
STATUTORY INSTRUMENTS

2009 No. 0000

TRIBUNALS AND INQUIRIES

The First-tier Tribunal (Tax Chamber) Rules 2009

<i>Made</i> - - - -	2009
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<i>Coming into force</i> - -	2009

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After consulting in accordance with paragraph 28(1) of the Tribunals, Courts and Enforcement Act 2007(a), the Tribunal Procedure Committee has made and the Lord Chancellor has allowed

(a) 2007 c.15.

the following Rules in exercise of the power conferred by sections 9, 22 and 29(3) of, and Schedule 5 to, the Tribunals, Courts and Enforcement Act 2007.

PART 1

Introduction

Citation, commencement, application and interpretation

1.—(1) These Rules may be cited as the First-tier Tribunal (Tax Chamber) Rules 2009 and come into force on [] 2009.

(2) These Rules apply to proceedings before the Tribunal which have been allocated to the Tax Chamber by the First-tier Tribunal and Upper Tribunal (Chambers and Onward Appeal) Order 2008^(a).

(3) In these Rules any reference to a Chapter, Part or rule alone is a reference to a Chapter, Part or rule in or these Rules.

(4) In these Rules—

“2007 Act” means the Tribunals, Courts and Enforcement Act 2007;

“appellant” means—

- (a) in an appeal against a decision by HMRC, the taxpayer to whom the proceedings relate;
- (b) in other proceedings, the person who starts proceedings (whether by making an application or reference, or otherwise); or
- (c) a person substituted as an appellant under rule [9] (substitution and addition of parties);

“document” means anything in which information is recorded in any form, and an obligation under these Rules to provide or allow access to a document or a copy of a document for any purpose means, unless the Tribunal directs otherwise, an obligation to provide or allow access to such document or copy in a legible form or in a form which can be readily made into a legible form;

“hearing” means an oral hearing and includes a hearing conducted in whole or in part by video link, telephone or other means of instantaneous two-way electronic communication;

“HMRC” means Her Majesty’s Revenue and Customs;

“legal representative” means an authorised advocate or authorised litigator as defined by section 119(1) of the Courts and Legal Services Act 1990^(b), an advocate or solicitor in Scotland, or a barrister or solicitor in Northern Ireland;

“party” means a person who is (or was at the time that the Tribunal disposed of the proceedings) an appellant or respondent in proceedings before the Tribunal;

“practice direction” means a direction given under section 23 of the 2007 Act;

“respondent” means—

- (a) in proceedings brought by a taxpayer, HMRC;
- (b) in proceedings brought by HMRC, the taxpayer to whom the proceedings relate;
- (c) any other person against whom proceedings are brought; or
- (d) a person substituted or added as a respondent under rule [9] (substitution and addition of parties);

“Tax Chamber” means the Tax Chamber of the First-tier Tribunal established by the First-tier Tribunal and Upper Tribunal (Chambers and Onward Appeal) Order 2008;

“Tribunal” means the First-tier Tribunal;

(a) S.I. 2008/XXXX.

(b) 1990 c.41.

“working day” means any day except a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971(a).

Overriding objective and parties’ obligation to co-operate with the Tribunal

2.—(1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.

(2) Dealing with a case fairly and justly includes—

- (a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties;
- (b) avoiding unnecessary formality and seeking flexibility in the proceedings;
- (c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;
- (d) using any special expertise of the Tribunal effectively; and
- (e) avoiding delay, so far as compatible with proper consideration of the issues.

(3) The Tribunal must seek to give effect to the overriding objective when it—

- (a) exercises any power under these Rules; or
- (b) interprets any rule or practice direction.

(4) Parties must—

- (a) help the Tribunal to further the overriding objective; and
- (b) co-operate with the Tribunal generally.

Arbitration

3. Part 1 of the Arbitration Act 1996(b) does not apply to proceedings before the Tribunal.

PART 2

General powers and provisions

Delegation to staff

4.—(1) Staff appointed under section 40(1) of the 2007 Act (tribunal staff and services) may, with the approval of the Senior President of Tribunals, carry out functions of a judicial nature permitted or required to be done by the Tribunal.

(2) The approval referred to at paragraph (1) may apply generally to the carrying out of specified functions by members of staff of a specified description in specified circumstances.

(3) Within 14 days after the date that the Tribunal sends notice of a decision made by a member of staff pursuant to an approval under paragraph (1) to a party, that party may apply in writing to the Tribunal for that decision to be considered afresh by a judge.

Case management powers

5.—(1) Subject to the provisions of the 2007 Act and any other enactment, the Tribunal may regulate its own procedure.

(2) The Tribunal may give a direction in relation to the conduct or disposal of proceedings at any time, including a direction amending, suspending or setting aside an earlier direction.

(a) 1971 c.80.
(b) 1996 c.23.

(3) In particular, and without restricting the general powers in paragraphs (1) and (2) but subject to any specific provisions in these Rules, the Tribunal may by direction—

- (a) extend or shorten the time for complying with any rule, practice direction or direction, unless such extension or shortening would conflict with a provision of another enactment setting down a time limit;
- (b) consolidate or hear together two or more sets of proceedings or parts of proceedings raising common issues, or treat a case as a lead case (whether in accordance with rule [18] (lead cases) or otherwise);
- (c) permit or require a party to amend a document;
- (d) permit or require a party or another person to provide documents, information or submissions to the Tribunal or a party;
- (e) deal with an issue in the proceedings as a preliminary issue;
- (f) hold a hearing to consider any matter, including a case management hearing;
- (g) decide the form of any hearing;
- (h) adjourn or postpone a hearing;
- (i) require a party to produce a bundle for a hearing;
- (j) stay (or, in Scotland, sist) proceedings;
- (k) transfer proceedings to another tribunal if that other tribunal has jurisdiction in relation to the proceedings and, because of a change of circumstances since the proceedings were started—
 - (i) the Tribunal no longer has jurisdiction in relation to the proceedings; or
 - (ii) the Tribunal considers that the other tribunal is a more appropriate forum for the determination of the case;
- (l) suspend the effect of its own decision pending an appeal or review of that decision.

Procedure for applying for and giving directions

6.—(1) The Tribunal may give a direction on the application of one or more of the parties or on its own initiative.

(2) An application for a direction may be made—

- (a) by sending or delivering a written application to the Tribunal; or
- (b) orally during the course of a hearing.

(3) An application for a direction must include the reasons for making that application.

(4) Unless the Tribunal considers that there is good reason not to do so, the Tribunal must send written notice of any direction to every party to the proceedings.

(5) If a party wishes to challenge a direction which the Tribunal has given, the party may do so by applying for a second direction which amends, suspends or sets aside the first direction.

Failure to comply with rules etc.

7.—(1) An irregularity resulting from a failure to comply with any requirement in these Rules, a practice direction or a direction does not of itself render void the proceedings or any step taken in the proceedings.

(2) If a party has failed to comply with a requirement in these Rules, a practice direction or a direction, the Tribunal may take such action as it considers just, which may include—

- (a) waiving the requirement;
- (b) requiring the failure to be remedied;
- (c) exercising its power under rule [8] (striking out a party's case);
- (d) restricting a party's participation in proceedings; or

- (e) exercising its power under paragraph (3)

(3) The Tribunal may refer to the Upper Tribunal, and ask the Upper Tribunal to exercise its power under section 25 of the 2007 Act in relation to, any failure by a person to comply with a requirement imposed by the Tribunal—

- (a) to attend at any place for the purpose of giving evidence;
- (b) otherwise to make themselves available to give evidence;
- (c) to swear an oath in connection with the giving of evidence;
- (d) to give evidence as a witness;
- (e) to produce a document; or
- (f) to facilitate the inspection of a document or any other thing (including any premises).

Striking out a party's case

8.—(1) The proceedings, or the appropriate part of them, will automatically be struck out if the appellant has failed to comply with a direction that stated that failure by a party to comply with the direction would lead to the striking out of the proceedings or that part of them.

(2) The Tribunal must strike out the whole or a part of the proceedings if the Tribunal does not have jurisdiction in relation to the proceedings or that part of them.

(3) The Tribunal may strike out the whole or a part of the proceedings if—

- (a) the appellant has failed to comply with a direction which stated that failure by the appellant to comply with the direction could lead to the striking out of the proceedings or part of them;
- (b) the appellant has failed to co-operate with the Tribunal to such an extent that the Tribunal cannot deal with the proceedings fairly and justly; or
- (c) the Tribunal considers there is no reasonable prospect of the appellant's case, or part of it, succeeding.

(4) The Tribunal may not strike out the whole or a part of the proceedings under paragraphs (2) or (3)(b) or (c) without first giving the appellant an opportunity to make representations in relation to the proposed striking out.

(5) If the proceedings, or part of them, are struck out, the effect will be as if the Tribunal had—

- (a) considered, and decided against, the case put forward by the appellant or the relevant part of it; and
- (b) disposed of the proceedings, or the relevant part of them, in accordance with that decision.

(6) If the proceedings, or part of them, have been struck out under paragraphs (1) or (3)(a), the appellant may apply for the proceedings, or part of them, to be reinstated.

(7) An application under paragraph (6) must be made in writing and received by the Tribunal within 28 days after the date that the Tribunal sent notification of the striking out to the appellant.

(8) This rule applies to a respondent as it applies to an appellant except that—

- (a) references to the striking out of the proceedings must be read as references to the barring of the respondent from taking further part in the proceedings; and
- (b) references to applications for the reinstatement of proceedings which have been struck out must be read as references to applications for the lifting of the bar on the respondent from taking further part in the proceedings.

(9) If a respondent has been barred from taking further part in proceedings under this rule and that bar has not been lifted, the Tribunal need not consider any response or other submissions made by that respondent.

Substitution and addition of parties

9.—(1) The Tribunal may give a direction substituting a party if—

- (a) the wrong person has been named as a party; or
- (b) the substitution has become necessary because of a change in circumstances since the start of proceedings.

(2) The Tribunal may give a direction adding a person to the proceedings as a respondent.

(3) A person who is not a party to proceedings may make an application to be added or substituted as a party under this rule.

(4) If the Tribunal refuses an application under paragraph (3) it must consider whether to permit the person who made the application to provide submissions or evidence to the Tribunal.

(5) If the Tribunal gives a direction under paragraph (1) or (2) it may give such consequential directions as it considers appropriate.

Orders for costs

10.—(1) The Tribunal may, on an application or on its own initiative, make an order awarding costs (or, in Scotland, expenses) but only—

- (a) under section 29(4) of the 2007 Act (wasted costs), if the Tribunal considers that the circumstances justify it; or
- (b) if the Tribunal considers that a party or their representative has acted unreasonably in connection with the proceedings; or
- (c) if—
 - (i) the proceedings have been allocated as a Complex case under rule [21] (allocation of cases to tracks); and
 - (ii) the taxpayer to whom the proceedings relate did not request that the proceedings be excluded from the costs or expenses régime prior to a hearing in the proceedings (other than any hearing dealing solely with directions or case management).

(2) The Tribunal may not make an order under paragraph (1) against a person (the “paying person”) without first—

- (a) giving that person an opportunity to make representations; and
- (b) if the paying person is an individual, considering that person’s financial means.

(3) An order under paragraph (1) must not relate to any costs (or, in Scotland, expenses) other than those incurred—

- (a) by the person in whose favour the order is made (“the receiving person”);
- (b) in connection with the proceedings; and
- (c) since the proceedings were started in the Tribunal.

(4) The amount of costs (or, in Scotland, expenses) to be paid under an order under paragraph (1) may be ascertained by—

- (a) summary assessment by the Tribunal;
- (b) agreement of a specified sum by the paying person and the receiving person; or
- (c) assessment of the whole or a specified part of the costs (or, in Scotland, expenses) incurred by the receiving person, if not agreed, the assessment to be on such basis as the Tribunal specifies.

(5) Following an order under paragraph (4)(c) the paying person or the receiving person may apply—

- (a) in England and Wales, to the county court for a detailed assessment of costs in accordance with the Civil Procedure Rules 1998 on the standard basis or, if specified in the order, on the indemnity basis;

- (b) in Scotland, to the Auditor of the Court of Session for the taxation of the expenses according to the fees payable in the Court of Session; or
 - (c) in Northern Ireland, to the county court for the costs to be taxed.
- (6) A person making an application for an order under this rule must—
- (a) send or deliver a written application to the Tribunal and to the proposed paying person, so that it is received no later than 14 days after the date that the Tribunal sends the decision notice recording the decision which disposes of the proceedings; and
 - (b) send or deliver a schedule of the costs or expenses claimed with the application.

Representatives

11.—(1) A party may appoint a representative (whether a legal representative or not) to represent that party in the proceedings.

(2) If a party appoints a representative, that party (or the representative if the representative is a legal representative) must send or deliver to the Tribunal and to each other party to the proceedings written notice of the representative's name and address.

(3) Anything permitted or required to be done by a party under these Rules, a practice direction or a direction may be done by the representative of that party, except signing a witness statement.

(4) A person who receives due notice of the appointment of a representative—

- (a) must provide to the representative any document which is required to be provided to the represented party, and need not provide that document to the represented party; and
- (b) may assume that the representative is and remains authorised as such until they receive written notification that this is not so from the representative or the represented party.

(5) At a hearing a party may be accompanied by another person who, with the permission of the Tribunal, may act as a representative or otherwise assist in presenting the party's case at the hearing.

(6) Paragraphs (2) to (4) do not apply to a person (other than an appointed representative) who accompanies a party in accordance with paragraph (5).

Calculating time

12.—(1) An act required by these Rules, a practice direction or a direction to be done on or by a particular day must be done before 5pm on that day.

(2) If the time specified by these Rules, a practice direction or a direction for doing any act ends on a day other than a working day, the act is done in time if it is done on the next working day.

Sending and delivery of documents

13.—(1) Any document to be provided to the Tribunal under these Rules, a practice direction or a direction must be—

- (a) sent by pre-paid post or delivered by hand to the address specified for the proceedings;
- (b) sent by fax to the number specified for the proceedings; or
- (c) sent or delivered by such other method as the Tribunal may permit or direct.

(2) Subject to paragraph (3), if a party or representative provides a fax number, email address or other details for the electronic transmission of documents to them, that party or representative must accept delivery of documents by that method.

(3) If a party informs the Tribunal and all other parties that a particular form of communication (other than pre-paid post or delivery by hand) should not be used to provide documents to that party, that form of communication must not be so used.

(4) If the Tribunal or a party sends a document to a party or the Tribunal by email or any other electronic means of communication, the recipient may request that the sender provide a hard copy

of the document to the recipient. The recipient must make such a request as soon as reasonably practicable after receiving the document electronically.

(5) The Tribunal and each party may assume that the address provided by a party or its representative is and remains the address to which documents should be sent or delivered until receiving written notification to the contrary.

Use of documents and information

14. The Tribunal may make an order prohibiting the disclosure or publication of—

- (a) specified documents or information relating to the proceedings; or
- (b) any matter likely to lead members of the public to identify any person whom the Tribunal considers should not be identified.

Disclosure, evidence and submissions

15.—(1) The Tribunal may give directions as to—

- (a) issues on which it requires evidence or submissions;
- (b) the nature of the evidence or submissions it requires;
- (c) whether the parties are permitted or required to provide expert evidence, and if so whether the parties must jointly appoint a single expert to provide such evidence;
- (d) any limit on the number of witnesses whose evidence a party may put forward, whether in relation to a particular issue or generally;
- (e) the manner in which any evidence or submissions are to be provided, which may include a direction for them to be given—
 - (i) orally at a hearing; or
 - (ii) by written submissions or witness statement; and
- (f) the time at which any evidence or submissions are to be provided.

(2) The Tribunal may give a direction that a party must—

- (a) provide a list of documents which are or have been in that party's possession, custody or power relating to any question in issue in the proceedings; and
- (b) allow each other party to inspect or take copies of the documents appearing on the list except those documents which are—
 - (i) no longer in the possession, custody or power of the party who made the list; or
 - (ii) privileged.

(3) The Tribunal may—

- (a) admit evidence whether or not the evidence would be admissible in a civil trial in the United Kingdom; or
- (b) exclude evidence that would otherwise be admissible where—
 - (i) the evidence was not provided within the time allowed by a direction or a practice direction;
 - (ii) the evidence was otherwise provided in a manner that did not comply with a direction or a practice direction; or
 - (iii) it would otherwise be unfair to admit the evidence.

(4) The Tribunal may consent to a witness giving, or require any witness to give, evidence on oath, and may administer an oath for that purpose.

Summoning or citation of witnesses and orders to answer questions or produce documents

16.—(1) On the application of a party or on its own initiative, the Tribunal may—

- (a) by summons (or, in Scotland, citation) require any person to attend as a witness at a hearing at the time and place specified in the summons or citation;
 - (b) order any person to answer any questions or produce any documents in that person's possession or control which relate to any issue in the proceedings.
- (2) The Tribunal may only make the requirement at paragraph (1)(a) if—
- (a) the person required to attend has been given at least 14 days' notice of the hearing; and
 - (b) the summons or citation makes provision for the person's necessary expenses of attendance to be paid, and states who is to pay them, unless the person is a party to the proceedings.
- (3) No person may be compelled to give any evidence or produce any document that the person could not be compelled to give or produce on a trial of an action in a court of law in the part of the United Kingdom where the proceedings are due to be determined.
- (4) A summons, citation or order under this rule must—
- (a) state that the person on whom the requirement is imposed may apply to the Tribunal to vary or set aside the summons, citation or order, if they have not had an opportunity to object to it; and
 - (b) state the consequences of failure to comply with the summons, citation or order.

Withdrawal

17.—(1) Subject to any provision in another enactment relating to withdrawal or settlement of proceedings, a party may withdraw their case, or any part of it—

- (a) at any time before a hearing to consider the disposal of the proceedings (or, if the Tribunal disposes of the proceedings without a hearing, before that disposal), by sending or delivering to the Tribunal a written notice of withdrawal; or
 - (b) orally at a hearing.
- (2) If a party withdraws their case, or part of it, the effect will be as if the Tribunal had—
- (a) considered, and decided against, the case or the relevant part of it; and
 - (b) disposed of the proceedings, or the relevant part of them, in accordance with that decision.
- (3) A party who has withdrawn their case may apply to the Tribunal for the case to be reinstated.
- (4) An application under paragraph (3) must be made in writing and be received by the Tribunal within 28 days after—
- (a) the date that the Tribunal received the notice under paragraph (1)(a); or
 - (b) the date of the hearing at which the case was withdrawn orally under paragraph (1)(b).

Lead cases

18.—(1) This rule applies if—

- (a) two or more cases have been started before the Tribunal;
 - (b) in each such case the Tribunal has not made a decision disposing of the proceedings, or held a hearing pursuant to which such a decision may be made; and
 - (c) the cases give rise to common or related issues of fact or law (“the related issues”).
- (2) The Tribunal may give a direction—
- (a) staying (or, in Scotland, sisting) the whole, or the parts relevant to the related issues, of all but one or more specified cases falling under paragraph (1) (“the related cases”); and
 - (b) that the case or cases which have not been stayed (or, in Scotland, sisted) be heard as a lead case or lead cases.

(3) When the Tribunal makes a decision in relation to the part of the lead case or lead cases relevant to the related issues—

(a) the Tribunal must send a copy of that decision to each party in each of the related cases; and

(b) subject to paragraph (4), that decision shall be binding on each of those parties.

(4) Within 21 days after the date that the Tribunal sent a copy of the decision under paragraph (3)(a) to a party, that party may apply in writing for a direction that the decision does not apply to, and is not binding on the parties to, a particular related case.

(5) The Tribunal must give directions in respect of cases which are subject to stays (or, in Scotland, sists) under paragraph (2)(a), providing for the disposal of or further directions in those cases.

(6) If the lead case or cases are discontinued before the Tribunal makes a decision in relation to the part of the lead case or cases relevant to the related issues, the Tribunal must give directions as to—

(a) whether another case or other cases are to be heard as a lead case or lead cases; and

(b) whether any direction affecting the related cases should be set aside or amended.

PART 3

Proceedings before the Tribunal

CHAPTER 1

Starting proceedings and allocation of cases to tracks

Starting appeal proceedings

19.—(1) Where another enactment provides for a person to make or notify an appeal to the Tribunal, the appellant must start proceedings by sending or delivering a notice of appeal to the Tribunal within any time limit imposed by such other enactment.

(2) The notice of appeal must include—

(a) the name and address of the appellant;

(b) the name and address of the appellant's representative (if any);

(c) an address where documents for the appellant may be sent or delivered;

(d) details of the decision appealed against; and

(e) the result the appellant is seeking.

(3) The appellant must provide with the notice of appeal a copy of any written record of any decision appealed against, and any statement of reasons for that decision that the appellant has or can reasonably obtain.

(4) If the appellant provides the notice of appeal to the Tribunal later than any time limit imposed by another enactment or by an extension of time allowed under rule [5(3)(a)] (power to extend time)—

(a) the notice of appeal must include a request for an extension of time and the reason why the notice of appeal was not provided in time; and

(b) unless the Tribunal extends time for the application notice under rule [5(3)(a)] (power to extend time) the Tribunal must not admit the notice of appeal.

(5) When the Tribunal receives the notice of appeal it must give notice of the proceedings to the respondent.

Starting proceedings by application or reference

20.—(1) Where another enactment provides for a person to make an application or reference to the Tribunal, the appellant must start proceedings by providing an application notice or notice of reference to the Tribunal within any time limit imposed by such other enactment.

(2) The application notice or notice of reference must state—

- (a) the name and address of the appellant;
- (b) the name and address of the appellant’s representative (if any);
- (c) an address where documents for the appellant may be sent or delivered;
- (d) the name and address of any respondent;
- (e) the nature of the application or reference;
- (f) the facts relevant to the application or reference; and
- (g) the result the appellant is seeking (if any).

(3) If the appellant provides the application notice or notice of reference to the Tribunal later than the time required by paragraph (1) or by any extension of time under rule [5(3)(a)](power to extend time)—

- (a) the application notice or notice of reference must include a request for an extension of time and the reason why the application notice or notice of reference was not provided in time; and
- (b) unless the Tribunal extends time for the application notice or notice of reference under rule [5(3)(a)] (power to extend time) the Tribunal must not admit the application notice or notice of reference .

(4) When the appellant provides the application notice or notice of reference to the Tribunal it must also provide a copy of the application notice or notice of reference and any accompanying documents to each respondent (if any).

Allocation of cases to tracks

21.—(1) Cases in the Tax Chamber may be dealt with in one of four procedural tracks: Paper, Basic, Standard or Complex.

(2) When proceedings are started, a case will fall into either the Paper, Basic or Standard track as provided in the relevant practice direction.

(3) Subject to paragraph (4), the Tribunal may give a direction allocating a case to a different track at any time, whether on the application of a party or on its own initiative.

(4) The Tribunal may give a direction allocating a case to the Complex track if the Tribunal considers that the case—

- (a) will require lengthy or complex evidence or proceedings;
- (b) involves an important principle of law or an unusually complex issue; or
- (c) involves an unusually large financial sum.

CHAPTER 2

The Paper Track

Application of this Chapter

22.—(1) This Chapter applies to cases falling into or allocated to the Paper track under rule [21] (allocation of cases to tracks), but rules [23] (respondents’ statements of case), [24] (appellant’s reply) and [25(1)] (holding a hearing) do not apply to—

- (a) applications to which there is no respondent; or
- (b) applications made under section 93(3) of the Taxes Management Act 1970.

Respondents' statements of case

23.—(1) Each respondent must provide a statement of case to the Tribunal, the appellant and each other respondent (if any) within 42 days after receiving notice of the appeal or a copy of the application notice or notice of reference.

(2) A statement of case must—

- (a) in an appeal, state the legislative provision under which the decision under appeal was made;
- (b) set out the respondent's position on the case;
- (c) provide all information (including, where appropriate, copies of the documents containing such information) relevant to the case.

(3) A statement of case may also contain a request that the case be dealt with at a hearing.

(4) If a respondent provides a statement of case to the Tribunal later than the time required by paragraph (2) or by any extension allowed under rule [5(3)(a)] (power to extend time), the statement of case must include a request for an extension of time and the reason why the statement of case was not provided in time.

Appellant's reply

24.—(1) The appellant may provide a written reply to the Tribunal within 30 days after the date that the respondent sent the statement of case to which the reply relates.

(2) The appellant's reply may—

- (a) set out the appellant's response to the respondent's statement of case;
- (b) provide any further information (including, where appropriate, copies of the documents containing such information) which has not yet been provided to the Tribunal and is relevant to the case; and
- (c) contain a request that the case be dealt with at a hearing.

(3) The appellant must send a copy of any reply provided under paragraph (2) to each respondent at the same time as it is provided to the Tribunal.

(4) If the appellant provides a reply to the Tribunal later than the time required by paragraph (1) or by any extension allowed under rule [5(3)(a)] (power to extend time), the reply must include a request for an extension of time and the reason why the reply was not provided in time.

Hearing and determination of the case

25.—(1) If any party has requested that the case be dealt with at a hearing, the Tribunal must hold a hearing to consider the disposal of the case.

(2) Subject to paragraph (1) and any direction to the contrary, the parties may not submit any further evidence or arguments and the Tribunal must determine the case without a hearing.

CHAPTER 3

The Basic, Standard and Complex Tracks

The Basic track

26.—(1) This rule applies to cases falling into or allocated to the Basic track under rule [21] (allocation of cases to tracks)

(2) The notice of appeal, application notice or notice of reference must, in addition to the requirements of rule [19] (starting appeal proceedings) or [20] (starting proceedings by application or reference), include—

- (a) the grounds on which the appellant intends to rely;
- (b) any further information or documents required by a practice direction; and

- (c) whether the appellant would be content for the case to be dealt with without a hearing if the Tribunal considers it appropriate.

(3) Unless the Tribunal gives any direction to the contrary, the case will proceed directly to a hearing.

The Standard and Complex tracks

27.—(1) This rule applies to cases falling into or allocated to the Standard or Complex tracks under rule [21] (allocation of cases to tracks).

(2) The notice of appeal must, in addition to the requirements of rule [19] (starting appeal proceedings) or [20] (starting proceedings by application or reference), include—

- (a) the grounds on which the appellant intends to rely;
- (b) any further information or documents required by a practice direction; and
- (c) whether the appellant would be content for the case to be dealt with without a hearing if the Tribunal considers it appropriate.

(3) Each respondent must send a statement of case to the Tribunal and the appellant within 42 days after receiving notice of the appeal.

(4) A statement of case must—

- (a) in an appeal, state the legislative provision under which the decision under appeal was made;
- (b) provide all information (including, where appropriate, copies of the documents containing such information) relevant to the decision challenged by the appellant; and
- (c) set out the respondent's position on the issues in dispute.

(5) If a respondent provides a statement of case to the Tribunal later than the time required by paragraph (3) or by any extension allowed under rule [5(3)(a)] (power to extend time), the statement of case must include a request for an extension of time and reasons why the statement of case was not provided in time.

(6) The Tribunal may give directions as to the future conduct of the case, which may without limitation—

- (a) allocate the case as a Complex case;
- (b) consist of a set of standard directions;
- (c) require the parties to attend a case management hearing.

Transfer of cases to the Upper Tribunal

28.—(1) The President of the Tax Chamber of the Tribunal may at any time, with the concurrence of the President of the Tax Chamber of the Upper Tribunal (if that is a different person), require that a case shall be transferred to, and determined by, the Upper Tribunal.

(2) A requirement under paragraph (1) may be made—

- (a) in relation to a particular case; or
- (b) by practice direction in relation to a specified class of case.

(3) If a case has been allocated as a Complex case the Tribunal may, with the consent of the parties, refer a case to the Chamber President with a request that the case be considered for transfer to the Upper Tribunal under paragraph (1).

CHAPTER 4

Hearings

Determination with or without a hearing

29.—(1) Subject to rule [25] (hearings in the Paper track) and the following paragraphs, the Tribunal must hold a hearing before making a decision which disposes of proceedings unless—

- (a) each party has consented to, or has not objected to, the matter being decided without a hearing; and
- (b) the Tribunal considers that it is able to decide the matter without the hearing.

(2) This rule does not apply to decisions under Part 4.

(3) The Tribunal may dispose of proceedings without a hearing under rule [8] (striking out a party's case).

Entitlement to attend a hearing

30.—(1) Subject to paragraph (2) and rule [32(3) to (5)] (public and private hearings), each party to proceedings is entitled to attend a hearing.

(2) The Tribunal may direct that a person is not entitled to attend any hearing where the purpose of the hearing would be defeated by the attendance of that person.

Time and place of hearings

31.—(1) The Tribunal must give each party entitled to attend a hearing reasonable notice of the time and place of any hearing (including any adjourned or postponed hearing) and any changes to the time and place of any hearing.

(2) The period of notice under paragraph (1) must be at least 14 days except that the Tribunal may give less than 14 days' notice—

- (a) with the parties' consent; or
- (b) in urgent or exceptional circumstances.

Public and private hearings

32.—(1) Subject to the following paragraphs, all hearings must be held in public.

(2) The Tribunal may give a direction that a hearing, or part of it, is to be held in private if the Tribunal considers that—

- (a) it is necessary in the interests of public order or national security;
- (b) it is necessary in order to protect a party's right to respect for their private and family life; or
- (c) not to do so would prejudice the interests of justice.

(3) Where a hearing, or part of it, is to be held in private, the Tribunal may determine who is permitted to attend the hearing or part of it.

(4) The Tribunal may give a direction excluding from any hearing, or part of it—

- (a) any person whose conduct the Tribunal considers is disrupting or is likely to disrupt the hearing; or
- (b) any person whose presence the Tribunal considers is likely to prevent another person from giving evidence or making submissions freely.

(5) The Tribunal may give a direction excluding a witness from a hearing until that witness gives evidence.

(6) If the Tribunal publishes a report of a decision resulting from a hearing which was held wholly or partly in private, the Tribunal must, so far as practicable, ensure that the report does not

disclose information which was referred to only in a part of the hearing that was held in private (including such information which enables the identification of any person whose affairs were dealt with in the part of the hearing that was held in private).

Hearings in a party's absence

33. If a party fails to attend a hearing the Tribunal may proceed with the hearing if the Tribunal—

- (a) is satisfied that the party has been notified of the hearing or that reasonable steps have been taken to notify the party of the hearing; and
- (b) considers that it is in the interests of justice to proceed with the hearing.

CHAPTER 5

Decisions

Consent orders

34.—(1) The Tribunal may, at the request of the parties but only if it considers it appropriate, make a consent order dismissing the proceedings and making such other appropriate provision as the parties have agreed.

(2) Notwithstanding any other provision of these Rules, the Tribunal need not hold a hearing before making an order under paragraph (1), or provide reasons for the order.

Notice of decisions and reasons

35.—(1) The Tribunal may give a decision orally at a hearing.

(2) Subject to rule [16] (use of information), the Tribunal must provide to each party as soon as reasonably practicable after making a decision which disposes of proceedings (except a decision under Part 4) a decision notice which—

- (a) states the Tribunal's decision; and
- (b) notifies the party of any right of appeal against the decision and the time within which, and the manner in which, such right of appeal may be exercised.

(3) Unless each party agrees that it is unnecessary, the decision notice must—

- (a) include a summary of the findings of fact and reasons for the decision; or
- (b) be accompanied by full written findings of fact and reasons for the decision.

(4) If the Tribunal does not provide full written reasons under paragraph (3)(b), a party to the proceedings may apply for such full written reasons, and must do so before making an application for permission to appeal under rule [39] (application for permission to appeal).

(5) An application under paragraph (4) must be made in writing and sent or delivered to the Tribunal so that it is received within 28 days after the date that the Tribunal sent or otherwise provided the decision notice under paragraph (2) to the party making the application.

(6) The Tribunal must send a full written statement of reasons to each party to the proceedings as soon as practicable after receiving an application for full written reasons made in accordance with paragraphs (4) and (5).

PART 4

Correcting, setting aside, reviewing and appealing Tribunal decisions

Interpretation

36. In this Part—

“appeal” means the exercise of a right of appeal on a point of law under section 11 of the 2007 Act; and

“review” means the review of a decision by the Tribunal under section 9 of the 2007 Act.

Clerical mistakes and accidental slips or omissions

37. The Tribunal may at any time correct any clerical mistake or other accidental slip or omission in a decision, direction or any document produced by it, by—

- (a) sending notification of the amended decision or direction, or a copy of the amended document, to all parties and any other person to whom the decision, direction or document has been sent; and
- (b) making any necessary amendment to any information published in relation to the decision, direction or document.

Setting aside a decision which disposes of proceedings

38.—(1) The Tribunal may set aside a decision which disposes of proceedings, or part of such a decision, and re-make the decision, or the relevant part of it, if—

- (a) the Tribunal considers that it is in the interests of justice to do so; and
- (b) one or more of the conditions in paragraph (2) are satisfied.

(2) The conditions are—

- (a) a document relating to the proceedings was not sent to, or was not received at an appropriate time by, a party or a party’s representative;
- (b) a document relating to the proceedings was not sent to the Tribunal at an appropriate time;
- (c) a party, or a party’s representative, was not present at a hearing related to the proceedings; or
- (d) there has been some other procedural irregularity in the proceedings.

(3) A party applying for a decision, or part of a decision, to be set aside under paragraph (1) must make a written application to the Tribunal so that it is received no later than 28 days after the date on which the Tribunal sent notice of the decision to the party.

Application for permission to appeal

39.—(1) A party seeking permission to appeal—

- (a) must make a written application to the Tribunal for permission to appeal; and
- (b) may not take any steps in the Upper Tribunal unless the Tribunal has given or refused permission to appeal.

(2) An application under paragraph (1)(a) must be sent or delivered to the Tribunal so that it is received no later than 28 days after the latest of the dates that the Tribunal sends—

- (a) written reasons for the decision;
- (b) notification of amended reasons for, or correction of, the decision following a review; or
- (c) notification that an application for the decision to be set aside has been unsuccessful.

(3) The date in paragraph (2)(c) applies only if the application for the decision to be set aside was made within the time stipulated in rule [38] (setting aside a decision which disposes of proceedings).

(4) If the party sends or delivers the application to the Tribunal later than the time required by paragraph (2) or by any extension of time under rule [5(3)(a)] (power to extend time)—

- (a) the application must include a request for an extension of time and the reason why the application notice was not provided in time; and

- (b) unless the Tribunal extends time for the application under rule [5(3)(a)] (power to extend time) the Tribunal must not admit the application.
- (5) An application under paragraph (1)(a) must—
- (a) identify the decision of the Tribunal to which it relates;
 - (b) identify the alleged error or errors of law in the decision; and
 - (c) state the result the party making the application is seeking.

Tribunal's consideration of application for permission to appeal

40.—(1) On receiving an application for permission to appeal the Tribunal must first consider, taking into account the overriding objective in rule [2], whether to review the decision under rule [41] (review of a decision).

(2) If the Tribunal decides not to review the decision, or reviews the decision and decides to take no action in relation to the decision, or part of it, the Tribunal must consider whether to give permission to appeal in relation to the decision or that part of it.

(3) The Tribunal must send a record of its decision to the parties as soon as practicable.

(4) If the Tribunal refuses permission to appeal it must send with the record of its decision—

- (a) a statement of its reasons for such refusal; and
- (b) notification of the right to make an application to the Upper Tribunal for permission to appeal and the time within which, and the method by which, such application must be made.

(5) The Tribunal may give permission to appeal on limited grounds, but must comply with paragraph (4) in relation to any grounds on which it has refused permission.

Review of a decision

41.—(1) The Tribunal may only undertake a review of a decision—

- (a) pursuant to rule [40(1)] (review on an application for permission to appeal); and
- (b) if it is satisfied that there was an error of law in the decision.

(2) The Tribunal must notify the parties in writing of the outcome of any review, unless the Tribunal decides to take no action following the review.

(3) If the Tribunal takes any action in relation to a decision following a review without first giving every party an opportunity to make representations, the notice under paragraph (2) must state that any party that did not have an opportunity to make representations may apply for such action to be set aside and for the decision reviewed again.

(4) If the Tribunal takes any action in relation to a decision following a review, the Tribunal must also make any necessary amendment to any document published by it in relation to the decision.

Power to treat an application as a different type of application

42. If a party applies for a decision to be corrected or set aside, or applies for permission to appeal against a decision, the Tribunal may treat the application as an application for any other one of those things.