

# Revenue Scotland

## Compliance Strategy 2019 -2021

## Introduction

The taxes that Revenue Scotland collects help to fund public services in Scotland, such as health services, education and housing. Revenue Scotland's function is the collection and management of the devolved taxes, currently Land and Buildings Transaction Tax (LBTT) and Scottish Landfill Tax (SLfT). That function includes a responsibility for protecting the revenue against tax fraud and tax avoidance.

In preparing this compliance strategy which draws on our first 4 years of operational experience, Revenue Scotland has sought to set out clearly the powers it has to undertake compliance work and the underlying principles in its approach that we will seek to apply. Decisions in relation to our functions are, of course, made on the basis of the facts and circumstances of any given case. The strategy is not intended to restrict or define any discretion we have nor prescribe any course of action we may take and, of course, the proper application of the devolved taxes legislation (or any other relevant law) takes precedence over any statement in this strategy.

Most of the circa 115,000 LBTT returns and payments each year are made by solicitors on behalf of clients acquiring interests in property in Scotland, although some are made by taxpayers themselves or accountants or other agents. Solicitors are regulated by the Law Society of Scotland which promotes high professional standards and provides support and training to its members.

SLfT returns and payments are made on a quarterly basis by landfill operators, some of whom employ an external accountant or agent to do this for them but many choose to compile their own returns. Compliance with environmental regulations is regulated by the Scottish Environment Protection Agency (SEPA). Certain tax compliance functions in relation to SLfT have been delegated by Revenue Scotland to SEPA.

In its glossary of tax terms, the OECD defines tax compliance as:

**'the degree to which a taxpayer complies (or fails to comply) with the tax rules... for example by declaring income, filing a return and paying the tax due in a timely manner.'**

Taxpayers have general duties in relation to the devolved taxes. These include:

1. to self-assess tax due;
2. to notify RS of any taxable activities undertaken by them;
3. to inform RS if tax is due;
4. to send a tax return in on time;
5. to ensure that the information in a tax return is accurate;
6. to pay any tax due on time; and
7. to keep adequate records relating to tax.

In light of these duties, our approach extends well beyond basic checking of returns into enabling measures and activities designed to help taxpayers assess their tax obligations themselves, both for tax returns and any tax payments.

## Compliance planning and delivery

Revenue Scotland takes a risk-based approach to compliance. Risks to tax revenue for both devolved taxes have been identified and our assessment of them is based on our experience of collecting and managing the devolved taxes for over three years, supported by the data we hold.

To operate an annual planning and delivery cycle for compliance activity, Revenue Scotland will:

- monitor the progress of our compliance work monthly;
- review the risks we have identified as priorities on a quarterly basis;
- review the risk profiles for each devolved tax annually;
- in accordance with the reviewed risk profiles, revise our annual compliance work.

### *Principles underpinning our compliance work*

Revenue Scotland's officers apply five principles when carrying out compliance activity:

- **Proportionate** – our activities will be appropriate to the risk posed.
- **Accountable** – our activities will be justifiable and open to public scrutiny, with clear and accessible policies and a fair and efficient complaints procedure.
- **Consistent** – our communications will be robust and reliable and we will respect advice provided by others. Our rules and standards will be joined up and implemented fairly.
- **Transparent** – we will aim to keep our published guidance simple and user friendly to help taxpayers to understand what is expected of them and what they can anticipate in return.
- **Targeted** – we will focus our resources on the basis of risk and employ systematic checking on a range of risks. We will utilise data to detect and tackle the taxpayers at higher risk of non-compliance and the situations, behaviours or activities most characteristic of non-compliance.

Our published [Charter of Standards and Values](#) sets out the behaviours expected from taxpayers, agents and representatives along with Revenue Scotland and its partner organisations.

Our approach to compliance has three key elements:

1. Enabling - helping taxpayers comply with their tax obligations;
2. Assurance - helping taxpayers get to the right position;
3. Resolution - solving disputes and pursuing non-compliance.

## **Enabling – helping taxpayers comply with their tax obligations**

**Certain provisions within the devolved taxes legislation are designed to promote compliance by taxpayers. The link between registration of title and the submission of an LBTT return and payment of tax due is one example of this. There is also a range of fixed, daily and tax-geared (percentage calculated) penalties and a wide ranging General Anti-Avoidance Rule (GAAR) which are intended to encourage compliance and deter non-compliance.**

Revenue Scotland has no discretion to decide how much tax is due but it has discretion in how it approaches its work. In exercising that discretion, we undertake a range of enabling activities to help taxpayers to comply with their tax obligations:

### **Through our information and systems by providing:**

- clear guidance to help taxpayers, their agents and other persons to understand their tax obligations;
- a user-friendly online system for making tax returns that includes live-time validation of information provided by taxpayers. The online return form highlights incorrect logic in responses, and is designed in such a way that when certain information about transactions is provided, other fields of data become mandatory;
- a number of options for making tax payments quickly and easily;
- effective and convenient ways for taxpayers to access guidance and send information to us.

### **Through the services we provide:**

- where taxpayers or their agents have queries or difficulties they can contact Revenue Scotland's Support Desk or the mailboxes for the devolved taxes.
- for more technical queries on particular cases, our non-statutory opinions service provides a Revenue Scotland view to taxpayers in relation to areas where there is uncertainty about our interpretation of the devolved taxes legislation.

### **In our engagement with stakeholders, we will:**

- highlight compliance issues at devolved taxes forums;
- where repeated or systematic errors in tax returns are being made, Revenue Scotland will visit taxpayers or their agents to help them understand what is required;
- where appropriate, publish technical notes to bring clarity to complex issues;
- publicise good practice in issues relating to tax compliance.

## **Appealing a decision made by Revenue Scotland – Tax Tribunals for Scotland**

- any appealable decision made by Revenue Scotland, for example amending a tax return to reflect a higher tax liability at the conclusion of a statutory enquiry, may be challenged by the taxpayer either by requesting a review of the decision or by appealing to the First-Tier Tribunal for Scotland. Requesting a review does not preclude a later appeal to the Tribunal. Appeals against decisions of the First-Tier Tribunal on a point of law are heard by the Upper Tribunal for Scotland. ([www.taxchamber.scot/](http://www.taxchamber.scot/)) Further possible appeals lie to the Court of Session and then the Supreme Court.
- when cases are decided by the Tax Tribunals, Revenue Scotland will explore whether changes to its practices, guidance or processes are required.

## **Assurance – helping taxpayers to get to the right position**

**When tax returns have been made by taxpayers or their agents, Revenue Scotland carries out a number of activities to check that the returns are complete and accurate and that the correct amount of tax has been paid. These activities include:**

### **Detecting non-compliance early through routine checks applied to all returns. This involves:**

- manual and systematic validation and verification of information received;
- manual and systematic validation of claims for tax reliefs;
- where the tax position is clear but a tax return includes an obvious error or omission, Revenue Scotland may correct the error. We will notify the taxpayer of the correction which must be made within 12 months of the day the return was made;

### **Detecting non-compliance through:**

- landfill site inspections to ensure that landfill activities correspond to tax return data;
- intelligence sharing with other tax agencies on particular tax issues and the sharing of data;
- our own analysis of data, based on our risk assessment.

### **Where we suspect that a tax return is non-compliant or where the tax position is open to interpretation, we may:**

- contact the taxpayer and their agent to seek to clarify the position;
- if needed, ask the taxpayer or agent to provide more information to clarify the position;
- if necessary, Revenue Scotland can use its investigatory powers such as the power to obtain information and documents from taxpayers and third parties or to inspect business premises of taxpayers and third parties to obtain the information and evidence required to decide the amount of tax due;
- if an amendment to the tax return is required, we may ask the taxpayer or agent to make the amendment.

### **Where the taxpayer and Revenue Scotland do not agree the tax position or the taxpayer is out of time to amend their tax return and:**

- Revenue Scotland believes that additional tax is due and has the information needed to quantify the amount, Revenue Scotland may issue an assessment of tax to the taxpayer;
- alternatively, it may be necessary for Revenue Scotland to use its powers to carry out a statutory enquiry into the tax return (see next section).

## **Resolution – resolving disputes and pursuing non-compliance**

### **Detecting non-compliance where no return has been made:**

- where Revenue Scotland has reason to believe that tax should have been paid but no return has been made, and it is within five years of the date when the return should have been provided, it may issue a determination of the tax owed.
- such cases may include quarterly landfill returns or three-yearly lease review returns when it is known that a return is due by legislation but in other cases, Revenue Scotland may have information, for example, from Registers of Scotland on land transactions when a return is due but has not been made.

### **Where Revenue Scotland considers it necessary to open a statutory enquiry into a return to obtain the information and evidence needed to make a decision on the correct amount due:**

- if necessary, Revenue Scotland can use its investigatory powers such as the power to obtain information and documents from taxpayers and third parties or to inspect business premises of taxpayers and third parties to obtain the information and evidence required to decide the amount of tax due;
- once a decision has been reached, the enquiry is completed when the taxpayer is informed in writing in a closure notice which sets out the conclusions of the case. If, as a result of the enquiry, additional tax and/or penalties are due, Revenue Scotland must amend the tax return and notify the taxpayer of any additional tax due and any penalty;
- any decision to increase the charge to tax made by Revenue Scotland when concluding an enquiry may be challenged by the taxpayer either by requesting a review of the decision or by appealing to the Scottish Tax Tribunal. Requesting a review does not preclude a later appeal to the Tribunal.
- Revenue Scotland must close a statutory enquiry into a tax return or a claim within 3 years of the date the return was required to be submitted or, if later, the date the return was actually submitted or the claim was made.

### **In cases of suspected tax avoidance:**

- the GAAR gives Revenue Scotland a power to counteract a perceived tax advantage from tax avoidance arrangements that are artificial;
- after careful consideration by tax teams and senior management, cases where the GAAR may apply are referred to the Revenue Scotland Board for decision;
- Revenue Scotland has applied, and will continue to apply the GAAR where it appears that transactions have been structured in an artificial way in order to gain a tax advantage;
- tax due as a result of counteraction by Revenue Scotland using the GAAR becomes payable in the same way as tax due as a result of a self-assessment or an assessment made by Revenue Scotland.

## Tax Penalties:

**Revenue Scotland is required to charge penalties, in accordance with the devolved taxes legislation, for a range of non-compliant behaviours by taxpayers and, in certain circumstances, third parties. These include:**

- Failure to submit a tax return on or before the filing date. Where the facts of the case are clear, such as the late submission of a return, Revenue Scotland may issue a penalty notice immediately;
- Failure to pay tax on time and in full;
- Certain inaccuracies in taxpayer documents (attributable to either the taxpayer or another person);
- Failure to take reasonable steps to notify Revenue Scotland of an assessment issued by Revenue Scotland which understates a person's liability to tax;
- Failure to produce accurate documents or information in complying with an information notice;
- Failure to comply with an information notice from Revenue Scotland or deliberately obstructing an officer during an inspection;
- Failure to keep proper records and concealing or destroying relevant documents;
- Failure to provide contact details of a debtor following a notice from Revenue Scotland; and
- Failure to register for tax or notify chargeability.

There are three types of financial penalties which apply to devolved taxes in respect of non-compliant behaviour by the taxpayer:

- Fixed penalties;
- Daily penalties, chargeable at a particular sum per day over a fixed period; and
- Percentage-based penalties (calculated by reference to the amount of the tax liability) for continued failure to comply with an information notice or continued obstruction of an officer carrying out an inspection. This is where the penalty is linked to the potential loss of revenue by non-payment of tax, underassessment or inflated claim of refund by the taxpayer.

The penalties are triggered by non-compliant behaviour and the details of how the penalties work for each devolved tax are set out in secondary legislation under the Revenue Scotland and Tax Powers Act 2014.

Revenue Scotland has discretion to reduce, remit or suspend some penalties in certain circumstances. This is discussed in our penalties guidance. In addition, in certain circumstances, no penalty arises when the taxpayer has a reasonable excuse.