

Subpoenas and their costs in accessing SRO information

Revenue Ruling GEN.006

Preamble

The State Revenue Office administers a number of Acts which contain secrecy provisions which make it an offence to make an unauthorised disclosure of information obtained in connection with the administration of those Acts.

Under these provisions, no person may disclose or publish any information obtained in the course of the administration or execution of the legislation, unless the disclosure or publication is made:

- (a) **with the consent of the person from whom the document was obtained; or**
- (b) **in connection with the administration or execution of the Act or Regulation; or**
- (c) **to authorised persons under the Act or Regulation; or**
- (d) **for the purpose of any legal proceeding arising out of the Act or Regulation.**

Extensive case law, including *R v. Clarkson* (1982) VR 522, provides judicial support for the application of the secrecy provisions to deny access with very few exceptions. Therefore, only in limited circumstances will a subpoena override the secrecy provisions.

Occasionally, subpoenas have been served requiring the Commissioner and State Revenue Office personnel to provide office records under the auspices of one of the above exceptions. A subpoena is an order in writing requiring a person to produce a document or to give evidence before a court.

The purpose of this ruling is to outline the circumstances in which the State Revenue Office is entitled to recover costs associated with answering a subpoena.

Ruling

In cases where the exclusions to the secrecy provisions permit the State Revenue Office to comply with the terms of a subpoena, it is entitled to seek costs as outlined in the rules of various courts.

Consequently, where the State Revenue Office is compelled to comply with a subpoena, whether or not evidence of any kind is produced in a court or tribunal, it will actively seek to recover costs against the party requesting the subpoena.

Please note that rulings do not have the force of law. Each decision made by the State Revenue Office is made on the merits of each individual case having regard to any relevant ruling. All rulings must be read subject to Revenue Ruling GEN.01.

Denzil Griffiths

Commissioner of State Revenue

1 June 1995