

# REVENUE SCOTLAND AND TAX POWERS ACT 2014

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## EXPLANATORY NOTES

### THE ACT

#### **Part 6 – Tax Returns, Enquiries and Assessments**

#### *Chapter 4 — Revenue Scotland Enquiries*

#### **Notice and scope of enquiry**

#### *Section 85 – Notice of enquiry*

123. This section sets out that a designated officer (defined in section 252) may enquire into a tax return, provided that notice of intention to carry out an enquiry is given to the taxpayer or the person who submitted the return on their behalf (the ‘relevant person’) within the period set out. It also limits the number of notices of enquiry that may be made in relation to any particular tax return.

#### *Section 86 – Scope of enquiry*

124. This section sets out the scope of an enquiry into a tax return and limits the scope of a subsequent enquiry on a return to amendments made after the completion of that enquiry, if that prior enquiry had been completed before the expiry of the amendment period (provided for in section 83(2), during which the taxpayer can make amendments to their return.

#### **Amendment of return during enquiry**

#### *Section 87 – Amendment of self-assessment during enquiry to prevent loss of tax*

125. This section provides for the amendment of a tax return by a designated officer during the course of an enquiry. The amendment can only be made where the designated officer forms the opinion that the amount stated in the self-assessment contained in the return is insufficient and that unless the assessment is immediately amended there is likely to be a loss of tax to the Crown. Where an enquiry is made into an amended return and is limited by provision under section 86(2) and (3), it limits the ability of the designated officer to make their own amendment under this section to any tax deficiency which is attributable to the taxpayer’s amendment made under section 83.
126. Where a designated officer issues notice of an amendment under this section, section 83 no longer applies and the taxpayer cannot therefore submit any further amendment of their own. The taxpayer must pay any amount, or additional amount, of tax chargeable as a result of an amendment under this section at the same time as the notice of the amendment is given. The period in which an enquiry is in progress is defined in subsection (5) for the purposes of this section and section 88.

## **Referral during enquiry**

### ***Section 88 – Referral of questions to appropriate tribunal during enquiry***

127. This section provides for the referral of questions to the appropriate tribunal (defined in section 92) during an enquiry. It requires notice of the referral to be given jointly by the relevant person (defined in section 85(2)(a)) and the designated officer.

### ***Section 89 – Withdrawal of notice of referral***

128. This section provides for the withdrawal of a notice made under section 88 by a designated officer or the relevant person (defined in section 85(2)(a)).

### ***Section 90 – Effect of referral on enquiry***

129. This section sets out the effect of referral under section 88 on an enquiry. It provides that a closure notice or an application for a closure notice cannot be made while proceedings under section 88 are in progress and defines what “in progress” means in this context.

### ***Section 91 – Effect of determination***

130. This section provides that the determination of any question by the appropriate tribunal under section 88 is binding on the parties. It requires the designated officer to take the determination into account when making any amendments to the return (under section 87 or section 93) and limits the question determined from being reopened.

### ***Section 92 – “Appropriate tribunal”***

131. This section sets out which are the appropriate tribunals for the referral of questions under section 88.

## **Completion of enquiry**

### ***Section 93 – Completion of enquiry***

132. This section provides for completion of an enquiry. An enquiry is completed when a designated officer notifies the relevant person (defined in section 85(2)(a)) that the enquiry is complete (a “closure notice”). The closure notice must state the conclusions reached in the enquiry and must be given no later than three years after the relevant date (defined in section 85(3)). If no closure notice is given, an enquiry is also treated as complete three years after the relevant date. A designated officer can make an amendment of a return and give it to the relevant person with the closure notice. The taxpayer must pay any amount, or additional amount, of tax chargeable as a result of an amendment under this section within 30 days of the closure notice being given. Where a designated officer issues notice of an amendment under this section, section 83 no longer applies and the taxpayer cannot therefore submit any further amendment of their own.

### ***Section 94 – Direction to complete enquiry***

133. This section provides for the person who made the return to apply to the tribunal to give a direction that Revenue Scotland should issue a closure notice. The tribunal must give the direction unless it is satisfied that Revenue Scotland has reasonable grounds for not giving a closure notice within that period.