



**Isle of Man
Government**

Reiltys Ellan Vannin

INCOME TAX

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Notice of Decision and the Right to Appeal

Guidance Note – GN 60

PLEASE NOTE:

This guidance has no binding force and does not affect your right of appeal on points concerning your liability to tax.

The information in this booklet can be provided in large print on request.

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Introduction

There are arrangements for decisions and appeals relating to National Insurance Contributions (NICs) and related matters. Persons appointed by the Treasury, called 'contributions decision-makers', can make formal decisions on specified issues which you can appeal against. We may be able to settle your appeal by agreeing with you what the decision should be. But if we cannot settle your appeal by agreement then it will be considered by an independent Appeal Tribunal.

If you need more information or would like to discuss your decision please contact the Treasury, Income Tax Division at the address or telephone number shown on the Notice of Decision. Quote the reference number at the top of the Notice of Decision.

Settling Issues

We will normally ask you about your circumstances and other relevant facts. From that information we will consider how the law applies to your case and explain that to you. You should write to us if there are any further facts that you have not told us about or if you think that we did not take some piece of information into account. We will write to you either to say that we agree that the further information changes how the law applies or to explain why it does not affect our original explanation.

Notice of Decision

Where you do not agree with our explanation of how the law applies to your case we will make a formal decision about the matter. We will send you a notice of our decision and you have the right of appeal against that decision. We will also send you a Notice of Decision if you ask us to or if we decide it is appropriate to do so. If you appeal against a decision then your appeal may be considered by an Appeal Tribunal, which is independent of the Treasury.

Letter of explanation

The Notice of Decision shows our decision. We will send a letter of explanation with the Notice of Decision whenever it will be helpful.

What to do with your Notice of Decision

If you have a professional adviser or agent, you should make sure that they see the Notice of Decision and any explanatory letter at once. We will have sent them copies if they have been involved in the correspondence.

If you accept the decision

If there is any outstanding amount due from you or which you are entitled to pay then you should pay it immediately. Keep your Notice of Decision in case you need to refer to it in the future.

If you do not accept the decision

If you think the decision is wrong you should appeal against it at once (see section on appeals below). Let us have any further information you have. We may be able to vary the decision. If you appeal you do not have to pay the amount due until your appeal is settled.

Decisions involving more than one person

More than one person may be affected by a decision and named in it. For example, both the work provider and the worker will be affected by a decision about whether a worker is an employee or self-employed.

Each person named in the decision is sent the Notice of Decision and has a right of appeal. If you accept the decision and do not appeal;

- We may reach agreement to vary the decision with a person who has appealed
- We will not enter into such an agreement without consulting you if we believe that the agreement will not be acceptable to you
- Where we do not enter in to an agreement you have a further right of appeal within 30 days of the notice of varied decision which we send to you

If another person who is named in the decision appeals against it and the appeal is heard by the Appeal Tribunal, we will arrange for you to be told of the hearing. You will be entitled to attend the hearing even though you have not made an appeal.

An employer may receive a number of linked decisions involving different employees together. Any composite appeal must make clear which decisions are appealed.

Appeals**What is an Appeal?**

Most appeals concern disagreements between you and the Treasury. This may be in connection with entitlement or liability to pay National Insurance contributions and related matters or matters relating to National Insurance contributions you have paid. There may be disputes over interpretations of the law or over facts, information or figures you have provided.

The appeals procedure is laid down by law. It exists so that disagreements between you and the Treasury can be settled. Usually an agreement is reached by correspondence or discussion and in most cases we will be able to settle things with you personally, so saving time and trouble all round. But if we cannot accept the facts or figures or information you have provided, or if we disagree with you on a point of law, you can take your appeal to an independent tribunal.

National Insurance contributions appeals can arise in connection with decisions on:

- employment status, e.g. employed or self-employed (including status decisions for industrial injuries purposes)
- liability to pay Class 1 or Class 2 contributions and the amount payable

- entitlement to pay voluntary contributions
- matters relating to National Insurance contributions you have paid

This list is not exhaustive. If you are not sure whether you can appeal you should contact the person who sent you the Notice of Decision.

When to Appeal

Any appeal must be made to the address shown on the Notice of Decision within 30 days of the date of issue. We cannot normally accept late appeals.

The time limit for appealing may only be extended if you can satisfy us that there were good reasons why you did not appeal within 30 days, and that you are raising the matter as soon as reasonably possible. If we are not satisfied with your reasons then your application to appeal outside the usual time limit will be considered by the Appeal Tribunal.

How to Appeal

An appeal should be made in writing to us at the address shown on your Notice of Decision. You can use the 'Notice of Appeal Form' or you may write directly to the Clerk to the Appeal Tribunal. We will need to know:

- Your name
- Our reference number which is shown at the top of the Notice of Decision
- Why you think our decision is wrong
- The name of your agent or representative if you are appointing one
- If you can, say what you think the correct items or amounts should be, it may help to speed up your appeal
- If you need time to get information say how long you think it will take

Each named person to whom the Notice of Decision is issued has a right of appeal. We will also accept appeals from a professional adviser or agent acting on your behalf.

What happens next

When we receive your appeal we will review our decision. You should let us have any further information you consider relevant with you appeal. We may write to you if something is unclear. If we are able to change our decision we will send you a Notice of Varied Decision. Let us know immediately if you consider the varied decision to be wrong.

If we cannot vary our decision, perhaps because you have not supplied information that we need, your appeal will be decided by the Appeal Tribunal. You will be told the date, time and place of the hearing. You should attend or send a representative. If you do not attend the Tribunal may determine the appeal in your absence.

Payment of National Insurance contributions

You can choose either to continue to pay National Insurance contributions until your appeal is settled or defer payment until that time. Any National Insurance contributions paid which are found ultimately not to be due will be repaid to you.

If you are an employer and you have appealed against a National Insurance contributions decision you do not have to pay the disputed contributions until your appeal is settled. But when the appeal is settled all the contributions found to be due will become payable immediately. This includes contributions which you should have deducted from your employee's pay when you paid them.

Interest is not payable on the late payment of National Insurance contributions. However, we may take legal proceedings against employers who fail to pay contributions at the correct time.

Withdrawal of Appeal

If you do not wish to go on with your appeal you should contact us. You must also tell every other person who is named in the Notice of Decision that you wish to withdraw your appeal. Normally an appeal can be withdrawn, but we have the right to notify you that we are unwilling for an appeal to be withdrawn. If another person is named by the decision as being affected as well then they also have the right to object to the withdrawal of the appeal. If we, or any other person who was named in the decision, wishes to do this we must write to you, and all the other people who were named in the decision within 30 days of you notifying us that you wish to withdraw your appeal.

Variation of Decision

A decision is varied when we agree what it should say after you have appealed. We will also vary the decision if it is incorrect or it has become inappropriate. If we vary the decision because you have appealed against it or for some other reason then you should let us know immediately if you think that the varied decision is wrong. When we vary a decision you can appeal against that variation. The time limit for appealing is 30 days from the date that the notice of varied decision was issued.

We will try to settle the appeal by explaining how the legislation used to make this decision applies to the particular facts of the case. If this is not possible, we will arrange for the appeal to be heard by the Appeal Tribunal.

Appeal Tribunal

The Appeal Tribunal is an independent tribunal, they listen to the arguments of both sides and then decide how the dispute is to be settled. This meeting is known as an 'appeal hearing'. Where an employee and employer are involved, both will be given the opportunity to attend the hearing whether or not they are the person who has appealed.

Tribunals are made up of three people who are not from the Treasury. All tribunals have a legally qualified chairman to help apply the law to your appeal. A number of law firms are available on the Island to offer free representation by articulated clerks (people who are training to be Manx Advocates) for people who appeal to the tribunal. For a list of these firms contact the Clerk to the Appeal Tribunal on telephone number 01624 685941.

The tribunal can only look at the evidence, the law and the circumstances at the time the decision you are appealing against was made. The tribunal cannot look at changes of circumstances that happened after the decision was made.

Preparation for the Appeal Tribunal

A copy of the appeal papers will be sent to you and your representative, if you have one. Read the appeal papers carefully. If you do not understand something ask us, an advice centre or an advocate to explain.

You will also receive a form. You must complete this form and send it to the Clerk to the Appeal Tribunal **within 14 days**. If you do not, your appeal will stop.

The form also asks you questions about how you want your appeal to be looked at. You can choose between an **oral hearing** and a **paper hearing**. If you choose to go to an oral hearing you will be able to deal with any questions or issues that arise. People who go to the hearing may do better than those who do not.

Oral hearing

This is an appeal hearing you can go to, the tribunal members may ask you questions. You can ask questions and you can take someone with you to represent you. You can call witnesses to give evidence to the tribunal. The contribution decision-maker who made the original decision will usually be at the hearing. He/she may ask you questions and call witnesses.

If you choose an oral hearing but find you cannot go, you must let the Clerk to the Appeal Tribunal know straightaway. You must have a good reason why you cannot go, such as illness. You may be able to arrange another date. If you do not let the Clerk to the Appeal Tribunal know you cannot go to the hearing, the tribunal Chairman can give such directions as he/she considers appropriate to determine the appeal. The Chairman may, for example, decide to postpone the appeal or direct that the tribunal hear your appeal in your absence.

Oral hearings are usually open to the public, but anyone who goes to the hearing will usually be involved in the appeal. You can ask to have your appeal heard in private.

If you choose an oral hearing you may be entitled to expenses; for example your travel costs. If you want more information about expenses, contact the Clerk to the Appeal Tribunal.

Paper hearing

This is an appeal hearing which you do not go to. You should use the form we will send you with the appeal papers to add any more information which you think will help your case. Do not delay sending information as you may not be told the date of a paper hearing. The appeal will be considered and the Clerk to the Appeal Tribunal will send you the decision.

If you choose a paper hearing but later change your mind, you can choose to have an oral hearing. Write to the Clerk to the Appeal Tribunal straightaway.

The result

The tribunal will consider the matter privately. You may be told the tribunal's decision straightaway or will be given a decision notice explaining the tribunal's decision as soon as possible after the appeal hearing.

You can also ask for a 'statement of reasons'. This gives an explanation of the tribunal's decision, including the facts and the law used. You must ask for a statement of reasons within one month of the date you are given or sent the decision notice. You must have a copy of the statement of reasons if you appeal to the Social Security Commissioner. See "Appeals to the Social Security Commissioner" below.

If you want a record of the appeal hearing, you can get a copy of the record of proceedings up to 6 months from the date of the tribunal's decision.

If your appeal is successful, we will usually put the decision right as soon as we receive a copy of the tribunal's decision. We may not do this if we decide to appeal to the Social Security Commissioner.

Appeals involving decisions and notices where more than one person is involved.

Sometimes more than one person has an interest in a particular issue. For instance, both a work provider and a worker will have an interest in whether the worker is an employee or self-employed for National Insurance contributions purposes.

The tribunal has the power to direct that appeals which are about the same issue should be heard together. They also have the power to link a person to an appeal even though that person may not have appealed himself.

In National Insurance contributions cases whenever a decision is based on the circumstances of particular employees, we may have sent a notice of decision to several people who are affected by it. Thus each has a right of appeal against a decision in which they have an interest. Appeals against the same decision will be dealt with together. And if you were named in a decision but did not appeal, you can have your say at any appeal hearing which involves that decision.

Appeals to the Social Security Commissioner

If you do not agree with the tribunal's decision you may be able to appeal to the Social Security Commissioner.

Who can appeal to the Commissioner?

Appeals can be made by;

- anyone who has already appealed to the appeal tribunal
- a contributions decision-maker from the Treasury

What you can appeal to the Commissioner about?

You can only appeal to the Commissioner on a point of law. You cannot appeal to the Commissioner about questions of facts or a tribunal's conclusions.

How to appeal

Your decision letter from the Clerk to the Appeal Tribunal will tell you what to do if you are unhappy with the decision. Read this carefully. It tells you important time limits for your appeal.

You cannot appeal unless you first get the 'statement of reasons' for the tribunal's decision. See 'The result' section above.

You should read the statement of reasons carefully. If you still do not agree with the reasons for the decision, you can apply for leave to appeal to the Social Security Commissioner. You must do this within one month of the date the statement of reasons was sent to you.

If you appeal to the Commissioner, you must send the statement of reasons with your application. If you do not, your application may not be looked at.

The Chairman of the Appeal Tribunal will decide if your appeal can be sent to the Commissioner.

You can ask an advice centre or an advocate to help with your application.

Late Applications

Late applications for a 'statement of reasons' or for leave to appeal to the Commissioner can only be accepted if there are special circumstances or special reasons that caused the delay. You will need to show why you were not able to make your request on time.

Advice centres

Advice centres, like the Manx Citizens Advice Service, can represent you and may help you understand the reasons for decisions about National Insurance contributions. They can also help you to fill in forms or to write a letter. They will sometimes go with you to the tribunal that hears your appeal. It will help the advice centre if you show them any letters you have about the decision that you think is wrong. Trade unions may also offer free advice to their members. They may also be able to speak for you at the tribunal that hears your appeal.

Advocates

You may be able to get advice from an advocate under the Legal Advice and Assistance Scheme. You can find out about this from an advocate. But if you decide to use an advocate, the scheme does not cover the cost of an advocate to help you at a hearing. You cannot get any money for things like advocates' fees from the Treasury.

A number of law firms are available on the Island to offer free representation by articled clerks (people who are training to be Manx Advocates) for people who appeal to the tribunal. For a list of these firms contact the Clerk to the Appeal Tribunal on 01624 685941.

Remember

- Always give your National Insurance number or any other reference if you write to the Treasury
- The time limit for appealing is 30 days from the date shown on the notice
- You should attend an appeal hearing if you possibly can, or ask for a postponement if you cannot be present. If you do not attend and have not arranged a postponement, the tribunal has the power to determine the appeal in your absence
- Many disputes can be rapidly resolved by answering any queries from the Treasury fully and quickly

You should tell us about changes which could affect your employment status, or your liability or entitlement to pay National Insurance contributions. If you do not, you may pay more contributions than you should or find that you owe contributions, or that you do not receive the benefits to which you are entitled.

Our service commitment to you

You are entitled to expect the Income Tax Division to be fair, by dealing with your tax affairs impartially, by expecting you to pay only what is due, and by treating everyone equally.

We aim to help you understand your obligations and get your tax affairs right by providing clear guidance and forms, by giving you information and assistance, and by being courteous at all times.

We aim to provide an efficient service by settling your tax affairs promptly and accurately, by keeping your private affairs strictly confidential, by using the information you give us only as allowed by the law, by minimising your costs of complying with the law, and by keeping our costs down.

In return, we expect you to be honest, to give us accurate information within a reasonable time, and to pay your income tax and National Insurance on time.

Contact information

Income Tax Division:

Address The Treasury
Income Tax Division
Second Floor
Government Office
Buck's Road
Douglas
Isle of Man
IM1 3TX

Telephone (01624) 685400

Fax (01624) 685351

E-mail incometax@itd.treasury.gov.im

Website www.gov.im/incometax

Tribunals Service:

Address Tribunals' Centralised Administration
Isle of Man Courts of Justice
Deemsters' Walk
Buck's Road
Douglas
Isle of Man
IM1 3AR

Telephone (01624) 685941

E-mail tribunals@gov.im

Website www.courts.im/court-procedures/tribunals-service/tribunals

Note: This document is for guidance only and is not intended to be a complete and authoritative statement of the law.