



Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)

This guidance gives you information about what you can do to challenge a Tribunal's decision or apply to change a Tribunal's decision. 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 leaflet contains only a summary of the actions you can take following a Tribunal's decision. 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 to the Upper Tribunal, correcting and setting aside a decision are also available to Her Majesty's Revenue and Customs (HMRC).

If you are outside a time limit, 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, the appellant, and to HMRC. 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 Upper Tribunal

If you think the Tribunal has made an error of law, you may apply for permission to appeal to the Upper Tribunal against the decision. The following are some examples of what is meant by "error of law".¹

- 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

How do I apply for permission to appeal to the Upper Tribunal?

If you want to make an application for permission to appeal to the Upper Tribunal and you have not received **full written findings of fact and reasons** for the decision, you must apply to the Tribunal for these. The Tribunal office 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 us for permission to appeal against the decision to the Upper Tribunal.

¹ 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.

Your application for permission to appeal must;

- be received in the Tribunal office 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.

You can apply to the Tribunal for permission to appeal to the Upper Tribunal by completing the 'Permission to Appeal form' which can be obtained, along with guidance on filling in the form, by telephoning 0845 223 8080 or downloaded from our website at

www.tribunals.gov.uk

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 Upper Tribunal; or
- Refuse permission, in which case you then have the option of applying directly to the Upper Tribunal for permission.

If the appeal proceeds to the Upper Tribunal, that Tribunal has the power to set aside the First Tier Tribunal's decision and give a fresh decision or refer the case to the First Tier 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 we will write to you (and all other parties). We 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 us 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 us 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 us what it was.