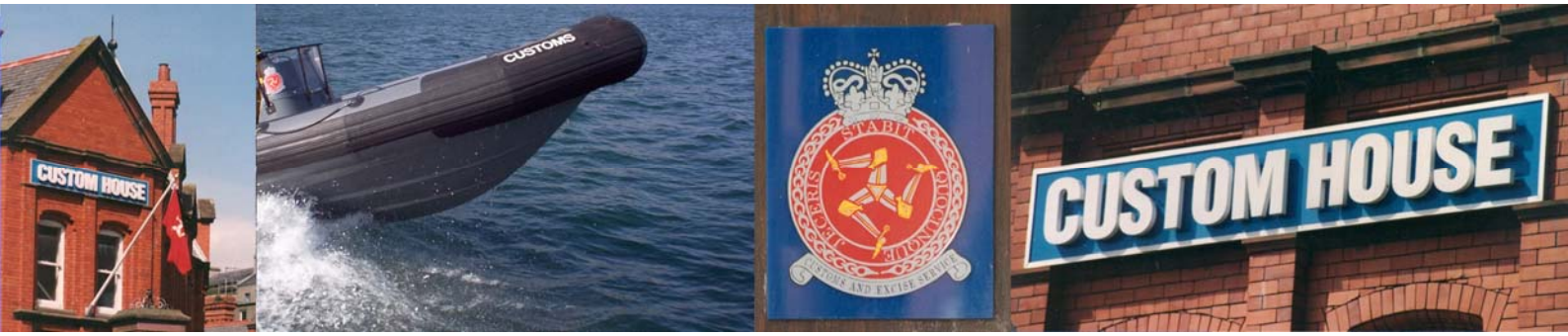
Treasury
Customs and Excise Division

Notice: Appeal 3 MAN

Making an Appeal against a Decision of Customs and Excise



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Isle of Man
Government
Reiltys Ellan Vannin

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1. Introduction

This Notice has been produced by the Customs and Excise Division of the Isle of Man Treasury to assist businesses and others affected by decisions made by the Division and who wish to appeal those decisions. It applies to decisions made on or after 1st April 2009.

This Notice has NOT been prepared by the Tribunals Service (the body which administers the independent VAT and Duties Tribunal - see paragraph 2 below) and it is not intended to be a definitive statement of the law or the procedures of the appeals system.

This Notice is designed to provide you with some useful information about how to appeal to the Tax Chamber of the First-tier Tribunal - which operates in the Isle of Man as the "VAT and Duties Tribunal" (see paragraph 3 below).

This Notice explains what decisions can be appealed and how to bring a case before the VAT and Duties Tribunal. It aims to provide you with essential information that you might need to make your appeal, though it cannot cover all possible circumstances.

Before making a formal appeal you can ask for a decision to be reconsidered by the officer(s) responsible. It may be that the matter can be resolved at this stage.

If necessary, a review can be requested and this will be undertaken by an officer uninvolved in the original decision. Please see paragraphs 8 to 10 for more detail of the review procedure.

For more detailed information you are advised to contact the Tribunals Service - details are provided at the end of this Notice.

2. The UK Tribunals Service

The Tribunals Service is part of the UK Ministry of Justice and provides administrative support for the judiciary who hear cases and decide appeals in a range of tribunals. The new tax appeals system came into use in April 2009 and it provides for tax appeals in the UK (for both direct and indirect taxes) to be normally heard by a First-tier Tribunal, with the ability to ask for right of appeal to an Upper Tribunal. Some highly complex cases will proceed directly to the Upper Tribunal for hearing.

The First-tier Tribunal is divided into a number of Chambers, one of which is the Tax Chamber and it is this Chamber that deals with VAT, customs and excise appeals. It has a single set of procedural rules, with the flexibility to deal with the whole range of tax matters from the straightforward to the complex.

The Tribunals Service is wholly independent of HM Treasury and HM Revenue and Customs in the UK.

3. The VAT and Duties Tribunal in the Isle of Man

A VAT and Duties Tribunal has existed in the Isle of Man (originally as the "Value Added Tax Tribunals") since VAT was introduced in 1973. It has always been administered by the relevant, independent UK authority, thus ensuring its impartiality when considering decisions made by Customs and Excise in the Island.

Isle of Man appeals against decisions of Customs and Excise Division in indirect tax matters continue to be administered by the Tribunals Service, through its Manchester Tribunal Centre. Under the provisions of the Value Added Tax Act 1996 (of Tynwald) appeals against such decisions are heard by the VAT and Duties Tribunal - and this will be, in fact, the Tax Chamber of the First-tier Tribunal but it is called the VAT and Duties Tribunal when it deals with matters in the Isle of Man.

Rules of procedure will be essentially the same as those governing appeals in the UK, but will have been made by the Deemsters under Manx law.

Appeals from the VAT and Duties Tribunal would go to the Staff of Government Division, the Island's court of appeal.

4. Rights of appeal

You can appeal only where the law provides you with the right of appeal, and not every decision carries a right of appeal - though the majority do. When you do have the right to appeal the official letter from Customs and Excise giving the decision will make this clear. You must have an appealable decision in writing from Customs and Excise with which you disagree.

If there is any doubt the VAT and Duties Tribunal can decide if it has the jurisdiction to deal with the dispute or not.

A list of the more common decisions made by Customs and Excise that can be appealed can be found at Annex A. This is not a complete list.

You also have the right to ask for a review of a decision. You may make an appeal either -

- within 30 days of the date of the decision letter (if you do not ask for a review);
- within 30 days of the letter from Customs and Excise providing the result of its review; or
- within 30 days of the date when Customs and Excise refused to carry out a review that was requested late.

You do not have to accept the offer of a review.

An appeal has to be made in writing, or by completing the appeal form available from the Tribunals Service.

You are advised to carefully consider your options before making an appeal, including asking for a review, as many disputes can be settled by discussion or correspondence

without you having to actually go before the Tribunal.

More information on the right to a review of a decision is provided in paragraphs 8 to 10 below and in the factsheet Notice Appeal 1 MAN (available from Customs and Excise).

5. The Tribunal's powers

In deciding whether to appeal or not, you need to know what the VAT and Duties Tribunal can and can't do for you. The Tribunal does not have unlimited powers. It can only do what the law gives it the power to do. Sometimes, if it accepts that your appeal is valid, it can replace the decision you are appealing against with the decision it thinks should have been made. In other cases it can only direct Customs and Excise to reconsider its decision. If it does not accept that your appeal is valid it will uphold the decision you are appealing against.

6. Deciding whether to appeal

Before making your appeal, you should know that the VAT and Duties Tribunal cannot:

- Change the law. It has to apply the law as it stands, even if that leads to an outcome that you think is unfair.

- Deal with administrative complaints about the conduct of officials. (If you are unhappy with the way Customs and Excise has dealt with your affairs, please refer to the guidance on how to complain).

The Tribunals Service cannot advise you whether you have a case or whether you are likely to win or lose your appeal nor can it tell you if you should appeal or not. The decision letter will have stated whether you have a right of appeal to the VAT and Duties Tribunal.

Many people who make an appeal choose to get professional advice and support with it.

If you do decide to get advice, please do so at the earliest opportunity - when you are thinking about appealing. Please do not leave it until your appeal is well under way as you may not be able to have your appeal put on hold whilst you are seeking representation. If you face a delay in getting advice please keep an eye on the time-limit for appealing.

7. What should I do first?

Before you can make your appeal, you must first have an appealable written decision from Customs and Excise with which you disagree. Customs and Excise will have informed you of your options if you disagree with a decision.

You should consider your options seriously before appealing, including asking Customs and Excise to look again at the decision as many disagreements can be settled by discussion or correspondence without you actually having to go to a tribunal.

Customs and Excise is able to offer a formal internal review of your decision by a reviewer who will have had no previous involvement with your dispute. If you do not wish to engage these processes you can still appeal directly to the VAT and Duties Tribunal.

8. Reviews of decisions made by Customs and Excise

If you disagree with a decision made by Customs and Excise on an "indirect tax" matter and cannot resolve the dispute in discussion or correspondence with the officer concerned, or by providing further information to them, you can ask for either of the following -

- a review of the decision; or
- for your appeal to be heard by an independent VAT and Duties Tribunal.

9. The indirect taxes

The indirect taxes concerned are -

- VAT
- Air Passenger Duty
- Machine Games Duty
- Gambling Duty
- Lottery Duty
- Customs Duties
- Excise Duties (on hydrocarbon oil, biofuels, alcoholic liquor and tobacco products).

10. How to have a decision reviewed

When Customs and Excise tells you about a decision that you can appeal it will also offer you an opportunity to have the decision reviewed by an officer who was not previously involved in the original decision. You need to reply to this offer in writing, and send it to Custom House to arrive within 30 days of the original decision. The address for Custom House, and that for the Tribunals Service, can be found in Annex D.

There are also some circumstances in which you can ask for a review of a decision that was not sent to you but which directly affects what you have to pay to Customs and Excise. The decision notified by Customs and Excise will indicate if it is open to appeal. When this applies you also have 30 days from finding out about the decision to ask for a review.

Notice Appeal 1 MAN is a factsheet which contains more information about how to request a review and what happens if one is asked for. It is available from Customs and Excise.

11. Hardship cases - applying for your appeal to be heard without payment of the disputed tax or duty

In indirect tax appeals, the VAT and Duties Tribunal cannot hear an appeal that relates to disputed tax unless either you have paid or deposited the tax in dispute, or the Tribunal or Customs and Excise have waived the requirement to pay or deposit the tax.

If paying or depositing the disputed tax would cause you financial hardship, you should first write to Customs and Excise asking for the requirement to be waived. It is essential that you demonstrate your financial position so that it can consider the matter fully. If Customs and Excise does not agree to waive the requirement, you may apply to the Tribunal to consider the matter. If Customs and Excise opposes your hardship request, a tribunal hearing will be arranged to decide whether or not to allow it.

To make an application for hardship to the Tribunal after receiving a decision from Customs and Excise on the matter, you should complete the relevant section on the Notice of Appeal Form and send it to the Tribunals Service.

12. What will it cost to make an appeal?

You do not need to pay a fee to appeal to the VAT and Duties Tribunal. The costs you may incur in preparing your appeal will depend on the difficulty of your case and whether you decide to handle your appeal yourself or instruct a tax adviser such as an advocate or accountant.

The Tribunal does not normally pay expenses to attend a hearing.

The award of costs following a Tribunal hearing is not automatic. The Tribunal can, in some rare circumstances, make an award of costs against either of the parties. An award of costs is where the Tribunal decides that either you or Customs and Excise should pay the costs of the other party in taking their case. There would be an award of costs against you only where the Tribunal considered that you have behaved unreasonably or, in certain circumstances, where the Tribunal had categorised your case as “Complex” (see paragraph 19). You will be given further information if the awarding of costs is a possibility.

13. Time limit for appealing

You will normally have 30 days to appeal a disputed decision. If you make use of the Customs and Excise review process you will have 30 days to appeal from the date you are notified of the outcome. The time limit runs from both the original decision and any decision following review. The letter you receive from Customs and Excise, both the original decision and any decision following review, will confirm the time you have for appealing.

If you are making your appeal outside the time limit, you must give reasons to the VAT and Duties Tribunal in writing.

14. Where do I obtain a Notice of Appeal?

Appeals to the VAT and Duties Tribunal must be made in writing. When you decide to make your appeal to the tribunal, you are strongly advised to complete a Notice of Appeal form and send it to the address at the bottom of the form.

You can download the Notice of Appeal form from the website at http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=3015

If you do not have access to the Internet, you can phone the Tribunals Service on 0300 123 1024 and it will send you a copy.

15. Completing the Notice of Appeal

The Notice of Appeal form is an important document as the details contained in this form will be used to process your appeal to a hearing, and to ensure the Tribunals Service convenes a panel that is appropriate for determining your case. It helps the Tribunal to consider your case fairly and also helps it contact you with information about how your appeal is progressing.

A separate information sheet with guidance notes on completing the Notice of Appeal is available on the Tribunals Service website and will be sent to you with the Notice of Appeal if you ask for one to be sent to you. Please phone the Tribunals Service on 0300 123 1024 to request this.

The completed Notice of Appeal should be sent to:

HM Courts & Tribunals Service
First-tier Tribunal (Tax Chamber)
4th Floor, 54 Hagley Road
PO Box 16972
Birmingham
B16 6TZ
Telephone: 0300 123 1024

If you prefer to complete the Notice of Appeal electronically, you can sent it to:

taxappeals@hmcts.gsi.gov.uk

YOU MUST MAKE IT CLEAR THAT IT IS "AN ISLE OF MAN APPEAL" TO ENSURE IT IS DEALT WITH CORRECTLY AND PROMPTLY.

The Tribunals Service will acknowledge receipt of your appeal in writing. You will be given a Tax Chamber Reference Number which you should quote in any correspondence. At this stage, the Tribunals Service will also notify Customs and Excise of your appeal.

16. Case categorisation

When you appeal to the VAT and Duties Tribunal, it will put your appeal in one of 4 categories:

- Default Paper
- Basic
- Standard
- Complex.

Which of the 4 categories your appeal is allocated to is dependent on the nature and complexity of your appeal.

When your appeal is acknowledged by the Tribunals Service it will tell you in writing which category your appeal has been allocated to, and how your appeal will proceed. It will keep you or your representative informed of progress throughout your appeal. Please note, however, that if you have a representative, it will only send correspondence to them. If you disagree with the way your case has been categorised you should contact the Tribunal.

Default Paper cases, by their nature, are generally decided by the Tribunal after reading the Notice of Appeal and the other written material provided by you and Customs and Excise. Default Paper cases are dealt with without a hearing, though you may ask for your appeal to be decided at a hearing. If you or Customs and Excise request a hearing or it is decided there should be a hearing by the Tribunal, you will be expected to attend. Customs and Excise will also send a representative to the hearing.

Basic category appeals are dealt with at informal hearings (see paragraph 19 below). The vast majority of appeals within the Standard and Complex categories will be registered at the First-Tier Tribunal - Tax Chamber in Birmingham but will then be passed to the Tax Chamber - First-Tier Tribunal in Manchester.

Appeal hearings will be held in the Island, usually at the Courts of Justice in Douglas. There may be occasions during the appeal process when judicial direction on your appeal will be sought. If this happens, you will be informed of the directions and any associated time limits which may apply. In more complex cases, you may be asked to attend a hearing at which a Judge will make directions.

17. Statement of Case and next steps

The next step will usually be for the VAT and Duties Tribunal to request a Statement of Case from Customs and Excise, except in relation to Basic category cases. A Statement of Case is a written statement of the Customs and Excise position on your case. It will normally contain information such as the legislation under which the appealed decision was made, Customs and Excise's position on the case and any other relevant information associated with the appeal. Customs and Excise will send the Statement to the Tribunal and the Tribunal will copy it to you. As a courtesy, Customs and Excise will normally copy the Statement directly to you as appellant.

18. Default Paper category (where there is no hearing)

A case categorised as Default Paper is generally decided when the VAT and Duties Tribunal has read the Notice of Appeal and other written material provided by you

and Customs and Excise. When Customs and Excise is notified that you have made an appeal against a decision which falls into this category, it has 42 days to provide a Statement of Case to the Tribunal. When the Statement of Case has been prepared, Customs and Excise will send a copy to you.

You may provide a written response to the Statement of Case within 30 days of it being sent to you. You should send your response, if you wish to make one, to the Tribunal and send a copy to Customs and Excise. Remember to quote your Tax Chamber reference number when writing to the Tribunal; and your Tax Chamber reference number and your Customs and Excise reference number (e.g. your VAT registration number) when corresponding with Customs and Excise.

Unless you have asked for an oral hearing, the case will be decided by the Tribunal when you have provided your response, or if you do not provide one, when the 30 day time limit has expired. The Tribunal will send you its response as soon as possible after considering your case.

19. Basic Category (where there is an informal hearing)

The VAT and Duties Tribunal does not normally require a Statement of Case to be produced by Customs and Excise for cases categorised as Basic. If your case is categorised in this way it will be listed for a hearing. You are expected to attend the hearing, when you will be given the opportunity to put forward your case, show the Tribunal any relevant documents you have and, if you wish, call witnesses. Customs and Excise will also attend, and it may put its case, produce documents and call witnesses at the hearing. The hearing will be informal, and the Tribunal will usually tell you what it has decided at the end of the hearing.

20. Standard and Complex categories

When Customs and Excise is notified that you have made an appeal against a decision in the Standard and Complex categories, it then has 60 days to provide a Statement of Case to the VAT and Duties Tribunal. The Statement of Case will contain similar information to that described above for the Default Paper category, though the facts and issues are likely to be much more complex. As with Default Paper cases, when Customs and Excise has prepared the Statement of Case it will send a copy to you. You will normally have 42 days from receipt of the Statement of Case from Customs and Excise in which to provide to the Tribunal and Customs and Excise a list of the documents which you will rely on at the hearing. Customs and Excise also has to provide a list of documents and copy its list to you. The Tribunal may also make any other direction at this time as to what may be required of you, and may determine that your case requires more intensive case management. You will have the opportunity to express your views on how your case should be managed.

21. When and where will my appeal be heard?

Hearings in Isle of Man appeals will take place in the Island, usually at the Courts of Justice in Douglas.

If your appeal is categorised as Basic, Standard or Complex, you should attend your hearing. For more information about the process of informing you of your hearing, please see paragraph 22 below.

22. Notification of hearing

If your appeal is to be decided at a hearing, the VAT and Duties Tribunal will write to you notifying you of the date, time and venue of your hearing. It will give you at least 14 days notice of a hearing, unless both you and Customs and Excise agree to a shorter period. However, it will usually give at least a month's notice.

You should tell the Tribunal immediately in writing if the date set for your hearing is not convenient and give the reasons why you cannot attend. It will then write to you and tell you whether your postponement request has been granted or not. For appeals in the Standard and Complex categories, the Tribunal will ask you in advance about dates which are inconvenient for you. In these cases, the Tribunal will be less willing to agree to a postponement, though it will do so for good reason, such as sudden illness.

Appellants in the Basic category appeals will usually be asked to attend at either 10:00 or 14:00 on the day of the hearing. In the Standard and Complex categories you will be given a set time to attend and the case may last a number of days. The time you arrive at the venue is given in your notice of hearing letter, and it is the latest time by which you should arrive at the Tribunal venue. If you are likely to be late for your hearing, please telephone the Tribunal Service and it will relay a message to the Tribunal.

For further information of what can happen at your hearing, please refer to Annex B.

23. Withdrawal of appeals

You can withdraw your appeal at any time.

Should you wish to withdraw your appeal, you should write to the VAT and Duties Tribunal immediately. If Customs and Excise decides to concede the matter in dispute, it will write to both the Tribunal and you.

Glossary

Tribunals Service

All references in this notice to the Tribunals Service means HM Courts and Tribunals Service (HMCTS).

AMENDMENTS TO THIS NOTICE

21 January 2016	List of indirect taxes and appealable matters updated
23 September 2016	Address and contact details for HM Courts & Tribunals Service updated. Web link to appeal form updated.

Annex A

What type of appeal does the VAT and Duties Tribunal deal with?

- value added tax (VAT)
- customs duty
- excise duties, including -
    - ◊ alcoholic liquor duties
    - ◊ hydrocarbon oil duties (i.e. on petrol, diesel, heating fuel etc)
    - ◊ tobacco products duty
    - ◊ lottery duty
    - ◊ machine games duty
    - ◊ gambling duty
    - ◊ air passenger duty
- amounts or terms for the restoration of seized goods

These are the most common types of appealable decisions.

Annex B

At your hearing

This Annex is designed to provide you with useful information about your Tribunal hearing once you have received a notification of hearing date letter. It cannot deal with every aspect or eventuality, but its aim is to provide you with information on what to expect at a hearing and what you need to do to prepare beforehand.

Please note that if your appeal is in the Default Paper category the information here does not apply.

If you have any questions about your hearing please phone the Tribunals Service.

What documents will I need to bring with me?

Essentially, you should bring evidence to the hearing which proves the facts of your case and also the legal grounds.

The proceedings for cases categorised as Basic are informal. You should attach the documents you intend to rely on with the Notice of Appeal form and bring them also to the hearing to make your case. Customs and Excise will notify you in writing and in advance if it wishes to raise new grounds contesting your case that it has not raised before.

In Standard and Complex categories, once you have received the Statement of Case from Customs and Excise, you must supply both the Tribunal and Customs and Excise with a list of documents you will be producing which you will rely on at the tribunal hearing. You must remember to bring these documents to the hearing. In addition to this, any document which you intend to refer to in support of your case should be available at the hearing. Examples may include invoices, books of accounts, bank statements, contracts or export documentation etc.

If you are in doubt about whether a document will be needed, your best course is to bring it with you. You should not assume that the hearing will be adjourned to another occasion to enable the documents to be produced.

You should also bring with you the Statement of Case from Customs and Excise together with any response you made.

Who can be present at the hearing?

<u>The Tribunal panel</u>

The composition of a Tribunal panel depends on the complexity of your appeal. The exact composition of the panel will depend on the needs of your case.

<u>Tribunal Clerk</u>

When you arrive at the venue for the hearing you will be met by the clerk to the Tribunal. The clerk may show you into a waiting room and give you an indication of when your appeal will begin. The clerk will deal with any last minute enquiries about the arrangements for the hearing. The clerk will also be present from time to time in the

Tribunal room during the hearing in case the Tribunal needs administrative assistance and will help ensure that special needs are met.

Customs and Excise Representative

Customs and Excise is also entitled to send a representative to take part in your appeal. You cannot ask for this representative to be excluded.

Your Representative

A representative is someone who helps you deal with the correspondence and represents you at any hearing. If you have appointed a representative or somebody to act on your behalf and have provided the Tribunal with their details, they are also entitled to attend the hearing.

You should attend the hearing. However, if you are unable to attend but have a representative the appeal may still proceed in your absence.

You may also bring with you to the hearing to support you a friend or family member or a business associate.

Witnesses

If you need the evidence of a witness to prove your case, it is normally up to you to arrange for the witness to attend to give evidence. If a witness is reluctant to attend, the Tribunal has power to compel attendance by means of a witness summons. If you think the evidence of a witness is necessary but it is not likely to be disputed by Customs and Excise, you can ask your witness to prepare a witness statement in writing and then send it to Customs and Excise. A witness statement must be in writing and signed and dated by the witness themselves.

For appeals in the Basic category, the rules of giving evidence are informal.

At the hearing of a Standard or Complex case, witnesses usually give evidence on oath or affirmation. After being examined (questioned) by the party calling them, the witness may be cross-examined by the other party, re-examined by you and perhaps questioned also by the Tribunal.

Customs and Excise may also, if it chooses, bring a witness.

Public hearings

Hearings before the Tribunal are normally open to the public. However, any party to the proceedings can ask for a hearing, or part of a hearing, to be held in private in certain circumstances.

If you wish for your hearing to be conducted in private, you should write to the Tribunal with reasons why. The fact that your financial affairs are personal is not enough; there must be a special reason such as it is in the interests of public order or national security or not to do so would prejudice the interests of justice.

Should you wish for your hearing to be heard in private, you should write to the Tribunal as soon as possible. The Tribunal will make the final decision on this.

Burden of proof

In most appeals the "burden of proof" is upon you. This means it is up to you to show why the disputed assessment, penalty or decision is wrong.

However, in most cases involving a penalty imposed by Customs and Excise the burden of proof is on Customs and Excise, which must satisfy the Tribunal that you were dishonest.

You will need to put evidence before the Tribunal which will establish the facts, figures and dates etc. If you need to call witnesses or produce documents, it is up to you to make sure that they are all available at the hearing (see above).

What will happen at the hearing?

Procedures differ depending on the nature and complexity of the appeal. Generally, however, hearings for cases categorised as Basic will be conducted in an informal atmosphere while appeals in the Standard and Complex categories will tend to be conducted more formally.

Normally, you or your representative will be asked to present your case first, explaining why you think the decision is wrong and support your argument with documentary evidence and/or the spoken evidence of your witnesses. You will need to explain what is already agreed, what is in dispute, what evidence you are putting forward and the basic points you are making. It is essential for each party, in the course of presenting the case, to bring out all the relevant facts.

The Customs and Excise representative will then be asked to present its case, again explaining in detail and offering evidence to support the original decision. While a party is presenting their case the other party will be allowed to question the other or to respond to points raised by the other although if the Tribunal feels the questions are not relevant or if they have accepted the point it may ask you to stop or move on.

The Tribunal may ask questions of you and/or your representative, Customs and Excise representative(s) and any witnesses.

The Decision

A Tribunal which hears appeals categorised as Basic will normally announce its decision on the day of the hearing and will later provide a written decision with brief reasons.

In Standard and Complex cases, the Tribunal may announce its decision there and then, but will usually reserve it to be given in writing later, normally within 28 days.

If your appeal is dealt with in the Default Paper category, a decision in writing will be posted to you as soon as possible after the appeal has been considered by the Tribunal on the papers.

What can I do if I lose my appeal?

If you are unhappy with the decision which the Tribunal reached, you will usually have a further right of appeal. When you receive the Tribunal's written decision notice it will contain information about how you can appeal on a point of law against a decision given by the Tribunal.

You can also ask the Tribunal to reconsider its decision on the grounds of a procedural irregularity, if you think there was one. For instance, a document relating to proceedings was not sent or received by a party or somebody related to the hearing was not present. When you write to the Tribunal, you will need to identify the irregularity which you think occurred.

Full information on your further appeal rights will be provided to you with the decision notice.

See also Annex C below.

Annex C

Appeals against decisions of the VAT and Duties Tribunal

Guidance to accompany a Decision from the Tribunal

This guidance gives you information about what you can do to challenge a Tribunal's decision or apply to change a decision of the Tribunal. It applies whether the decision has been made by the Tribunal at a hearing or whether the decision has been made on the papers alone.

This Annex contains only a summary of the actions you can take following a decision of the Tribunal. It is not an exhaustive statement of the law. You may wish to seek advice about your rights.

Please Note

The rights to apply for permission to appeal, correcting and setting aside a decision are also available to Customs and Excise.

If you are outside a time limit or think you might require extra time to lodge your appeal, you may apply for an extension of time, explaining why your application is late and why you should be granted an extension of time.

The Decision

In every case, even if the decision has been given orally at a hearing, the tribunal office will send a written notice of the decision to you (as the appellant) and to Customs and Excise.

Unless the parties both agreed otherwise at the hearing, the decision will include either a summary of findings of fact and reasons for the decision, or full written findings and reasons.

Appeal to the Staff of Government Division

If you think that the Tribunal has made an error of law, you may apply for permission to appeal to the Staff of Government Division (the Island's court of appeal) against the decision. The following are some examples of what is meant by error of law:

- the Tribunal applied the law incorrectly;
- the Tribunal conducted the proceedings in breach of the proper procedures;
- the Tribunal failed to give adequate reasons for its decision.

Note

There are certain penalty cases where permission can be sought to look at the amount of the penalty, which is a broader permission than on an error of law. Your decision letter will tell you whether your case is one of these.

How do I apply for permission to appeal?

If you want to make an application for permission to appeal to the Staff of Government Division and you have not received full written findings of fact and reasons for the decision, you must apply to the Tribunal for these.

The Tribunals Service must receive your written application for the full reasons within 28 days after the date that the Tribunal sent the decision notice to you.

If, having considered the statement of reasons, you believe that the decision of the Tribunal was based on an error of law, you may then apply to the Tribunal for permission to appeal against the decision to the Staff of Government Division. Your application for permission to appeal must -

- be received by the Tribunals Service no later than 56 days from the date the Tribunal sent you full written reasons, and

- must identify the decision of the Tribunal to which it relates, the alleged error or errors in the decision and state the result you are seeking.

Contact the Tribunals Service for details of how to make your application.

An application for permission to appeal will be considered by a Judge of the First-tier Tribunal (Tax Chamber). The Judge will:

- first of all consider whether to review the decision and, if there is an error of law, make a fresh decision or arrange for your case to be re-decided (see “Review” below);

- grant permission, in which case you can make your appeal to the Staff of Government Division; or

- refuse permission, in which case you then have the option of applying directly to the court for permission.

If the appeal proceeds, the court has the power to set aside the Tribunal’s decision and give a fresh decision or refer the case to the Tribunal for re-hearing.

Review

When the Tribunal receives an application for permission to appeal it will first consider whether to review the decision - that is, to determine whether the Tribunal decision contains an error of law. If, as a result of the review, the Tribunal decides there was an error of law in the decision it will write to you (and all other parties). It will write to give you the opportunity to make representations before any action is taken as a result of a review.

This action could mean changing the decision against which you are appealing.

Corrections

If you think the decision notice contains an accidental error (for example the Tribunal may have written “2009” instead of “2008” as the applicable date) you may write to the Tribunal asking for a correction to be made. This rule only applies to what might be called slips of the pen.

Setting Aside

If you think there has been an irregularity in the arrangements for dealing with your appeal, you may write to ask for the Tribunal’s decision to be set aside (cancelled). Your application must be received by the Tribunal no later than 28 days after the day when the Tribunal sent you the decision.

Examples of irregularities in the arrangements could be that a document relating to your appeal was not considered by the Tribunal or some other procedural irregularity or you or your representative was not present. The Tribunal will set aside the decision if it is in the interests of justice to do so. If you are asking that the decision be set aside because you or your representative was not present, you must explain why. If you think there was an irregularity, you must tell the Tribunal what it was.

Annex D

Contact Details

Customs and Excise:

Isle of Man Customs and Excise
PO Box 6
Custom House
North Quay
Douglas
Isle of Man
IM99 1AG

Tel: (01624) 648100
Fax: (01624) 661725

Email: customs@gov.im

Tribunal Service

You should send your appeal by post or email to the Birmingham address - remember to make it clear that yours is an "Isle of Man Appeal":

HM Courts & Tribunals Service
First-tier Tribunal (Tax Chamber)
4th Floor, 54 Hagley Road
PO Box 16972
Birmingham
B16 6TZ

Tel: 0300 123 1024

Email: taxappeals@hmcts.gsi.gov.uk

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Isle of Man
Government
Reiltys Ellan Vannin