

# REVENUE SCOTLAND AND TAX POWERS ACT 2014

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## EXPLANATORY NOTES

### THE ACT

#### **Part 6 – Tax Returns, Enquiries and Assessments**

#### *Chapter 5 — Revenue Scotland Determinations*

#### *Section 95 – Determination of tax chargeable if no return made*

134. This section provides that, in the circumstances where a designated officer has reason to believe a person is liable to pay tax, and that person has not filed a tax return with Revenue Scotland by the date by which it believes a return was required to be made (the “relevant filing date”), Revenue Scotland may make a determination of the amount of tax to be charged. Notice of the determination must be given to the person believed to be liable for the chargeable tax, including a statement of the date on which the notice was issued. A determination cannot be made more than five years after the relevant filing date or, if the Scottish Ministers by order prescribe another date, five years after that date. The taxpayer must pay the amount of tax chargeable as a result of a determination under this section immediately upon receipt of the determination.

#### *Section 96 – Determination to have effect as a self-assessment*

135. This section provides that a determination by Revenue Scotland has the same effect for enforcement purposes (i.e. the collection and recovery of tax as provided for in Part 10 of this Act) as if it were a self-assessment made by the person liable for the chargeable tax. Under these provisions, a determination by Revenue Scotland does not affect a person’s liability to a penalty for failure to make a tax return (under sections 159 to 167).

#### *Section 97 – Determination superseded by actual self-assessment*

136. This section provides that, where a person makes a tax return after Revenue Scotland has made a determination of chargeable tax, the self-assessed tax return will supersede Revenue Scotland’s determination. This provision does not apply when a person makes a tax return more than five years after the power to make the determination was first exercisable by Revenue Scotland, or more than three months after the date on which the determination was issued, whichever is the later. In instances where proceedings have commenced for the recovery of tax following a Revenue Scotland determination, and during those proceedings Revenue Scotland receives a self-assessment that supersedes its determination, the proceedings may continue as if they were for the recovery of so much of the self-assessed tax which remains due and not yet paid.