



TC01813

Appeal number: TC/2011/05321

Income Tax – self assessment – partnership return subject to enquiry – deemed and actual s 9A enquiry into partners’ returns – information notice under FA 2008 Sch 36 para 1 – held, information reasonably required for checking tax position – appeal dismissed – whether Tribunal’s decision appealable to Upper Tribunal – no

FIRST-TIER TRIBUNAL

TAX

WONG YAU LAM (1)

SAU YAU LAM (2)

Appellants

- and -

**THE COMMISSIONERS FOR HER MAJESTY’S
REVENUE AND CUSTOMS**

Respondents

**TRIBUNAL: JOHN CLARK (TRIBUNAL JUDGE)
CHRISTINA HILL WILLIAMS**

Sitting in public at 45 Bedford Square, London WC1 on 17 October 2011

Michael Feng of Feng & Co, Accountants, for the Appellants

Karen Weare, Appeals and Reviews Unit, HM Revenue and Customs, for the Respondents

DECISION

1. The summary decision in the present case was released to the parties on 5 November 2011. On behalf of the Appellants, Mr and Mrs Lam, Mr Feng wrote a letter dated 7 November 2011 requesting the issue of a full decision, as the Appellants wish to appeal against the Tribunal’s decision. Although the letter was received by the Tribunals Service on 11 November 2011, notification of the request was not communicated to the Tribunal Judge until 29 November 2011, and has therefore had to await the Tribunal’s availability to produce this full decision.
2. Mr and Mrs Lam appeal against the issue of notices under paragraph 1 of Schedule 36 to the Finance Act 2008 requesting the pass book or statements for an account in their joint names at the Hong Kong branch of the Bank of East Asia Ltd for the period from 1 October 2000 to 30 September 2006. (References in this decision to “Schedule 36” are to that Schedule.)
3. The first paragraph of our summary decision was as follows:
- “1. The Tribunal decided that the Appellants’ appeal against the notices issued to each of them on 20 June 2011 under paragraph 1 of Schedule 36 to the Finance Act 2008 should be dismissed, and that the Appellants should comply with those notices by no later than the expiry of two months from the date of release of this decision.”

The facts

4. The evidence consisted of a bundle of documents prepared for the Appellants, a joint bundle prepared by the Respondents (“HMRC”), and oral evidence given by Mr Lam and by Mr John R Corbett, the Inspector of Taxes dealing with the matter on behalf of HMRC. Mr Corbett had been compelled to attend by witness summons. From the evidence we find the following background facts. We consider separately below matters which were disputed, or where there were conflicts between different parties’ evidence.
5. Mr and Mrs Lam trade in partnership as Sunlight Takeaway Meals. The partnership commenced at some time before 1996. The previous accountants representing them were Wilkins Kennedy; Mr Feng’s firm was appointed in later November 2010.
6. The partnership returns for Sunlight Takeaway Meals and the returns for the partners Mr and Mrs Lam were issued on 6 April 2007; the completed returns were received by HMRC on 26 September 2007.
7. On 3 December 2008 Mr Corbett issued to Mr and Mrs Lam a notice under s 12AC of the Taxes Management Act 1970 (“TMA 1970”) of his intention to enquire into their 2006-07 partnership tax return. We were not provided with a copy of the actual notices issued, but merely with a copy of the letter dated 3 December 2008 from Mr Corbett to Wilkins Kennedy. Deemed enquiries under s 12AC(6)(a) TMA

1970 in respect of both Mr and Mrs Lam's returns were also opened on 3 December 2008.

5 8. On 15 December 2008 Mr Corbett and Mrs Caines, another HMRC officer, attended a meeting at the offices of Wilkins Kennedy with that firm's accountant, its tax manager and Mr Lam to obtain information about the running of Mr and Mrs Lam's business. Mr Corbett and Mrs Caines stayed after the meeting to review the information provided.

10 9. On 23 December 2008 Mr Corbett wrote to Wilkins Kennedy, stating that as a result of his review and following discussions with Wilkins Kennedy, he had formed the view that the records of the business were not sufficiently robust. He therefore sent copies of his notices of enquiries under s 9A TMA 1970 into the returns of both Mr and Mrs Lam.

15 10. Subsequently, in the absence of the information which he had requested, information notices under s 19A TMA 1970 were issued to both Mr and Mrs Lam on 25 February 2009.

11. On 10 March 2009, Wilkins Kennedy disclosed to HMRC details of various bank accounts held by Mr and Mrs Lam.

20 12. On 17 June 2009 Mr Corbett wrote to Wilkins Kennedy setting out a list of further documents required, and commenting on the current position concerning the results to date of his review.

13. On 25 August 2009, information notices under paragraph 1 of Schedule 26 to the Finance Act 2008 ("Schedule 36 notices") were issued to both Mr and Mrs Lam.

25 14. On 6 November 2009 Schedule 36 notices requesting personal statements of assets and liabilities at 30 September 2006 or a more recent date were issued to both Mr and Mrs Lam.

15. On 26 November 2009 penalty notices for failing to comply with the information notices were issued.

30 16. A meeting was held at the offices of Wilkins Kennedy on 21 December 2009, attended by the accountant, Mr and Mrs Lam, Mrs Caines, Mr Corbett and an interpreter. The business and questions relating to its record-keeping and financial were discussed in detail, as well as matters relating to Mr and Mrs Lam's private accounts. In the course of the meeting, Mr Lam disclosed that there was an account in his and Mrs Lam's joint names with the East Asia Bank in London, into which certain money brought back from Hong Kong was banked. Mr Corbett requested details of this further account.

35 17. In his letter to Wilkins Kennedy dated 23 December 2009, Mr Corbett requested statements relating to the East Asia Bank London account for the period 1 October 2005 to 5 April 2007.

18. On 24 December 2009 Mr and Mrs Lam appealed against the penalty notices, following which those notices were cancelled.

19. Schedule 36 notices relating to the East Asia Bank statements were issued on 30 April 2010.

5 20. In their letter dated 15 March 2010, Wilkins Kennedy provided a statement of personal assets and liabilities in respect of Mr and Mrs Lam, together with their signed declaration in respect of all bank accounts held. Photocopies of the relevant pages of the East Asia Bank pass book were also enclosed. Wilkins Kennedy gave information provided to them by Mr Lam concerning the sums credited to that
10 account.

21. On 23 March 2010 Mr Corbett replied, expressing his view that takings had been deliberately diverted from the business, some of which takings had been paid into the Bank of East Asia account. He was also of the view that this diversion would have occurred in earlier and later years. He was therefore extending his enquiries into
15 earlier years and the 2008 year using the “discovery” provisions, and if appropriate would at a later date open 2009 using the provisions of ss 12AC and 9A TMA 1970. He requested sight of the East Asia Bank passbook for the period since the account had been opened, and a statement of all accounts that Mr and Mrs Lam had during the same period had the power to operate, including closed accounts.

20 22. On 30 April 2010 Schedule 36 notices were issued for the East Asia Bank passbooks. Following this, Wilkins Kennedy sent copies of the passbooks for the period since the opening of the account, showing the current balance. There was a gap in the available records between 28 July 2008 and 30 November 2009, and Wilkins Kennedy were seeking the further details from the Bank of East Asia.

25 23. In a telephone conversation between Mr Corbett and Wilkins Kennedy on 11 June 2010, the accountant informed Mr Corbett that Mr Lam thought that there was another bonus account from and to which transfers of funds occurred; Mr Corbett had also thought that this was the case. In his subsequent letter to Wilkins Kennedy dated
30 14 June 2010 he extended the time for production of the outstanding particulars. He also requested details of the movements between the two accounts.

24. Mandates to approach East Asia Bank were issued on 3 August 2010, but no signed mandates were received. Authority to issue a third party notice to the bank was signed by an authorised officer. An informal approach was then made to the East Asia Bank’s London branch on 8 September 2010. On 16 September 2010, that bank then
35 gave details of two accounts, together with the transaction histories. The transaction history for the savings account did not include the details for the period from its opening on 22 November 1999 to 30 December 2000, as this earlier information could not be provided by the bank’s system.

25. On 15 November 2010 a meeting took place at Wilkins Kennedy’s offices; the
40 same persons were present as at the previous meeting on 21 December 2009. In the course of this meeting Mr Lam disclosed a further account in joint names with the East

Asia Bank Hong Kong branch, details of which had not previously been provided to Mr Corbett. Mr Lam explained (through the interpreter) that this was a pass book account, and that the pass book was in Hong Kong. Mr Corbett asked to see it. The difficulty of obtaining the pass book from Hong Kong was discussed; Mr Corbett would not accept a photocopy, but indicated that he would accept statements from the Bank of East Asia in Hong Kong along the lines of those provided for the London account.

26. In his letter dated 17 November 2010 Mr Corbett requested production of this information by 4 January 2011. On that latter date Schedule 36 notices for the Hong Kong account passbook information were issued. On 26 January 2011 Mr Feng's firm appealed on Mr and Mrs Lam's behalf against the notices on the grounds that they were invalid. No statutory review was offered or requested and appeals were made to the Tribunal. These were due to be heard on 24 May 2011.

27. On 15 March 2011 a meeting was held between Mr Feng, Mrs Caines and Mr Corbett. As a result of the discussions Mr Corbett agreed to allow an extension of time for compliance with the Schedule 36 notices until 15 May 2011. Subsequently HMRC withdrew those notices because the request for old documents had not been authorised under paragraph 20 of Schedule 36 to the Finance Act 2008.

28. Following the obtaining of authorisation on 17 June 2011, in respect of which no documentary evidence was provided to us, although we accepted Mr Corbett's oral evidence that this authorisation had been obtained, Schedule 36 notices were issued to Mr and Mrs Lam on 20 June 2011. The information requested in the notice addressed to Mr Lam was:

"The passbook or statements that you hold in joint names with Mrs SY Lam with the Bank of East Asia Ltd, Hong Kong branch for the period 1 October 2000 to 30 September 2006."

No copy of any corresponding notice addressed to Mrs Lam was included in the bundles of evidence before us.

29. On 22 June 2011 Mr Feng sent a letter by fax to Mr Corbett stating that his clients wished to take up Mr Corbett's offer of an independent HMRC review of "the notice".

30. In his reply dated 23 June 2011 Mr Corbett stated:

"You have asked for review of the Notices, but what I think you meant was to appeal them."

31. In his reply dated 28 June 2011 Mr Feng stated:

"The grounds of [*sic*] an independent review by HMRC are that the information notice covered more than one year and it is not proportionate to your 9A enquiry."

32. In his response dated 30 June 2011 Mr Corbett stated that he was unable to agree the appeal for the reasons set out in his letter dated 21 February 2011. [This had

related to the appeal against the previous Schedule 36 notices]. We consider the relevant issues later in this decision.

33. On 8 July 2011 Mr Feng as representative of Mr and Mrs Lam gave Notice of Appeal to the Tribunal.

5 *Arguments for Mr and Mrs Lam*

34. Mr Feng contended that the information required under paragraph 1 of Schedule 36 was from 1 October 2000 to 30 September 2006; this information related to a period originating more than six years before the date of the notice. Mr Corbett was not an authorised officer of HMRC capable of authorising such a notice. Mr Feng referred to paragraph 59 of Schedule 36.

35. Mr Lam had available the meal tickets and the diaries for the year ended 30 September 2006. He had also produced an accurate cash flow for the six months ending on that date, correcting Mr Corbett's assumptions relating to the monies banked. Mr and Mrs Lam had banked their net profits after tax from 1999 to 2008 with the Bank of East Asia in London China Town. Mr Feng submitted that Mr Lam's son had given him money and that had been banked with the Bank of East Asia; Mr Lam's father had given Mr Lam money and that had also been banked with the Bank of East Asia.

36. Mr Feng argued that neither paragraph 21(6)(a) nor paragraph 21(6)(b) of Schedule 36 applied in Mr and Mrs Lam's case.

37. He submitted that the burden of proof was on Mr Corbett, the HMRC officer involved, to show that the documents were reasonably required for checking the 2007 partnership return, and that the burden of proof was on Mr Lam to show that he had meal tickets, diaries, a positive personal cash flow and lodgements into the Bank of East Asia in London China Town for the year ended 30 September 2006. The standard of proof was the common law standard, ie the balance of probabilities. He submitted on behalf of Mr and Mrs Lam that the documents requested were not reasonably required for checking their 2007 partnership return.

38. On the basis of Mr Lam's evidence (considered below), Mr Feng argued that there were no reasonable grounds for requiring the information specified in the Schedule 36 notices. He emphasised the value of a signed record of any meeting between the taxpayer and HMRC, as referred to in HMRC's Enquiry Manual at EM 1834. The meeting notes had not been sent to Mr Lam for his approval. They had not been signed by both HMRC officers, and had not been sent to the accountants for agreement. EM 1833 referred to the "final note" as being written up as soon as possible after the meeting and sent to the taxpayer and agent. Mr Feng made various other references to HMRC's Enquiry Manual, arguing that Mr Corbett had not followed the guidance set out at various points.

39. Mr Feng submitted that it was unfair for the notice to cover the period 2000 to 2006. If the Tribunal were to make the order which Mr Lam was seeking, namely that

the documents requested were not reasonably required for checking their 2006-07 partnership tax return, HMRC would not be prejudiced.

Arguments for HMRC

5 40. HMRC contended that the notices were valid, as under paragraph 1 of Schedule 36 the requirement was to produce information or a document reasonably required by an officer to check the taxpayer's tax position. This did not stipulate that the information must be statutory and could extend to the taxpayer's past, present or future liability.

10 41. HMRC contended that the interest declared on Mr and Mrs Lam's tax returns was insufficient. The additional accounts disclosed since the enquiries were opened showed that the interest received by them exceeded the amounts declared on their tax returns.

42. The enquiries had shown that business profits were understated for the enquiry year and earlier years; the previous accountants had accepted that this was the case.

15 43. HMRC contended that the lodgements into the bank account referred to in the Schedule 36 notice must have had a source, and that this source was from understated business profits transferred by Mr and Mrs Lam to Hong Kong.

20 44. HMRC submitted that, although the information was not in the UK, as the account was in the names of Mr and Mrs Lam it was in their power to obtain that information.

45. Miss Weare submitted that the onus of proof was on Mr and Mrs Lam.

25 46. Miss Weare further submitted that the information notice(s) had been duly authorised She referred to paragraph 29 of Schedule 36. The taxpayer's right of appeal was against the notice or any requirement in the notice. It was clear from Mr Corbett's evidence that the notices had been correctly served; he had been concerned that the business records were not robust, and the bank account had not been disclosed at an early stage to HMRC.

30 47. It was not known how the Lams used the Hong Kong account; it could be assumed that they could access the pass books. Further, it was possible to go to old documents.

48. Mr Feng had referred to the interview notes. There was no evidence that they had not been sent to Wilkins Kennedy; they were given the opportunity to check them.

35 49. It was for the Tribunal to decide whether it was correct that HMRC could ask for the pass books. Mr and Mrs Lam had not signed the mandate for HMRC to approach the bank. Without the passbooks, Mr Corbett felt that he could not settle the enquiry. Miss Weare referred to the powers of the Tribunal as set out in paragraph 32(3) OF Schedule 36. She asked the Tribunal to confirm the notice and specify a period for Mr and Mrs Lam to comply with the notice.

50. HMRC asked that the information notices be upheld and the appeal be dismissed.

Discussion and conclusions

51. Although Mr Feng has asked for a full decision on the basis that Mr and Mrs Lam have expressed the wish to appeal against the decision of this Tribunal, a decision of the Tribunal on an appeal under part 5 of Schedule 36 is final; see paragraph 32(5) of Schedule 36. Their appeals to this Tribunal were under paragraph 29 of Schedule 36, which is the first paragraph falling under Part 5 of that Schedule. This full decision cannot therefore be used as the basis for an appeal to the Upper Tribunal.

52. Part 5 of Schedule 36 uses the word “tribunal” without specifying whether appeals against notices are to be made to the First-tier Tribunal or the Upper Tribunal. As a result of the definition of “tribunal” in paragraph 58 of Schedule 36, it could apply to either. However, it would only be in the most exceptional of cases that an appeal against a notice could be made to the Upper Tribunal. The normal position will be that the appeal lies to the First-tier Tribunal, and that the latter’s decision will be final, as a result of paragraph 32(5) of Schedule 36.

53. We considered whether to refer back to Mr Feng to ask whether in the circumstances he would wish to withdraw the request for a full decision, as the production of a full decision would have the effect of making public a great deal of information about Mr and Mrs Lam’s tax affairs without any real prospect of benefit to them. However, given that the hearing was (as is normally the case) held in public, and in the light of the importance to other potential appellants of being made aware that no appeal can be made against a decision of the First-tier Tribunal in respect of a decision on an information notice, we concluded that it would be appropriate for this full decision to be produced, with the normal publicity that any full decision receives.

54. Before dealing with our reasons for dismissing Mr and Mrs Lam’s appeals against the issue of the information notices, we would also like to comment on Mr Corbett’s treatment of Mr Feng’s request for an independent review. Mr Corbett’s response was as set out at paragraph 30 above. In addition, he asked for a full explanation of what Mr Feng disagreed with and why. Mr Corbett also referred to his letter of 31 January 2011 and the printout from the HMRC website enclosed with it, entitled “How to appeal against an HMRC decision – direct tax”, and specifically to the paragraph headed “Information you will need to provide with your appeal”.

55. Mr Feng’s response was as set out at paragraph 31 above. This letter did not amount to an appeal against the decision to issue the notices. As mentioned at paragraph 32 above, Mr Corbett referred back to his letter dated 21 February 2011 relating to the earlier notices. His reasons for being unable to agree the appeal relating to those notices had been as follows:

- (1) The fact that the records requested were non-statutory did not form a basis for appeal;
- (2) He did not consider the request for information to be unreasonable and disproportionate, for reasons set out in detail in his letter;

(3) He accepted that the notices requested information in respect of earlier years, but that was no basis for an appeal, as information in respect of earlier years could be requested.

56. As Mr Corbett treated the 22 June 2011 letter as an appeal, it is unclear to us why he decided not to refer the appeal for independent review as Mr Feng had requested. The position is that where no application has been made to the Tribunal for approval under paragraph 3 of Schedule 36 of the issue of a taxpayer notice, an appeal is open to the taxpayer and, once notice of appeal has been given to HMRC, this can be followed by a request for an independent review. This is confirmed by HMRC's own Appeals Reviews and Tribunals Guidance Manual at Artg2160. In our view, Mr Corbett should have referred the matter for independent review, in compliance with Mr Feng's request. However, this has now been overtaken by the present proceedings, and in any case, in the light of our findings, we consider that if the review had been properly carried out, the decision on review would inevitably have been the same (see *John Dee Ltd v Customs and Excise Comrs*, [1995] STC 941, CA).

57. This appeal resulted in a lengthy hearing, far longer than the time listed. It lasted in excess of three hours, subject to an early comparatively brief break in order to find the missing bundles submitted by Mr Feng. We considered a great deal of factual information. Mr Lam's evidence was given without the aid of an interpreter, subject to informal interpretation by Mr Feng. It would have been far more satisfactory to have a proper independent interpreter. (According to a message to Mr Feng on the Tribunal Service's file, a Cantonese interpreter had been booked, but this message was followed by another to him the same afternoon, stating: "I confirm that no interpreter will now be booked for the hearing following your instruction today." We assume this to have been on grounds of cost, as Mr Feng had asked for the cost to be confirmed.) As Miss Weare submitted, it appeared that Mr Lam had had considerable assistance in the preparation of his evidence; we considered that much of it was based on the advice which he had received from Mr Feng, despite Mr Lam's assertion that they were his answers which Mr Feng had written down.

58. In our summary decision, we made the following further comments:

(1) We found that the information specified in the notices was reasonably required for the purposes of the Respondents' checking of the income tax position of the Appellants, their review of the 2006-07 partnership return for Sunlight Takeaway Meals, and their enquiries into earlier years as specified in the letter dated 23 March 2010 to their previous accountants.

(2) We took into account the meaning of the expression "tax position" specified in paragraph 64 of Schedule 36 to the Finance Act 2008, and in particular paragraph 64(1)(a), which refers to "past, present and future liability to pay any tax".

(3) We also took into account that any enquiry into the tax position of a partnership consisting only of individuals is necessarily an enquiry into the tax position of the individual partners, as the liability to income tax on profits from a partnership is imposed on the partners and not on the partnership as such.

5 (4) We found that the information relating to the account held by the Appellants with the Bank of East Asia Ltd in Hong Kong was reasonably required for the purposes of the Respondents' checking of the Appellants' tax position because the Inspector of Taxes, Mr Corbett, was not in a position to satisfy himself as to lodgements in the Hong Kong account and the sources of those lodgements so as to form a complete picture of the Appellants' position, and without the passbooks or statements relating to that account for the period specified in the notices, could not satisfy himself that the partnership's accounts were correct.

10 (5) Accordingly we considered that the appeal should be dismissed and that the Appellants should be required to comply with the notices.

15 59. In his evidence Mr Lam referred to the meal tickets. His previous accountant had never asked for these. They were available for Mr Corbett. In the light of Mr Corbett's evidence, we find that they would not have assisted; they were contained in a large package, and were written in Chinese, Mr and Mrs Lam's own language.

60. Mr Lam maintained that the business records were not inadequate, as Mr Corbett had stated in his letter dated 17 June 2009, nor did Mr Lam accept Mr Corbett's statement that the cash flow as shown in the attachment to the letter was negative.

20 61. Although Mr Lam made these assertions, we were not satisfied that Mr and Mrs Lam had discharged the burden of proof falling on them to show as a matter of fact that the information or documents specified in the notices were not reasonably required by Mr Corbett for the purposes of checking their tax position; see the decision of the Tribunal in *Paul Whight* [2011] UK FTT 60 (TC) at paragraph 22. On the basis that the reliability of the business records was in doubt, and the cash flow for the six months ending 30 September 2006 appeared on Mr Corbett's analysis to be negative, we accepted that examination of other potential sources of funds was appropriate. Further, the existence of the UK and Hong Kong East Asia Bank accounts had not been disclosed until relatively late stages in the enquiry, rather than being included in the original list of accounts. We considered that this was a significant factor in confirming the decision that the information requested was reasonably required for the purposes of checking Mr and Mrs Lam's tax position. We further found that Mr Corbett had reason to believe that the interest declared in Mr and Mrs Lam's tax returns was not the full amount of interest which they had received in the chargeable period concerned.

35 62. Accordingly, we did not accept the contention on Mr and Mrs Lam's behalf that there were no reasonable grounds for requiring the information specified in the notices.

40 63. Mr Feng questioned the validity of the notices, on the grounds that they related to a period more than six years before the date of the notice. We did not accept this submission. Paragraph 20 of Schedule 36 refers to the position where ". . . the whole of the document originates more than 6 years before the date of the notice". The information requested covered the period from 1 October 2000 to 30 September 2006, and therefore not all of the requested information or document originated more than

six years before 20 June 2011. Even if any relevant document did wholly originate more than six years before that date, we accepted Mr Corbett's evidence that the notice had been given with the agreement of an authorised officer. Accordingly, the prohibition in paragraph 20 of Schedule 36 did not apply.

5 64. Mr Feng also challenged the notices on the basis of paragraph 21 of Schedule 36. Paragraph 21(1) provides that where a person has made a return in respect of a chargeable period, a taxpayer notice may not be given for the purposes of checking that person's income tax position in relation to that period. However, this is subject to paragraph 21(3); if any of conditions A to D set out in the rest of paragraph 21 is met,
10 paragraph 21(1) does not apply. We found that Condition A (notice of enquiry given in respect of return and enquiry not completed) was met, as well as Condition B (reason to suspect that an assessment to relevant tax for the chargeable period may be or have become insufficient), despite Mr Feng's contrary submissions in relation to Condition B.

15 65. In the course of the correspondence Mr Feng had submitted that the previously issued notices (which were subsequently withdrawn) were not a reasonable request and were not proportionate to the enquiry. The information which had been sought by those notices was similar to that required in the June 2011 notices, except that the January 2011 notices related to the period from the date of opening the Hong Kong
20 account up to 5 April 2009. We considered that (as the Tribunal similarly found at paragraph 22 of *Paul Whight*), the information required by the June 2011 notices was not disproportionate or onerous in the particular circumstance of the present case.

25 66. In cross-examination Mr Lam explained that the passbook for the Bank of East Asia Hong Kong account was held by his father in Hong Kong. In the light of that evidence, we found that the information required by the notices was within Mr and Mrs Lam's possession or power, even though it was held outside the UK, so that paragraph 18 of Schedule 36 did not prevent the notices from operating in respect of that information.

30 67. We accepted that in various respects Mr Corbett had not fully followed HMRC's own guidance for dealing with enquiries; we agreed with Mr Feng that Mr Corbett should properly have followed that guidance as set out in HMRC's Enquiry Manual. However, we did not consider that this affected the question at issue in these appeals.

68. For the reasons set out above, we dismissed Mr and Mrs Lam's appeals.

35 69. For the avoidance of doubt, assuming that the operation of our order in paragraph 1 of our summary decision has been suspended pending the release of this full decision, Mr and Mrs Lam should, by no later than the expiry of two months from the date of release of this decision, comply with the taxpayer notices issued to them under paragraph 1 of Schedule 36 on 20 June 2011.

Absence of any right to apply for permission to appeal

70. This document contains full findings of fact and reasons for the decision. For the reasons given above, no appeal lies to the Upper Tribunal; the decision of this Tribunal is final.

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JOHN CLARK
TRIBUNAL JUDGE
RELEASE DATE: 8 February 2012

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