

POLICY NOTE
THE REVENUE SCOTLAND AND TAX POWERS ACT (PRIVILEGED
COMMUNICATIONS) REGULATIONS 2015
SSI 2015/38

The above instrument was made in exercise of the powers conferred by section 138(3) of the Revenue Scotland and Tax Powers Act 2014 (“RSTPA 2014”). The instrument is subject to the negative procedure.

Policy Objectives

The regulations set out the procedure to be followed where there is a dispute between Revenue Scotland and a person about whether a document which is subject to an information notice is privileged or not. The notice can have been given either during correspondence or during the course of an inspection of premises.

Where an information notice has been served by correspondence and there is a dispute about whether a document is privileged, then the taxpayer, third party or agent must provide a list of the relevant documents with a description of their contents and serve that list on Revenue Scotland (provided that to do so would not in itself give rise to a dispute over privilege). Within 20 days Revenue Scotland must notify the taxpayer, third party or agent of any documents that it requires to be produced and which it considers are not privileged. On receipt of this notification the taxpayer will have 20 days to make an application to the tribunal (First-tier Tax Tribunal for Scotland) to consider and resolve the dispute.

Where a document comes to light during an inspection of premises the taxpayer and a dispute arises over whether it is privileged, the taxpayer, third party or agent must ensure that the document is sealed in an appropriate container (such as an envelope) which prevents the contents being visible, seal the container and sign it. The Revenue Scotland officer must then countersign the container and ensure that it is delivered to the tribunal within 40 working days for the tribunal to consider and resolve the dispute.

Consultation

A public consultation opened on 6 October 2014 on the proposed subordinate legislation under RSTPA 2014, including draft SSIs with a closing date of 9 January 2015. The consultation paper and draft SSI is available at

<http://www.scotland.gov.uk/Publications/2014/10/4714>.

A full list of those consulted and the responses of those who agreed to the release of this information and the Scottish Government response will be published on the Scottish Government’s website in due course.

Impact Assessments

An equality impact assessment has been completed on the Revenue Scotland and Tax Powers Bill and is attached available at <http://www.scotland.gov.uk/Publications/2014/10/4242>. The instrument is consequential in nature and no further impact assessments are required.

Financial Effects

There are no significant costs associated with this SSI. The costs associated with the establishment of Revenue Scotland were detailed in the Financial Memorandum that accompanied the Bill for RSTPA 2014 and is available at <http://www.scottish.parliament.uk/parliamentarybusiness/Bills/70929.aspx>

Scottish Government
Fiscal Responsibility Division
February 2015