



Revenue Scotland and Tax Powers Act 2014

2014 asp 16

PART 6

TAX RETURNS, ENQUIRIES AND ASSESSMENTS

CHAPTER 7

RELIEF IN CASE OF EXCESSIVE ASSESSMENT OR OVERPAID TAX

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 person has paid an amount by way of tax that would not have been payable but for the order, or
 - 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—
- for the amount of tax, and
 - 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

Changes to legislation: Revenue Scotland and Tax Powers Act 2014, Section 108 is up to date with all changes known to be in force on or before 14 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- Under the LBTT(S) Act 2013— Section 68(4)(b) of that Act
- (a) a second or subsequent order under section 24(1),
 - (aa) [^{F1}an order under paragraph 19(1) or (2) of schedule 2A,]
 - (b) a second or subsequent order under paragraph 3(1) of schedule 19.

- Under the LT(S) Act 2014— Section 41(3)(b) of that Act
- (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.

- (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.

Textual Amendments

- F1** Words in s. 108(3) inserted (1.4.2016) by [Land and Buildings Transaction Tax \(Amendment\) \(Scotland\) Act 2016 \(asp 11\)](#), **ss. 2(2), 5(2)** (with s. 3)

Commencement Information

- I1** S. 108 in force at 1.4.2015 by [S.S.I. 2015/110](#), **art. 2(1)**

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 141(3A)(3B) inserted by [2017 asp 2 Sch. 2 para. 2\(2\)](#)
- s. 215A-215G and cross-headings inserted by [2017 asp 2 Sch. 2 para. 21](#)
- s. 223(1)(d)(e) inserted by [2017 asp 2 Sch. 2 para. 24](#)
- s. 233(1)(j) inserted by [2017 asp 2 Sch. 2 para. 25\(2\)](#)
- s. 233(3A) inserted by [2017 asp 2 Sch. 2 para. 25\(3\)](#)