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SCHEDULE 2
THE SCOTTISH TAX TRIBUNALS

PART 1

APPOINTMENT OF MEMBERS

VALID FROM 24/02/2015

President of the Tax Tribunals: eligibility for appointment

1 (1) A person is eligible for appointment as President of the Tax Tribunals only if the person—
  (a) has the qualifications, experience and training in relation to tax law and practice that the Scottish Ministers consider appropriate, and
  (b) meets the criteria in either sub-paragraph (2) or (3).

(2) A person meets the criteria in this sub-paragraph if the person is practising, and has practised for a period of not less than 10 years, as a solicitor or advocate in Scotland.

(3) The person meets the criteria in this sub-paragraph if the person falls within a description specified by the Scottish Ministers by regulations.

First-tier Tribunal: ordinary members

2 (1) The Scottish Ministers must appoint persons as ordinary members of the First-tier Tribunal.

(2) Before appointing a person as an ordinary member, the Scottish Ministers must consult the Lord President.

(3) A person is eligible for appointment only if the person meets the criteria as to qualifications, experience and training that the Scottish Ministers prescribe by regulations.

Commencement Information
I1 Sch. 2 para. 2(3) in force at 7.11.2014 for specified purposes by S.S.I. 2014/278, art. 2, **sch.**

VALID FROM 01/04/2015

First-tier Tribunal: legal members

3 (1) The Scottish Ministers must appoint persons as legal members of the First-tier Tribunal.

(2) Before appointing a person as a legal member, the Scottish Ministers must consult the Lord President.

(3) A person is eligible for appointment only if the person—

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(a) has the qualifications, experience and training in relation to tax law and practice that the Scottish Ministers consider appropriate, and

(b) meets the criteria in either sub-paragraph (1) or (2) of paragraph 4.

4 (1) A person meets the criteria in this sub-paragraph if the person is practising, and has practised for a period of not less than 5 years, as a solicitor or advocate in Scotland.

(2) The person meets the criteria in this sub-paragraph if the person falls within a description specified by the Scottish Ministers in regulations.

VALID FROM 01/04/2015

Upper Tribunal: legal members

5 (1) The Scottish Ministers must appoint persons as legal members of the Upper Tribunal.

(2) Before appointing a person as a legal member, the Scottish Ministers must consult the Lord President.

(3) A person is eligible for appointment only if the person—

(a) has the qualifications, experience and training in relation to tax law and practice that the Scottish Ministers consider appropriate, and

(b) meets the criteria in either sub-paragraph (1) or (2) of paragraph 6.

6 (1) A person meets the criteria in this sub-paragraph if the person is practising, and has practised for a period of not less than 10 years, as a solicitor or advocate in Scotland.

(2) The person meets the criteria in this sub-paragraph if the person falls within a description specified by the Scottish Ministers in regulations.

VALID FROM 24/02/2015

Disqualification from office

7 A person is disqualified from appointment, and from holding a position, as President of the Tax Tribunals or as a member of the Tax Tribunals if the person is or becomes—

(a) a member of the House of Commons,

(b) a member of the Scottish Parliament,

(c) a member of the National Assembly for Wales,

(d) a member of the Northern Ireland Assembly,

(e) a member of the European Parliament,

(f) a Minister of the Crown,

(g) a member of the Scottish Government,

(h) a civil servant.

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Eligibility under regulations

VALID FROM 01/04/2015

8 (1) Regulations under paragraph 4(2) may describe a person by reference to the matters mentioned in sub-paragraph (3), (4) or (8).

(2) Regulations under paragraph 1(3) or 6(2) may describe a person by reference to the matters mentioned in sub-paragraph (5), (6) or (8).

(3) The matter mentioned in this sub-paragraph (referred to in sub-paragraph (1)) is—
- (a) current practice as a solicitor or barrister in England and Wales or Northern Ireland, and
- (b) engagement in practice as such for a period of not less than 5 years.

(4) The matters mentioned in this sub-paragraph (also referred to in sub-paragraph (1)) are—
- (a) previous practice for a period of not less than 5 years as—
  - (i) a solicitor or advocate in Scotland, or
  - (ii) a solicitor or barrister in England, Wales or Northern Ireland, and
- (b) subsequent engagement in any of the activities listed in sub-paragraph (7).

(5) The matter mentioned in this sub-paragraph (referred to in sub-paragraph (2)) is—
- (a) current practice as a solicitor or barrister in England and Wales or Northern Ireland, and
- (b) engagement in practice as such for a period of not less than 10 years.

(6) The matters mentioned in this sub-paragraph (also referred to in sub-paragraph (2)) are—
- (a) previous practice for a period of not less than 10 years as—
  - (i) a solicitor or advocate in Scotland, or
  - (ii) a solicitor or barrister in England, Wales or Northern Ireland, and
- (b) subsequent engagement in any of the activities listed in sub-paragraph (7).

(7) The activities referred to in sub-paragraph (4)(b) and (6)(b) are—
- (a) exercising judicial functions in any court or tribunal,
- (b) practice or employment as a lawyer of any kind,
- (c) whether or not in the course of practice or employment as a lawyer—
  - (i) advising on the application of the law,
  - (ii) drafting documents intended to affect rights or obligations under the law,
  - (iii) assisting persons involved in a legal or other process for the resolution of disputes as to the law,
  - (iv) acting as a mediator or arbitrator for the purpose of resolving disputes that are (or could be) the matter of legal proceedings,
- (d) teaching or researching law at or for an educational institution.

(8) The matters mentioned in this sub-paragraph (also referred to in sub-paragraphs (1) and (2)) are suitability attributable to experience in law through current or previous engagement in—
- (a) any of the activities listed in sub-paragraph (7), or

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(b) an activity that is of a broadly similar nature to any of the activities listed in that sub-paragraph.

9 (1) The Scottish Ministers may by regulations make provision—

(a) as regards the calculation of the 5-year period mentioned in paragraph 4(1) or 8(3) or (4)(a) (for example, by reference to recent or continuous time),

(b) as regards the calculation of the 10-year period mentioned in paragraph 1(2), 6(1) or 8(5) or (6)(a) (for example, by reference to recent or continuous time),

(c) to which paragraph 8(4)(a) or 8(6)(a) is subject (for example, by reference to debarment from practice),

(d) for the purpose of paragraph 8(8), about—

(i) the criteria for suitability (for example, by reference to equivalence to past or present practice as a solicitor),

(ii) the nature of experience required (for example, by reference to engagement for a particular period of time (within the United Kingdom or elsewhere)).

(2) The Scottish Ministers may by regulations modify the list in paragraph 8(7).

Commencement Information

I2 Sch. 2 para. 9 in force at 7.11.2014 for specified purposes by S.S.I. 2014/278, art. 2, **sch.**

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