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STATUTORY INSTRUMENTS

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**2009 No. 273**

**The Tribunal Procedure (First-tier  
Tribunal) (Tax Chamber) Rules 2009**

**PART 4**

Correcting, setting aside, reviewing and appealing Tribunal decisions

**Interpretation**

**36.** In this Part—

“appeal” means the exercise of a right of appeal against a decision of the Tribunal; 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
- (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) is 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) there has been some other procedural irregularity in the proceedings; or
- (d) a party, or a party’s representative, was not present at a hearing related to 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.

(4) If the Tribunal sets aside a decision or part of a decision under this rule, the Tribunal must notify the parties in writing as soon as practicable.

### **Application for permission to appeal**

**39.**—(1) A person seeking permission to appeal must make a written application to the Tribunal for permission to appeal.

(2) An application under paragraph (1) must be sent or delivered to the Tribunal so that it is received no later than 56 days after the latest of the dates that the Tribunal sends to the person making the application—

- (a) full 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), or any extension of that time granted by the Tribunal.

(4) If the person seeking permission to appeal 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) must—

- (a) identify the decision of the Tribunal to which it relates;
- (b) identify the alleged error or errors 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 in accordance with 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 a 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 against part only of the decision or on limited grounds, but must comply with paragraph (4) in relation to any part of the decision or 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) The Tribunal may not take any action in relation to a decision following a review without first giving every party an opportunity to make representations in relation to the proposed action.

**Power to treat an application as a different type of application**

**42.** The Tribunal may treat an application for a decision to be corrected, set aside or reviewed, or for permission to appeal against a decision, as an application for any other one of those things.