



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

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

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- (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).

Commencement Information

II S. 113 in force at 1.4.2015 by [S.S.I. 2015/110](#), [art. 2\(1\)](#)

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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\(3\)](#)