



Revenue Scotland and Tax Powers Act 2014

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PART 7

INVESTIGATORY POWERS OF REVENUE SCOTLAND

CHAPTER 2

INVESTIGATORY POWERS: INFORMATION AND DOCUMENTS

123 Power to obtain information and documents from taxpayer

- (1) If the condition in subsection (2) is met, a designated officer may by notice require a person (“the taxpayer”)—
 - (a) to provide information, or
 - (b) to produce a document.
- (2) That condition is that—
 - (a) the information or document is reasonably required by the officer for the purpose of checking the taxpayer’s tax position, and
 - (b) it is reasonable for the taxpayer to be required to provide the information or to produce the document.
- (3) In this Part “taxpayer notice” means a notice under this section.

124 Power to obtain information and documents from third party

- (1) If the condition in subsection (2) is met, a designated officer may by notice require a person—
 - (a) to provide information, or
 - (b) to produce a document.
- (2) That condition is that—

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- (a) the information or document is reasonably required by the officer for the purpose of checking the tax position of another person whose identity is known to the officer (“the taxpayer”), and
 - (b) it is reasonable for the person to be required to provide the information or to produce the document.
- (3) A notice under this section must name the taxpayer to whom it relates, unless the tribunal has approved the giving of the notice and disapplied this requirement under section 125.
- (4) In this Part “third party notice” means a notice under this section.

125 Approval of taxpayer notices and third party notices

- (1) A designated officer may not give a third party notice without—
 - (a) the agreement of the taxpayer, or
 - (b) the approval of the tribunal.
- (2) A designated officer may ask for the approval of the tribunal to the giving of any taxpayer notice or third party notice (and for the effect of obtaining such approval see sections 152 and 155).
- (3) An application for approval under this section may be made without notice (except as required under subsection (4)).
- (4) The tribunal may not approve the giving of a taxpayer notice or third party notice unless—
 - (a) the tribunal is satisfied that, in the circumstances, the officer giving the notice is justified in doing so,
 - (b) the person to whom the notice is to be addressed has been told that the information or documents referred to in the notice are required and has been given a reasonable opportunity to make representations to a designated officer,
 - (c) the tribunal has been given a summary of any representations made by that person, and
 - (d) in the case of a third party notice, the taxpayer has been given a summary of the reasons why a designated officer requires the information and documents.
- (5) Paragraphs (b) to (d) of subsection (4) do not apply to the extent that the tribunal is satisfied that taking the action specified in those paragraphs might prejudice the assessment or collection of tax.
- (6) Where the tribunal approves the giving of a third party notice under this paragraph, it may also disapply the requirement to name the taxpayer in the notice if it is satisfied that the designated officer has reasonable grounds for believing that naming the taxpayer might seriously prejudice the assessment or collection of tax.

126 Copying third party notice to taxpayer

- (1) A designated officer who gives a third party notice must give a copy of the notice to the taxpayer to whom it relates, unless the tribunal has disapplied this requirement.
- (2) The tribunal may not disapply that requirement unless the tribunal is satisfied that the officer applying has reasonable grounds for believing that giving a copy of the notice to the taxpayer might prejudice the assessment or collection of tax.

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

- (1) If the conditions in subsection (2) are met, a designated officer may by notice require a person—
 - (a) to provide information, or
 - (b) to produce a document.
- (2) Those conditions are—
 - (a) that the information or document is reasonably required by the officer for the purpose of checking the tax position of—
 - (i) a person whose identity is not known to the officer, or
 - (ii) a class of persons whose individual identities are not known to the officer, and
 - (b) the tribunal has approved the giving of the notice.
- (3) An application for approval may be made without notice.
- (4) The tribunal may not approve the giving of a notice under this section unless it is satisfied that—
 - (a) the notice would meet the condition in subsection (2)(a),
 - (b) there are reasonable grounds for believing that the person or any of the class of persons to whom the notice relates may have failed or may fail to comply with any provision of the law relating to a devolved tax,
 - (c) any such failure is likely to have led or to lead to serious prejudice to the assessment or collection of tax, and
 - (d) the information or document to which the notice relates is not readily available from another source.

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

- (1) This section applies where an undertaking is a parent undertaking in relation to another undertaking (a “subsidiary undertaking”).
- (2) Where a third party notice is given to any person for the purpose of checking the tax position of the parent undertaking and any of its subsidiary undertakings—
 - (a) section 124(3) only requires the notice to state this and name the parent undertaking, and
 - (b) the references in section 125(6) to naming the taxpayer are to making that statement and naming the parent undertaking.
- (3) In relation to such a notice—
 - (a) in sections 125 and 126 (approval of notices and copying third party notices), the references to the taxpayer have effect as if they were references to the parent undertaking, but
 - (b) in section 152(2)(b) (no review or appeal in relation to taxpayer’s statutory records), the reference to the taxpayer has effect as if it were a reference to the parent undertaking and each of its subsidiary undertakings.
- (4) Where a third party notice is given to the parent undertaking for the purpose of checking the tax position of more than one subsidiary undertaking—
 - (a) section 124(3) only requires the notice to state this, and

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- (b) the references in section 125(6) to naming the taxpayer are to making that statement.
- (5) In relation to such a notice—
 - (a) in section 125 (approval of notices), subsections (1) and (4)(d) do not apply,
 - (b) section 126(1) (copying third party notices to taxpayer) does not apply,
 - (c) section 137 (restriction on giving taxpayer notice following a tax return) applies as if the notice was a taxpayer notice or taxpayer notices given to each subsidiary undertaking (or, if the notice names the subsidiary undertakings to which it relates, to each of those undertakings), and
 - (d) in section 152(2)(b) (no review or appeal in relation to a taxpayer’s statutory records), the reference to the taxpayer has effect as if it were a reference to the parent undertaking or any of its subsidiary undertakings.
- (6) In this section “parent undertaking”, “subsidiary undertaking” and “undertaking” have the meanings given in sections 1161 and 1162 of, and schedule 7 to, the Companies Act 2006 (c.46).

129 Third party notices and notices under section 127: partnerships

- (1) This section applies where a business is carried on by two or more persons in partnership.
- (2) Where, in respect of a taxable event entered into or undertaken by or on behalf of the members of the partnership, any partner has made a tax return, section 137 has effect as if that return had been made by each of the partners.
- (3) Where a third party notice is given for the purpose of checking the tax position of more than one of the partners (in their capacity as such)—
 - (a) section 124(3) only requires the notice to state this and give a name by which the partnership is known or under which it is registered for any purpose, and
 - (b) the references in section 125(6) to naming the taxpayer are to making that statement and naming the partnership.
- (4) In relation to such a notice given to a person other than one of the partners—
 - (a) in sections 125 and 126 (approval of notices and copying third party notices), the references to the taxpayer have effect as if they were references to at least one of the partners, and
 - (b) in section 152(2)(b) (no review or appeal in relation to taxpayer’s statutory records), the reference to the taxpayer has effect as if it were a reference to any of the partners in the partnership.
- (5) In relation to a third party notice given to one of the partners for the purpose of checking the tax position of one or more of the other partners (in their capacity as such)—
 - (a) in section 125 (approval of notices), subsections (1) and (4)(d) do not apply,
 - (b) section 126(1) (copying third party notices to taxpayer) does not apply, and
 - (c) in section 152(2)(b) (no review or appeal in relation to a taxpayer’s statutory records), the reference to the taxpayer has effect as if it were a reference to any of the partners in the partnership.

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

- (1) A designated officer may by notice require a person (“P”) to provide relevant information about another person (“the taxpayer”) if the tribunal approves the giving of the notice.
- (2) The tribunal may not approve the giving of a notice under this section unless satisfied that conditions A to D are met.
- (3) Condition A is that the information is reasonably required by the officer for the purpose of checking the tax position of the taxpayer.
- (4) Condition B is that—
 - (a) the taxpayer’s identity is not known to the officer, but
 - (b) the officer holds information from which the taxpayer’s identity can be ascertained.
- (5) Condition C is that the officer has reason to believe that—
 - (a) P will be able to ascertain the taxpayer’s identity from the information held by the officer, and
 - (b) P obtained relevant information about the taxpayer in the course of carrying on a business.
- (6) Condition D is that the taxpayer’s identity cannot readily be ascertained by other means from the information held by the officer.
- (7) “Relevant information” means all or any of the following—
 - (a) name,
 - (b) last known address, and
 - (c) date of birth (in the case of an individual).
- (8) This section applies for the purpose of checking the tax position of a class of persons as for the purpose of checking the tax position of a single person (and references to “taxpayer” are to be read accordingly).

131 Notices

- (1) In this Part “information notice” means a notice under section 123, 124, 127 or 130.
- (2) An information notice may specify or describe the information or documents to be provided or produced.
- (3) If an information notice is given with the approval of the tribunal, it must state that it is given with that approval.
- (4) A decision of the tribunal under section 125, 126, 127 or 130 is final.

132 Complying with information notices

- (1) Where a person is required by an information notice to provide information or produce a document, the person must do so—
 - (a) within such period, and
 - (b) at such time, by such means and in such form (if any), as is reasonably specified or described in the notice.

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- (2) Where an information notice requires a person to produce a document, it must be produced—
 - (a) at a place agreed to by that person and a designated officer, or
 - (b) at such place as a designated officer may reasonably specify.
- (3) A designated officer must not specify for the purposes of subsection (2)(b) a place that is used solely as a dwelling.
- (4) The production of a document in compliance with an information notice is not to be regarded as breaking any lien claimed on the document.

133 Producing copies of documents

- (1) Where an information notice requires a person to produce a document, the person may comply with the notice by producing a copy of the document, subject to any conditions or exceptions set out in regulations made by the Scottish Ministers.
- (2) Subsection (1) does not apply where—
 - (a) the notice requires the person to produce the original document, or
 - (b) a designated officer subsequently makes a request to the person for the original document.
- (3) Where a designated officer requests a document under subsection (2)(b), the person to whom the request is made must produce the document—
 - (a) within such period, and
 - (b) at such time and by such means (if any),as is reasonably requested by the designated officer.

134 Further provision about powers relating to information notices

The Scottish Ministers may by regulations make further provision about—

- (a) the form and content of information notices,
- (b) the time periods for complying with information notices, and
- (c) the manner of complying with information notices.