

understanding the new tax appeals procedure

The new tax appeals procedure will be less costly, more consistent and, where there is a recourse to the Tribunal Service, independence from HMRC says Gillian Latimer.

■ Significant changes to HMRC's appeals procedure are taking place from April 2009.

From 1 April 2009 the existing Commissioners and Tribunals used by HMRC will be replaced by the two tier Tribunals administered by the Ministry of Justice. At the same time HMRC will be introducing an internal review procedure which can be followed instead of, or in conjunction with, the full Tribunal regime.

internal review

Currently there are review and reconsideration systems in place for indirect tax appeals and these systems will be extended to direct tax appeals.

It is anticipated that internal reviews will provide a simpler, cost effective alternative to the full Tribunal Service route.

appeals to the Tax Tribunal

There are two tiers in the Tribunal system:

- the First-tier Tribunal (Tax Chamber) will hear nearly all tax appeals. However, a small number of more complex cases may be referred straight to the Upper Tribunal. The decision as to which cases will be referred straight to the Upper Tribunal will be made by the Tribunal President
- the Upper Tribunal is a Court of Record with jurisdiction throughout the United Kingdom. In addition to handling more complex tax appeals, referred for consideration by the Tribunal President, it will also deal with appeals from, and enforcement of, decisions of the First-tier Tribunal.

Appeals to the Upper Tribunal will require permission and in most cases will be on a point of law.

new procedures in practice

- if an appeal is to be made against a decision of HMRC such appeal must be made within 30 days of the decision.
- if a resolution cannot be reached then:
 - a request can be made to have the case reviewed by a different officer within HMRC; an internal review, or
 - a request that the case is referred to the tax tribunal.



If the choice is made for an internal review in the first instance it is still possible to appeal to the tribunal from the decision of the internal review.

Once the review is complete, and the decision communicated, the tax payer again has 30 days to appeal to the tribunal.

Where an appeal to the Tribunals Service is against a direct tax decision then an appeal must have been made to HMRC first.

Whether appealing to the tribunal following an internal review decision or appealing direct to the tribunal, such appeal must be made to the Tribunals Service within 30 days of the original decision (if the internal review procedure is not chosen) or 30 days from notification of the internal review decision. Appeals to the Tribunal Service must be made in writing either by letter or by using the appeal form available at: www.hmrc.gov.uk/about/tribunals-reform.htm

transitional arrangements

Where direct tax appeals are already underway at the time of the changeover in April 2009 then review will be available if they are still being dealt with internally but not where the appeal is already within the jurisdiction of the old tribunal system (General Commissioners, Special Commissioners and Section 706 Tribunals).

Guidance on the transitional arrangements for indirect taxes should be issued shortly.

sources of further information

It is anticipated that HMRC will be issuing further guidance on the new appeals procedures before their commencement in April 2009.

More information on the tax appeals procedure is available at: www.accaglobal.com/advisory ■

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