

All change in Tax Appeals

From 31st March 2009 there will be a radical change in the making and hearing of appeals against assessments and decisions of HM Revenue & Customs. The tribunals are changed, the procedures are changed and the time limits are changed. Solicitors, Accountants and other advisers ignore these at their (professional) peril.

The General Commissioners and Special Commissioners of Income Tax will be abolished as at 31st March 2009 after existing for some 200 years. There will be no transitional “phasing out” of these tribunals. From that date all hearings concerning Indirect Taxes (eg.VAT), Duties (eg. Hydrocarbon Oils Duties) and Direct Taxes (eg. Income Tax, CGT, Corporation Tax and IHT) will be heard before either a judge of the First-tier or Upper Tribunals (Tax Chamber). These Tribunals will sit at any of the 130 venues around the country available to them. Hearings will most commonly be before a single judge who will be knowledgeable in tax law and procedures. The hearings are likely to be more formal than those that have been held before the General Commissioners.

An appeal against an assessment or decision must be made to the Tribunal within 30 days. Alternatively a request can be made to have the decision reviewed by a different HMRC officer. If HMRC offer a review, any decision to accept it must be communicated within 30 days and HMRC will complete it within 45 days or such other agreed time. At the end of the review, a request for a hearing before a Tribunal must be made within 30 days. The Procedural Rules set out what information must be provided to the Tribunal

The Tribunal has extensive case management powers and can make an order for costs in certain circumstances (including where, in Complex cases, the taxpayer has not sent a request that the case be excluded from potential liability for costs). The appeals are allocated into 4 categories: Default Paper, Basic, Standard and Complex. Each category has its own procedure and time limits. A case may also be transferred to the Upper Tribunal (Tax Chamber). The Tribunal must give reasons for its decision within 28 days of its decision. An application to appeal against a decision of the First-tier Tribunal (Tax Chamber) must be made to that Tribunal within 56 days of receiving the reasons for the decision. An appeal can only be made on a point of law and will be heard by the Upper Tribunal.

New procedures, with the threat of costs orders, and hearings in front of specialists in a more formal environment will be daunting for accountants and non-specialists.

If you or any colleagues would like representation or advice on tax appeals, I can assist. If your firm or group of accountants, consultants or other professionals would like a short presentation on this subject, this can be arranged. In either case, please contact my clerk, Gary Quinn, at Chambers.

Nigel Ginniff

The procedures referred to in this Newsheet are subject to change. Specialist advice should be sought in respect of any appeal against any assessment or decision made by

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