that an application may be made under this section for an increased daily penalty to be imposed.

(2) If this section applies, a designated officer may make an application to the tribunal for an increased daily penalty to be imposed on the person.

(3) If the tribunal decides that an increased daily penalty should be imposed, then for each applicable day on which the failure continues—

(a) the person is not liable to a penalty under section 196 for the failure, and

(b) the person is liable instead to a penalty under this section of an amount determined by the tribunal.

(4) The tribunal may not determine an amount exceeding £1,000 for each applicable day.

(5) In determining the amount the tribunal must have regard to—
  (a) the likely cost to the person of complying with the notice,
  (b) any benefits to the person of not complying with it, and
  (c) any benefits to anyone else resulting from the person's non-compliance.

(6) If a person becomes liable to a penalty under this section, Revenue Scotland must notify the person.

(7) The notification must specify the day from which the increased penalty is to apply.

(8) That day and any subsequent day is an "applicable day" for the purposes of subsection (3).

205 Enforcement of increased daily default penalty

(1) A penalty under section 204 must be paid before the end of the period of 30 days beginning with the date on which the notification of the penalty is issued.

(2) A penalty under section 204 is to be treated for enforcement purposes as an assessment to tax.

206 Tax-related penalty

(1) This section applies where—
  (a) a person becomes liable to a penalty under section 195,
  (b) the failure or obstruction continues after a penalty is imposed under that section,
  (c) a designated officer has reason to believe that, as a result of the failure or obstruction, the amount of tax that the person has paid, or is likely to pay, is significantly less than it would otherwise have been,
  (d) before the end of the period of 12 months beginning with the relevant date, a designated officer makes an application to the Upper Tribunal for an additional penalty to be imposed on the person, and
  (e) the Upper Tribunal decides that it is appropriate for an additional penalty to be imposed.

(2) The person is liable to a penalty of an amount decided by the Upper Tribunal.

(3) In deciding the amount of the penalty, the Upper Tribunal must have regard to the amount of tax which has not been, or is not likely to be, paid by the person.

(4) Where a person becomes liable to a penalty under this section, Revenue Scotland must notify the person.

(5) Any penalty under this section is in addition to the penalty or penalties under section 195 or 196.

(6) In subsection (1)(d) the "relevant date" means—
  (a) in a case involving an information notice against which a person may appeal, the latest of—

(i) the date on which the person became liable to the penalty under section 195,

(ii) the end of the period in which notice of an appeal against the information notice could have been given, and

(iii) if notice of such an appeal is given, the date on which the appeal is determined or withdrawn, and

(b) in any other case, the date on which the person became liable to the penalty under section 195.

207 Enforcement of tax-related penalty

(1) A penalty under section 206 must be paid before the end of the period of 30 days beginning with the date on which the notification of the penalty is issued.

(2) A penalty under section 206 is to be treated for enforcement purposes as an assessment to tax.

208 Power to change penalty provisions in Chapter 4

(1) The Scottish Ministers may by regulations make provision (or further provision) about penalties under this Chapter (other than penalties under section 206).

(2) Regulations under subsection (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 subsection (1) may also include provision for the purposes of sections 151(6) and (7) and 231(2) and (3).

(4) Regulations under subsection (1) may not create criminal offences.

(5) Regulations under subsection (1) may modify any enactment (including this Act).

(6) Regulations under subsection (1) do not apply to a failure or obstruction which began before the date on which the regulations come into force.

CHAPTER 5

OTHER ADMINISTRATIVE PENALTIES

Penalties for failure to register for tax etc.

209 Penalty for failure to register for tax etc.

(1) A penalty is payable by a person ("P") where—

(a) P fails to comply with a requirement imposed by or under section 22 or 23 of the LT(S) Act 2014 ("a relevant requirement"), and

(b) the failure was—

(i) deliberate on P's part ("a deliberate failure"), or
(ii) careless on P's part ("a careless failure").

(2) A failure is careless if it is due to a failure by P to take reasonable care.

(3) A failure by P to comply with a relevant requirement, which was neither deliberate nor careless on P's part at an earlier time, is to be treated as careless if P—
(a) discovered the failure at some later time, and
(b) did not take reasonable steps to inform Revenue Scotland.

(4) Section 210 sets out the penalty under this section.

210 Amount of penalty for failure to register for tax etc.

(1) This section sets out the penalty payable under section 209.

(2) For a deliberate failure, the penalty is 100% of the potential lost revenue.

(3) For a careless failure, the penalty is 30% of the potential lost revenue.

(4) In the case of a relevant requirement relating to Scottish landfill tax, the potential lost revenue is the amount of the tax (if any) for which P is liable for the period—
(a) beginning on the date with effect from which P is required in accordance with that requirement to be registered, and
(b) ending on the date on which Revenue Scotland received notification of, or otherwise became fully aware of, P's liability to be registered.

(5) In calculating potential lost revenue in respect of a failure to comply with a relevant requirement on the part of P no account is to be taken of the fact that a potential loss of revenue from P is or may be balanced by a potential over-payment by another person.

Penalties under Chapter 5: general

211 Interaction of penalties under section 209 with other penalties

The amount of a penalty for which P is liable under section 209 is to be reduced by the amount of any other penalty incurred by P (other than a penalty under Chapter 2), if the amount of the penalty is determined by reference to the same liability to tax.

212 Reduction in penalty under section 209 for disclosure

(1) Revenue Scotland may reduce a penalty under section 209 where P discloses a failure to comply with a relevant requirement ("a relevant failure").

(2) P discloses a relevant failure by—
(a) telling Revenue Scotland about it,
(b) giving Revenue Scotland reasonable help in quantifying any tax unpaid by reason of it, and
(c) allowing Revenue Scotland access to records for the purpose of checking how much tax is so unpaid.

(3) Reductions under this section may reflect—
(a) whether the disclosure was prompted or unprompted, and

(b) the quality of the disclosure.

(4) Disclosure of a relevant failure—

(a) is "unprompted" if made at a time when P has no reason to believe that Revenue Scotland has discovered or is about to discover the failure, and

(b) otherwise, is "prompted".

(5) In relation to disclosure, "quality" includes timing, nature and extent.

213 Special reduction in penalty under section 209

(1) Revenue Scotland may reduce a penalty under section 209 if it thinks it right to do so because of special circumstances.

(2) In subsection (1) "special circumstances" does not include—

(a) ability to pay, or

(b) the fact that a potential loss of revenue from one taxpayer is balanced by a potential over-payment by another.

(3) In subsection (1) the reference to reducing a penalty includes a reference to—

(a) remitting a penalty entirely,

(b) suspending a penalty, and

(c) agreeing a compromise in relation to proceedings for a penalty.

(4) In this section references to a penalty include references to any interest in relation to the penalty.

(5) The powers in this section also apply after a decision of a tribunal or a court in relation to the penalty.

214 Reasonable excuse for failure to register for tax etc.

(1) If P satisfies Revenue Scotland or (on appeal) the tribunal that there is a reasonable excuse for a failure to comply with a relevant requirement, liability to a penalty under section 209 does not arise in relation to that failure.

(2) For the purposes of subsection (1)—

(a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside P's control,

(b) where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the failure, and

(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.

215 Assessment of penalties under section 209

(1) Where P becomes liable to a penalty under section 209, Revenue Scotland must—

(a) assess the penalty,

(b) notify P, and

(c) state in the notice the period in respect of which the penalty is assessed.

(2) A penalty under section 209 must be paid before the end of the period of 30 days beginning with the day on which the notification of the penalty is issued.

(3) An assessment of a penalty under section 209—
   (a) is to be treated for enforcement purposes as an assessment to tax, and
   (b) may be combined with an assessment to tax.

(4) An assessment of a penalty under section 209 must be made within the period of 12 months beginning with—
   (a) the end of the appeal period for the assessment of tax unpaid by reason of the failure to comply with the relevant requirement in respect of which the penalty is assessed, or
   (b) if there is no such assessment, the date on which the amount of tax unpaid by reason of the failure is ascertained.

(5) In subsection (4) "appeal period" means the period during which—
   (a) an appeal could be brought, or
   (b) an appeal that has been brought has not been determined or withdrawn.

(6) Subject to subsection (4), a supplementary assessment may be made in respect of a penalty if an earlier assessment operated by reference to an underestimate of potential lost revenue.

216 Power to change penalty provisions in Chapter 5

(1) The Scottish Ministers may by regulations make provision (or further provision) about penalties under this Chapter.

(2) Provision under subsection (1) includes provision—
   (a) about the circumstances in which a penalty is payable,
   (b) about the amounts of penalties,
   (c) about the procedure for issuing penalties,
   (d) about appealing penalties,
   (e) about enforcing penalties.

(3) Regulations under subsection (1) may not create criminal offences.

(4) Regulations under subsection (1) may modify any enactment (including this Act).

(5) Regulations under subsection (1) do not apply to a failure which began before the date on which the regulations come into force.

PART 9

INTEREST ON PAYMENTS DUE TO OR BY REVENUE SCOTLAND

217 Interest on unpaid tax

(1) Interest is payable on the amount of any unpaid tax from the relevant date until the tax is paid.

(2) For the purposes of this section the "relevant date" is the date for payment of the tax which is specified by the Scottish Ministers in regulations.

(3) If an amount is lodged with Revenue Scotland in respect of the tax payable on a transaction, the amount on which interest is payable is reduced by that amount.

(4) Interest under this section is calculated at the rate specified in provision made under section 220.

218 Interest on penalties

(1) Interest is payable on the amount of any unpaid penalty from the date on which the penalty is due to be paid until it is paid.

(2) Interest under this section is calculated at the rate specified in provision made under section 220.

219 Interest on repayment of tax overpaid etc.

(1) A repayment by Revenue Scotland to which this section applies must be made with interest for the period between the relevant date and the date when the repayment is issued.

(2) This section applies to—
  (a) any repayment of tax,
  (b) any repayment of a penalty, and
  (c) any repayment of interest (whether on tax or penalty).

(3) In the cases mentioned in subsection (2) the "relevant date" is the date on which the payment of the tax, penalty or interest was made.

(4) This section also applies to a repayment by Revenue Scotland of an amount lodged with it in respect of the tax payable in respect of a transaction.

(5) In the case mentioned in subsection (4) the "relevant date" is the date on which the amount was lodged with Revenue Scotland.

(6) Interest under this section is calculated at the rate specified in provision made under section 220.

220 Rates of interest

(1) The rate of interest that applies for the purposes of sections 217, 218 and 219 is the rate specified by the Scottish Ministers in regulations.

(2) Regulations under subsection (1) may—
  (a) provide for different rates for different devolved taxes or different penalties,
  (b) provide for circumstances in which alteration of a rate of interest is or is not to take place,
  (c) provide that alterations of rates are to have effect for periods beginning on or after a day determined in accordance with the regulations in relation to interest running from before that day as well as from or from after that day.

PART 10

ENFORCEMENT OF PAYMENT OF TAX

CHAPTER 1

ENFORCEMENT: GENERAL

Issue of tax demands and receipts

221 Issue of tax demands and receipts

(1) Where tax is due and payable, Revenue Scotland may demand the sum charged from the person liable to pay it.

(2) On payment of the tax, Revenue Scotland must give a receipt.

Fees for payment

222 Fees for payment

(1) The Scottish Ministers may by regulations provide that, where a person makes a payment to Revenue Scotland or a person authorised by Revenue Scotland using a method of payment specified in the regulations, the person must also pay a fee specified in, or determined in accordance with, the regulations.

(2) A method of payment may only be specified in regulations under this section if Revenue Scotland expects that it, or the person authorised by it, will be required to pay a fee or charge (however described) in connection with amounts paid using that method of payment.

(3) The fee provided for in regulations under this section must not exceed what is reasonable having regard to the costs incurred by Revenue Scotland, or a person authorised by it, in paying the fee or charge mentioned in subsection (2).

(4) Regulations under this section—

(a) may make provision about the time and manner in which the fee must be paid,

(b) may make provision generally or only for specified purposes.

Certification of matters by Revenue Scotland

223 Certification of matters by Revenue Scotland

(1) A certificate of Revenue Scotland—

(a) that a return required to be made to Revenue Scotland under this Act or any other enactment has not been made,

(b) that a relevant sum has not been paid,

(c) that a notification required to be made to Revenue Scotland under this Act or any other enactment has not been made,

is sufficient evidence of that fact until the contrary is proved.

(2) In subsection (1) "relevant sum" means a sum payable to Revenue Scotland by or under this Act or any other enactment or under a contract settlement or a settlement agreement.

(3) A copy of any document provided to Revenue Scotland for the purposes of this Act or any other enactment and certified by it to be such a copy is admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.

(4) Any document purporting to be such a certificate is to be treated as if it were such a certificate until the contrary is proved.

Court proceedings

224 Court proceedings

Tax due and payable may be sued for and recovered from the person liable to pay it as a debt due to the Crown by proceedings—

(a) in the sheriff court, or

(b) in the Court of Session (sitting as the Court of Exchequer).

Summary warrant

225 Summary warrant

(1) This section applies if a person does not pay an amount that is payable by that person to Revenue Scotland by or under this Act or any other enactment or under a contract settlement or a settlement agreement.

(2) A designated officer may apply to the sheriff for a summary warrant.

(3) An application under subsection (2) must be accompanied by a certificate which—

(a) complies with subsection (4), and

(b) is signed by the officer.

(4) A certificate complies with this subsection if—

(a) it states that—

(i) none of the persons specified in the application has paid the sum payable by that person,

(ii) the officer has demanded payment from each such person of the sum payable by that person, and

(iii) the period of 14 days beginning with the day on which the demand is made has expired without payment being made, and

(b) it specifies the sum payable by each person specified in the application.

(5) The sheriff must, on an application by a designated officer under subsection (2), grant a summary warrant in (or as nearly as may be in) the form prescribed by Act of Sederunt.

(6) A summary warrant granted under subsection (5) authorises the recovery of the sum payable by—

(a) attachment,

(b) money attachment,

(c) earnings arrestment,
(d) arrestment and action of furthcoming or sale.

(7) Subject to subsection (8) and without prejudice to section 39(1) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) (expenses of attachment) —
(a) the sheriff officer's fees, and
(b) any outlays reasonably incurred by that officer,
in connection with the execution of a summary warrant are to be chargeable against the person in relation to whom the summary warrant was granted.

(8) No fees are to be chargeable by the sheriff officer against the person in relation to whom the summary warrant was granted for collecting, and accounting to Revenue Scotland for, sums paid to that officer by that person in respect of the sum payable.

Recovery of penalties and interest

226 Recovery of penalties and interest

The provisions of this Chapter have effect in relation to the recovery of any unpaid amount by way of—
(a) penalty, or
(b) interest (whether on unpaid tax or penalty),
as though that amount were an amount of unpaid tax.

CHAPTER 2

ENFORCEMENT: POWERS TO OBTAIN CONTACT DETAILS FOR DEBTORS

227 Requirement for contact details for debtor

(1) This Chapter applies where—
(a) a sum is payable by a person ("the debtor") to Revenue Scotland by or under this Act or any other enactment or under a contract settlement or a settlement agreement,
(b) a designated officer reasonably requires contact details for the debtor for the purpose of collecting that sum,
(c) the officer has reasonable grounds to believe that a person ("the third party") has any such details, and
(d) the condition in subsection (2) is met.

(2) The condition is that—
(a) the third party is a company or a local authority, or
(b) the officer has reasonable grounds to believe that the third party obtained the details in the course of carrying on a business.

(3) This Chapter does not apply if—
(a) the third party is a charity and obtained the details in the course of providing services free of charge, or

(b) the third party is not a charity but obtained the details in the course of providing services on behalf of a charity that are free of charge to the recipient of the service.

(4) In this Chapter—

"business" includes—

(a) a profession, and

(b) a property business (within the meaning of section 263(6) of the Income Tax (Trading and Other Income) Act 2005 (c.5)),

"contact details", in relation to a person, means the person's address and any other information about how the person may be contacted.

228 Power to obtain details

(1) A designated officer may by notice require the third party to provide the contact details.

(2) The notice must name the debtor.

(3) If a notice is given under subsection (1), the third party must provide the details—

(a) within such period, and

(b) at such time, by such means and in such form (if any),

as is reasonably specified or described in the notice.

229 Reviews and appeals against notices or requirements

(1) This section applies where a third party seeks, under Part 11, to have a decision in relation to the giving of a notice under section 228 or in relation to any requirement in such a notice reviewed or appealed.

(2) A third party may give notice of review or notice of appeal in relation to a decision to give a notice, or in relation to a requirement in such a notice, only on the ground that it would be unduly onerous to comply with the notice or the requirement in it.

230 Power to modify section 229

The Scottish Ministers may by order modify section 229(2) to provide for certain decisions in relation to the giving of notices under section 228 or in relation to any requirement in such notices—

(a) to be appealable for the purposes of section 233(1)(i),

(b) to be appealable for the purposes of that paragraph on certain grounds or in certain circumstances only,

(c) to not be appealable.

231 Penalty

(1) This section applies if the third party fails to comply with the notice.

(2) The third party is liable to a penalty of £300.

(3) Sections 201 to 203 (assessment and enforcement of penalties) apply in relation to a penalty under this section as they apply in relation to a penalty under section 195

(and references in those provisions to an information notice include a notice under this Chapter).

PART 11

REVIEWS AND APPEALS

CHAPTER 1

INTRODUCTORY

Overview

232 Overview

This Part makes provision about the review and appeal of certain decisions of Revenue Scotland including—

(a) which decisions are, and which are not, reviewable and appealable,

(b) the taxpayer's right to have decisions reviewed and the nature and conduct of those reviews,

(c) the option of mediation following a review that doesn't settle the matter in question,

(d) the taxpayer's right to appeal decisions to the tribunal, whether following review or otherwise, and

(e) settling tax disputes by agreement and other supplementary matters.

Appealable decisions

233 Appealable decisions

(1) The following decisions of Revenue Scotland are appealable decisions—

(a) a decision under section 66 to make adjustments to counteract a tax advantage,

(b) a decision in relation to the registration of any person in relation to any taxable activity,

(c) a decision which affects whether a person is chargeable to tax,

(d) a decision which affects the amount of tax to which a person is chargeable,

(e) a decision which affects the amount of tax a person is required to pay,

(f) a decision which affects the date by which any amount by way of tax, penalty or interest must be paid,

(g) a decision in relation to a penalty under the following provisions—

(i) section 76,

(ii) section 112,

(iii) section 151,

(iv) Part 8,

(v) section 231,

(vi) paragraph 5 of schedule 3,

(h) subject to subsection (2), a decision in relation to the giving of an information notice or in relation to the use of any of the other investigatory powers in Part 7,

(i) subject to subsection (3), a decision in relation to the giving of a notice under section 228.

(2) See section 152 for decisions in relation to the giving of information notices that are not appealable or are appealable only on certain grounds and in certain circumstances.

(3) See section 229 for the grounds on which decisions in relation to the giving of notices under section 228 are appealable.

(4) The following decisions of Revenue Scotland are not appealable decisions—

(a) the giving of a notice under section 68,

(b) the making of a Revenue Scotland determination,

(c) a decision to give a notice of enquiry under section 85 or paragraph 13 of schedule 3.

(5) The decisions mentioned in subsection (1) are appealable whether they are decisions under this Act or any other enactment.

(6) The Scottish Ministers may by order modify subsection (1) or (4) to—

(a) add a decision to either subsection,

(b) vary the description of a decision,

(c) remove a decision from either subsection.

CHAPTER 2

REVIEWS

Review of appealable decisions

234 Right to request review

(1) A person aggrieved by an appealable decision (the "appellant") may request Revenue Scotland to review the decision.

(2) An appellant may not request review if subsection (3), (4) or (5) applies.

(3) This subsection applies where—

(a) the decision which the appellant seeks to review is a decision of Revenue Scotland to amend a self-assessment under section 87 while an enquiry is in progress, and

(b) the enquiry has not been completed.

(4) This subsection applies where—

(a) the appellant has given notice of appeal in relation to the same matter in question, or

(b) the tribunal has determined the matter in question under section 244.

(5) This subsection applies where the appellant has entered into a settlement agreement with Revenue Scotland in relation to the same matter in question and has not withdrawn from the agreement under section 246(4).

(6) This section does not prevent the matter in question from being dealt with in accordance with section 246(1) and (2) (settling matters in question by agreement).

235 Notice of review

(1) Notice of review under section 234 must be given—
- (a) within 30 days after the specified date,
- (b) to Revenue Scotland.

(2) In subsection (1) "specified date" means—
- (a) the date on which the appellant was notified of the appealable decision,
- (b) in a case to which section 234(3) applies—
  - (i) the date the appellant was given notice that the enquiry was completed, or
  - (ii) no such notice having been given, the date the enquiry is completed by virtue of section 93(1)(b), or
- (c) where the appellant and Revenue Scotland entered into a settlement agreement but the appellant withdrew from the agreement, the date of that withdrawal.

(3) The notice of review must specify the grounds of review.

236 Late notice of review

(1) This section applies in a case where—
- (a) notice of review may be given to Revenue Scotland under this Part, but
- (b) no notice is given before the relevant time limit.

(2) Notice may be given after the relevant time limit if—
- (a) Revenue Scotland agrees, or
- (b) where Revenue Scotland does not agree, the tribunal gives permission.

(3) Revenue Scotland must agree to notice being given after the relevant time limit if the appellant has requested that Revenue Scotland does so and Revenue Scotland is satisfied—
- (a) that there was reasonable excuse for not giving the notice before the relevant time limit, and
- (b) that the request has been made without unreasonable delay.

(4) If a request of the kind referred to in subsection (3) is made, Revenue Scotland must notify the appellant whether or not Revenue Scotland agrees to the request.

(5) In this section "relevant time limit", in relation to notice of review, means the time before which the notice is to be given (but for this section).

237 Duty of Revenue Scotland to carry out review

(1) If the appellant gives Revenue Scotland notice of review, Revenue Scotland must—

(a) notify the appellant of Revenue Scotland's view of the matter in question within the relevant period, and
(b) review the matter in question in accordance with section 238.

(2) Subsection (1) does not apply if—
(a) the appellant has already given notice of review under section 235 in relation to the same matter in question, or
(b) Revenue Scotland has concluded a review of the matter in question.

(3) In this section "relevant period" means—
(a) the period of 30 days beginning with the day on which Revenue Scotland receives the notice of review, or
(b) such longer period as is reasonable.

238 Nature of review etc.

(1) This section applies if Revenue Scotland is required by section 237 to review the matter in question.

(2) The nature and extent of the review are to be such as appear appropriate to Revenue Scotland in the circumstances.

(3) For the purpose of subsection (2), Revenue Scotland must, in particular, have regard to steps taken before the beginning of the review—
(a) by Revenue Scotland in deciding the matter in question, and
(b) by any person in seeking to resolve disagreement about the matter in question.

(4) The review must take account of any representations made by the appellant at a stage which gives Revenue Scotland a reasonable opportunity to consider them.

(5) The review may conclude that Revenue Scotland's view of the matter in question is to be—
(a) upheld,
(b) varied, or
(c) cancelled.

239 Notification of conclusions of review

(1) Revenue Scotland must notify the appellant of the conclusions of the review and its reasoning within—
(a) the period of 45 days beginning with the relevant day, or
(b) such other period as may be agreed.

(2) In subsection (1) "relevant day" means the day when Revenue Scotland notified the appellant of Revenue Scotland's view of the matter in question.

(3) Where Revenue Scotland is required to undertake a review but does not give notice of the conclusions within the period specified in subsection (1), the review is treated as having concluded that Revenue Scotland's view of the matter in question (see section 237(1)) is upheld.

(4) If subsection (3) applies, Revenue Scotland must notify the appellant of the conclusions which the review is treated as having reached.

240 Effect of conclusions of review

(1) If Revenue Scotland gives notice of the conclusions of a review (see section 239)—
- (a) the conclusions are to be treated as if they were contained in a settlement agreement (see section 246(2)), but
- (b) section 246(4) (withdrawal from agreement) does not apply in relation to that notional agreement.

(2) Subsection (1) does not apply to the matter in question if, or to the extent that—
- (a) the appellant and Revenue Scotland enter into mediation and conclude that mediation by entering into a settlement agreement, or
- (b) the appellant gives notice of appeal under section 242.

CHAPTER 3

APPEALS

241 Right of appeal

(1) An appellant may appeal to the tribunal against an appealable decision.

(2) An appellant may not give notice of appeal under section 242 if subsection (3), (4) or (5) applies.

(3) This subsection applies where—
- (a) the decision which the appellant seeks to appeal is a decision of Revenue Scotland to amend a self-assessment under section 87 while an enquiry is in progress, and
- (b) the enquiry has not been completed.

(4) This subsection applies where—
- (a) the appellant has given notice of review in relation to the same matter in question, and
- (b) the review has not been concluded or treated as concluded.

(5) This subsection applies where the appellant has entered into a settlement agreement with Revenue Scotland in relation to the same matter in question and has not withdrawn from the agreement under section 246(4).

(6) This section does not prevent the matter in question from being dealt with in accordance with section 246(1) and (2) (settling matters in question by agreement).

242 Notice of appeal

(1) Notice of appeal must be given—
- (a) within 30 days of the specified date,
- (b) to the tribunal.

(2) In subsection (1) "specified date" means—
- (a) in a case to which section 241(3) applies—
  - (i) the date the appellant was given notice that the enquiry was completed, or

(ii) no such notice having been given, the date the enquiry is completed by virtue of section 93(1)(b),

(b) where the appellant does not request a review under section 234, the date on which the appellant was notified of the appealable decision,

(c) where the appellant requests such a review, the date on which the conclusions of review are notified to the appellant under section 239,

(d) where, following a review under section 237, the appellant and Revenue Scotland entered into mediation, the date either Revenue Scotland or the appellant gave notice of withdrawal from mediation,

(e) where the appellant and Revenue Scotland entered into a settlement agreement but the appellant withdrew from the agreement, the date of that withdrawal.

(3) The notice of appeal must specify the grounds of appeal.

243 Late notice of appeal

(1) This section applies in a case where—

(a) notice of appeal may be given to the tribunal under this Part, but

(b) no notice is given before the relevant time limit.

(2) Notice may be given after the relevant time limit if—

(a) Revenue Scotland agrees, or

(b) where Revenue Scotland does not agree, the tribunal gives permission.

(3) Revenue Scotland must agree to notice being given after the relevant time limit if the appellant has requested that Revenue Scotland does so and Revenue Scotland is satisfied—

(a) that there was reasonable excuse for not giving the notice before the relevant time limit, and

(b) that the request has been made without unreasonable delay.

(4) If a request of the kind referred to in subsection (3) is made, Revenue Scotland must notify the appellant whether or not Revenue Scotland agrees to the request.

(5) A decision of the tribunal under subsection (2)(b) is final.

(6) In this section “relevant time limit”, in relation to notice of appeal, means the time before which the notice is to be given (but for this section).

244 Disposal of appeal

(1) This section applies if notice of appeal is given under section 242.

(2) The tribunal is to determine the matter in question and may conclude that Revenue Scotland's view of the matter in question is to be—

(a) upheld,

(b) varied, or

(c) cancelled.

CHAPTER 4

SUPPLEMENTARY

245 Reviews and appeals not to postpone recovery of tax

(1) Where there is a review or appeal under this Part, any tax charged or penalty or interest imposed remains due and payable as if there had been no review or appeal.

(2) The Scottish Ministers may by regulations make provision for the postponement of any such tax, penalty or interest pending reviews or appeals, including provision—
- (a) for applications by appellants to Revenue Scotland for postponement of amounts of tax, penalty and interest,
- (b) for the effect of any determination by Revenue Scotland on such applications,
- (c) for agreements between appellants and Revenue Scotland as to postponement of amounts of tax, penalty and interest,
- (d) for applications to the tribunal for such postponement,
- (e) for appeals in relation to such determinations by Revenue Scotland and decisions by the tribunal on such applications.

(3) Regulations under subsection (2) may modify any enactment (including this Act).

(4) Subsection (1) is subject to sections 79(1) and 203(1) and to paragraph 8(1) of schedule 3.

246 Settling matters in question by agreement

(1) In relation to a review, mediation or an appeal under this Part, "settlement agreement" means an agreement between the taxpayer and Revenue Scotland that is—
- (a) entered into—
  - (i) before the review is concluded,
  - (ii) as the conclusion of the mediation, or
  - (iii) before the appeal is determined, and
- (b) to the effect that the decision reviewed, taken to mediation or appealed should be upheld without variation, varied in a particular manner or cancelled.

(2) Where a settlement agreement is entered into in relation to a review, mediation or an appeal, the consequences are to be the same (for all purposes) as if, at the time the agreement was entered into, the tribunal had determined an appeal in relation to the matter in question and had upheld the decision without variation, varied it in that manner or cancelled it, as the case may be.

(3) But a settlement agreement is not to be treated as a decision of the tribunal for the purposes of section 34 or 36.

(4) Subsection (2) does not apply if, within 30 days from the date when the settlement agreement was entered into, the appellant gives notice to Revenue Scotland that the appellant wishes to withdraw from the agreement.

(5) Where a settlement agreement is not in writing—
- (a) subsection (2) does not apply unless the fact that an agreement was entered into, and the terms agreed, are confirmed by notice in writing given by

Revenue Scotland to the appellant or by the appellant to Revenue Scotland, and

(b) the references in subsections (2) and (4) to the time when the agreement was entered into are to be read as references to the time when the notice of confirmation was given.

(6) References in this section to an agreement being entered into with an appellant, and to the giving of notice by or to the appellant, include references to an agreement being entered into, or notice being given by or to, a person acting on behalf of the appellant in relation to the review, mediation or appeal.

247 Application of this Part to joint buyers

(1) This section applies where, in relation to land and buildings transaction tax, there are two or more buyers who are or will be jointly entitled to the interest acquired by the land transaction.

(2) In a case where some (but not all) of the buyers give notice of review under section 235—

(a) notification of the review must be given by Revenue Scotland to each of the other buyers whose identity is known to it,

(b) any of the other buyers may be a party to the review if they notify Revenue Scotland,

(c) the agreement of all the buyers is required if the review is to be settled by agreement,

(d) if the review is not settled, notice of Revenue Scotland's conclusions must be given to each of the other buyers whose identity is known to Revenue Scotland, and

(e) section 240 (effect of conclusions of review) applies in relation to all of the buyers.

(3) In a case where the buyers and Revenue Scotland agree to enter into mediation—

(a) notification of the agreement must be given by Revenue Scotland to each of the buyers whose identity is known to it,

(b) any of the buyers may be a party to the mediation if they notify Revenue Scotland, and

(c) the agreement of all the buyers is required if the mediation is to be settled by agreement.

(4) In the case of an appeal relating to the transaction—

(a) the appeal may be brought by any of the buyers,

(b) notice of the appeal must be given by the buyers bringing the appeal to each of the other buyers,

(c) the agreement of all the buyers is required if the appeal is to be settled by agreement,

(d) if the appeal is not settled, any of the buyers are entitled to be parties to the appeal, and

(e) the tribunal's decision on the appeal binds all of the buyers.

(5) This section has effect subject to—

(a) the provisions of schedule 17 to the LBTT(S) Act 2013 (relating to partnerships), and

(b) the provisions of schedule 18 to that Act (relating to trustees).

248 Application of this Part to trustees

(1) This section applies where, in relation to land and buildings transaction tax, the buyers in the land transaction are a trust.

(2) In a case where some (but not all) of the trustees give notice of review under section 235—
- (a) notification of the review must be given by Revenue Scotland to each of the other relevant trustees whose identity is known to it,
- (b) any of the other relevant trustees may be a party to the review if they notify Revenue Scotland,
- (c) the agreement of all the relevant trustees is required if the review is to be settled by agreement,
- (d) if the review is not settled, notice of Revenue Scotland's conclusions must be given to each of the relevant trustees whose identity is known to Revenue Scotland, and
- (e) section 240 (effect of conclusions of review) applies in relation to all of the relevant trustees.

(3) In a case where the trust and Revenue Scotland agree to enter into mediation—
- (a) notification of the agreement must be given by Revenue Scotland to each of the relevant trustees whose identity is known to it,
- (b) any of the relevant trustees may be a party to the mediation if they notify Revenue Scotland, and
- (c) the agreement of all the relevant trustees is required if the mediation is to be settled by agreement.

(4) In the case of an appeal relating to the transaction—
- (a) the appeal may be brought by any of the relevant trustees,
- (b) notice of the appeal must be given by the trustee or trustees bringing the appeal to each of the other relevant trustees,
- (c) the agreement of all the relevant trustees is required if the appeal is to be settled by agreement,
- (d) if the appeal is not settled, any of the relevant trustees are entitled to be parties to the appeal, and
- (e) the tribunal's decision on the appeal binds all of the relevant trustees.

(5) In this section "relevant trustees" has the meaning given by paragraph 16 of schedule 18 to the LBTT(S) Act 2013.

(6) This section has effect subject to the provisions of schedule 18 to the LBTT(S) Act 2013 (relating to trustees).

249 References to the "tribunal"

In this Part "the tribunal" means—
- (a) the First-tier Tribunal,
- (b) where determined by or under tribunal rules, the Upper Tribunal.

250 Interpretation

(1) In this Part "matter in question" means the matter to which a review, mediation or appeal relates.

(2) In this Part a reference to the appellant includes a person acting on behalf of the appellant except in relation to—
  (a) notification of Revenue Scotland's view under section 237(1), and
  (b) notification of the conclusions of a review under section 239.

(3) But if a notification falling within paragraph (a) or (b) of subsection (2) is given to the appellant, a copy of the notification may also be given to a person acting on behalf of the appellant.

PART 12

FINAL PROVISIONS

Communications from taxpayers to Revenue Scotland

251 Communications from taxpayers to Revenue Scotland

(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 Revenue Scotland 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 Revenue Scotland,
  (b) must contain the information specified by Revenue Scotland, and
  (c) must be given in the manner specified by Revenue Scotland.

(3) Subsections (1) and (2) are subject to any different provision made in or under this Act.

Interpretation

252 General interpretation

In this Act—

"the LBTT(S) Act 2013" means the Land and Buildings Transaction Tax (Scotland) Act 2013 (asp 11),

"the LT(S) Act 2014" means the Landfill Tax (Scotland) Act 2014 (asp 2),

"designated officer" means a member of staff of Revenue Scotland or other person who is, or a category of members of staff or other persons who are, designated by Revenue Scotland for the purposes of this Act,

"information notice" has the meaning given by section 131(1),

"notice of appeal" means a notice under section 242,

"notice of review" means a notice under section 235,

"Revenue Scotland determination" means a determination under section 95,

"tribunal" has the meaning given by section 249.

253 Index of defined expressions

Schedule 5 contains an index of expressions defined or otherwise explained in this Act.

Subordinate legislation

254 Subordinate legislation

(1) Orders and regulations under this Act are subject to the negative procedure.

(2) Subsection (1) does not apply to—
- (a) orders and regulations for which provision is made in subsection (3) or (4),
- (b) orders under section 260(2).

(3) Orders and regulations under the following provisions are subject to the affirmative procedure—
- (a) section 31(1),
- (b) section 32,
- (c) section 49(1),
- (d) section 50(1),
- (e) section 80(1),
- (f) section 81(2),
- (g) section 111(1),
- (h) section 153,
- (i) section 181(1),
- (j) section 194(1),
- (k) section 208(1),
- (l) section 216(1),
- (m) section 220(1),
- (n) section 230,
- (o) section 233(6),
- (p) section 245(2),
- (q) paragraph 9(1) of schedule 3.

(4) Orders under section 255(1) which contain provision which adds to, replaces or omits any part of the text of an Act are also subject to the affirmative procedure.

(5) Orders and regulations under this Act may—
- (a) make different provision for different purposes (including for different devolved taxes),
- (b) contain incidental, supplementary, consequential, transitional, transitory or saving provision.

(6) Subsection (5)(b) does not apply to orders under section 255(1).

Ancillary provision

255 Ancillary provision

(1) The Scottish Ministers may by order make such incidental, supplementary, consequential, transitional, transitory or saving provision as they consider appropriate for the purposes of, in connection with, or for giving full effect to, this Act or any provision of it.

(2) An order under subsection (1) may modify any enactment (including this Act).

Modification of enactments

256 Minor and consequential modifications of enactments

Schedule 4 makes minor and consequential amendments and repeals of enactments.

Crown application

257 Crown application: criminal offences

(1) No contravention by the Crown of any provision of or made under this Act makes the Crown criminally liable.

(2) But the Court of Session may, on the application of the Lord Advocate, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Despite subsection (1), this Act applies to persons in the public service of the Crown as it applies to other persons.

258 Crown application: powers of entry

(1) A power of entry conferred by or under this Act is exercisable in relation to Crown land only with the consent of the appropriate authority.

(2) The following table determines what is "Crown land" and who the "appropriate authority" is in relation to each kind of Crown land.

Crown land	*Appropriate authority*
Land an interest in which belongs to Her Majesty in right of the Crown and which forms part of the Crown estate	The Crown Estate Commissioners
Other land an interest in which belongs to Her Majesty in right of the Crown	The office-holder in the Scottish Administration or the Government department having the management of the land
Land an interest in which belongs to an office-holder in the Scottish Administration	The relevant office-holder in the Scottish Administration

Crown land	*Appropriate authority*
Land an interest in which belongs to a Government department	The relevant Government department
Land an interest in which is held in trust for Her Majesty for the purposes of the Scottish Administration	The relevant office-holder in the Scottish Administration
Land an interest in which is held in trust for Her Majesty for the purposes of a Government department	The relevant Government department

(3) "Government department" means a department of the Government of the United Kingdom".

259 Crown application: Her Majesty

Nothing in this Act affects Her Majesty in Her private capacity.

Commencement and short title

260 Commencement

(1) This section, sections 254, 255, 257, 258, 259 and 261 and paragraphs 9(12) and 10(14) of schedule 4 come into force on the day after Royal Assent.

(2) The other provisions of this Act come into force on such day as the Scottish Ministers may by order appoint.

(3) An order under subsection (2) may include transitional, transitory or saving provision.

261 Short title

The short title of this Act is the Revenue Scotland and Tax Powers Act 2014.

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.

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).

(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.

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.

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.

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.

(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.

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.

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.

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).

(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.

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.

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.

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.

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.

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.

Upper Tribunal: legal members

5 (1) The Scottish Ministers must appoint persons as legal members of the Upper 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 6.

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.

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.

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—

(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.

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),

(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).

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.

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.

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).

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.

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.

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.

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.

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.

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).

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.

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.

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.

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,

(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.

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.

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).

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.

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.

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.

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

(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.

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.

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.

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.

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.

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.

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,

(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.

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.

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.

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

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).

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.

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).

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.

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.

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.

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.

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.

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.

(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.

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.

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.

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)—

(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.

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.

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.

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.

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.

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

(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.

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.

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.

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.

(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.

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.

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.

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.

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,

"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).".

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—

"(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),".

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)".

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".

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".

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".

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".

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".

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—

"(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.

(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

42A Recovery of relief

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.

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.

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 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.

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)).

42E Recovery of relief: supplementary

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.

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).

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

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.

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

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.

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—

"PART 4A

RECOVERY OF RELIEF

35A Recovery of relief

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.

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.

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.

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)).

35E Recovery of relief: supplementary

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.

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).

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

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.

A person who has paid an amount in pursuance of a notice under paragraph 35E may recover that amount from the acquiring company.

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.

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).".

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)—

(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.”.

(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.

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

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.".

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".

SCHEDULE 5

(introduced by section 253)

INDEX OF DEFINED EXPRESSIONS

Expression	*Interpretation provision*
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
closure notice	section 93(1) (for the purposes of Part 6) and paragraph 14(1) of schedule 3 (for the purposes of that schedule)

Expression	*Interpretation provision*
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)