

Eleanor Emberson
Chief Executive
Revenue Scotland
PO BOX 24068, Victoria Quay
Edinburgh, EH6 9BR
info@revenue.scot
www.revenue.scot

Mr J Johnston
Clerk to the Finance Committee
Room T3.60
The Scottish Parliament
Edinburgh
EH99 1SP

Ms J Williams
Clerk to the Public Audit Committee
Room T3.60
The Scottish Parliament
Edinburgh
EH99 1SP

Finance.committee@scottish.parliament.uk

pa.committee@scottish.parliament.uk

30 April 2015

Dear Clerks

**RE: IMPLEMENTATION OF THE DEVOLVED TAXES – JOINT UPDATE FROM REVENUE SCOTLAND,
REGISTERS OF SCOTLAND AND SCOTTISH ENVIRONMENTAL PROTECTION AGENCY**

Further to the report I provided to the Committees on 27 February and my letter dated 17 April, I am pleased to provide the Committees with details of Revenue Scotland's finalised Key Performance Indicators (KPIs) and plans for publishing data. I attach at Annex A information about our KPIs which have been set out in line with Adam Smith's four principles of taxation. Further information about the statistics Revenue Scotland intends to publish is included in Annex B.

Revenue Scotland is committed to publishing quarterly updates to our KPIs (where applicable) by the end of the month following a quarter end. Annual KPI updates will be published as part of our Annual Report in July of the following year. Monthly LBTT statistics will be published on or around the 20th day of the following month. Quarterly SLfT statistics will be published 3 months following the end of the quarter (to accommodate the 44 day payment deadline). Annual revenue statistics will be published in July of the following year. Revenue Scotland will be making our publication schedule available to the public shortly.

I also attach copies of the Memoranda of Understanding with Registers of Scotland (RoS) at Annex C and the Scottish Environment Protection Agency (SEPA) at Annex D. These outline

the way the relationship between Revenue Scotland and RoS or SEPA will be managed on a day-to-day basis and set out the approach to carrying out the delegated functions formally laid out in the Schedules of Delegation.

I hope that this update is useful to the Committees and I would be happy to answer any further questions.

Yours sincerely



ELEANOR EMBERSON

ANNEX A REVENUE SCOTLAND DATA PUBLICATION PLANS: KEY PERFORMANCE INDICATORS

REVENUE SCOTLAND PURPOSE			
<p>To collect the devolved taxes which fund public services for the benefit of all Scottish citizens by delivering excellent tax administration founded on Adam Smith’s four principles of equity, certainty, convenience and efficiency, built on a modern digital platform, with all involved working together in good faith to ensure that the right amount of tax is paid at the right time.</p>			
Adam Smith Principles			
<p><u>Equity</u>: "Proportionate to the taxpayer’s ability to pay: The subjects of every state ought to contribute towards the support of the government, as nearly as possible, in proportion to their respective abilities"</p>	<p>“<u>Certain</u>: The tax which each individual is bound to pay ought to be certain, and not arbitrary. The time of payment, the manner of payment, the quantity to be paid, ought all to be clear and plain to the contributor, and to every other person.”</p>	<p>"<u>Convenient</u>: Every tax ought to be levied at the time, or in the manner, in which it is most likely to be convenient for the contributor to pay..."</p>	<p>"<u>Efficient</u>: Every tax ought to be so contrived as both to take out and to keep out of the pockets of the people as little as possible, over and above what it brings into the public treasury of the state..."</p>
KEY ACTIVITY AND PERFORMANCE INDICATORS			
Direct Compliance yield (A)	Proportion of all tax returns that receive no Revenue Scotland intervention (A)	Mean, median and maximum waiting time for all calls made to the support desk (Q) <i>Target: TBA after quarter 1</i>	Total running costs as a percentage of money transferred to the Scottish Consolidated Fund + Scottish Landfill Communities Fund (A)
	Positive stakeholder feedback on Revenue Scotland's taxpayers guidance (A)	Proportion of taxpayer correspondence received by secure message, email and post responded to within 10 and 25 working days (Q) <i>Target: TBA after quarter 1</i>	
Strategic Objectives			
<p><u>Collect</u> the right amount of tax from the full taxpayer base for each of the devolved taxes, using online technology to best effect.</p>	<p>Ensure <u>compliance</u> in payment of the correct amount of tax at the right time, resolving disputes as cost-effectively as possible</p>	<p>Build an effective, efficient tax authority with a reputation for high-quality <u>public service</u> to taxpayers and the people of Scotland</p>	<p>Attract, develop and retain a knowledgeable and skilled <u>workforce</u> who are engaged and motivated to deliver the functions of Revenue Scotland to the highest standards of professionalism and integrity.</p>
KEY ACTIVITY AND PERFORMANCE INDICATORS			
Proportion of all due payments received a) on-time (Q) b) within 3 months (A) c) within 1 year (A)	Mean , median and maximum days between enquiries being opened and closed (A)	Positive stakeholder feedback on Revenue Scotland's compliance with the Charter of Standards and Values (A)	Employee engagement index (A) <i>Target: to be in the top 25% of all civil service organisations</i>
Proportion of all tax returns filed online (Q) <i>Target: 90%</i>	Value of tax liabilities identified as a consequence of corrections, amendments, assessments, determinations and enquiries (A)	Number of data security breaches (Q) <i>Target: 0</i>	Sick absence rate (A) <i>Target: less than 7 average working days lost</i>
	Number of disputes and time to resolution method (A) <i>Target: TBA after year 1</i>	Number of complaints (Q)	

RATIONALE, DEFINITIONS AND PRESENTATION NOTES

All indicators will relate to the year 1 April to 31 March inclusive.

Taxpayers should be read throughout as 'taxpayers their agents or representatives'.

Revenue Scotland should be understood to include SEPA and RoS in exercising their delegated functions throughout unless otherwise specified.

Direct compliance yield

=

(The value of all interest payments received

+ The value of all charges received following determinations

+ The value of all charges received following assessments - the original self-assessed liability

+ The value of all charges received following adjustments - the original self-assessed liability

+ all penalties received

+ all receipts from the Sheriff Court or Court of Session

+ the value of all requests for repayments declined

+ the value of liabilities reported following a Revenue Scotland opinion where it is greater than the value originally suggested by the taxpayer)

- any subsequent repayments made following review or appeal.

This figure captures direct compliance yield only and does not include estimates of deterrent and preventative effects. It is therefore not comparable to HMRC compliance yield. The most recent years figures will be presented as provisional and revised the following year. This is necessary because some disputes regarding tax liabilities could take several months to resolve.

Direct compliance yield, as defined above, will measure all money that is received by Revenue Scotland following all assessments and determinations, including those that are made using the General Anti-Avoidance Rule, and those that result from direct compliance activity delivered by SEPA in the execution of their delegated functions.

Direct compliance yield will provide an indication of the extent to which the right amount of tax has been collected from the full taxpayer base over the course of the year, but is not a direct measure of that. In future years Revenue Scotland may develop estimates of the Tax Gap (the gap between tax collected and that which is estimated to be due). Tax Gap estimates require several years of data to calculate so are not within the terms of the 2015-18 Corporate Plan.

Proportion of all tax returns that receive no Revenue Scotland intervention

= The number of all self-assessed tax returns that are not corrected so as to effect liability, amended, subject to enquiry or assessment.

This indicator will be presented as a percentage and the numerator and denominator both shown. The most recent years figures will be presented as provisional and revised the

following year. This is necessary because some corrections may not be made for several months following the original tax return.

A high proportion of tax returns being accepted as right first time will indicate that taxpayers are clear about the amount of tax they ought to pay. In the terms of the definition taxpayers may not then make the payment on time, and that element is captured by a different KPI (the Proportion of all due payments received on-time).

Mean, median and maximum waiting time for all calls to the support desk

= the mean, median and maximum minutes that callers to the Revenue Scotland support desk wait before the call being answered, or abandoning the call.

The information will be presented as a composite and for calls answered and abandoned, as well as calls separately for calls answered and abandoned.

Where a call is abandoned it may be for many reasons including, but not limited to, the caller becoming frustrated at the length of the wait, the caller realising they called the wrong number, or having to attend to something else. The number of calls answered will also include those that are wrong numbers. Nevertheless the number of calls abandoned and the length of time callers were kept waiting before they abandoned their call or their call was answered provides an indication of the quality of service delivered by Revenue Scotland.

Total running costs as a percentage of money transferred to the Scottish Consolidated Fund + Scottish Landfill Communities Fund.

= The total running costs (as will be reported in the Financial Report) for all aspects of Revenue Scotland functioning as a percentage of the total money transferred into the Scottish Consolidated Fund + the Landfill Communities Fund (the latter as reported by SEPA) and not clawed back.

This will be presented as a percentage and the numerator and both components of the denominator shown and is intended to provide an overall indication of the extent to which the Revenue Scotland is efficient in delivering tax receipts to the state.

Positive stakeholder feedback on Revenue Scotland's taxpayers guidance

A methodology will be developed to capture this information in due course. The intention is to provide an indication as to how well Revenue Scotland is considered by its stakeholders to be helping taxpayers understand how and when they ought to pay tax.

Proportion of all taxpayer correspondence received by secure message, email and post and responded to within 10 and 25 working days.

=

(number of messages received via the SETS Secure Messaging functionality + number of messages received via the LBTT@RevenueScotland, SLFT@RevenueScotland addresses + number of letters received, which were categorised as being taxpayer queries or complaints and to which a substantive response was issued within 10 or 25 working days of the correspondence being received)

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number of messages received via the SETS Secure Messaging functionality + number of messages received via the LBTT@RevenueScotland, SLFT@RevenueScotland addresses + number of letters received, which were categorised as being taxpayer queries or complaints.)

A substantive response is any response that seeks to resolve the query or issue at hand, and excludes holding replies or automatic acknowledgements. The definition seeks to exclude correspondence from stakeholder organisations (e.g. HMRC, Scottish Government) as opposed to taxpayers, their agents or representatives.

This information will be presented as a composite and for each correspondence method separately. In addition, the mean, median and maximum days from receipt to response to taxpayer emails, secure portal messages, and white mail will be presented.

This measure is an indication of the convenience of Revenue Scotland's services to taxpayers, who are expected to consider long delays in response to queries inconvenient to helping them pay the correct amount in a timely manner.

Proportion of all payments due receipted a) on-time b) within 3 months due date c) within 1 year of due date.

= number all payments of tax liability receipted a) within the terms of Arrangements Satisfactory b) within 3 calendar months of the last day of Arrangements Satisfactory c) within 1 calendar year of Arrangements Satisfactory

/
total number of tax liability payments due.

The most recent years figures for b) will be presented as provisional and revised the following year and c) will be presented for the last-but-one year, and hence not reported in the first year.

This indicator will provide information about how well Revenue Scotland's systems are performing in terms of supporting taxpayers pay their tax on time, and it excludes payments of penalties and interest.

Mean, median and maximum days between enquiries being opened and closed

= mean, median and maximum of the number of days from dates enquiry notices were issued to the date the enquiry closure notices were issued.

All enquiries closed within the financial year (regardless of when they were opened) will be included, with the number of enquiries open as at 31 March provided for context.

Positive stakeholder feedback on Revenue Scotland's compliance with the Charter of Standards and Values

A methodology will be developed to capture this information in due course. The intention is to provide an indication as to how well Revenue Scotland is considered by its stakeholders to be meeting the standards and values of behaviour committed to in the Charter.

Employee engagement index

The employee engagement index is calculated on the basis of responses to the civil service wide People Survey which Revenue Scotland will take part in. The top scoring 25% of organisations are considered to be “high performers” by the Cabinet Office (who run the People Survey) and the target to be in the top 25 of organisations is based on that.

Proportion of all tax returns filed online

= number of all tax returns entered by taxpayer

/ number of all tax returns entered by taxpayer + number received as hardcopy and entered into SETS by Revenue Scotland or RoS.

This indicator will be presented as a percentage and the numerator and denominator both shown. The figure will provide an indication of how well Revenue Scotland is using online technology, with a high figure indicating that the online system is more convenient than use of paper forms.

Value of tax liabilities identified by Revenue Scotland as a consequence of Revenue Scotland corrections, amendments, assessments, adjustments and determinations

= The value of all tax liabilities charged following Revenue Scotland corrections, amendments, assessments, determinations and adjustments - minus the original self-assessed liability where there was one. Where the charge is made within the financial year.

This indicator, which differs to compliance yield as it measures charges made rather than payments received and does not include interest and penalty charges, provides a measure of the extent to which Revenue Scotland is delivering its duty to identify the right amount of tax that taxpayers should be paying. The number of changes that result in an increase in liability, and the number that resulted in a decrease, will also be presented for context.

Number of data security breaches

= Number of data security breaches (unintentional release of confidential or personal information to unauthorised persons, through either accidental or deliberate disclosure, loss or theft of the information – as per the Security Breach and Incident Management Policy) identified within the Financial Year.

This definition is in line with Revenue Scotland’s Security Breach and Incident Management Policy and the indicator will show the extent to which Revenue Scotland provides high quality public service in terms of protection of tax-payer data.

Sick absence rate

= Average Working Days Lost per Full Time Equivalent staff, for a 12 month rolling period.

This indicator is intended as a proxy measure of staff morale and satisfaction. It will include staff in both core Revenue Scotland and in the SEPA tax team. It will exclude staff in Registers of Scotland who work on processing LBTT returns because there is a pool of staff within RoS who are called upon to deliver that role depending on the number of paper forms delivered to RoS by taxpayers, it is therefore very complex to include RoS staff in this indicator.

The Chartered Institute of Personnel and Development's 2014 sickness absence report shows that the Average Working Days Lost in the public services is 7.9 and 7.4 in non-profit organisations. A target of less than 7 is therefore ambitious but achievable.

Number of disputes and time to resolution

= Number of taxpayers who requested a review and/or appealed to the tribunal and/or requested mediation.

Disputes are counted at the point they are resolved and are counted only once regardless of the number of dispute resolution methods used.

Time to resolution is the calendar days from the date taxpayer requested a review / appealed to the tribunal / requested mediation (whichever came first) to the date when Revenue Scotland gives notice of the conclusion of the review (and the taxpayer does not appeal or request mediation) or Revenue Scotland gives notice of the settlement agreement (and the taxpayer does not appeal) or the tribunal concludes the matter in question (and the taxpayer does not appeal) or the Court of Session concludes the matter in question.

Count is per taxpayer not per agent/representative and not per case, to avoid double counting. The most recent years figures will be presented as provisional and revised the following year. This is necessary as there may be occasion on which an issue that we considered resolved is appealed by the taxpayer.

Number of complaints

Number of complaints received verbally or in writing from taxpayer. As per our Complaints Policy, complaints can only be about service and are distinct from tax disputes – complaints about liabilities (which are therefore tax disputes, for which a distinct resolution process exists) or that should have been directed at a different organisation will not be counted.

Numbers of complaints will be reported quarterly and in our Annual Report we will provide information about how we have used complaints to improve our services and how many, if any, complaints are escalated by the complainant to Scottish Public Service Ombudsman.

ANNEX B REVENUE SCOTLAND DATA PUBLICATION PLANS: STATISTICS

Land and Buildings Transaction Tax (LBTT) monthly statistics

- Total count of all LBTT returns received where Received Date is first to last day of month
- Total sum of all self-assessed Amount Tax Due where Received Date is first to last day of month
- Total money received relating to all LBTT returns made within the previous month received by 5th working day of following month

All of the above presented by:

- Residential
- Commercial

Scottish Landfill Tax (SLfT) quarterly statistics

- Total count of all SLfT returns received where accounting period is relevant quarter
- Sum of all self-reported Amount Tax Due for given accounting period
- Total money received relating to all SLfT returns for the given accounting period received by deadline (44 days of quarter end)
- Total sum of all Standard Rate Waste Tonnage for every site for every Landfill Operator (LFO) reported for given accounting period
- Total sum of all Lower Rate Waste Tonnage for every site for every LFO reported for given accounting period
- Total sum of all Exempt Waste Tonnage for every site for every LFO reported for given accounting period
- Total sum of all Community Fund contributions reported for given accounting period

Devolved tax annual statistics

- Total number of LBTT transactions notified
- Total number of LBTT transactions liable
- Total LBTT liabilities reported
- LBTT Relief claimed and count for each relief
- Money received by June of following year relating to all LBTT liabilities reported in previous financial year

All of the above presented by:

- Residential ; Commercial ; Conveyance, transfers, options & rights of pre-emption; Leases
 - Local Authority of property
- Total waste tonnage for the year by Local Authority area of waste origin (per waste tax band)

**Memorandum of Understanding
between
Revenue Scotland and the Keeper of the Registers of Scotland**

Glossary

RSTPA	Revenue Scotland and Tax Powers Act 2014
LBTT(S)A	Land and Buildings Transaction Tax (Scotland) Act 2013
SLfTA	Landfill Tax (Scotland) Act 2014
LBTT	Land and Buildings Transaction Tax
RoS	The Keeper of the Registers of Scotland
MoU	Memorandum of Understanding
RPO	Returns Processing Officer
SPoC	Single Point of Contact
FOISA	Freedom of Information (Scotland) Act 2002
EIRS	Environmental Information (Scotland) Regulations 2004

1. Introduction

Background to the devolved taxes

1.1 The Scotland Act 2012 amended the Scotland Act 1998 to devolve the power to the Scottish Parliament to introduce new taxes on land transactions and disposals to landfill. The existing UK Stamp Duty Land Tax and Landfill Tax will be disapplied in Scotland on 1 April 2015 and replaced with the 'devolved taxes'.

1.2 The Revenue Scotland and Tax Powers Act 2014 (RSTPA) sets out the overall framework for the devolved taxes. Detailed provisions for these two devolved taxes are made by the Land and Buildings Transaction Tax (Scotland) Act 2013 (LBTT(S)A) and the Landfill Tax (Scotland) Act 2014 (SLfTA) and associated subordinate legislation.

1.3 Under section 4(1)(a) of the RSTPA, Revenue Scotland has the power to delegate any of its functions relating to the Land and Buildings Transaction Tax (LBTT) to the Keeper of the Registers of Scotland (RoS).

The Adam Smith Principles of Taxation

1.4 In June 2012, the Cabinet Secretary for Finance and Sustainable Growth set out the Scottish Government's approach to taxation. The Scottish Government's approach is embedded in Adam Smith's four key maxims. These are:

- that the burden of tax is proportionate to ability to pay
- certainty for the taxpayer
- convenience of payment
- efficiency

1.5 Revenue Scotland and RoS will carry out their duties in relation to LBTT in line with the Scottish approach to tax and Adam Smith's maxims, working collaboratively, efficiently and effectively for the benefit of the people of Scotland, supporting sustainable economic growth.

1.6 In carrying out those duties, Revenue Scotland and RoS will also observe and comply with the provisions of the Revenue Scotland Charter of Standards and Values.

2. Revenue Scotland and RoS

2.1 **Revenue Scotland**, established by section 2(1) of the RSTPA, is a body corporate and part of the Scottish Administration, accountable to the Scottish Parliament, rather than Ministers, and separate from the Scottish Government. The RSTPA established Revenue Scotland as the independent tax authority responsible for the collection and management of the devolved taxes in Scotland.

2.2 The Keeper of the Registers of Scotland (RoS) is a non-Ministerial office-holder in the Scottish Administration responsible for compiling and maintaining 17 public registers which provide for the registration of legal documents in Scotland. RoS is a non-Ministerial department which operates as a trading fund.

3. Purpose and Scope of the Memorandum of Understanding (MoU)

3.1 The key aims of this MoU are to set out:

- the terms of agreement between Revenue Scotland and RoS in relation to joint working arrangements and collaboration in delivery of the functions to be delegated to RoS with regard to LBTT ('the delegated functions')
- the roles and responsibilities of Revenue Scotland and RoS in respect of each of the delegated functions and
- the general framework for governance and management of the delegated functions.

3.2 This MoU is not a contract, nor is it legally binding. Nothing in this MoU has the effect of delegating any of Revenue Scotland's statutory powers, functions or duties to RoS. Delegation will be given effect through the Schedule of Delegation.

3.3 The MoU will come into effect on the date of the Schedule of Delegation and will continue for as long as RoS undertakes the statutory responsibilities in relation to LBTT.

3.4 This MoU does not remove, alter or reduce the prevailing legal obligations of each party, for example, obligations under the Data Protection Act 1998 and the Human Rights Act 1998.

3.5 The relationship between Revenue Scotland and RoS will require information to be shared between the two organisations. This MoU does not include the detailed arrangements which require to be in place to allow this. A Data Processing Agreement will be annexed to this MoU.

3.6 The arrangements for provision of the relevant LBTT data by Revenue Scotland to RoS under section 43 of the LBTT Act are set out in another Information Sharing Agreement, between Revenue Scotland and RoS and are outwith the scope of this MoU.

4. Collaborative Working

4.1 While fully acknowledging their respective obligations with regard to delegation under section 4(1)(a) of the RSTPA, the parties are committed to establishing and maintaining a collaborative relationship and working culture, underlined by the following principles.

- Revenue Scotland and RoS will work openly and co-operatively in delivering the functions delegated to RoS with respect to LBTT

- Revenue Scotland will consult RoS on any matters relating to delegation before implementing them. This includes any changes to the scope of delegation, any revocation, any statutory directions (in accordance with sections 4(2) and 4(3) of the RSTPA) and any operational decisions affecting the way RoS undertakes its duties in relation to LBTT
- Revenue Scotland and RoS will jointly monitor the delivery of those functions to ensure that adequate resourcing, financing and working arrangements are in place to meet operational requirements

5. Delegation of Functions

5.1 Under section 4(1)(a) of the RSTPA, Revenue Scotland has the power to delegate any of its functions in relation to LBTT to RoS.

5.2 Revenue Scotland will prepare a Schedule of Delegation, a document setting out the exact functions to be delegated by Revenue Scotland to RoS. The Schedule of Delegation will be prepared in consultation with RoS. Information about this document will be published by Revenue Scotland and a copy will be laid before Parliament by Revenue Scotland before 1 April 2015.

5.3 Revenue Scotland retains the responsibility for the exercise of the functions delegated to RoS. Delegation does not affect the ability of Revenue Scotland to exercise those functions.

5.4 In exercising its responsibility for the functions delegated to RoS, Revenue Scotland, under section 4(2) of the RSTPA, may issue formal directions to RoS as to how the delegated functions are to be exercised. RoS will comply with such directions. These directions will be developed in consultation with RoS.

5.5 Under section 4(3) of the RSTPA both delegations and directions may be revoked or varied at any time by Revenue Scotland. Revenue Scotland will consult RoS before taking such action.

6. Financial Arrangements

6.1 Section 4(8) of the RSTPA allows for Revenue Scotland to reimburse RoS for any expenditure incurred which is attributable to the exercise by RoS of the delegated functions.

6.2 RoS will invoice Revenue Scotland on a quarterly basis in arrears for reimbursement of costs incurred in relation to the delegated functions. On an annual basis, RoS will provide Revenue Scotland with an estimated spending plan for the following year (see section 9.1). This will cover the costs of carrying out the delegated functions.

6.3 Following any necessary discussions, the estimated costs will inform Revenue Scotland's submissions to the Scottish Budget process. Initial estimates for annual operating costs have been given in the Financial Memoranda to the tax legislation.

6.4 Once the allocation is confirmed, Revenue Scotland will agree the estimated costs with RoS or discuss adequate modifications. The estimate will be reviewed in the course of a financial year (see section 8).

6.5 Reimbursement by Revenue Scotland to RoS in relation to delegated functions is outside the scope of VAT. To the extent that any other activity undertaken by RoS is within the scope of VAT, Revenue Scotland will pay VAT on the charge for that activity to RoS.

6.6 The parties acknowledge that in the course of any financial year, extraordinary or one off costs may be incurred by RoS with regard to the delegated functions, for example, in response to new operational requirements, system contingencies or changes in wider Scottish Government policy on digital public services strategy. Such costs will be agreed and met by Revenue Scotland on a case by case basis. Where possible, the parties will communicate about and discuss any such cost in advance.

7. Working Arrangements

7.1 Detailed processes for the functions that RoS will carry out in relation to LBTT have been agreed, and are set out in Appendices 1 and 2 to this document. In summary, RoS will carry out the following functions in respect of LBTT:

- process all paper LBTT Returns
- process all paper LBTT Return Amendments
- process all LBTT payments made by cheque

Returns Processing Officers

7.2 RoS will assign members of its staff to carry out the above functions as Returns Processing Officers (RPOs) in accordance with agreed roles and responsibilities (see Appendix 1). RoS will inform Revenue Scotland of names and starting dates for any new RPOs. The number of staff carrying out delegated functions will be agreed in accordance with the provisions of section 9 below.

Single Point of Contact

7.3 RoS and Revenue Scotland will each appoint a Single Point of Contact (SPoC). The SPoCs will communicate with each other if matters arise in respect of operational arrangements (see section 7.5) or performance (see section 7.4).

Service standards

7.4 RoS will exercise the above functions in compliance with the service standards, as set out in Appendix 3. Where for any reason RoS is unable to carry out its functions in accordance with the agreed service standards, RoS's SPoC will notify Revenue Scotland's SPoC of the issue in writing as soon as reasonably practicable, specifying the nature of divergence and timescales for remedying the issue. If the matter cannot be remedied within the specified timescales, the SPoCs will discuss and agree upon further actions and, where appropriate, will use the escalation route for issues to be resolved by senior management in their respective organisations.

Amendments to Operational Processes

7.5 Any amendments that either party wishes to make to the agreed processes in Appendices 1 and 2 will be communicated and agreed using the procedure set out in Appendix 4.

Security, Incident Management and Escalation Policies

7.6 Revenue Scotland will define an incident management and escalation policy, which will set out security and governance procedures and include relevant escalation routes in respect of downtime and system performance issues, and incident reporting procedures. RoS will comply with Revenue Scotland's incident management and escalation policy in its exercise of the devolved functions. Revenue Scotland will consult RoS before implementing or amending any of its policies which affect the ways in which RoS carries out its duties in respect of the delegated functions.

Training

7.7 Revenue Scotland has a mandatory training programme with the purpose of ensuring that all staff have consistent understanding of their legal duties in respect of collection and administration of the devolved taxes. RoS staff carrying out delegated functions will be given the opportunity to undertake any training sessions offered to Revenue Scotland staff, subject to the availability of necessary training facilities and resources.

Declaration of Confidentiality

7.8 RoS will ensure that all members of staff who exercise delegated functions on behalf of Revenue Scotland sign a declaration of confidentiality in accordance with section 16 of the RSTPA. Revenue Scotland will specify the form and content of this declaration. Once signed by members of RoS staff, declarations will be sent to and stored by Revenue Scotland, with copies being retained by RoS.

Operational Capability

7.9 As well as the required staff, RoS will ensure that other operational capability required for the exercise of the delegated functions (e.g. mail delivery, secure transfer of cheques) is in place.

8. Review Process

Review Group

8.1 Revenue Scotland and RoS will each appoint representatives to form a Review Group, which will meet on an agreed frequency. This is expected to be quarterly during the first year, and six monthly in subsequent years.

8.2 The Review Group will review the performance of both parties in relation to their obligations in connection with the delegated functions and make recommendations for improvement where necessary.

8.3 The remit of the Review Group includes measuring performance, monitoring resourcing and spending, reviewing the effectiveness of the operational arrangements, reviewing the effectiveness of the information sharing agreements in place, training needs and proposing changes.

8.4 The Review Group will recommend any amendments to senior managers in Revenue Scotland and RoS. Any variations or amendments will take effect only when recorded in writing and signed by both parties.

8.5 In the event that agreement on any of the above matters cannot be reached, the parties may escalate matters to the Chief Executive of Revenue Scotland and the Accountable Officer at RoS.

9. Monitoring and Reporting Arrangements

Forecasting

9.1 RoS and Revenue Scotland will agree a forecast of the volume of work likely to arise from the delegated duties, and the resource implications of that volume of work. For the initial set up of this function, Revenue Scotland and RoS have agreed a resourcing figure that will apply from 1 April 2015 for the first six months. An estimate was included in the Financial Memoranda to the LBTT(S)A and the RSTPA. The estimate which supports the resourcing figure from 1 April for the first six months is based on the following assumptions:

- 90% of transactions for LBTT will initially be completed online

- 10% of LBTT transactions will be completed manually and will require to be processed by RoS
- 70% of transactions for LBTT will initially be paid electronically
- 30% of transactions for LBTT will initially be paid by cheques

9.2 This estimate has been based on a forecast of 90% of returns being made online. While in practice we expect the proportion of returns being made online to be substantially higher than 90%, a precautionary estimate of 10% of returns being paper-based will ensure that the small number of taxpayers or agents who choose to submit via paper will receive the standard of service expected from go-live. The forecast resourcing figure will be reviewed on a three monthly basis for the first twelve months and six monthly after that.

Monitoring spending and resourcing requirements

9.3 To ensure effective monitoring and oversight of spending and resourcing needs, RoS will keep records of and report to Revenue Scotland on the following:

- number of staff trained and authorised to process LBTT returns
- time spent by RoS staff processing LBTT paper submissions and bank payments
- time spent by RoS staff dealing with matters related to delegated functions – this may include time spent on handling LBTT related enquiries, Freedom of Information Requests, Subject Access Requests and any complaints received
- details of any new starts and leavers, including names and appropriate dates

9.4 RoS will produce monthly reports in respect of the matters set out above and share these with Revenue Scotland by the fifth working day of the following month. The report will refer to figures as they appear at the last day of the preceding month.

9.5 Revenue Scotland will also consider relevant management information from its IT system with regards to the processing of paper returns by RPOs at RoS.

9.6 RoS will arrange for an annual statement of assurance from its auditors to be provided to Revenue Scotland confirming the amounts incurred by RoS in respect of delegated functions. Revenue Scotland will reimburse RoS for the costs of this audit.

10. Information

Dealing with External Enquiries

10.1 Ministerial correspondence and briefings – in the case of an enquiry by a Scottish Minister relating to delegated functions, to either Revenue Scotland or RoS, the party in receipt of the enquiry will notify the other party as to the nature of the enquiry and the intended response. The party preparing the response will be responsible, after consultation with the other

party, for ensuring that the response is circulated as appropriate to Ministers with a portfolio interest and / or to relevant divisions of the Scottish Government.

10.2 Enquiries from taxpayers and agents – Revenue Scotland will be responsible, in the first instance, for all enquiries relating to LBTT generally, and land transaction returns and collection more specifically, both prior to and after filing a return. Revenue Scotland will also be responsible for any enquiries in relation to any decisions it takes in respect of any investigations and incomplete returns.

10.3 Revenue Scotland will publish contact details for enquiries about LBTT which will be available to customers during core office hours.

Publicity and Press Office Communications

10.4 Revenue Scotland will be the lead organisation in generating publicity and guidance materials and will adopt a proactive approach to raising awareness of the implementation of LBTT among external stakeholders, and for ensuring suitable channels are available and maintained for them to keep up to date on any developments under LBTT and the general tax framework in Scotland. This approach will include producing publicity materials, issuing information to the media, direct mailshots to stakeholders, and hosting or attending forums and events.

10.5 Revenue Scotland will have the primary responsibility for the co-ordination of stakeholder relations and management of stakeholder engagement in respect of LBTT. This may include the delegation of stakeholder engagement activities to RoS.

10.6 Where news releases and other communications are being drafted, or include reference to LBTT and the relationship between Revenue Scotland and RoS, such communications will be co-authored or written by one party and quality assured by the other. It will be agreed between Revenue Scotland and RoS on a case by case basis whether the release will be made by one party or jointly. This includes written media, radio and television broadcasting, websites, social media and blogs, whether aimed at a general or a professional audience. Lines to be taken will be drafted jointly, agreed by both parties, reserved for deployment and revised regularly.

10.7 Where more specific media enquiries are made to Revenue Scotland and / or RoS regarding LBTT or the relationship between the two parties, a response will be drafted by the party that receives the enquiry. The response will be shown in advance of release to the other party. It will be agreed between Revenue Scotland and RoS, on a case by case basis, whether the response will be made by one party or jointly. In all instances the response will be released by the press offices for both parties.

10.8 The respective contact details for matters raised by the media are as follows:

RoS Press Officer:

Head of Communications
0131 200 3975

Revenue Scotland Press Officer:

Corporate Affairs Manager
0131 244 5249

Freedom of Information (Scotland) Act 2002 ('FOISA') and Environmental Information (Scotland) Regulations 2004 ('EIRS')

10.9 Revenue Scotland and RoS are subject to the requirements of FOISA and EIRS. Each party will provide reasonable assistance and co-operation to enable the other party to comply with these information disclosure obligations.

10.10 Where either party receives a request for information under FOISA or EIRS, that party is responsible for determining whether such information is exempt under FOISA or EIRS and whether it may disclose such information without consulting any relevant third party, or following consultation, and having taken the other party's views into account.

10.11 Revenue Scotland and RoS agree that in the event that either party receives a request under FOISA or EIRS for information held in connection with LBTT, the party receiving the request will notify the other party of the request as soon as reasonably practicable after receipt and will allow the other party a period of five working days to make representations which will include details of any exemption which that party believes may apply under FOISA or EIRS as appropriate. The notification and representation processes will be carried out by the respective FOI Officers for Revenue Scotland and RoS. The respective contact details are:

RoS (FOISA & DPA):

Head of Secretariat
0131 200 3915

Revenue Scotland:

Corporate Services Officer
0131 244 7840

10.12 Neither party is permitted to release protected taxpayer information under the FOISA or the EIRS, except as provided for in section 15 RSTPA.

Data Protection/Subject Access Requests

10.13 Revenue Scotland and RoS are subject to the requirements of the Data Protection Act 1998 and may receive subject access requests under that Act.

10.14 In the event that either Revenue Scotland or RoS receives a Subject Access Request relating to information supplied by the other party to this MoU, it will:

- (a) notify the other party as soon as reasonably practicable after receipt of the request;
- (b) use best endeavours to obtain the view of the other party before responding to the request;
- (c) have particular regard to the exemptions from disclosure under the Act, when preparing its response; and
- (d) in the event that the requested information is in the possession of the other party, redirect the requester to the other party.

Complaints

10.15 Revenue Scotland and RoS will share information about, and work collaboratively in responding to complaints received by either party about, or including reference to, the relationship between the Revenue Scotland and RoS for the purposes of LBTT.

10.16 Where a complaint relates to a service provided by RoS on behalf of Revenue Scotland, the complainant should seek a resolution to their complaint through the RoS complaints handling procedure. This procedure should be compliant with the *Model Complaints Handling Procedure for the Scottish Government and Associated Public Authorities Sector in Scotland*. RoS will keep Revenue Scotland informed of the progress of any such complaint and will consult with Revenue Scotland on the response. If at the end of this process the complainant remains dissatisfied, they will have the right to approach the Scottish Public Services Ombudsman to seek an external review.

10.17 If RoS receives a complaint relating to a service which Revenue Scotland retains responsibility for, the complainant should be directed to seek a conclusion to this through the Revenue Scotland complaints handling procedure.


10.18 An issue that is in court or has already been heard by a court or a tribunal, such as a tax dispute from a taxpayer or their agent about an amount of tax to be paid, rulings or reliefs, will not be considered a complaint.

10.19 Revenue Scotland and RoS will set out their complaints processes on their websites.

Signatories

Organisation: Revenue Scotland

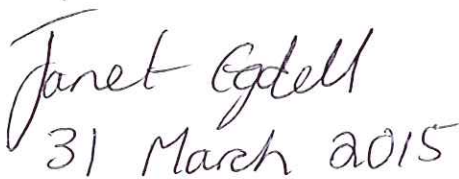
Name: Eleanor Emberson
Chief Executive

Signature: 

Date: 31 March 2015.

Organisation: RoS

Name: Janet Egdell
Operations Director and Accountable Officer

Signature: 

Date: 31 March 2015

Appendix 1

Operational Processes – Roles and Responsibilities of RPOs

The operational processes detailed below define the low level processes for the delegated functions from Revenue Scotland. These have been agreed between RoS and Revenue Scotland and form the basis of the activities performed on behalf of Revenue Scotland.

Tax Administration Programme – Tax Processes Project – RoS's Roles and Responsibilities	A9614881
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Appendix 2:

Operational Processes – Processing Requirements

The operational processes detailed below define the low level processes for the delegated functions from Revenue Scotland. These have been agreed between RoS and Revenue Scotland and form the basis of the activities performed on behalf of Revenue Scotland.

Tax Administration Programme – Tax Processes Project – RPO Processes – Manual Submission – Returns Process	A9606886
Tax Administration Programme – Tax Processes Project – RPO Processes – Manual Submission – Payments Process	A9687412
Tax Administration Programme – Tax Processes Project – RPO Processes – Manual Submission – Amendments Process	A9687587
Tax Administration Programme – Tax Processes Project – RPO Processes – Manual Submission – Rejected Returns Process	A9687143
Tax Administration Programme – Tax Processes Project – RPO Processes – Manual Submission – Rejected Payments Process	A9687251
Tax Administration Programme – Tax Processes Project – RPO Processes – Manual Submission – Unidentified Payments Process	A9688225
Tax Administration Programme – Tax Processes Project – RPO Processes – Manual Submission – Cheque Banking Process	A9820840
Tax Administration Programme – Tax Processes Project – RPO User Administration	A10298366
Tax Administration Programme - IT Implementation Project - Paper LBTT Return Process	A8902324

PLEASE NOTE – a full review of processes will take place following the completion of the IT implementation and outcomes of process design. These will then be confirmed.

Appendix 3

Service Standards

All paper submissions and cheque payments received by RoS in respect of the delegated functions will be processed in accordance with the defined processing procedures in Appendix 2 on the working day on which they are received, provided they are received no later than 4 pm.

In this respect, each of the operational procedures referred to in Appendix 2 defines the point at which 'processing' is completed and RoS's responsibilities are met for the purpose of the type of submission the procedure refers to.

RoS is required to meet this standard utilising the capacity of the resources agreed and allocated for this purpose. Revenue Scotland will not be liable for day to day overtime or allowances, unless increases to resourcing levels are agreed and authorised in advance.

Definitions

'Working day' - for the purposes of this appendix, a 'working day' is defined as any day between, and inclusive of, Monday and Friday. The definition excludes any public holidays recognised by Revenue Scotland.

Appendix 4

Amendments to Operational Protocols

The SPoC in the organisation wishing to make any amendments to the operational protocols ('the requesting SPoC') will contact the SPoC in the other organisation ('the receiving SPoC') advising of the proposed change.

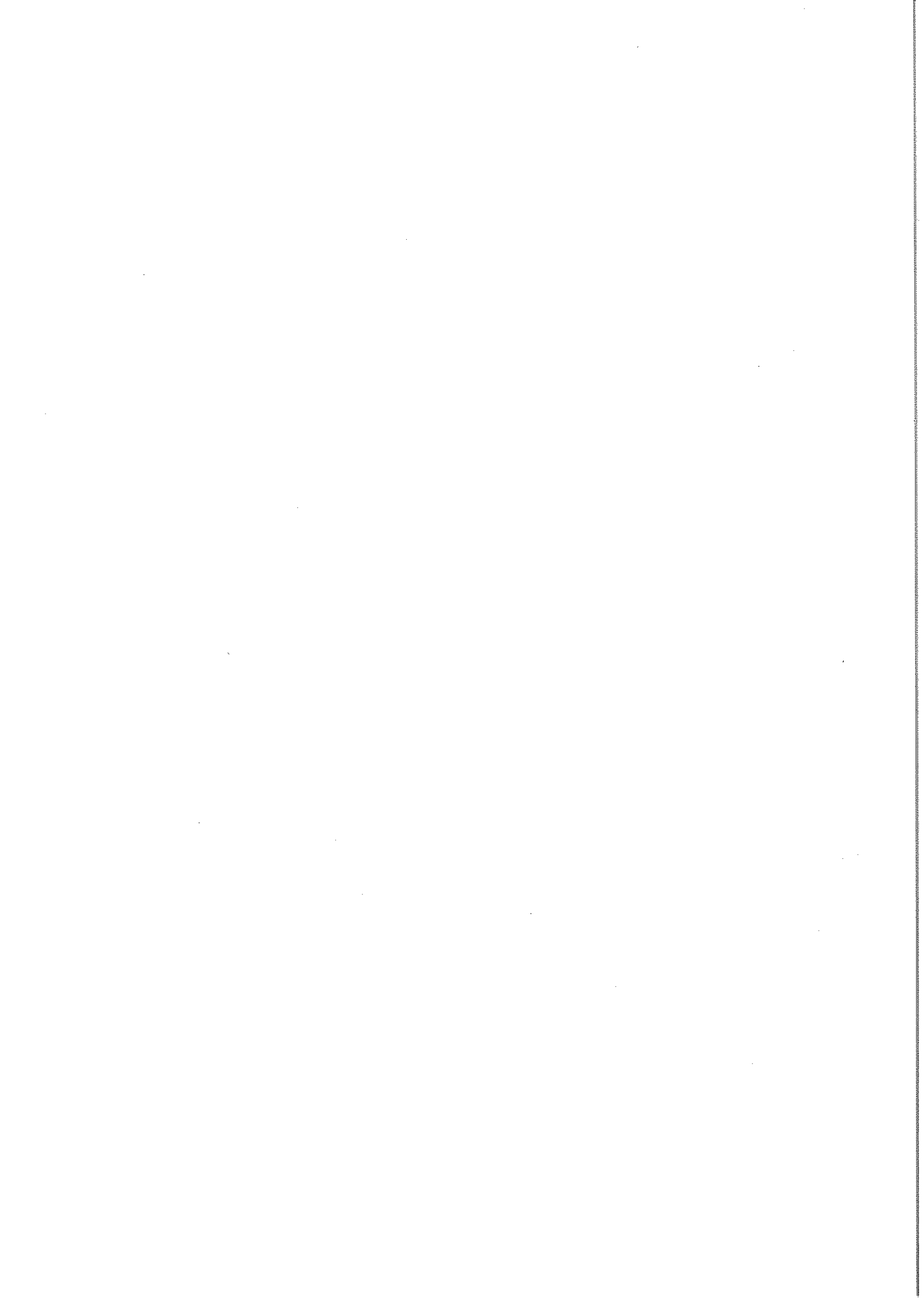
The request should be communicated to the receiving SPoC in writing and any operational, quality, cost and efficiency impacts should be specified where appropriate.

Any amendments will be implemented only if approved by both parties.

Where an amendment is approved by both organisations, an implementation plan and effective date will be discussed and agreed between the SPoCs and amendments will be consolidated into revised versions of Appendices 1 and 2 as soon as practicable.

Where agreement cannot be reached at this stage, or where there are financial implications associated with agreed changes, the SPoCs will escalate the matter with senior management at their organisations for review and decisions.

**Memorandum of Understanding
between
Revenue Scotland and Scottish Environment Protection Agency**



Glossary

RSTPA	Revenue Scotland and Tax Powers Act 2014
LBTT(S)A	Land and Buildings Transaction (Scotland) Act 2013
SLfTA	Landfill Tax (Scotland) Act 2014
SLfT	Scottish Landfill Tax
SEPA	Scottish Environment Protection Agency
SLFC	Scottish Landfill Communities Fund
The 2015 Regulations	Scottish Landfill Tax (Administration) Regulations 2015 (SSI 2015/3)
MoU	Memorandum of Understanding
PoC	Point of Contact
FOISA	Freedom of Information (Scotland) Act 2002
EIRS	Environmental Information (Scotland) Regulations 2004

1. Introduction

Background to the devolved taxes

1.1 The Scotland Act 2012 amended the Scotland Act 1998 to devolve the power to the Scottish Parliament to introduce new taxes on land transactions and disposals to landfill. The existing UK Stamp Duty Land Tax and Landfill Tax will be disapplied in Scotland on 1 April 2015 and replaced with the 'devolved taxes'.

1.2 The Revenue Scotland and Tax Powers Act 2014 (RSTPA) sets out the overall framework for the devolved taxes. Detailed provisions for these two devolved taxes are made by the Land and Buildings Transaction Tax (Scotland) Act 2013 (LBTT(S)A) and the Landfill Tax (Scotland) Act 2014 (SLfTA) and associated subordinate legislation.

1.3 Under section 4(1)(b) of the RSTPA, Revenue Scotland has the power to delegate any of its functions relating to the Scottish Landfill Tax (SLfT) to the Scottish Environment Protection Agency (SEPA). Additionally, Revenue Scotland will approve SEPA as the regulator of the Scottish Landfill Communities Fund (SLCF) in terms of Regulation 32 of the Scottish Landfill Tax (Administration) Regulations 2015 (SSI 2015/3) (the 2015 Regulations).

The Adam Smith Principles of Taxation

1.4 In June 2012, the Cabinet Secretary for Finance and Sustainable Growth set out the Scottish Government's approach to taxation. The Scottish Government's approach is embedded in Adam Smith's four key maxims. These are:

- that the burden of tax is proportionate to ability to pay
- certainty for the taxpayer
- convenience of payment
- efficiency

1.5 Revenue Scotland and SEPA will carry out their duties in relation to SLfT in line with the Scottish approach to tax and Adam Smith's maxims, working collaboratively, efficiently and effectively for the benefit of the people of Scotland, supporting sustainable economic growth.

1.6 In carrying out those duties, Revenue Scotland and SEPA will also observe and comply with the provisions of the Revenue Scotland Charter of Standards and Values.

2. Revenue Scotland and SEPA

2.1 Revenue Scotland, established by section 2(1) of the RSTPA, is a body corporate and part of the Scottish Administration, accountable to the Scottish Parliament, rather than Ministers and separate from the Scottish Government. The RSTPA established Revenue Scotland as the independent tax authority responsible for the collection and management of the devolved taxes in Scotland.

2.2 SEPA is a non-departmental public body, accountable through Scottish Ministers to the Scottish Parliament. SEPA is established under section 20 of and schedule 6 to the Environment Act 1995. SEPA is Scotland's environmental regulator.

3. Purpose and Scope of the Memorandum of Understanding (MoU)

3.1 The key aims of this MoU are to set out:

- the terms of agreement between Revenue Scotland and SEPA in relation to joint working arrangements and collaboration in delivery of the functions carried out by SEPA in respect of SLFT and SLCF
- the roles and responsibilities of Revenue Scotland and SEPA in respect of each of the functions and
- the general framework for governance and management of the delegated functions and SLCF regulation

3.2 This MoU is not a contract, nor is it legally binding. Nothing in this MoU has the effect of delegating any of Revenue Scotland's statutory powers, functions or duties to SEPA. Delegation will be given effect through the Schedule of Delegation. SEPA will be approved as the regulator of SLCF by decision of the Board of Revenue Scotland.

3.3 Provisions of this MoU relating to the delegated functions within the terms of section 4(1)(b) of the RSTPA will come into effect on the date of the Schedule of Delegation and will continue for as long as SEPA undertakes the statutory responsibilities in relation to SLFT.

3.4 Provisions of this MoU relating to the regulation of SLCF under the 2015 Regulations will come into effect on the agreed date of the approval of SEPA as the regulator by the Board of Revenue Scotland and will continue for as long as SEPA undertakes the statutory responsibilities as the regulator.

3.5 This MoU does not remove, alter or reduce the prevailing legal obligations of each party, for example, obligations under the Data Protection Act 1998 and the Human Rights Act 1998.

3.6 The relationship between Revenue Scotland and SEPA will require information to be shared between the two organisations. This MoU does not include the detailed arrangements which require to be in place to allow this. A document will be developed by the parties.

4. Collaborative Working

4.1 While fully acknowledging their respective obligations with regard to delegation under section 4(1)(b) of the RSTPA and regulation of SLCF under Regulation 32 of the 2015 Regulations, the parties are committed to establishing and maintaining a collaborative relationship and working culture, underlined by the following principles:

- Revenue Scotland and SEPA will work openly and cooperatively in delivering the SLfT and SLCF arrangements
- Revenue Scotland will consult SEPA on any matters affecting the way in which SEPA carries out functions on behalf of Revenue Scotland before implementing them. This includes any delegation, changes to the scope of delegation, any revocation, any statutory directions (in accordance with sections 4(2) and 4(3) RSTPA), any conditions, any changes or revocation of conditions in terms of Regulation 31(2)(b) and (c), and any operational decisions.
- Revenue Scotland and SEPA will jointly monitor the delivery of those functions to ensure adequate resourcing, financing and working arrangements are in place to meet operational requirements.

5. Delegation of functions and approval of SLCF regulator

SLfT

5.1 Under section 4(1)(b) of the RSTPA, Revenue Scotland has the power to delegate any of its functions in relation to SLfT to SEPA.

5.2 Revenue Scotland will prepare a Schedule of Delegation, a document setting out the functions to be delegated by Revenue Scotland to SEPA. The Schedule of Delegation will be prepared in consultation with SEPA. Information about this document will be published by Revenue Scotland and a copy will be laid before Parliament by Revenue Scotland before 1 April 2015.

5.3 Revenue Scotland retains responsibility for the exercise of the functions delegated to SEPA. Delegation does not affect the ability of Revenue Scotland to exercise those functions.

5.4 In exercising its responsibility for the functions delegated to SEPA, Revenue Scotland, under section 4(2) of the RSTPA, may issue formal directions to SEPA as to how

the delegated functions are to be exercised. SEPA will comply with such directions. These directions will be developed in consultation with SEPA.

5.5 Under section 4(3) of the RSTPA both delegations and directions may be revoked or varied at any time by Revenue Scotland. Revenue Scotland will consult SEPA before taking such action.

SLCF

5.6 SEPA will be approved by Revenue Scotland as the SLCF regulatory body in accordance with the provisions of the Regulation 32(1) of the 2015 Regulations.

5.7 As the approved regulator, SEPA will carry out the prescribed functions set out in Regulation 31(1) of the 2015 Regulations.

5.8 In accordance with Regulation 31(1)(j) of the 2015 Regulations, SEPA will comply with any conditions imposed on them in terms of its role as the regulator by Revenue Scotland. Such conditions may include the setting of a ceiling for the percentage at Regulation 30(1)(m), which will fund SEPA's regulatory role. Revenue Scotland will consult SEPA before imposing any such conditions.

6. Financial Arrangements

SLFT

6.1 SEPA will invoice Revenue Scotland on a quarterly basis in arrears for reimbursement of costs incurred in relation to the delegated functions. On an annual basis, SEPA will provide Revenue Scotland with an estimated spending plan for the following year (see section 9). This will cover the costs of carrying out the delegated functions.

6.2 Following any necessary discussions, the estimated costs will inform Revenue Scotland's submissions to the Scottish Budget process. Initial estimates for annual operating costs have been given in the Financial Memoranda to the tax legislation.

6.3 Once the allocation is confirmed, Revenue Scotland will agree the estimated costs with SEPA or discuss adequate modifications. The estimate will be reviewed in the course of a financial year (see section 8).

6.4 Reimbursement by Revenue Scotland to SEPA in relation to delegated functions is outside the scope of VAT. To the extent that any other activity undertaken by SEPA is within the scope of VAT, Revenue Scotland will pay VAT on the charge for that activity to SEPA.

6.5 The parties acknowledge that in the course of any financial year, extraordinary or one off costs may be incurred by SEPA with regard to the delegated functions, for example, in response to new operational requirements, system contingencies or changes in wider Scottish Government policy on digital public services strategy. Such costs will be agreed and met by Revenue Scotland on a case by case basis. Where possible, the parties will communicate about and discuss any such cost in advance (see section 7.18 below).

SLCF

6.6 SEPA's operational costs of acting as the regulatory body will be recovered in terms of Regulation 30(1)(m) of the 2015 Regulations, at the percentage set by the Board of Revenue Scotland.

6.7 The resource that SEPA puts into regulating the fund will set by the expected level of funding it is to receive, based on the percentage set by the Board of Revenue Scotland. In the event that SEPA incurs operational costs that cannot be met within the percentage – whether due to the level of contributions, the number of approved bodies, or some other cause – Revenue Scotland and SEPA will agree action to address the shortfall, providing additional funding where appropriate. Similarly, where the above causes would lead to SEPA having more funding than it needed to regulate the SLCF, Revenue Scotland and SEPA will agree appropriate action to address this.

6.8 The funding of SEPA's regulatory role in relation to the SLCF, whereby Approved Bodies pay SEPA a percentage of each qualifying contribution, is outside the scope of VAT. If any necessary cost to SEPA arises in relation to their regulatory role and such cost includes payment of VAT, Revenue Scotland will reimburse SEPA for this, including the VAT element.

7. Working Arrangements

7.1 Revenue Scotland and SEPA are working closely together to set out detailed roles and responsibilities and operational protocols in respect of the delegated functions and regulation of SLCF. The arrangements for the exercise of each function will be set out in the Appendices to this MoU and will be updated once the detailed processes are agreed between the parties and a revised MoU produced and signed.

Compliance

7.2 SEPA will undertake agreed SLfT compliance work. Details about the exercise of this function are set out in Appendix 1.

Intelligence

7.3 Subject to agreeing the resource required to fulfil the role SEPA will receive, store and process intelligence on behalf of Revenue Scotland. The details of the exercise of this function will be set out in a separate document.

Regulation of the SLCF

7.4 SEPA will act as regulator of the SLCF within the terms of the 2015 Regulations. Details about the exercise of this function are set out at in Appendix 2.

SEPA's Scottish Landfill Tax Team

7.5 SEPA will establish a 'SLfT team', consisting of officers carrying out the the above functions on behalf of Revenue Scotland. SEPA will have the responsibility to ensure that its staffing arrangements adequately correspond to the forecasted volumes of work (see section 9).

Points of Contact

7.6 SEPA and Revenue Scotland will each appoint Points of Contact (PoCs), who will communicate with each other if matters arise in respect of operational arrangements, operational decisions in individual cases (see section 7.8) or performance (see section 7.7). Communication arrangements in respect of individual compliance cases will be agreed by appointed operational managers at each organisation (see Appendix 1).

Performance Indicators

7.7 Revenue Scotland will set out procedures and mechanisms for monitoring and reviewing SEPA's performance of its SLfT compliance work and SLCF regulatory work as well as developing the criteria for assessment. This will be discussed and developed in collaboration with SEPA. SEPA will report on its performance against agreed standards and quality indicators to Revenue Scotland to allow for regular oversight of the effectiveness of SEPA's performance and joint working arrangements. SEPA will have the responsibility for ensuring compliance with performance requirements agreed between the parties.

Operational Protocols

7.8 Operational protocols in respect of joint working arrangements will be developed and agreed by appointed operational managers in Revenue Scotland and SEPA. Any amendments that either party wish to make to agreed processes in light of operational experience will be raised in writing by the PoC in the organisation requesting a change, specifying, where appropriate, any operational, quality, cost and efficiency impacts of the requested change. Any amendments will be implemented only if approved and signed by

both parties. Where an amendment is approved by both organisations, an implementation plan and effective date will be discussed and agreed between the PoCs.

Security, Incident Management and Escalation Policies

7.9 In consultation with SEPA, Revenue Scotland will define an incident management and escalation policy, which will set out security and governance procedures and include relevant escalation routes in respect of downtime and system performance issues. SEPA will comply with Revenue Scotland's incident management and escalation policy in its exercise of the delegated functions, and in its regulatory role. Where the exercise of the delegated functions or the regulatory role impacts on SEPA's wider security responsibilities, Revenue Scotland and SEPA will agree an approach that ensures that all security requirements are met. Revenue Scotland will consult SEPA before implementing or amending any policies which refer and apply to both parties. Implementation plans and effective dates will also be agreed between the parties. Nothing in this paragraph determines or suggests the status of either party as a data controller or data processor, which will be covered by the document mentioned in section 3.6 above.

Training

7.10 Revenue Scotland and SEPA will jointly review training needs of staff involved in SLfT work across the organisations. In line with any identified training requirements, Revenue Scotland will provide relevant training sessions and materials to SEPA's SLfT team on SLfT tax specific issues; conversely training on environmental matters relevant to SLfT and on practical issues encountered during site visits will be provided by SEPA to Revenue Scotland officers.

7.11 Additionally, Revenue Scotland has a mandatory training programme with the purpose of ensuring that all staff have consistent understanding of their legal duties in respect of collection and administration of the devolved taxes. SEPA's SLfT staff will be given the opportunity to undertake any training sessions offered to Revenue Scotland staff, subject to availability of training facilities and resourcing.

Declaration of Confidentiality

7.12 SEPA will ensure that all members of staff who exercise delegated functions on behalf of Revenue Scotland sign a declaration of confidentiality in accordance with section 16 RSTPA. Revenue Scotland will specify the form and content of this declaration. Once signed by the members of SEPA staff, declarations will be sent to and stored by Revenue Scotland, with copies being retained by SEPA.

Operational Capability

7.13 As well as the required staff, Revenue Scotland and SEPA will ensure that operational capability necessary for the exercise of the delegated functions by SEPA (e.g. secure working areas, equipment for inspections etc.) is in place.

Legal Advice

7.14 In the case of both SLfT and SLCF, where legal advice is required in relation to a procedural, compliance or enforcement activity, Revenue Scotland will provide that advice, or will make arrangements to provide that advice, to SEPA.

Resource Management

7.15 In the course of a financial year, SEPA will be responsible for managing its workloads and resources efficiently so that it can deliver the agreed volumes of work at estimated cost. Revenue Scotland will not be liable for day to day overtime or allowances unless increases to resourcing levels correspond to increased or unplanned workloads as agreed between the parties (see section 7.17). The parties will carry out regular reviews of resourcing needs in light of operational experience (see section 8).

Unplanned workloads and resourcing needs

7.16 In view of operational experience, the parties may agree to increase or decrease the scope of the activities carried out by SEPA and this will be reflected in SEPA's spending plans for each year. However, the parties acknowledge that at any given time, there may be unanticipated peaks in work required to be carried out by SEPA under the existing arrangements, for example where complex compliance investigations are being carried out simultaneously, including investigations of criminal activities or where additional workloads emerge relating to legal proceedings.

7.17 Where either party becomes aware of any resourcing concerns caused by additional workloads which may affect agreed timeframes and quality standards in respect of its existing duties, these will be communicated through the appointed PoCs as soon as reasonably practicable and the nature of the concern should be specified by the party raising the matter.

7.18 Where both parties conclude that the unplanned increases in workloads cannot be met within the estimated costs, Revenue Scotland will assist SEPA in making decisions on prioritisation within agreed resources or agree arrangements for additional resources to be put in place.

8. Review Process

Review Group

8.1 Revenue Scotland and SEPA will each appoint representatives to form a Review Group, which will meet on an agreed frequency. This is expected to be quarterly during the first year, and six monthly in subsequent years.

8.2 The Review Group will review the performance of both parties in relation to their obligations in connection with SLFT and SLCF and make recommendations for improvement where necessary.

8.3 The remit of the Review Group includes measuring performance, monitoring resourcing and spending, reviewing the effectiveness of the operational arrangements, reviewing the effectiveness of the information sharing agreements in place, training needs and proposing changes.

8.4 The Review Group will recommend any amendments to senior managers in Revenue Scotland and SEPA. Any variations or amendments will take effect only when recorded in writing and signed by both parties.

8.5 In the event that agreement on any of the above matters cannot be reached, the parties will use escalation routes as prescribed by their respective organisational practices and policies for matters of disagreements to be resolved at senior management level. Where necessary, any such matters will be escalated to, and decided between, the Chief Executives of each organisation.

9. Monitoring and Reporting Arrangements

Forecasting

SLFT

9.1 Revenue Scotland and SEPA will agree a forecast of the likely volume of work required to comply with the delegated duties, and the resource implications of that volume of work. For the initial set up of this function, Revenue Scotland and SEPA have agreed a resourcing figure that will apply from 1 April 2015 for the first twelve months. The estimated figure was based on SEPA's operational experience in relation to inspecting and dealing with landfill sites and taking account of the anticipated increase in revenue generated as a result of investment in compliance and revenue increases. The estimate was included in the Financial Memoranda to the SLFTA and the RSTPA.

SLCF

9.2 Revenue Scotland and SEPA will agree annual forecast of likely volume of work to be undertaken by SEPA in relation to SLCF and the resource implications of that volume of

work. For the initial set up of this function, Revenue Scotland and SEPA will agree a resourcing figure that will be in place from 1 April 2015 for the first twelve months. The parties will also agree annual forecasts of contributions to the SLCF. The resourcing figure will be monitored and reviewed by the parties in accordance to the process set out in section 8 above.

Monitoring spending and resourcing requirements

9.3 To ensure effective monitoring and oversight of spending and resourcing needs, SEPA will report to Revenue Scotland on a monthly basis with regard to its resourcing arrangements and staffing costs. The parties will agree on the reporting format and detailed timescales.

9.4 SEPA will arrange for an annual statement of assurance from its auditors to be provided to Revenue Scotland confirming the breakdown of the amounts incurred in respect of SLFT and SLCF. Revenue Scotland will reimburse SEPA for the costs of this audit.

10. Information

Dealing with External Enquiries

10.1 Ministerial correspondence and briefings - In the case of an enquiry by a Scottish Minister relating to joint working arrangements, to either Revenue Scotland or SEPA, the party in receipt of the enquiry shall notify the other party as to the nature of the enquiry and the intended response. The party preparing the response will be responsible, after consultation with the other party, for ensuring that the response is circulated as appropriate to Ministers with a portfolio interest and/or to relevant divisions of Scottish Government.

10.2 Enquiries from landfill operators and general public - In the course of individual compliance inspections, the parties will agree a framework for communicating with landfill operators on matters relating to the investigation and will ensure that the operator is made aware of the relevant contact details. General enquiries about tax matters should be directed to Revenue Scotland. SEPA will respond to enquiries concerned with environmental matters as well as any matters within the scope of its responsibilities as the SLCF regulator.

10.3 Contact details for SLFT and SLCF related enquiries will be published on Revenue Scotland's and SEPA's websites.

10.4 Stakeholder Engagement - Revenue Scotland will have the primary responsibility for the co-ordination of stakeholder relations and management of stakeholder engagement in respect of SLFT and SLCF. Coordination of stakeholder relations in respect of SLFT and SLCF will continue through the framework of the Joint Communications Group.

10.5 Publicity - Revenue Scotland will be the lead organisation in generating publicity and guidance materials. SEPA will consult Revenue Scotland in respect of any publicity materials intended to be published online which provide information, guidance or advice in respect of any matters relating to SLfT and SLCF. Consultation with Revenue Scotland prior to making the information available will not be required where reference to SEPA's delegated functions under SLfT and SLCF are published on SEPA's website as part of the reports, papers and minutes associated with SEPA's Agency Board.

10.6 Consultation with Revenue Scotland prior to making the information available will not be required in relation to any incidental references to SEPA's delegated functions in relation to SLfT or SLCF where the use of standard wording has been agreed in advance with Revenue Scotland.

10.7 Press Communications - Revenue Scotland will be responsible for all proactive communications and interaction with the media in respect of all aspects of SLfT. All media enquiries will be directed to Revenue Scotland and SEPA will not initiate communication with the media or respond to media enquiries on matters relating to SLfT. Where appropriate, press releases and other communications which include reference to the relationship between Revenue Scotland and SEPA, will be consulted with and quality assured by SEPA before being issued.

Freedom of Information (Scotland) Act 2002 ('FOISA') and Environmental Information (Scotland) Regulations 2004 ('EIRS')

10.8 Revenue Scotland and SEPA are subject to the requirements of FOISA and EIRS. Each party will provide reasonable assistance and co-operation to enable the other party to comply with these information disclosure obligations.

10.9 Where either party receives a request for information under FOISA or EIRS, that party is responsible for determining whether such information is exempt under FOISA or EIRS and may disclose such information without consulting any relevant third party, or following consultation and having taken the other party's views into account.

10.10 Revenue Scotland and SEPA agree that in the event that either party receives a request under FOISA or EIRS for information held in connection to SLfT, the party receiving the request will notify the other party of the request as soon as reasonably practicable after receipt thereof and will allow the other party a period of five working days to make representations which will include details of any exemption which that party believes may apply under FOISA or EIRS as appropriate. The notification and representation processes will be carried out by the respective FOI Officers for Revenue Scotland and SEPA.

10.11 Neither party is permitted to release protected taxpayer information, except as provided for in section 15 of the RSTPA.

Data Protection / Subject Access Requests

10.12 Revenue Scotland and SEPA are subject to the requirements of the Data Protection Act 1998 and may receive subject access requests under that Act.

10.13 In the event that either Revenue Scotland or SEPA receives a subject access request relating to information supplied by the other party to this MoU, it must:

- (a) notify the other party as soon as reasonably practicable after receipt of the request;
- (b) use best endeavours to obtain the view of the other party before responding to the request;
- (c) will have particular regard to the exemptions from disclosure under the Act, when preparing its response;
- (d) In the event that the requested information is in the possession of the other party, redirect the requester to the other party.

Complaints

10.14 Revenue Scotland and SEPA will share information about and work collaboratively in responding to complaints received by either party about, or including reference to, the relationship between the parties for the purposes of SLFT and SLCF.

10.15 Where a complaint relates to activities carried out by SEPA on behalf of Revenue Scotland, the complainant should seek a resolution to their complaint through the SEPA's complaints handling procedure. This procedure will be compliant with the *Model Complaints Handling Procedure for the Scottish Government and Associated Public Authorities Sector in Scotland*. SEPA will keep Revenue Scotland informed of the progress of any such complaint and will consult with Revenue Scotland on the process. If at the end of this process the complainant remains dissatisfied, they would have the right to approach the Scottish Public Service Ombudsman to seek an external review.

10.16 If SEPA receives a complaint relating to a service for which Revenue Scotland retains responsibility for, and which is not relevant to SEPA the complainant should be directed to seek a conclusion to this through the Revenue Scotland complaints handling procedure.

10.17 Revenue Scotland will inform SEPA of a complaint received about its own performance or service, where matters raised in the complaint may be of relevance to both parties or have implications for SEPA's work.

10.18 An issue that is in court or has already been heard by a court or a tribunal, such as a tax dispute from a taxpayer or their agent about an amount of tax to be paid, rulings or reliefs, will not be considered a complaint.

10.19 Revenue Scotland and SEPA will set out their complaints processes on their websites.

Signatories

Organisation: Revenue Scotland

Name: Eleanor Emberson
Chief Executive

Signature: *Eleanor A Emberson.*

Date: *1 April 2015.*

Organisation: SEPA

Name: James Curran
Chief Executive

Signature: *James C. Curran*

Date: *7/4/2015*

Appendix 1

Working Arrangements - Compliance

- SEPA will contribute its information, knowledge and expertise to the Revenue Scotland risk analysis system for SLfT. Revenue Scotland will operate this system to identify potential sites for compliance activity. Revenue Scotland will communicate potential compliance activity to SEPA. In doing so, Revenue Scotland will state which sites and activity are mandatory and which are discretionary, and the parameters for the compliance activity.
- SEPA's SLfT officers will communicate directly with taxpayers where appropriate, for example in order to arrange visits and deal with other communications from the taxpayer.
- On a daily basis, SEPA's SLfT staff will be managed by SEPA, who will be responsible for ensuring compliance with Revenue Scotland's delegations, directions and operational protocols. This also includes compliance with agreed timeframes and performance standards for SEPA.
- Revenue Scotland and SEPA will jointly agree a communication framework for exchanging information in the course of compliance work, in line with the principle of confidentiality of protected taxpayer information.
- Revenue Scotland will provide relevant training sessions and materials to SEPA's SLfT team on SLfT tax specific issues; conversely training on environmental matters relevant to SLfT and on practical issues encountered during site visits will be provided by SEPA to Revenue Scotland officers.
- SEPA's SLfT officers will carry out SLfT compliance inspections of landfill sites for SLfT compliance purposes as agreed with Revenue Scotland. In the course of individual inspections, SEPA's SLfT officers will collect information and evidence to check the landfill operator's tax position.
- In support of the above functions, SEPA will notify Revenue Scotland of any relevant changes to landfill operator status, share data from landfill operators' waste returns and inform Revenue Scotland of any potential tax compliance issues identified by SEPA's officers in the course of environmental inspections. Conversely, Revenue Scotland will inform SEPA of any relevant changes to landfill operator status, changes to landfill operators' waste returns and inform SEPA of any potential tax or environmental compliance issues identified by Revenue Scotland officers in the course of its functions.

- SEPA staff will undertake targeted activities at non-landfill sites, including sites of waste production and waste treatment, in order to support the delivery of its delegated functions.
- In the course of conducting compliance, SEPA may make tax liability decisions about matters relating to a site. SEPA will refer any cases of doubt, or cases with wider potential impact, to Revenue Scotland before making such a ruling.
- In accordance with the provisions of RSTPA, statutory notices in relation to compliance inspections to landfill sites will be issued in accordance with the agreed processes.
- When working jointly on individual cases, Revenue Scotland will discuss and agree the scope of compliance activities to be carried out by Revenue Scotland officers and SEPA officers. This may be amended by agreement in light of developments in the course of the case.
- SEPA will provide a report for each compliance inspection to Revenue Scotland through the Case Management System.
- Revenue Scotland and SEPA will inform each other of any expected or planned changes to their internal systems, and / or operational arrangements which may impact the other party, as soon as reasonably practicable.

Appendix 2

Regulation of the Scottish Landfill Communities Fund

Registration Process

SEPA will assess applications to register as an Approved Body against the criteria specified in the Regulations and will register those Bodies which meet the requirements. The registration process will consist of an assessment of a declaration by applicant Approved Bodies against criteria specified in the Regulations. In addition, as part of routine compliance activity, SEPA will check whether Approved Bodies declare any change to these registration requirements. Registration and ongoing compliance with registration requirements will be evaluated by SEPA as it sees fit. SEPA will allocate a registration number to each Approved Body. Approved Bodies will be registered from 1 April 2015.

Register of Approved Bodies

SEPA will maintain and publish a register of bodies which it has approved and will ensure this register is kept up to date by removing any body from the register whose approval has been revoked.

Regulatory Role

SEPA's regulatory role is to determine whether Approved Bodies comply with the relevant requirements of the Regulations and the conditions placed on them as conditions of registration. There is no expectation or requirement on SEPA that it will regulate or investigate projects as part of the regulatory role. However, SEPA does have the power to investigate projects. It is expected that this power would only be used if SEPA consider that such investigation would assist the regulation of an Approved Body, for example, where there is a suspicion that an Approved Body is non-compliant with the requirements of the Regulations. SEPA cannot apply any sanctions to projects. SEPA will focus on auditing and inspecting Approved Bodies to ensure that they have systems and procedures in place and are meeting the requirements of the Regulations.

Reporting

Landfill operators will claim any credit in relation to contributions to the SLCF to Revenue Scotland on their quarterly tax return. SEPA will arrange to receive information on:

- funds received by Approved Bodies
- funds transferred by Approved Bodies
- any third party contributions made to landfill operators

SEPA will report on the performance of Approved Bodies to Revenue Scotland in an agreed format.

Non-payments

Where there is non-payment of SEPA's regulatory costs by an Approved Body, SEPA may take appropriate enforcement action against that body.

SEPA may pursue Approved Bodies for outstanding/overdue invoices and will notify Revenue Scotland when doing so.

In the event that SEPA invoices Approved Bodies for the percentage contribution and this is not received, and where reasonable debt recovery options are exhausted, Revenue Scotland and SEPA will discuss appropriate actions.