

# AIR DEPARTURE TAX (SCOTLAND) ACT 2017

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## EXPLANATORY NOTES

### THE ACT

#### **Part 4 – Payment, Collection and Management of Tax**

##### *Sections 28 to 34 (tax representatives)*

54. These sections require taxable persons not based in an EEA State (as defined in section 44) to appoint an EEA-based tax representative and notify the details of the appointment to Revenue Scotland. Taxable persons based in an EEA State may appoint a tax representative if they wish to do so, but the appointment does not have effect for the purpose of ADT unless the details of the appointment are notified to Revenue Scotland. A tax representative may be any person (whether an individual, a partnership, a body corporate or an unincorporated body) that meets the eligibility requirements set out in section 32.
55. There are two types of tax representative: fiscal and administrative (see section 29). A fiscal tax representative is the more onerous role. The person effectively stands in the shoes of the taxable person, and is liable to Revenue Scotland, jointly and severally with the taxable person, for ADT (see section 30). This joint and several liability continues after the fiscal tax representative's appointment ends, but extends only to liabilities arising from failures to comply that occurred during the period that the fiscal tax representative was appointed (see section 30(3)).
56. An administrative tax representative is a less onerous role and is mainly for keeping and preserving records for ADT, and is not liable for ADT. The record-keeping requirements for ADT will be set out in regulations to be made under section 74 of the RSTPA 2014<sup>1</sup>. A taxable person is authorised to appoint an administrative, rather than a fiscal, tax representative only if the taxable person provides the amount of security (if any) that is required by Revenue Scotland. Directions made by Revenue Scotland under section 35 or 36 may specify the amount of security that is required to validate the appointment of an administrative tax representative. To ensure that the appointment of an administrative tax representative continues to be valid, a taxable person must comply with directions issued under section 35 or 36 after the appointment is made.
57. Nothing in the Act prevents a tax representative from making a tax return as an agent for a taxable person; however, neither a fiscal nor an administrative tax representative is authorised to make a declaration, in or relating to a tax return, that section 26 requires to be made by the taxable person.
58. [Section 33](#) clarifies when the appointment of a tax representative begins and ends, to provide certainty about the extent of the tax representative's obligations.
59. [Section 34](#) places a duty on taxable persons and tax representatives to notify Revenue Scotland, and each other, if the appointment is to cease to have effect for any reason.

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<sup>1</sup> <http://www.legislation.gov.uk/asp/2014/16/section/74>