

SPSO decision report



Case: 201802287, Revenue Scotland
Sector: Scottish Government and devolved administration
Subject: handling of application
Decision: upheld, recommendations

Summary

Ms C complained about the responses she had received from Revenue Scotland during a tax enquiry. Ms C said Revenue Scotland had unreasonably tried to impose additional tax following a property transaction. Ms C said that although her position had remained the same throughout the enquiry, Revenue Scotland had refused to accept she was correct, introducing a series of 'tests' which had no basis in law, and did not address the points she had made. Ms C had first engaged a solicitor, but Revenue Scotland had refused to alter their view. Ms C had then engaged a Queen's Counsel (QC – a lawyer appointment by the monarch), and following submission of their opinion, Revenue Scotland had agreed that she did not owe any additional tax. Ms C said it was unreasonable for Revenue Scotland to have accepted the QC's view, when it did not differ from the points she had originally put to them. Ms C said she had been forced to accrue unnecessary and substantial expenses because of the failure by Revenue Scotland to communicate reasonably with her.

We found that Revenue Scotland had failed to act in line with their Code of Customer Service. They had not provided Ms C with accurate advice and they had not communicated with her in a way which ensured she paid the right amount of tax and did not incur unnecessary expense. Revenue Scotland had refused to accept the points Ms C had consistently made, introducing a series of different reasons and failing to engage directly with the points made by Ms C until put forward by a QC. We also found there was no evidence that proper consideration had been given to a recommendation by senior Revenue Scotland staff that Ms C should be offered either some form of goodwill payment, or a contribution towards her legal fees. Additionally, we found internal correspondence suggested that Revenue Scotland staff were not identifying complaints timeously, due to a lack of awareness of the complaints process. Therefore, we upheld Ms C's complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Ms C for the failings identified in this investigation. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/leafletsand-guidance.
- Reimburse Ms C for the cost of obtaining legal advice, on receipt of proof of the cost, e.g. an invoice. The payment should be made by the date indicated: if payment is not made by that date, interest should be paid at the standard interest rate applied by the courts from that date to the date of payment.

What we said should change to put things right in future:

- Review the factsheet to ensure it sets out clearly when the taxpayer can apply to the first tier tribunal and the role of Revenue Scotland.

In relation to complaints handling, we recommended:

- Ensure staff are trained in the complaints procedure.