
STATUTORY INSTRUMENTS

1994 No. 1812

**The General Commissioners (Jurisdiction
and Procedure) Regulations 1994**

PART IV

SPECIAL PROCEDURE

Proceedings relating to tax on chargeable gains

18.—(1) Where the market value of an asset on a particular date or the apportionment of an amount or value is a material question in any proceedings relating to tax on chargeable gains, the Tribunal hearing the proceedings shall, if so required by any party, record in its final determination that market value or apportionment.

(2) The final determination on an appeal of the market value of an asset on a particular date or of the apportionment of any amount or value may be proved in any proceedings relating to tax on chargeable gains by a certificate stating the material particulars signed by—

- (a) an inspector where the appeal was settled by agreement, or
- (b) the Clerk where the General Commissioners determined the appeal, or
- (c) the clerk or registrar of another tribunal where the material question was determined by that other tribunal in accordance with section 47 or 47B of the Management Act⁽¹⁾,

and a document purporting to be such a certificate may be received in evidence in any such proceedings without further proof.

(3) In this regulation the expression “final determination on an appeal” shall be construed in accordance with regulation 11(2) of the Capital Gains Tax Regulations 1967⁽²⁾, and the expression “material question in any proceedings” shall be construed in accordance with regulation 15(a) of those Regulations.

References of questions of value to other tribunals

19.—(1) A question in an appeal which is required to be determined in accordance with section 47 or 47B of the Management Act may be referred to the appropriate tribunal by the Tribunal before whom the appeal is brought or, if the hearing of the appeal has not begun, by an inspector or other officer of the Board.

(2) Where any question in an appeal has been referred to another tribunal in accordance with section 47 or 47B of the Management Act, the Tribunal before whom the appeal is brought may make a final determination of the remaining questions in the appeal and may at the request of any

(1) Section 47 was amended by Part VII of Schedule 14 to the Finance Act 1974 (c. 30), section 54(1) of the Finance Act 1975 (c. 7), paragraph 8 of Schedule 7, and Schedule 8, to the Capital Gains Tax Act 1979 (c. 14), and paragraph 2(2) of Schedule 10 to the Taxation of Chargeable Gains Act 1992. Section 47B was inserted by paragraph 22 of Schedule 9 to the Finance Act 1986 (c. 41) and amended by paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988.

(2) S.I.1967/149.

party state a case thereon under regulation 22 without awaiting the determination of the question referred to the other tribunal.

Case stated procedure

20.—(1) Within thirty days after the final determination of any proceedings falling within paragraph (a) or (b) of the definition of “proceedings” in regulation 2 is made by a Tribunal or, as the case may be, within thirty days after a decision varying such a final determination or substituting for it a new final determination is made by a Tribunal under regulation 17, any party to the proceedings, if dissatisfied with the determination or decision as being erroneous in point of law, may by notice served on the Clerk require the Tribunal to state and sign a case for the opinion of the High Court.

(2) A case stated pursuant to a requirement under paragraph (1) above shall set forth the facts and the final determination of the Tribunal.

(3) After a party has required a case to be stated under paragraph (1) above, the Tribunal may by notice served on him require him within not less than twenty eight days to identify the question of law on which he requires the case to be stated.

(4) If a party fails to comply with a notice served under paragraph (3) above, or if the Tribunal is not satisfied that the question identified is a question of law, or until the fee specified in section 56(3) of the Management Act(3) has been paid, the Tribunal may refuse to state a case.

(5) Where a final determination of a Tribunal is set aside or varied under regulation 17, a requirement for a case to be stated in respect of that determination shall cease to be valid.

Consideration of draft case

21.—(1) Within fifty six days after the receipt of a notice served under regulation 20(1) requiring a case to be stated or, if a notice is served under regulation 20(3), within fifty six days after the day on which a question of law is identified to the satisfaction of the Tribunal, the Clerk shall send a draft of the case to the party who required the case to be stated and to the other party or parties.

(2) Within fifty six days after the draft case is sent to the parties under paragraph (1) above, any party may make representations on the draft to the Clerk in writing and shall at the same time send a copy of any representations so made to the other party or parties.

(3) Within twenty eight days after the latest date on which representations may be made under paragraph (2) above, any party may make further representations on the draft to the Clerk in writing in response to any representations made under paragraph (2) above, and shall at the same time send a copy of such further representations to the other party or parties.

(4) A failure by the Clerk to send a draft case within the time specified in paragraph (1) above, or a failure by a party to make representations within the time specified in paragraph (2) or (3) above, or to send a copy of representations under either of those paragraphs to the other party or parties, shall not affect the validity of the case after it has been stated and signed pursuant to regulation 22, or of any subsequent proceedings in relation to the case.

(5) Where a party fails to send a copy of any representations to another party in accordance with paragraph (2) or (3) above, that other party may apply to the Clerk for a copy of the representations.

Preparation and submission of final case

22.—(1) Subject to paragraph (2) below, as soon as may be after the latest date on which representations may be made under regulation 21, the Tribunal whose decision is questioned, after taking into account any representations made under that regulation, shall state and sign the case.

(3) Section 56(3) was amended by paragraph 6 of Schedule 22 to the Finance Act 1984 and by S.I. 1994/1813.

(2) If a member of the Tribunal has died or ceased to be a General Commissioner, then the case shall be stated and signed by the continuing Commissioner or Commissioners or, if there is no continuing Commissioner, by the Clerk.

(3) After the case has been stated and signed the Clerk shall send it to the party who required it to be stated, and shall notify the other party or parties that the case has been sent to that party.

(4) The party requiring the case shall—

(a) transmit the case to the High Court within thirty days of receiving it, and

(b) at or before the time when he transmits the case to the High Court, send notice of the fact that the case has been stated on his application, together with a copy of the case, to the other party or parties.

Case stated procedure — Scotland and Northern Ireland

23.—(1) In relation to proceedings in Scotland, references in regulations 20(1) and 22(4) to the High Court shall be taken as references to the Court of Session as the Court of Exchequer.

(2) In relation to proceedings in Northern Ireland—

(a) the reference in regulation 20(1) to the High Court shall be taken as a reference to the Court of Appeal in Northern Ireland;

(b) the procedure relating to the transmission of a case stated under regulation 22 to the Court of Appeal in Northern Ireland shall be that for the time being in force in Northern Ireland as respects cases stated by a county court in exercise of its general jurisdiction, and regulation 22(4) shall not apply.