



# 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

###### *Order changing tax basis not approved*

#### **108 Claim for repayment if order changing tax basis not approved**

- (1) This section applies where a relevant order has ceased to have effect by virtue of a relevant provision and—
  - (a) a person has paid an amount by way of tax that would not have been payable but for the order, or
  - (b) a person has been assessed as chargeable to an amount of tax, or a determination has been made that a person is chargeable to an amount of tax, that would not have been chargeable but for the order.
- (2) The person may make a claim to Revenue Scotland—
  - (a) for the amount of tax, and
  - (b) any related penalty or interest,to be repaid or discharged to the extent that it was paid, or assessed or determined as chargeable, in consequence of the relevant order.
- (3) A “relevant order” is an order mentioned in column 1, and a “relevant provision”, in relation to such an order, is the provision mentioned in the corresponding entry in column 2, of the following table.

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*Status: This is the original version (as it was originally enacted).*

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<i>Relevant orders</i>	<i>Relevant provisions</i>
Under the LBTT(S) Act 2013— (a) a second or subsequent order under section 24(1), (b) a second or subsequent order under paragraph 3(1) of schedule 19.	Section 68(4)(b) of that Act
Under the LT(S) Act 2014— (a) an order under section 5(5) providing for anything which would otherwise not be a disposal of material by way of landfill to be such a disposal, (b) an order under section 6(1) which produces the result that a landfill site activity which would otherwise not be prescribed for the purposes of section 6 is so prescribed, (c) a second or subsequent order under section 13(2) or (5), (d) an order under section 13(4), (e) an order under section 14(7) other than one which provides only that an earlier order under section 14(7) is not to apply to material.	Section 41(3)(b) of that Act

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- (4) A penalty or interest is related to an amount of tax to the extent that it—
- (a) is attributable to the amount, and
  - (b) would not have been incurred but for the relevant order.
- (5) A claim for repayment must be made before the end of the period of 2 years after the relevant date.
- (6) The relevant date is—
- (a) the filing date, or
  - (b) the date on which the tax return was made, if the return was made after the filing date.
- (7) For the purposes of this section and sections 109 to 112, 114, 116 and 118, an amount paid by one person on behalf of another is treated as paid by the other person.
- (8) Expressions used in this section and in the LT(S) Act 2014 have the meanings given in that Act.