

*Status: This version of this contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Air
Departure Tax (Scotland) Act 2017, Paragraph 21. (See end of Document for details)*

PROSPECTIVE

SCHEDULE 2
MINOR AND CONSEQUENTIAL MODIFICATIONS TO
REVENUE SCOTLAND AND TAX POWERS ACT 2014

21 After section 215 (assessment of penalties under section 209), insert—

“Tax-related penalty: air departure tax

215A Tax-related penalty

- (1) This section applies if—
 - (a) a person becomes liable to a penalty under section 209(1)(a)(iii) or (iv) (tax representatives or security for the payment of air departure tax),
 - (b) the failure continues after a penalty is imposed under that section,
 - (c) a designated officer has reason to believe that, as a result of the failure, 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 date on which the person became liable to the penalty under section 209(1)(a)(iii) or (iv), 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) If 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 209.

215B Enforcement of tax-related penalty

- (1) A penalty under section 215A 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 215A is to be treated for enforcement purposes as an assessment to tax.

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Penalties for failures to notify Revenue Scotland: air departure tax

215C Penalties for failures to notify Revenue Scotland

- (1) This section applies to a person who fails to comply with any of the following provisions of the ADT(S) Act 2017—
- (a) section 22(2) (requirement to deregister on ceasing to be a taxable person under that Act),
 - (b) section 28(2)(b) (requirement to notify Revenue Scotland of details of tax representative appointment),
 - (c) section 34(2) (requirement to notify Revenue Scotland if appointment of tax representative is to cease to have effect),
 - (d) section 40(2) (requirement to notify Revenue Scotland of inaccuracies in information provided to Revenue Scotland).
- (2) The person is liable to a penalty of £300.

215D 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 215C if the person did it within such further time (if any) that a designated officer may have allowed.

Penalties under section 215C: general

215E Reasonable excuse for failure to comply

- (1) Liability to a penalty under section 215C does not arise if the person satisfies Revenue Scotland or (on appeal) the tribunal that there is a reasonable excuse for the failure to comply.
- (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) if 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 to comply, and
 - (c) if the person had a reasonable excuse for the failure to comply but the excuse has ceased, the person is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

215F Assessment of penalties under section 215C

- (1) If a person becomes liable to a penalty under section 215C, Revenue Scotland must—
- (a) assess the penalty, and
 - (b) notify the person.

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- (2) An assessment of a penalty under section 215C must be made no later than 12 months after the date on which the person became liable to the penalty.

215G Enforcement of penalties under sections 215C

- (1) A penalty under section 215C must be paid—
- (a) before the end of the period of 30 days beginning with the date on which the notification under section 215F 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 on which 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 215C is to be treated for enforcement purposes as an assessment to tax.”.

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