

Tax Chamber
First-tier Tribunal for Scotland



[2026] FTSTC 6

Ref: FTS/TC/AP/26/0014

Land and Buildings Transaction Tax – Lease extension return-penalties for late submission – sections 159, 160, 161, 168 and 169 of Revenue Scotland and Tax Powers Act 2014 – Article 13 of the Land and Buildings Transaction Tax (Transitional Provisions) (Scotland) Order 2014 – Archer (UK) Limited v Revenue Scotland – appeal sisted

DECISION NOTICE

IN THE CASE OF

SCOOPZ LTD

Appellant

- and -

Revenue Scotland

Respondent

**TRIBUNAL:
ANNE SCOTT
CHARLOTTE BARBOUR**

The Tribunal determined the appeal on 29 September 2026 without a hearing under the provisions of Rule 27 of The First-tier Tribunal for Scotland Tax Chamber (Procedure) Regulations 2017 having first read the Notice of Appeal, and attachments, dated 12 June 2026 and received by the Tribunal on 23 June 2026, Revenue Scotland's Statement of Case, and attachments, received by the Tribunal on 05 August 2026, the Appellant's response thereto dated 01 September 2026 and the response by Revenue Scotland dated 18 September 2026.

DECISION

1. This is an appeal against a Penalty Assessment Notice issued by Revenue Scotland to the Appellant under section 179 of the Revenue Scotland and Tax Powers Act 2014 (“RSTPA”) on 5 March 2026 in a total sum of £833 (plus interest of £25 but that is not appealable). The penalties comprised:

(a) A £100 penalty for a failure to submit a lease extension return on time under sections 159 and 160 RSTPA; and

(b) A £690 penalty for the failure to submit a return after three months under sections 159 and 161 RSTPA. The latter penalty had accrued at a daily rate of £10 for a period of 69 days.

(c) A £43 penalty for the failure to pay the tax due of £864 timeously under sections 168 and 169(2) RSTPA.

2. The penalties were imposed for the alleged failure to make a Land and Buildings Transaction Tax (“LBTT”) Extension of Lease Return timeously and to pay the LBTT arising as a result on time.

3. The lease of a property at 25-27 West Nicolson Street, Edinburgh was extended by Minute of Variation on 20 August 2025.

4. Revenue Scotland argue that conforming to their guidance “LBTT6050-Transitional provisions” a Lease Extension Return should have been filed within 30 days of that date i.e. by 19 September 2025. However, it was filed on 27 February 2026.

5. The parties were content for the appeal to be categorised as a default paper case and to be decided without a hearing.

6. Regrettably there was very little information in the papers to the extent that when the Tribunal requested that Revenue Scotland furnish a copy of the original LBTT return the response received on 29 September 2026 read:

“I have spoken to clients. They have confirmed that Revenue Scotland do not have access to any earlier returns and the return submitted on 27 February 2026 is all we have for this company.

This appears to be a transitional lease, as it is stated (sic) as an extension in the Appellant’s email to the Respondent of 27 February 2026. This (sic) be treated as a new lease under Article 13 of the Land and Buildings Transaction Tax (Transitional Provisions) (Scotland) Order 2014.

The Appellant may be able to provide the original return.”

The Facts

7. On 24 February 2026, the Appellant contacted Revenue Scotland having failed to access the electronic portal to file an LBTT return.

8. Revenue Scotland responded on 26 February 2026 and explained that that portal was for agents and solicitors and enclosed a copy of the relevant paper return for completion.

9. The Appellant replied the following day enclosing the completed return. It was explained that the Appellant had assumed that because the “new lease start date” was 23 March 2026, then the return would have been due on that date.

10. Revenue Scotland replied on 3 March 2026 stating that their Net Present Value (“NPV”) calculation differed from that used by the Appellant. However, later that day Revenue Scotland realised that they had made a mistake and that the Appellant’s calculation was correct. Revenue Scotland confirmed that the tax due was £864.

11. The Tribunal and Revenue Scotland are aware that on 10 July 2025 the Tribunal issued its decision in conjoined appeals by Archer (UK) Limited allowing those appeals which related to the extension of a lease by a Minute of Variation. Hereinafter we refer to that decision as “*Archer*”.

12. In summary, in *Archer*, the Tribunal made it clear that taxes can only be imposed by legislation. Revenue Scotland relied upon their guidance and so the Tribunal looked at that guidance on the LBTT treatment of lease extensions. Revenue Scotland’s position was that extending an existing lease which pre-dated the LBTT regime should be taxed as if were a new lease attracting LBTT. The Tribunal disagreed, finding that under Scots Law extending a lease is not the same as granting a new one. As far as that guidance was concerned, the Tribunal made it clear at paragraph 77 that:

“In summary, as the Tribunal has indicated in other decisions, the status of guidance is indeed merely the relevant revenue authority’s view of the law. It may or may not be correct.”

The Tribunal decided that that guidance was not correct.

13. On 6 August 2025, Revenue Scotland sought leave to appeal *Archer* to the Upper Tribunal and permission to appeal was granted by this Tribunal. The first Ground of Appeal was that in allowing the appeal the Tribunal erred when it held that Article 13 of the Land and Buildings Transaction Tax (Transitional Provisions) (Scotland) Order 2014 did not impose a liability to tax in the event of a Minute of Variation extending the terms of a lease in Scotland. The other two Grounds of Appeal are also relevant in that they relate to the arguments advanced in *Archer* in relation to “common practice” in Scotland in relation to extension of leases and the interpretation of the expression “term of the lease” for the purpose of the NPV calculation.

14. As yet, no decision has been issued by the Upper Tribunal.
15. Revenue Scotland has now publicly stated on its own website that
 - (a) it continues to apply its own guidance notwithstanding *Archer*,
 - (b) the Scottish Government who are responsible for any decisions regarding changes to the LBTT legislation are continuing to consider the implications of the decision in *Archer*, and
 - (c) a further update will be provided once the appeal is finally decided.
16. Revenue Scotland have known since the Appellant contacted them that the Appellant has not been professionally represented.
17. Of course, the decision in *Archer* is not binding and, clearly, the Appellant does not know of its existence. Revenue Scotland certainly have not mentioned it at any stage. Unless and until the Upper Tribunal or a superior Court overturns *Archer*, this Tribunal will follow that decision because we still consider it to be a correct analysis of the law.
18. In those circumstances, we take the view that having regard to Rule 2 of the First-tier Tribunal for Scotland Tax Chamber (Procedure) Regulations 2017 (“the Rules”), rather than agreeing to a decision in this appeal being made on the basis of the papers, which are in any event lacking in relevant detail, Revenue Scotland should have lodged an application for a sist of these proceedings. That application should have explained the existence of *Archer* and the fact that they had appealed it, but no decision had yet been issued. That would have been fair to the Appellant.
19. In layman’s terms this appeal should be sisted (i.e. not be allowed to proceed) until a decision is issued by the Upper Tribunal or a higher Court which finally disposes of *Archer*.
20. If *Archer* is found to have been correctly decided by the Tribunal then no LBTT return would have been necessary and no tax would have been due.
21. If the decision in *Archer* is overturned in due course then the issue of penalties can be determined.
22. We mention in passing that since NPV is an issue in *Archer*, it may, or may not, be the case that the calculation of the tax due in this instance is inaccurate. For the Appellant’s benefit we point out that there are time limits for amending LBTT returns.

Decision

23. For all of these reasons we have decided that it is in the interests of justice that this appeal be sisted pursuant to Rule 5(k) of the Rules and that in terms of the Order annexed hereto.

24. This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has the right to apply for permission to appeal on a point of law pursuant to Rule 38 of the First-tier Tribunal for Scotland Tax Chamber (Procedure) Regulations 2017. In terms of Regulation 2(1) of the Scottish Tribunals (Time Limits) Regulations 2016, any such application must be received by this Tribunal within 30 days from the date this decision is sent to that party.

ANNE SCOTT

President

RELEASE DATE:

05 October 2026

ORDER

IN THE CASE OF

SCOOPZ LTD

Appellant

- and -

REVENUE SCOTLAND

Respondent

The Tribunal ORDERS that:

1. This appeal is **sisted** until one month after the appeal in *Archer (UK) Limited v Revenue Scotland* is **finally** determined and all rights of appeal have been exhausted.
2. By no later than 5 pm on the day 14 days after all rights of appeal have been exhausted, whether on the part of Archer (UK) Limited or Revenue Scotland, Revenue Scotland shall intimate to the Appellant and to the Tribunal the final outcome of that appeal.
3. Any party may apply for this Order to be amended, suspended or set aside or for a further Order.

ANNE SCOTT
President

5 October 2026