Revenue Scotland and Tax Powers Act 2014

2014 asp 16

PART 8

PENALTIES

CHAPTER 4

PENALTIES RELATING TO INVESTIGATIONS

Penalties under Chapter 4: general

201 Reasonable excuse for failure to comply or obstruction

(1) Liability to a penalty under section 195 or 196 does not arise if the person satisfies Revenue Scotland or (on appeal) the tribunal that there is a reasonable excuse for the failure or the obstruction of a designated officer or of a person authorised by the officer.

(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) where 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 or obstruction, and

(c) where the person had a reasonable excuse for the failure or obstruction but the excuse has ceased, the person is to be treated as having continued to have the excuse if the failure is remedied, or the obstruction stops, without unreasonable delay after the excuse ceased.

Commencement Information

I1 S. 201 in force at 1.4.2015 by S.S.I. 2015/110, **art. 2(1)**

Changes to legislation: *Revenue Scotland and Tax Powers Act 2014, Cross Heading: Penalties under Chapter 4: general is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

202 Assessment of penalties under sections 195, 196 and 197

(1) Where a person becomes liable for a penalty under section 195, 196 or 197 Revenue Scotland must—
  (a) assess the penalty, and
  (b) notify the person.

(2) An assessment of a penalty under section 195 or 196 must be made within the period of 12 months beginning with the date on which the person became liable to the penalty, subject to subsection (3).

(3) In a case involving an information notice against which a person may appeal, an assessment of a penalty under section 195 or 196 must be made within the period of 12 months beginning with the latest of the following—
  (a) the date on which the person became liable to the penalty,
  (b) the end of the period in which notice of an appeal against the information notice could have been given, and
  (c) if notice of such an appeal is given, the date on which the appeal is determined or withdrawn.

(4) An assessment of a penalty under section 197 must be made—
  (a) within the period of 12 months beginning with the date on which the inaccuracy first came to the attention of a designated officer, and
  (b) within the period of 6 years beginning with the date on which the person became liable to the penalty.

Commencement Information
I2 S. 202 in force at 1.4.2015 by S.S.I. 2015/110, **art. 2(1)**

203 Enforcement of penalties under sections 195, 196 and 197

(1) A penalty under section 195, 196 or 197 must be paid—
  (a) before the end of the period of 30 days beginning with the date on which the notification under section 202 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 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 195, 196 or 197 is to be treated for enforcement purposes as an assessment to tax.

Commencement Information
I3 S. 203 in force at 1.4.2015 by S.S.I. 2015/110, **art. 2(1)**

Changes to legislation: *Revenue Scotland and Tax Powers Act 2014, Cross Heading: Penalties under Chapter 4: general is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

204 Increased daily default penalty

(1) This section applies if—

(a) a penalty under section 196 is assessed under section 202 in respect of a person's failure to comply with a notice under section 127,

(b) the failure continues for more than 30 days beginning with the date on which notification of that assessment was issued, and

(c) the person has been told that an application may be made under this section for an increased daily penalty to be imposed.

(2) If this section applies, a designated officer may make an application to the tribunal for an increased daily penalty to be imposed on the person.

(3) If the tribunal decides that an increased daily penalty should be imposed, then for each applicable day on which the failure continues—

(a) the person is not liable to a penalty under section 196 for the failure, and

(b) the person is liable instead to a penalty under this section of an amount determined by the tribunal.

(4) The tribunal may not determine an amount exceeding £1,000 for each applicable day.

(5) In determining the amount the tribunal must have regard to—

(a) the likely cost to the person of complying with the notice,

(b) any benefits to the person of not complying with it, and

(c) any benefits to anyone else resulting from the person's non-compliance.

(6) If a person becomes liable to a penalty under this section, Revenue Scotland must notify the person.

(7) The notification must specify the day from which the increased penalty is to apply.

(8) That day and any subsequent day is an "applicable day" for the purposes of subsection (3).

Commencement Information

I4 S. 204 in force at 1.4.2015 by S.S.I. 2015/110, **art. 2(1)**

205 Enforcement of increased daily default penalty

(1) A penalty under section 204 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 204 is to be treated for enforcement purposes as an assessment to tax.

Commencement Information

I5 S. 205 in force at 1.4.2015 by S.S.I. 2015/110, **art. 2(1)**

Changes to legislation: *Revenue Scotland and Tax Powers Act 2014, Cross Heading: Penalties under Chapter 4: general is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

206 Tax-related penalty

(1) This section applies where—

(a) a person becomes liable to a penalty under section 195,

(b) the failure or obstruction continues after a penalty is imposed under that section,

(c) a designated officer has reason to believe that, as a result of the failure or obstruction, 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 relevant date, 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) Where 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 195 or 196.

(6) In subsection (1)(d) the "relevant date" means—

(a) in a case involving an information notice against which a person may appeal, the latest of—

(i) the date on which the person became liable to the penalty under section 195,

(ii) the end of the period in which notice of an appeal against the information notice could have been given, and

(iii) if notice of such an appeal is given, the date on which the appeal is determined or withdrawn, and

(b) in any other case, the date on which the person became liable to the penalty under section 195.

Commencement Information

I6 S. 206 in force at 1.4.2015 by S.S.I. 2015/110, **art. 2(1)**

207 Enforcement of tax-related penalty

(1) A penalty under section 206 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 206 is to be treated for enforcement purposes as an assessment to tax.

Changes to legislation: *Revenue Scotland and Tax Powers Act 2014, Cross Heading: Penalties under Chapter 4: general is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I7 S. 207 in force at 1.4.2015 by S.S.I. 2015/110, **art. 2(1)**

208 Power to change penalty provisions in Chapter 4

(1) The Scottish Ministers may by regulations make provision (or further provision) about penalties under this Chapter (other than penalties under section 206).

(2) Regulations under subsection (1) may include provision—

(a) about the circumstances in which a penalty is payable,

(b) about the amounts of penalties,

(c) about the procedure for issuing penalties,

(d) about appealing penalties,

(e) about enforcing penalties.

(3) Regulations under subsection (1) may also include provision for the purposes of sections 151(6) and (7) and 231(2) and (3).

(4) Regulations under subsection (1) may not create criminal offences.

(5) Regulations under subsection (1) may modify any enactment (including this Act).

(6) Regulations under subsection (1) do not apply to a failure or obstruction which began before the date on which the regulations come into force.

Commencement Information

I8 S. 208 in force at 1.4.2015 by S.S.I. 2015/110, **art. 2(1)**

Changes to legislation:
Revenue Scotland and Tax Powers Act 2014, Cross Heading: Penalties under Chapter 4: general is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 141(3A)(3B) inserted by 2017 asp 2 Sch. 2 para. 2(2)
- s. 215A-215G and cross-headings inserted by 2017 asp 2 Sch. 2 para. 21
- s. 223(1)(d)(e) inserted by 2017 asp 2 Sch. 2 para. 24
- s. 233(1)(j) inserted by 2017 asp 2 Sch. 2 para. 25(2)
- s. 233(3A) inserted by 2017 asp 2 Sch. 2 para. 25(3)