

REVENUE SCOTLAND AND TAX POWERS ACT 2014

EXPLANATORY NOTES

THE ACT

Part 4 – the Scottish Tax Tribunals

Chapter 5 – Appeal of Decisions

Appeal from First-tier Tribunal

Section 34 – Appeal from the First-tier Tribunal

48. This section provides that most decisions of the First-tier Tribunal can be appealed to the Upper Tribunal by a party in the case on a point of law. The appeal needs either the permission of the First-tier Tribunal or the Upper Tribunal. Subsection (5) lists the provisions where decisions of the First-tier Tribunal are final and cannot be appealed.

Section 35 – Disposal of an appeal under section 34

49. This section provides for the Upper Tribunal’s consideration of an appeal from the First-tier Tribunal. When reaching a decision the Upper Tribunal may uphold or quash the decision of the First-tier Tribunal, and if it quashes it, it may remake the decision or remit the case back to the First-tier Tribunal with any directions the Upper Tribunal sees fit.

Appeal from Upper Tribunal

Section 36 – Appeal from the Upper Tribunal

50. This section provides for an appeal from the Upper Tribunal to the Court of Session. Such an appeal may only be made on a point of law and requires the permission of the Upper Tribunal or the Court of Session. Subsection (5) lists the provisions where decisions of the Upper Tribunal are final and cannot be appealed.

Section 37 – Disposal of an appeal under section 36

51. This section provides for the Court of Session’s consideration of an appeal from the Upper Tribunal. When reaching a decision, the Court of Session may uphold or quash the decision of the Upper Tribunal, and if it quashes it, it may remake the decision or remit the case back to the Upper Tribunal with any directions the Court of Session sees fit.

Section 38 – Procedure on second appeal

52. This section makes provision for “second appeals” – appeals to the Court of Session from the Upper Tribunal, where the decision being appealed was itself a decision on

These notes relate to the Revenue Scotland and Tax Powers Act 2014 (asp 16) which received Royal Assent on 24 September 2014

an appeal from the First-tier Tribunal. The Tribunal or Court must not give permission for a second appeal unless the appeal raises an important point of principle or practice, or there is some other compelling reason for a second appeal to proceed. The Court of Session has the powers of either tribunal if remaking the decision appealed. The Court may remit the case either to the Upper Tribunal or to the First-tier Tribunal. And where the Court remits the case to the Upper Tribunal, the Upper Tribunal may itself remit the case to the First-tier Tribunal. Where it does so, however, it must send to that tribunal any directions given by the Court of Session to the Upper Tribunal.

Further provision on permission to appeal

Section 39 – Process for permission

53. This section allows the Scottish Ministers, by regulations, to specify a time limit within which permission for an appeal must be sought. A refusal to give permission is not appealable under section 34 or 36.