

REVENUE SCOTLAND AND TAX POWERS ACT 2014

EXPLANATORY NOTES

THE ACT

Part 10 – Enforcement of Payment of Tax

Chapter 1 — Enforcement: General

Issue of tax demands and receipts

Section 221 – Issue of tax demands and receipts

260. This section provides Revenue Scotland with a power to demand a sum of tax that is due and payable from a taxpayer. Revenue Scotland must provide a receipt upon payment of the tax.

Fees for payment

Section 222 – Fees for payment

261. This section provides the Scottish Ministers with a power to make regulations specifying any fee associated with particular methods of payment (such as credit cards). Such regulations are subject to the negative procedure. The fee charged to the person making the payment must not exceed what is reasonable having regard to the costs incurred by Revenue Scotland (or a person authorised by it) in accepting or processing the payment.

Certification of matters by Revenue Scotland

Section 223 – Certification of matters by Revenue Scotland

262. This section provides for certificates of Revenue Scotland relating to: returns not being made to Revenue Scotland as required under any enactment; sums payable to Revenue Scotland under any enactment not having been paid; notifications not being made to Revenue Scotland as required under any enactment. Their purpose is to provide evidence to the court in support of any debt or action which Revenue Scotland administers, avoiding the need for lengthy documentation. The decision whether to accept such evidence is for the court.

Court proceedings

Section 224 – Court proceedings

263. This section provides that a taxpayer may be sued in order to recover tax that is due and payable.

Summary warrant

Section 225 – Summary warrant

264. This section provides that a designated officer may apply to the sheriff for a summary warrant where a person does not pay an amount due. The application to the sheriff must include a certificate which states that the sum due has been requested and has remained unpaid for at least 14 days. The sheriff must then issue the summary warrant which authorises the recovery of the sum payable by the means set out in subsection (6). In addition to the sum of tax due, the sheriff officers' fees and expenses reasonably incurred are also chargeable against the taxpayer. Although not listed in section 225 it should be noted that, depending on the circumstances, Revenue Scotland may also choose to submit a petition for sequestration following a summary warrant should it (the summary warrant) fail to resolve the issue of the outstanding amount due to Revenue Scotland.

Recovery of penalties and interest

Section 226 – Recovery of penalties and interest

265. This section provides that any penalty or interest payable is to be treated as though it was an amount of unpaid tax, so the means of enforcement in Chapter 1 apply to them too.

Chapter 2 — Enforcement: Powers to Obtain Contact Details for Debtors

Section 227 – Requirement for contact details for debtor

266. This section provides that Chapter 2 applies where Revenue Scotland is owed money by a debtor but has no contact details and a designated officer reasonably believes that a third party (which must be a company or local authority and cannot be a charity or an organisation operating on behalf of a charity) holds the contact details.

Section 228 – Power to obtain details

267. This section provides a designated officer of Revenue Scotland with a power, by means of a written notice, to require the third party to provide the contact details of the debtor outlined in section 227. The notice must name the debtor. The third party is obliged to provide contact details of the debtor in accordance with the timescale and in the form set out in the notice.

Section 229 – Reviews and appeals against notices or requirements

268. This section provides the third party with a right of review or appeal against a notice under section 228 but only on the basis that it would be unduly onerous to comply.

Section 230 – Power to modify section 229

269. This section provides a power for the Scottish Ministers to modify by order (subject to affirmative procedure) section 229(2). Such orders can provide as to whether certain decisions in relation to the giving of notices under section 228, or any requirements contained within such notices, are appealable (generally or in certain circumstances only) or not appealable for the purposes of section 233(1)(i).

Section 231 – Penalty

270. This section provides that in the event that the third party fails to comply with a notice under section 228, a £300 penalty would apply.