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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2017 No.**

**TRIBUNALS AND INQUIRIES**

**The First-tier Tribunal for Scotland Tax Chamber and Upper Tribunal for Scotland (Composition) Regulations 2017**

*Made* - - - - 2017

*Coming into force* - - 24th April 2017

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 38(1) and 40(1) of the Tribunals (Scotland) Act 2014<sup>(a)</sup> and all other powers enabling them to do so.

In accordance with section 11(2) of that Act, they have consulted the President of Tribunals.

In accordance with section 79(2)(c) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the First-tier Tribunal for Scotland Tax Chamber and Upper Tribunal for Scotland (Composition) Regulations 2017 and come into force on 24th April 2017.

(2) In these Regulations—

“the Chamber President” means the Chamber President of the First-tier Tribunal; and

“the First-tier Tribunal” means the First-tier Tribunal for Scotland Tax Chamber.

**Composition of First-tier Tribunal**

**2.** The First-tier Tribunal, when convened to decide any matter in a case, shall consist of—

- (a) a legal member;
- (b) a legal member and one other member (who may be a legal member or an ordinary member); or
- (c) a legal member with two or more other members (who may be legal members or ordinary members or a combination of both).

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(a) 2014 asp 10.

### **Composition of Upper Tribunal hearing appeals or referrals from First-tier Tribunal**

**3.—**(1) The Upper Tribunal, when deciding an appeal or a referral in a case decided by or referred from the First-tier Tribunal to the Upper Tribunal, shall consist of—

- (a) a legal or judicial member of the Upper Tribunal;
- (b) the Chamber President (except a temporary Chamber President), acting either alone or with a legal or judicial member of the Upper Tribunal;
- (c) the President of Tribunals, acting either alone or with the Chamber President or a legal member or another judicial member of the Upper Tribunal; or
- (d) the Lord President, acting either alone or with the Chamber President or a legal member or another judicial member of the Upper Tribunal.

(2) The Chamber President referred to in paragraph (1) must not have had any involvement in the case prior to the appeal or referral of the case to the Upper Tribunal.

(3) In this regulation “judicial member of the Upper Tribunal” means a judge of the Court of Session.

St Andrew’s House,  
Edinburgh  
Date

*Name*  
Authorised to sign by the Scottish Ministers

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision as to the composition of the First-tier Tribunal for Scotland when dealing with a case in the Tax Chamber. They also make provision as to the composition of the Upper Tribunal for Scotland when hearing appeals or referrals from the First-tier Tribunal for Scotland Tax Chamber.

These two Tribunals were established by the Tribunals (Scotland) Act 2014. The First-tier Tribunal is divided into chambers according to the subject matter of the case, with the Tax Chamber dealing with devolved tax disputes. Members of the tribunals can be ordinary members, legal members or judicial members according to criteria set out in the Tribunals (Scotland) Act 2014 and regulations made under that Act. This instrument sets out which member or members may hear cases in the two tribunals.

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