



# Revenue Scotland and Tax Powers Act 2014

2014 asp 16

## PART 11

### REVIEWS AND APPEALS

#### CHAPTER 4

##### SUPPLEMENTARY

#### **245     Reviews and appeals not to postpone recovery of tax**

- (1) Where there is a review or appeal under this Part, any tax charged or penalty or interest imposed remains due and payable as if there had been no review or appeal.
- (2) The Scottish Ministers may by regulations make provision for the postponement of any such tax, penalty or interest pending reviews or appeals, including provision—
  - (a) for applications by appellants to Revenue Scotland for postponement of amounts of tax, penalty and interest,
  - (b) for the effect of any determination by Revenue Scotland on such applications,
  - (c) for agreements between appellants and Revenue Scotland as to postponement of amounts of tax, penalty and interest,
  - (d) for applications to the tribunal for such postponement,
  - (e) for appeals in relation to such determinations by Revenue Scotland and decisions by the tribunal on such applications.
- (3) Regulations under subsection (2) may modify any enactment (including this Act).
- (4) Subsection (1) is subject to sections 79(1) and 203(1) and to paragraph 8(1) of schedule 3.

**246 Settling matters in question by agreement**

- (1) In relation to a review, mediation or an appeal under this Part, “settlement agreement” means an agreement between the taxpayer and Revenue Scotland that is—
  - (a) entered into—
    - (i) before the review is concluded,
    - (ii) as the conclusion of the mediation, or
    - (iii) before the appeal is determined, and
  - (b) to the effect that the decision reviewed, taken to mediation or appealed should be upheld without variation, varied in a particular manner or cancelled.
- (2) Where a settlement agreement is entered into in relation to a review, mediation or an appeal, the consequences are to be the same (for all purposes) as if, at the time the agreement was entered into, the tribunal had determined an appeal in relation to the matter in question and had upheld the decision without variation, varied it in that manner or cancelled it, as the case may be.
- (3) But a settlement agreement is not to be treated as a decision of the tribunal for the purposes of section 34 or 36.
- (4) Subsection (2) does not apply if, within 30 days from the date when the settlement agreement was entered into, the appellant gives notice to Revenue Scotland that the appellant wishes to withdraw from the agreement.
- (5) Where a settlement agreement is not in writing—
  - (a) subsection (2) does not apply unless the fact that an agreement was entered into, and the terms agreed, are confirmed by notice in writing given by Revenue Scotland to the appellant or by the appellant to Revenue Scotland, and
  - (b) the references in subsections (2) and (4) to the time when the agreement was entered into are to be read as references to the time when the notice of confirmation was given.
- (6) References in this section to an agreement being entered into with an appellant, and to the giving of notice by or to the appellant, include references to an agreement being entered into, or notice being given by or to, a person acting on behalf of the appellant in relation to the review, mediation or appeal.

**247 Application of this Part to joint buyers**

- (1) This section applies where, in relation to land and buildings transaction tax, there are two or more buyers who are or will be jointly entitled to the interest acquired by the land transaction.
- (2) In a case where some (but not all) of the buyers give notice of review under section 235—
  - (a) notification of the review must be given by Revenue Scotland to each of the other buyers whose identity is known to it,
  - (b) any of the other buyers may be a party to the review if they notify Revenue Scotland,
  - (c) the agreement of all the buyers is required if the review is to be settled by agreement,

---

*Status: This is the original version (as it was originally enacted).*

---

- (d) if the review is not settled, notice of Revenue Scotland's conclusions must be given to each of the other buyers whose identity is known to Revenue Scotland, and
  - (e) section 240 (effect of conclusions of review) applies in relation to all of the buyers.
- (3) In a case where the buyers and Revenue Scotland agree to enter into mediation—
- (a) notification of the agreement must be given by Revenue Scotland to each of the buyers whose identity is known to it,
  - (b) any of the buyers may be a party to the mediation if they notify Revenue Scotland, and
  - (c) the agreement of all the buyers is required if the mediation is to be settled by agreement.
- (4) In the case of an appeal relating to the transaction—
- (a) the appeal may be brought by any of the buyers,
  - (b) notice of the appeal must be given by the buyers bringing the appeal to each of the other buyers,
  - (c) the agreement of all the buyers is required if the appeal is to be settled by agreement,
  - (d) if the appeal is not settled, any of the buyers are entitled to be parties to the appeal, and
  - (e) the tribunal's decision on the appeal binds all of the buyers.
- (5) This section has effect subject to—
- (a) the provisions of schedule 17 to the LBTT(S) Act 2013 (relating to partnerships), and
  - (b) the provisions of schedule 18 to that Act (relating to trustees).

## **248 Application of this Part to trustees**

- (1) This section applies where, in relation to land and buildings transaction tax, the buyers in the land transaction are a trust.
- (2) In a case where some (but not all) of the trustees give notice of review under section 235—
- (a) notification of the review must be given by Revenue Scotland to each of the other relevant trustees whose identity is known to it,
  - (b) any of the other relevant trustees may be a party to the review if they notify Revenue Scotland,
  - (c) the agreement of all the relevant trustees is required if the review is to be settled by agreement,
  - (d) if the review is not settled, notice of Revenue Scotland's conclusions must be given to each of the relevant trustees whose identity is known to Revenue Scotland, and
  - (e) section 240 (effect of conclusions of review) applies in relation to all of the relevant trustees.
- (3) In a case where the trust and Revenue Scotland agree to enter into mediation—
- (a) notification of the agreement must be given by Revenue Scotland to each of the relevant trustees whose identity is known to it,

---

*Status: This is the original version (as it was originally enacted).*

---

- (b) any of the relevant trustees may be a party to the mediation if they notify Revenue Scotland, and
  - (c) the agreement of all the relevant trustees is required if the mediation is to be settled by agreement.
- (4) In the case of an appeal relating to the transaction—
- (a) the appeal may be brought by any of the relevant trustees,
  - (b) notice of the appeal must be given by the trustee or trustees bringing the appeal to each of the other relevant trustees,
  - (c) the agreement of all the relevant trustees is required if the appeal is to be settled by agreement,
  - (d) if the appeal is not settled, any of the relevant trustees are entitled to be parties to the appeal, and
  - (e) the tribunal's decision on the appeal binds all of the relevant trustees.
- (5) In this section “relevant trustees” has the meaning given by paragraph 16 of schedule 18 to the LBTT(S) Act 2013.
- (6) This section has effect subject to the provisions of schedule 18 to the LBTT(S) Act 2013 (relating to trustees).

#### **249 References to the “tribunal”**

In this Part “the tribunal” means—

- (a) the First-tier Tribunal,
- (b) where determined by or under tribunal rules, the Upper Tribunal.

#### **250 Interpretation**

- (1) In this Part “matter in question” means the matter to which a review, mediation or appeal relates.
- (2) In this Part a reference to the appellant includes a person acting on behalf of the appellant except in relation to—
- (a) notification of Revenue Scotland's view under section 237(1), and
  - (b) notification of the conclusions of a review under section 239.
- (3) But if a notification falling within paragraph (a) or (b) of subsection (2) is given to the appellant, a copy of the notification may also be given to a person acting on behalf of the appellant.