[2017] UKFTT 0461 (TC)

TC05924

Appeal number:TC/2016/03306

PROCEDURE – application for permission to notify a late appeal – application allowed in part

FIRST-TIER TRIBUNAL
TAX CHAMBER

GEORGE & DRAGON (AYSGARTH) LIMITED **Appellant**

- and -

THE COMMISSIONERS FOR HER MAJESTY'S REVENUE & CUSTOMS **Respondents**

TRIBUNAL: JUDGE JONATHAN CANNAN

Sitting in public in Manchester on 1 March 2017

Mr Paul Chappell of Forrester Boyd Chartered Accountants for the Appellant

Mr Alan Hall of HM Revenue & Customs for the Respondents

DECISION

Background

1. This was listed as an application by HMRC to strike out the appeal on the basis that no effective grounds of appeal had been put forward. For the reasons set out below it was treated as an application to extend the time for appealing. The decisions which the Appellant wishes to appeal relate to the status of various chefs, whether they are employed or self employed. HMRC contend that the chefs were at all material times employees of the Appellant. The Appellant contends that they were self employed.

2. Most of the decisions which the Appellant seeks to challenge were made by HMRC on 23 October 2014. Those decisions comprised determinations under regulation 80 Income Tax (PAYE) Regulations 2003 ("the PAYE Regulations") for tax years 2009-10 to 2012-13 inclusive ("the Determinations") and decisions under section 8 Social Security Contributions (Transfer of Functions etc) Act 1999 for tax years 2009-10 to 2011-12 ("the Decisions"). The Appellant, through its accountants Forrester Boyd, notified an appeal to HMRC against the Determinations and the Decisions on 18 November 2014 challenging the status of the chefs. A statutory review was then conducted by HMRC and the review decision was confirmed by letter dated 20 May 2015.

3. It is common ground that the Appellant had until 19 June 2015 to notify an appeal to the tribunal against the Determinations and the Decisions. In fact the Appellant did not notify its appeal to the tribunal until 13 June 2016. It was therefore 12 months late. I set out in detail below the circumstances in which the appeal came to be notified late.

4. During the course of the hearing it became apparent that the Appellant was also seeking to challenge in this appeal similar determinations and decisions in relation to tax years 2013-14 and 2014-15. It was accepted by HMRC that the appeal in relation to those tax years was in time. There were two chefs used in those tax years and the appeal in relation to their status will therefore proceed in any event.

Legal Framework

5. It is sufficient for present purposes if I briefly summarise the relevant statutory provisions pursuant to which the Determinations and Decisions were made. Where HMRC consider that tax due from an employer under PAYE has not been paid then they can serve a determination on the employer pursuant to Regulation 80 of the PAYE Regulations. The employer can appeal a determination in the same way as if it were an assessment to income tax on the employer.

6. Regulation 80(3A) provides that a determination under Regulation 80 must not include tax in respect of which a direction under Regulation 72F has been made.

7. Regulation 72F applies where certain conditions are satisfied. In broad terms it applies where an employee has received a payment and tax on that payment is likely to have been self-assessed by the employee. One of the Conditions A-C must be met before Regulation 72F is engaged. Condition A is that it appears that the amount which the employer is liable to deduct exceeds the amount actually deducted. Condition C is that the payment has been included in a Regulation 80 determination and the full amount of the determination has not been paid within 30 days of the date on which the determination became final and conclusive. It is also necessary for a "trigger event" to have occurred. Trigger events include the service of a notice of determination under Regulation 80 and where an offer of settlement has been made by the employer in relation to its liability to tax on the payment.

8. Where Regulation 72F applies, HMRC may direct that an employer is not liable to pay an amount of tax. The broad purpose of Regulation 72F is to avoid double taxation. To the extent that an employee has accounted for tax, there should be no need for the employer to account for the tax pursuant to a Regulation 80 determination.

9. It was not suggested that the scheme in relation to national insurance contributions is different in any way and I assume that the provisions apply with like effect in relation to deduction of those contributions.

Circumstances in which the Appeal was Notified to the Tribunal

10. HMRC commenced an enquiry into the Appellant's compliance with the PAYE Regulations in March 2012. The Appellant operates a restaurant, bar and bed and breakfast business in North Yorkshire. The Appellant required the services of a number of chefs and it treated those chefs as self-employed. Following the enquiry, HMRC considered that the chefs were employees of the Appellant.

11. On 23 October 2014 HMRC issued the Determinations and the Decisions for periods 2009-10 to 2012-13. As indicated above, the Appellant challenged the Determinations and Decisions but they were confirmed in a statutory review dated 20 May 2015. The point at issue was the status of the chefs. The Determinations and Decisions also included matters in relation to other employees but those aspects have never been challenged.

12. The review decision expressly stated that if the Appellant wished to notify its appeal to the tribunal then it must do so within 30 days of 20 May 2015. Otherwise the tax and national insurance would be treated as settled pursuant to section 54(1) Taxes Management Act 1970 ("TMA 1970") and pursuant to the corresponding provision for national insurance.

13. There was then a period of written correspondence and telephone calls between Forrester Boyd ("Forrester") and HMRC. Those communications are significant and the following extracts are relevant for present purposes:

(1) Letter Forrester to HMRC dated 4 June 2015

"Whilst we do not agree with your status findings there remains the issue of Double Taxation as we consider that the chefs will have paid income tax and Class 4 NIC under Self Assessment.

We therefore request that in accordance with [Regulation 72F] HMRC make the appropriate direction to transfer the outstanding PAYE liability from our client to the 'employee' on the basis that tax on fee payments made have been included in the Self Assessment returns submitted by the chefs for the appropriate years."

(2) Letter HMRC to Forrester dated 10 June 2015

"You state that you do not agree with my conclusion. However I would remind you that the direction you have requested can be made only when the relevant regulation 80 determination is final and conclusive. I am therefore assuming that whilst you remain to be persuaded that '*employment*' is the correct status, you do not propose to notify the appeal to tribunal."

(3) Note of Telephone Call from HMRC to Forrester on 17 June 2015

"Agent responded to [review officer's] letter of 20/5/15 and advised that they still do not agree with the conclusions made but requesting Reg 72F relief. Rang agent Paul Chappell to discuss and to check whether there is still an intention to go to Tribunal. PC said not. [Revenue officer] said that she will check for the Reg 72F relief and write to PC with her findings."

(4) Letter HMRC to Forrester dated 25 June 2015

"I refer to your letter of 4 June 2015 and my subsequent telephone call on 17 June to acknowledge your request for a direction under Regulation 72.

…

As I understand you do not intend taking the matter to the First Tier Tribunal the compliance check will be concluded by contract settlement which will include duty, interest and penalties where appropriate…"

(5) Email HMRC to Paul Chappell dated 5 August 2015

"I am unable to progress this compliance check until I have the outstanding details a) [in relation to chefs in 2013-14 and 2014-15] …

If I can have the information in a) then I can proceed to apply for a Regulation 72F direction and move the case forward."

(6) Email Paul Chappell to HMRC dated 20 August 2015

"We note your comments on the current year. Although we are not taking this case to the Tribunal, there are reasons for this, the principle (sic) one being cost. We do not agree with the outcome of the enquiry but a view had to be taken."

14. On 22 October 2015 HMRC gave a notice to the Appellant pursuant to Regulation 72F directing amounts of tax for tax years 2009-10 to 2014-15 which the Appellant was not required to pay for those years. At this stage there were no Regulation 80 determinations for 2013-14 or 2014-15. The notice stated that HMRC were relying on Condition A being satisfied. The net liability for tax and national insurance for all years was set out in a letter of the same date. It amounted to £66,528

plus interest which included certain matters not relevant to the chefs but most of the liability related to the chefs.

15. There was then a period of correspondence in relation to a contract settlement including penalties, although in due course the penalties ended up being suspended. It appears from the correspondence that the Appellant was disappointed with the amount of regulation 72F relief. However the issue which prevented a settlement was the inability of the Appellant to pay the resulting net tax and interest. The negotiations broke down in February 2016 apparently because the Appellant could not afford the time to pay arrangements that had been offered.

16. In February 2016 HMRC took steps to issue formal determinations and decisions in relation to 2013-14 and 2014-15. I understand these amounted to some £29,779 of the total liability mentioned above. At the same time the Determinations and Decisions for 2009-10 to 2012-13 were amended to reflect the amounts relieved by the regulation 72F directions. It appears from the documents before me that the amendment for 2012-13 also added amounts of underpaid tax and national insurance in relation to Mr Reece Black, a chef who for some reason had not been included in the original determination and decision for that tax year.

17. It seems to me that the amendment to the determination and decision for 2012-13 to add tax and national insurance which was unpaid in relation to Mr Black was a new appealable decision.

18. The chefs covered by the determinations and decisions in each tax year were as follows:

Tax Year	**Chefs**
2009-10	G Smith
2010-11	G Smith; J Kearney; M Oliver
2011-12	G Smith; C Porter; W Jackson; S Potter; M Oliver
2012-13	G Smith; R Black
2013-14	G Smith; R Black
2014-14	G Smith; R Black

19. On 8 March 2016 Forrester wrote to HMRC as follows:

> "As you are aware, we have discussed the settlement of the enquiry in detail with our clients over the past few weeks. We have maintained our disagreement with HMRC's view in respect of the self-employed chefs, despite the discussions over settlement of the enquiry.
>
> However our clients have, as you know, advised that they do not wish to settle the liabilities for the self-employed chefs and now wish to take the matter before the Tax Tribunal."

20. The letter went on to state that the appeal covered not only the 2013-14 and 2014-15 determinations and decisions but also those for previous years. On 3 May 2016 HMRC wrote to say that the Determinations and Decisions for 2009-10 to 2012-13 were final and conclusive, and expressed their understanding that the Appellant intended to notify its appeal directly to the tribunal. I shall proceed on the basis that the Appellant had 30 days from 3 May 2016 to notify its appeal to the tribunal in relation to the determinations and decisions for 2013-14 and 2014-15 and the amendment for 2012-13.

21. On 13 June 2016 the Appellant notified an appeal to the tribunal. Strictly it was 10 days out of time even for the later periods but HMRC take no point on that. The grounds of appeal set out the basis on which the Appellant contends that the chefs are self-employed and not employees. The Appellant accepted in the notice of appeal that the appeal had been notified late but argued that it was only once the Appellant had been unable to agree the terms of settlement that the case could be considered for tribunal.

22. At the commencement of the hearing Mr Chappell acknowledged that he was not appealing HMRC's decision in relation to the directions under Regulation 72F. Indeed I note that it is only an employee who can appeal a direction under 72F. The employer has no right of appeal. The Appellant's grounds of appeal are limited solely to the status of the chefs as employees.

Approach in relation to Late Appeals

23. The approach to applications to extend time was considered by Morgan J sitting in the Upper Tribunal in *Data Select Ltd v Commissioners for HM Revenue & Customs [2012] UKUT 187 (TCC)* where he said as follows:

> "34. … Applications for extensions of time limits of various kinds are commonplace and the approach to be adopted is well established. As a general rule, when a court or tribunal is asked to extend a relevant time limit, the court or tribunal asks itself the following questions: (1) what is the purpose of the time limit? (2) how long was the delay? (3) is there a good explanation for the delay? (4) what will be the consequences for the parties of an extension of time? And (5) what will be the consequences for the parties of a refusal to extend time. The court or tribunal then makes its decision in the light of the answers to those questions.
>
> 35. The Court of Appeal has held that, when considering an application for an extension of time for an appeal to the Court of Appeal, it will usually be helpful to consider the overriding objective in CPR r 1.1 and the checklist of matters set out in CPR r 3.9: see Sayers v Clarke Walker [2002] 1 WLR 3095; Smith v Brough [2005] EWCA Civ 261. That approach has been adopted in relation to an application for an extension of the time to appeal from the VAT & Duties Tribunal to the High Court: see Revenue and Customs Commissioners v Church of Scientology Religious Education College Inc [2007] STC 1196.

> 36. I was also shown a number of decisions of the FTT which have adopted the same approach of considering the overriding objective and the matters listed in CPR r 3.9. Some tribunals have also applied the helpful general guidance given by Lord Drummond Young in Advocate General for Scotland v General Commissioners for Aberdeen City [2006] STC 1218 at [23]-[24] which is in line with what I have said above.
>
> 37. In my judgment, the approach of considering the overriding objective and all the circumstances of the case, including the matters listed in CPR r 3.9, is the correct approach to adopt in relation to an application to extend time pursuant to section 83G(6) of VATA. The general comments in the above cases will also be found helpful in many other cases. Some of the above cases stress the importance of finality in litigation. Those remarks are of particular relevance where the application concerns an intended appeal against a judicial decision. The particular comments about finality in litigation are not directly applicable where the application concerns an intended appeal against a determination by HMRC, where there has been no judicial decision as to the position. Nonetheless, those comments stress the desirability of not re-opening matters after a lengthy interval where one or both parties were entitled to assume that matters had been finally fixed and settled and that point applies to an appeal against a determination by HMRC as it does to appeals against a judicial decision."

24. Rule 3.9 of the Civil Procedure Rules ("CPR") has been amended since the decision in Data Select and now reads as follows:

> " (1) On an application for relief from any sanction imposed for a failure to comply with any rule, practice direction or court order, the court will consider all the circumstances of the case, so as to enable it to deal justly with the application, including the need –
>
> (a) For litigation to be conducted efficiently and at proportionate cost; and
>
> (b) To enforce compliance with rules, practice directions and orders."

25. Data Select is a decision of the Upper Tribunal and it is binding upon me. I must take into account all the circumstances including the overriding objective of dealing with cases fairly and justly in conducting a balancing exercise and ask myself:

(1) What is the purpose of the time limit?

(2) How long was the delay?

(3) Is there a good explanation for the delay?

(4) What will be the consequences for the parties of an extension of time?

(5) What will be the consequences for the parties of a refusal to extend time?

26. I also have regard to the decision of the Court of Appeal in *BPP Holdings Limited v Commissioners for HM Revenue & Customs [2016] EWCA Civ 121* which was concerned with non-compliance with Tribunal Rules and directions in the light of

a divergent approach in the Upper Tribunal. It referred to the application by analogy of CPR 3.9 in Data Select although it did not consider the decision in Data Select in detail.

27. BPP Holdings was concerned with the imposition of sanctions for non-compliance with Tribunal directions. It clearly supports the application of the CPR to this Tribunal by way of analogy. The Court of Appeal was referred to the decision of Morgan J in Data Select but it decided that it was not appropriate to analyse that decision because it was not a case where there had been a history of non-compliance.

28. Prior to the decision of the Court of Appeal in BPP Holdings, the Upper Tribunal in *Romasave (Property Services) Limited v Commissioners for HM Revenue & Customs [2015] UKUT 254 (TCC)* considered and endorsed the approach in Data Select. Having considered the divergent approach in the Upper Tribunal to non-compliance with directions and relief from sanctions for breach it stated at [89]:

> " 89. It is not necessary for us to describe the history of this debate. The outcome, in our view, is that in this tribunal, and in the FTT, the factors identified by the courts in the revised form of CPR r 3.9 as having particular weight or importance, that is to say the need for litigation to be conducted efficiently and at proportionate cost and to enforce compliance with rules, practice directions and orders, are relevant factors, but have no special weight or importance. The weight or significance to be afforded to those factors, along with all other relevant factors, in applying the overriding objective to deal with cases fairly and justly, will be a matter for the tribunal in the particular circumstances of a given case."

29. It remains to be seen whether it is necessary in applications such as the present to give particular weight to the two factors identified in CPR 3.9, namely the need for litigation to be conducted efficiently and at proportionate cost and the need to enforce compliance with rules, practice directions and orders. For present purposes I shall apply the decisions in Data Select and Romasave without giving any special weight to those two factors.

30. In Romasave the Upper Tribunal gave additional guidance to the First-tier Tribunal as to how it should conduct the balancing exercise. At [92] to [94] it stated:

> " 92. … Nonetheless, helpful guidance can be derived from the three-stage process set out by the Court of Appeal in *Denton* in order to provide first instance judges with a "clear exposition of how the provisions of rule 3.9(1) should be given effect". Although the third stage of that guidance, as set out by the majority, includes the requirement to give particular weight to the efficient conduct of litigation and the compliance with rules etc, and to that extent, for the reasons we have explained, would not have application in this tribunal or in the First-tier Tribunal, everything else said by the Court of Appeal translates readily into useful guidance on the approach to be adopted, in these tribunals as well as in the courts."
>
> 93. By way of summary, the majority in the Court of Appeal in *Denton d*escribed the three-stage approach in the following terms, at [24] (the references to "factors (a) and (b)" being to the particular factors referred to in CPR r 3.9):

" We consider that the guidance given at paras 40 and 41 of *Mitchell* remains substantially sound. However, in view of the way in which it has been interpreted, we propose to restate the approach that should be applied in a little more detail. A judge should address an application for relief from sanctions in three stages. The first stage is to identify and assess the seriousness and significance of the "failure to comply with any rule, practice direction or court order" which engages rule 3.9(1). If the breach is neither serious nor significant, the court is unlikely to need to spend much time on the second and third stages. The second stage is to consider why the default occurred. The third stage is to evaluate 'all the circumstances of the case, so as to enable [the court] to deal justly with the application including [factors (a) and (b)]'. …"

94. Once the factors (a) and (b) are afforded no special weight or significance, that approach is no different in principle to that set out in *Data Select*. The seriousness and significance of the relevant failure has always been one of the factors relevant to the tribunal's determination. That is encompassed in the reference in *Data Select*, at [34], to the purpose of the time limit and the length of the delay. The reason for the delay is a common factor in *Denton* and *Data Select*, as is the need to evaluate the circumstances of the case so as to enable the tribunal to deal with the matter justly."

31. In summary, therefore, the approach I shall take is as follows:

(1) I shall consider the factors set out by the Upper Tribunal in Data Select.

(2) In doing so, I shall take into account but not give special weight to the need for litigation to be conducted efficiently and at proportionate cost and the need to enforce compliance with time limits.

(3) I shall also bear in mind the 3 stage process described by the Court of Appeal in Denton, that is:

(a) to identify and assess the seriousness and significance of the failure,

(b) to consider why the default occurred, and

(c) to evaluate all the circumstances of the case, so as to deal justly with the application.

Reasons

32. The parties agreed that the appeal in relation to the status of the chefs for 2013-14 and 2014-15 should be treated as in time. It also seems to me that the appeal in relation to the amendment for 2012-13 in so far as it relates to the status of Mr Black falls to be treated in the same way. In so far as permission is required to appeal those decisions late, I grant permission. I am therefore concerned with the Appellant's application for permission to appeal out of time the original Determinations and Decisions for 2009-10 to 2012-13.

33. The time limit which applies is in section 49G TMA 1970. The Appellant had 30 days from 20 May 2015 to notify its appeal to the tribunal. The Appellant's failure to do so meant that the conclusions in the review letter were treated as being an

agreement in writing under section 54(1) TMA 1970 to settle the matter. However section 49G(3) provides that the Tribunal can give permission to notify an appeal after the period of 30 days and the present application seeks permission pursuant to that provision.

34. I therefore turn to consider the factors referred to above and all the circumstances of the case in deciding whether to grant permission to notify a late appeal.

(i) Purpose of the Time Limit

35. The purpose of the time limit of 30 days is clearly to promote finality. Morgan J in Data Select stressed the desirability of not re-opening matters after a lengthy interval where one or both parties were entitled to assume that matters had been finally fixed and settled. In the present case I am satisfied that HMRC were entitled to assume from June 2015 onwards that the original determinations and decisions for 2009-10 to 2012-13 were final.

(ii) The period of delay

36. The period of delay in the present case is from 19 June 2015 to 13 June 2016 when the appeal was notified to the tribunal. That is a period of one year. It is plainly a significant period and amounts to a 'serious breach' in the language of the Court of Appeal in Denton. Indeed, the Upper Tribunal in Romasave referred to a delay of 3 months as serious and significant.

(iii) Explanation for the Delay

37. The burden is on the Appellant to satisfy the tribunal as to any explanation for the delay. The explanation put forward by Mr Chappell is that in June 2015 the Appellant wanted to reach an agreeable settlement with HMRC in relation to the status of the chefs. It had never agreed the employment status of the chefs.

38. The correspondence described above speaks for itself to a large extent. On 17 June Mr Chappell gave a clear indication that the Appellant was not going to appeal to the tribunal the decision in relation to status. That was shortly before the time for appealing expired. Subsequently Mr Chappell indicated that the principal reason the Appellant was not appealing the status decision was one of cost, stating "a view had to be taken".

39. I am satisfied that the Appellant and Mr Chappell made a conscious decision not to appeal the question of status to the tribunal. They may well have anticipated that the Regulation 72F direction would have reduced the amount of tax and national insurance by more than it did. Be that as it may, the Appellant chose not to pursue an appeal.

40. I do note that at the start of the correspondence, on 10 June 2015 HMRC wrote that "*the direction you have requested [a Regulation 72F direction] can be made only*

when the relevant regulation 80 determination is final and conclusive". It is not clear to me what authority there is to support that statement, although I accept that it is HMRC practice. It may be that it is a reference to Condition C in Regulation 72E(4) which provides as follows:

> "Condition C is that –
>
> (a) tax on the relevant payment was included in a determination under regulation 80 (determination of unpaid tax and appeal against determination); and
>
> (b) the full amount of the determination is not paid within 30 days from the date on which the determination became final and conclusive."

41. It will be recalled that a direction can be made under Regulation 72F only where at least one of Conditions A-C is met. The notice of direction under Regulation 72F dated 22 October 2015 stated that it was Condition A rather than Condition C which was met, namely the amount the Appellant was liable to deduct exceeded the amount actually deducted. There does not appear to be any statutory requirement for a Regulation 80 determination to become final and conclusive before a Regulation 72F direction can be issued. However it was HMRC's practice and to that extent therefore the Appellant was not misled. In any event, the Appellant could not have been more emphatic that it did not wish to challenge the status decision.

42. In the final analysis it appears that the Appellant miscalculated the extent to which relief would be available under Regulation 72F. That was a risk the Appellant took and I do not consider that there is any good explanation for the delay.

(iv) Consequences for the Parties of Extending Time

43. If the Appellant is given permission to make a late appeal then HMRC will lose the finality which for a long period of time they were entitled to expect. During that period they carried out work to check the individual tax position of all the chefs included in the original Determinations and Decisions. That work in relation to the 72F direction will have been wasted if the appeal proceeds and is successful.

44. Mr Hall also argued that the chefs may be prejudiced if the appeal is allowed to proceed. It was not clear to me what prejudice the chefs themselves might suffer if the appeal proceeds.

45. Mr Hall submitted that there may now be difficulties finding the chefs to give evidence and that their evidence as to working practices going back to 2009-10 may be less reliable due to the passage of time. I accept that is a relevant factor, especially in relation to chefs who may only have worked for the Appellant for a relatively short period of time.

46. It can be seen from the table above that Mr Smith was a chef working for the Appellant in all the tax years under consideration. Mr Black worked for the Appellant for the last 3 tax years. For reasons given above the tribunal hearing the appeal will have to reach a finding in any event as to their status for 2013-14 and 2014-15 and for Mr Black in 2012-13.

47. If permission is granted then the Appellant will have the opportunity to pursue his arguments on status in relation to all tax years. The issues in relation to the Determinations and Decisions would be determined on their merits. Other things being equal it is desirable that disputes should be determined on their merits.

(v) Consequences for the Parties of Refusing to Extend Time

48. I am not in a position to readily assess the merits of the Appellant's proposed appeal. I assume that it would have at least a reasonable prospect of success and both parties were content for me to proceed on that basis. The Appellant will lose its opportunity to challenge the Determinations and Decisions if time is not extended. I also accept that the sum in dispute is significant for the Appellant. HMRC on the other hand will retain the finality they were entitled to expect.

(vi) Generally

49. I have had regard to the need to ensure compliance with time limits generally, and to the wasted costs and resources involved in applications such as the present. I have not given any special weight to the need for litigation to be conducted efficiently and at proportionate cost or to the need to enforce compliance with time limits, but I have treated both those factors as relevant considerations in the exercise of my discretion.

50. I must balance all the circumstances and factors described above. The length of the delay, the absence of any good explanation and the prejudice to HMRC weigh heavily in the balance. However there will be a hearing in any event to consider the status of Mr Smith and Mr Black for 2013-14 and 2014-15 and for Mr Black in 2012-13.

51. Taking into account the circumstances as a whole I consider that the fairest way to deal with this application is to give the Appellant permission to appeal the status of Mr Smith for 2012-13 where the status of Mr Black is already in issue. I extend the time for appealing that aspect of the Determinations and Decisions. In relation to all other aspects of the Determinations and Decisions I refuse permission to notify a late appeal.

Conclusion

52. For the reasons given above I allow in part the application for permission to notify a late appeal. The appeal will therefore proceed only in relation to the

determinations and decisions for 2012-13, 2013-14 and 2014-15. HMRC should send their Statement of Case to the tribunal and to the Appellant within 60 days of the release of this decision.

53. This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later than 56 days after this decision is sent to that party. The parties are referred to "Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)" which accompanies and forms part of this decision notice.

JONATHAN CANNAN
TRIBUNAL JUDGE

RELEASE DATE: 5 June 2017