

REVENUE SCOTLAND AND TAX POWERS ACT 2014

EXPLANATORY NOTES

THE ACT

Part 7 – Investigatory Powers of Revenue Scotland

Chapter 2 — Investigatory Powers: Information and Documents

Section 123 – Power to obtain information and documents from taxpayer

165. This section provides that where a designated officer reasonably requires a document or information to check a taxpayer’s position and considers it reasonable that the taxpayer should provide the document or information, the designated officer can write to a taxpayer and ask for that. Such a request is known as a ‘taxpayer notice’.

Section 124 – Power to obtain information and documents from third party, section 125 – Approval of taxpayer notices and third party notices and section 126 – Copying third party notice to taxpayer

166. These three sections provide that where the designated officer knows the identity of a taxpayer and wants to check that taxpayer’s tax position, the designated officer can give a notice to a third party requiring that party to provide information or document(s) for the purpose of checking the tax position of the taxpayer. Such a notice is a “third party notice”. The taxpayer would have to agree to the third party notice or a tribunal would need to approve it, subject to certain conditions being met. The tribunal may also approve a third party notice that does not name the taxpayer if the tribunal accepts that having the taxpayer’s name in the third party notice might negatively affect tax assessment or collection. The designated officer must give a copy of the third party notice to the relevant taxpayer unless the tribunal decides that the designated officer has reasonable grounds for believing that doing so might negatively affect tax assessment or collection.

Section 127 – Power to obtain information and documents about persons whose identity is not known

167. This section provides that, where a designated officer wants to check the tax position of a person (or class of persons) but does not know their identity, the designated officer may give a notice to another person requiring them to produce a document or provide information. The tribunal must have approved the giving of the notice beforehand and can only do so if it is satisfied that certain conditions are met.

Section 128 – Third party notices and notices under section 127: groups of undertakings

168. This section provides for arrangements for third party notices or notices under section 127 where the tax authority wishes to check the tax position of a parent

undertaking and any of its subsidiary undertakings (for example a parent company and its subsidiary companies). Subsection (2) provides that such notices need only state the purpose of the notice, the name of the taxpayer and the name of the parent undertaking.

169. Subsection (4) provides that a third party notice given to a parent undertaking for the purpose of checking the tax position of more than one subsidiary undertaking need only state that purpose. For the purposes of section 125(6) any references to naming the taxpayer are to making that statement. Subsection (5) sets out how the provisions of other related sections apply to such notices.
170. Subsection (7) provides that the meanings of parent and subsidiary undertakings reflect those set out in sections 1161-1162 and schedule 7 of the Companies Act 2006.

Section 129 – Third party notices and notices under section 127: partnerships

171. This section provides for arrangements for third party notices or notices under section 127 where the tax authority wishes to check the tax position of one or more persons in a business partnership.

Section 130 – Power to obtain information about persons whose identity can be ascertained

172. This section allows a designated officer to issue a notice to someone requiring them to provide information about a taxpayer (either a single person or class of persons), in order to establish the taxpayer's identity. The notice can only be given with tribunal approval to do so. The tribunal can only approve the giving of the notice if it is satisfied that conditions A to D in subsections (2) to (6) are met. Under this section, the designated officer may require any of the following information: name, last known address and the date of birth.

Section 131 – Notices

173. This section sets out the definition of an information notice as a notice which is issued under sections 123, 124, 127 and 130 of the Act. An information notice may specify or describe the information or documents to be provided and must state the notice has been issued with the approval of a tribunal where this is the case. Any decision of the tribunal under sections 125, 126, 127 or 130 of the Act is final.

Section 132 – Complying with information notices

174. This section sets out that a person issued with an information notice must provide the required information or documents at a time, location (which cannot be in a place solely used as a dwelling) or in such form or means as is specified in the information notice. A person who fails to comply with an information notice is liable to a penalty under section 195 of the Act.

Section 133 – Producing copies of documents

175. This section provides that where an information notice requires the person to produce a document, the person may produce a copy of the document (unless the notice specifically requests, or a designated officer subsequently requests, the original document). The ability to produce a copy of the document is subject to any conditions or exceptions set out in regulations made by the Scottish Ministers. Such regulations are subject to the negative procedure.

Section 134 – Further provision about powers relating to information notices

176. This section provides the Scottish Ministers with a power to make regulations regarding the form and content of information notices and the manner and time period for complying with such notices. Such regulations are subject to the negative procedure.