



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

Procedure for making claims

114 Procedure for making claims etc.

Schedule 3 applies in relation to claims under sections 106 to 108.

115 Time-limit for making claims

- (1) A claim under section 106 or 107 must be made within the period of 5 years after the date by which the tax return, to which the payment by way of tax, or the assessment or determination relates, required to be made.
- (2) A claim under section 107 may not be made by being included in a return.

116 The claimant: partnerships

- (1) This section is about the application of sections 107 and 108 in a case where either—
 - (a) (in a case falling within section 107(1)(a) or 108(1)(a)) the person paid the amount in question in the capacity of a responsible partner or representative partner, or
 - (b) (in a case falling within section 107(1)(b) or 108(1)(b)) the assessment was made on, or the determination related to the liability of, the person in such a capacity.

Status: This is the original version (as it was originally enacted).

- (2) In such a case, only a relevant person who has been nominated to do so by all of the relevant persons may make a claim under section 107 or 108 in respect of the amount in question.
- (3) The relevant persons are all the persons who would have been liable as responsible partners to pay the amount in question had the payment been due or (in a case falling within section 107(1)(b) or 108(1)(b)) had the assessment or determination been correctly made.

117 Assessment of claimant in connection with claim

- (1) This section applies where—
 - (a) a claim is made under section 107,
 - (b) the grounds for giving effect to the claim also provide grounds for a Revenue Scotland assessment on the claimant in respect of the tax, and
 - (c) such an assessment could be made but for a relevant restriction.
- (2) In a case falling within section 116(1)(a) or (b), the reference to the claimant in subsection (1)(b) of this section includes any relevant person (as defined in section 116(3)).
- (3) The following are relevant restrictions—
 - (a) the restrictions in section 102 (conditions for assessment where return has been delivered),
 - (b) the expiry of a time limit for making a Revenue Scotland assessment.
- (4) Where this section applies—
 - (a) the relevant restrictions are to be disregarded,
 - (b) the Revenue Scotland assessment is not out of time if it is made before the final determination of the claim.
- (5) A claim is not finally determined until it, or the amount to which it relates, can no longer be varied (whether on review, appeal or otherwise).