

AIR DEPARTURE TAX (SCOTLAND) ACT 2017

EXPLANATORY NOTES

SCHEDULES

Schedule 1 – Connected flight rules

72. [Schedule 1](#) sets out the rules for determining which flights are to be treated as connected flights. This is relevant to the connected flights exemption (section 5) and to tax bands, which will be set by reference to a passenger's final destination (see description of Part 3, above). The final destination of a passenger who is travelling on connected flights is the place where the last connected flight ends.
73. The connected flight rules prescribe the maximum time permitted between two flights in order for them to be considered to be connected flights. The permitted connection period is 24 hours if connecting to an international flight and either six, 10 or 17 hours for connecting to a domestic flight, depending on what time of day the preceding flight is scheduled to arrive. Flights are connected flights only if they are covered by the same agreement for carriage (see section 12(2)).

Schedule 2 – Minor and consequential amendments

74. This schedule amends the RSTPA 2014. The amendments bring ADT into the framework for the collection and management of devolved taxes under the RSTPA 2014.
75. [Paragraph 2](#) of schedule 2 amends section 141, which enables a designated officer of Revenue Scotland to enter and inspect a person's business premises. The power under section 141 may be used only if the officer believes that the inspection is reasonably required for the purpose of checking the person's tax position. The effect of the amendment is that the power under section 141 does not extend to the premises of a taxable person's tax representative or handling agent. However, the premises of a tax representative or handling agent may be entered and inspected if the representative or agent is specified as an involved third party for the purpose of section 142 of the RSTPA 2014.
76. [Paragraphs 3 to 23](#) make amendments relating to penalties. Generally, the same penalties have been applied in relation to ADT as currently apply in relation to SLfT. However, some new penalty provisions have been added for failures to meet obligations specific to ADT (for example, to appoint a tax representative or provide security), and some existing RSTPA 2014 provisions relating to the administration and enforcement of penalties have been duplicated for ADT.
77. Some penalty provisions that apply to SLfT or LBTT have been amended in order to incorporate references to ADT, but the substantive effect of the RSTPA 2014 as it applies to SLfT and LBTT is not affected by this Act.
78. The following table identifies the conduct relating to ADT that will incur a penalty under the RSTPA 2014 and the penalties that will apply.

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2017 (asp 2) which received Royal Assent on 25 July 2017*

<i>Conduct incurring penalty</i>	<i>Penalties</i>	<i>Schedule 2 reference</i>
Failing to make tax returns	Multiple penalties ranging from a fixed penalty of £100 to a tax-gearred penalty of 100% of the tax liability which would have been shown in the tax return, depending on the nature and persistence of the failure to comply (sections 159 and 164 to 167 of RSTPA 2014 as amended)	Paragraphs 3 to 8
Failing to pay tax when making or amending a tax return Failing to pay an additional amount of tax arising from an adjustment or assessment under the RSTPA 2014	Multiple penalties ranging to 1% to 5% of the unpaid tax, depending on persistence of failure (sections 168 and 170 to 173 of RSTPA 2014 as amended)	Paragraphs 9 to 15
Giving Revenue Scotland inaccurate taxpayer documents, where the inaccuracy misrepresents the amount of tax payable	Penalty of 30% of potential lost revenue if the inaccuracy is careless and 100% if it is deliberate (sections 182 and 183 of RSTPA 2014 as amended)	Paragraph 16
Failing to register for the tax Failing to appoint a tax representative Failing to comply with an individual direction to provide security for the payment of tax	Penalty of 30% of the potential lost revenue if the failure to comply is careless and 100% if it is deliberate (sections 209 and 210 of RSTPA 2014 as amended) Additional tax-related penalties may be imposed by the Upper Tribunal (sections 215A and 215B of RSTPA 2014 as inserted)	Paragraphs 18 to 21
Failing to deregister for the tax on ceasing to be a taxable person Failing to notify Revenue Scotland of details of tax representative appointment Failing to notify Revenue Scotland if a tax representative appointment is to cease to have effect Failing to notify Revenue Scotland about inaccuracies in certain information notified to Revenue Scotland	Penalty of £300 (section 215C of RSTPA 2014 as inserted)	Paragraph 21

79. [Paragraph 24](#) of schedule 2 amends section 223 of the RSTPA 2014, which provides for a certificate of Revenue Scotland to be taken as evidence of the certified facts. The section is amended to enable certificates to be given as to whether or not, in relation to a specified flight, a passenger is a chargeable passenger or an aircraft is a chargeable aircraft.
80. [Paragraph 25](#) of schedule 2 amends section 233 of the RSTPA 2014, which specifies which decisions of Revenue Scotland are appealable decisions. The effect of the amendment is that a decision of Revenue Scotland that affects a requirement to provide security for the payment of the tax is appealable. However, a person will not be

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entitled to appeal a decision of Revenue Scotland to issue a general direction under section 36 (although a person may appeal how the general direction is applied by Revenue Scotland in a particular case).

Schedule 3 – Index of defined expressions

81. [Schedule 3](#), which is introduced by section 47, is self-explanatory.