[2015] UKFTT 0140 (TC)

TC04344

Appeal number:TC/2013/01540

INHERITANCE TAX – settled property – scrip dividends – whether income or capital – whether property comprised in the settlement for the purposes of an exit charge before the first 10 year anniversary – Inheritance Tax Act 1984, s68(5)(c) – appeal dismissed

FIRST-TIER TRIBUNAL
TAX CHAMBER

(1) MEENA SEDDON **Appellants**
(2) WAYNE SEDDON
(3) DEBRA JEAN SEDDON
(Trustees of Mrs M Seddon Second Discretionary Settlement)

- and -

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

TRIBUNAL: JUDGE JONATHAN CANNAN
MR JOHN WILSON

Sitting in public in Manchester on 20 October 2014 with subsequent written submissions completed on 27 November 2014

Mr Jacky Buchsbaum of Wilds Chartered Accountants for the Appellants

Mr David Yates of counsel instructed by the General Counsel and Solicitor of HM Revenue & Customs for the Respondents

DECISION

Background

1. The Appellants ("the Trustees") are the trustees of a settlement known as the Mrs M Seddon Second Discretionary Settlement which was established on 5 March 1999. The original trust property settled by Mrs Seddon was 5 £1 ordinary shares in Seddon Seedfeeds Limited. At the commencement of the settlement the shares were valued at £200,000.

2. On 30 January 2000 the Trustees received a scrip dividend of 187,500 1p preference shares in Seddon Seedfeeds Limited. These preference shares were sold by the Trustees two days later on 1 February 2000 for a consideration of £768,194 in cash and loan notes from the purchaser of £614,556. The value of the scrip dividend was £1,382,750.

3. On 1 March 2009, a few days before the 10th anniversary of the commencement of the settlement, the Trustees made a distribution worth £1,260,361 to certain beneficiaries.

4. The principal issue which arises on this appeal concerns the rate at which an exit charge arises for Inheritance Tax ("IHT") purposes on the distribution. The relevant facts as set out above were agreed by the parties. There is no factual dispute, save in relation to one matter concerning accumulation of income which we deal with below.

5. The principal issue can be further refined by reference to the Notice of Appeal which identifies two issues and the Statement of Case served by HMRC which identifies a third issue. The three issues are as follows:

(1) Is the scrip dividend as a matter of principle income or capital in the hands of the Trustees?

(2) If the scrip dividend is capital, does it fall to be taken into account in section 68(5)(c) Inheritance Tax Act 1984 for the purposes of calculating an exit charge?

(3) If the scrip dividend is income, did the Trustees accumulate that income as capital by the time of the distribution on 1 March 2009?

6. In this decision we use the term scrip dividend to refer to the preference shares which were received by the Trustees.

7. In broad terms, the position of the Appellants is that the scrip dividend was income in the hands of the Trustees and had not been accumulated as capital as at 1 March 2009. As such it did not fall to be taken into account in calculating the exit charge. The rate of tax for the purpose of the exit charge was therefore 0% and no IHT was payable in relation to the distribution on 1 March 2009.

8. The position of HMRC is that the scrip dividend was capital in the hands of the Trustees and it does fall to be taken into account in calculating the exit charge. IHT of £54,640.43 fell due in relation to the distribution based on a tax rate of 4.817%. Notices of Determination to this effect were issued to the Trustees on 19 November 2012

9. We shall first set out some general statutory provisions in relation to IHT, and more specifically the charge falling due where property ceases to be relevant property for IHT purposes prior to the first 10 year anniversary of a settlement. We then set out our analysis of the three issues, based on the oral and written submissions of the parties.

Statutory Framework

10. All references are to the Inheritance Tax Act 1984 ("the Act").

11. IHT is charged on the value transferred by a chargeable transfer (section 1). A chargeable transfer is a transfer of value which is made by an individual and which is not an exempt transfer (section 2). A transfer of value is a disposition made by a person (the transferor) as a result of which his estate immediately after the disposition is less than it would have been but for the disposition. The amount by which the estate is reduced is the value transferred (section 3).

12. The application of IHT to settlements is dealt with by Part III of the Act. For present purposes section 43 defines a settlement as any disposition of property whereby property is for the time being held in trust for persons in succession. It provides as follows:

> "*(1) The following provisions of this section apply for determining what is to be taken for the purposes of this Act to be a settlement, and what property is, accordingly, referred to as property comprised in a settlement or as settled property.*
>
> *(2) Settlement means any disposition or dispositions of property … whereby the property is for the time being* -
>
> > *(a) held in trust for persons in succession …*"

13. There is no definition of property in the Act save that by section 272 it is stated to include rights and interests of any description.

14. Chapter III (sections 58-82) governs the IHT charge in relation to settled property which comprises relevant property. Relevant property is defined by section 58 as settled property in which no qualifying interest in possession subsists, with certain exceptions.

15. In broad terms there is a charge to IHT:

(1) at a 10 year anniversary of the settlement (section 64), and

(2) where property ceases to be relevant property, more commonly known as an exit charge (section 65).

16. Section 66 sets out the rate at which IHT is charged at a 10 year anniversary. Section 68 sets out the rate at which IHT is charged where there is an exit charge before the first 10 year anniversary. Section 69 sets out the rate at which IHT is charged where there is an exit charge in between 10 year anniversaries.

17. The present appeal is directly concerned with the rate of IHT where there is an exit charge before the first 10 year anniversary. Section 65 provides for the circumstances in which that charge arises as follows:

> " *(1) There shall be a charge to tax under this section —*
>
> *(a) where the property comprised in a settlement or any part of that property ceases to be relevant property (whether because it ceases to be comprised in the settlement or otherwise); and*
>
> *(b) in a case in which paragraph (a) above does not apply, where the trustees of the settlement make a disposition as a result of which the value of relevant property comprised in the settlement is less than it would be but for the disposition.*
>
> …
>
> *(3) The rate at which tax is charged under this section shall be the rate applicable under section 68 or 69 below.*"

18. The rate at which IHT applies in the present circumstances is governed by Section 68 which provides as follows:

> " *(1) The rate at which tax is charged under section 65 above on an occasion preceding the first ten-year anniversary after the settlement's commencement shall be the appropriate fraction of the effective rate at which tax would be charged on the value transferred by a chargeable transfer of the description specified in subsection (4) below (but subject to subsection (6) below).*
>
> …
>
> *(4) The chargeable transfer postulated in subsection (1) above is one—*
>
> *(a) the value transferred by which is equal to an amount determined in accordance with subsection (5) below;*

(b) which is made at the time of the charge to tax under section 65 by a transferor who has in the period of seven years ending with the day of the occasion of the charge made chargeable transfers having an aggregate value equal to that of any chargeable transfers made by the settlor in the period of seven years ending with the day on which the settlement commenced, disregarding transfers made on that day or before 27th March 1974; and

(c) on which tax is charged in accordance with section 7(2) of this Act.

(5) The amount referred to in subsection (4)(a) above is equal to the aggregate of—

(a) the value, immediately after the settlement commenced, of the property then comprised in it;

(b) the value, immediately after a related settlement commenced, of the property then comprised in it; and

(c) the value, immediately after it became comprised in the settlement, of any property which became so comprised after the settlement commenced and before the occasion of the charge under section 65 (whether or not it has remained so comprised)."

19. Broadly, the exit charge applies where property ceases to be relevant property, for example where there is a distribution of capital. It is calculated by ascertaining the "effective rate" and applying the "appropriate fraction" to the effective rate.

20. The effective rate is determined by reference to the rate at which tax would be charged by a chargeable transfer of the type described by section 65(4) and (5). The maximum effective rate is the lifetime rate of 20%. The appropriate fraction to be used is 3/10 multiplied by $1/40^{th}$ for each complete period of 3 months which has passed since the commencement of the settlement. There is no exit charge if the property ceases to be relevant property in the first period of 3 months following the commencement of the settlement.

21. By way of illustration, if the effective rate is 20% and property ceased to be relevant property in the second period of 3 months, the appropriate fraction would be 3/10 multiplied by $1/40^{th}$ which is 0.0075. The rate of IHT would therefore be 20% multiplied by 0.0075 which is 0.15%. The closer to the 10 year anniversary that the

exit charge applies, the greater the rate, up to a maximum of 5.85% for property leaving the settlement in the last period of 3 months prior to the 10 year anniversary.

22. In Statement of Practice SP 8/86 HMRC accept that property which comprises trust income as a matter of general trust law is not relevant property for these purposes, unless it is accumulated. It is convenient in this section to set out the terms of SP 6/86 which states as follows:

> " *This statement sets out the Board's practice concerning the IHT/CTT treatment of income of discretionary trusts.*
>
> *The Board takes the view that –*
>
> > *- undistributed and unaccumulated income should not be treated as a taxable trust asset; and*
> >
> > *- for the purpose of determining the rate of charge on accumulated income, the income should be treated as becoming a taxable asset of the trust on the date when the accumulation is made.*
>
> *This practice applies from 10 November 1986 to all new cases and to existing cases where the tax liability has not been settled.*"

Reasons

23. We shall deal separately with the three issues identified above.

Income or Capital?

24. The first issue is whether the scrip dividend was income or capital in the hands of the Trustees. If it was income then it is accepted that the preference shares and the proceeds of sale would fall within SP 6/86 and would not be subject to an exit charge. If it was capital then it may be subject to an exit charge depending on how the second issue is resolved.

25. The Trustees rely on a decision of the High Court in *Pierce v Wood [2009] EWHC 3225 (Ch)* which found that scrip dividend shares were income for trust law purposes and therefore, applying SP 6/86, outside the scope of the relevant property

regime. The Trustees did not seek to suggest that in the absence of such authority the scrip dividend might otherwise be treated as income of the settlement.

26. HMRC contend that the scrip dividend shares are capital in the hands of trustees and that this is established by a decision of the Upper Tribunal in *Gilchrist v Commissioners of HM Revenue & Customs [2014] UKUT 169 (TCC).*

27. There are conflicting decisions of the High Court and the Upper Tribunal on this issue. In both decisions consideration was given to a decision of the Court of Appeal in *Howell v Trippier [2004] EWCA Civ 885* to the effect that scrip dividend shares are income in the hands of the trustees of a discretionary settlement for income tax purposes. As such the trustees were liable to income tax on the scrip dividend at the rate applicable to trusts.

28. In the High Court, HH Judge Hodge QC sitting as a Judge of the High Court held that *Howell v Trippier* was not limited to the income tax treatment of scrip dividends. It was authority for a wider proposition that scrip dividends are income for the purposes of trust law generally.

29. In the Upper Tribunal David Richards J and Judge Ghosh QC held that *Howell v Trippier* was limited to the income tax treatment of scrip dividends. It was not authority for any wider proposition in relation to trust law generally. They concluded that *Pierce v Wood* was wrongly decided and that as a matter of precedent the Upper Tribunal is not bound by an earlier High Court decision. They held that the scrip dividend was capital of the settlement.

30. Mr Buchsbaum who appeared for the Trustees submitted that *Gilchrist* was decided in circumstances where the trustees had treated the scrip dividend as capital and had not accounted for income tax on the scrip dividend at the rate applicable to trusts. If they had been right in their argument that the scrip dividend was income for the purposes of general trust law they would also have avoided IHT as well. In contrast he submitted that *Pierce v Wood* was a case where income tax at the rate applicable to trusts had been accounted for and the trustees were arguing that they should not also be liable to a 10 year anniversary charge. HH Judge Hodge QC regarded such “double taxation” as an undesirable consequence.

31. Such a distinction cannot affect the view we should take as to whether we should follow *Pierce v Wood* or *Gilchrist*. In any event, notwithstanding his submissions Mr Buchsbaum did not invite us to find that the reasoning in *Pierce v Wood* was to be preferred to the reasoning in *Gilchrist*. He was concerned that the Trustees might become liable for costs if he were to be unsuccessful in such an argument. Instead he confined his submissions to an argument that the F-tT is bound by a High Court decision in preference to an Upper Tribunal decision.

32. We should not embark on a detailed scrutiny of both decisions to see whether we prefer the reasoning in one over that in the other. In a case of conflict the F-tT is bound to follow the later of two first instance authorities where the later authority has fully considered earlier authorities (see *Colchester Estates (Cardiff) v Carlton*

Industries Plc [1986] Ch 80). It is clear that the Upper Tribunal has considered in detail the decision of the Court of Appeal in *Howell v Trippier* and the decision of the High Court in *Pierce v Wood.*

33. Mr Buchsbaum however submitted that here the previous authorities were not of equal authority. He submitted that the High Court is a higher authority than the Upper Tribunal and we ought to follow the High Court. In making that submission he relied on the decision of the Supreme Court in *R (Cart) v Upper Tribunal [2011] UKSC 28.*

34. We do not accept Mr Buchsbaum's submission. The Upper Tribunal in *Gilchrist* carried out a detailed examination of the law in relation to precedent and the relationship between the Upper Tribunal and the High Court. It summarised its conclusion at [85] and [86]as follows:

> "*85. In summary, we consider the following principles to apply in relation to the question of whether the High Court binds the Upper Tribunal as a matter of stare decisis:*
>
> *(i) The question whether the Upper Tribunal is bound by High Court decisions as a matter of stare decisis is a matter of Parliamentary intention, in the light of the well-recognised need for predictability and consistency of outcome.*
>
> *(ii) The Upper Tribunal is not bound by decisions of the High Court, as:*
>
> > *(a) the intention of Parliament, in enacting the Tribunals Courts and Enforcement Act 2007 ("TCEA 2007") and constituting the Upper Tribunal as a court of superior record makes it clear that Parliament did not intend the Upper Tribunal to be bound by the High Court as a matter of stare decisis;*
> >
> > *(b) as a matter of principle, the need for predictability and consistency of outcome are not offended;*
> >
> > *(c) there is a substantial line of authority that Tribunals which are constituted as superior courts of record are free to depart from High Court decisions, which line of authority has not been disturbed.*

> *85. None of the principles we have set out above is affected by the decision of the Supreme Court in R (Cart) v Upper Tribunal [2012] 1 AC 663 ("Cart"). The question whether the High Court binds the Upper Tribunal as a matter of Stare decisis is conceptually distinct from the question whether the High Court has supervisory jurisdiction, as a matter of judicial review, over unappealable decisions of the Upper Tribunal. "*

35. It is clear therefore that the Upper Tribunal is not bound by a previous High Court decision. We cannot see any argument therefore that the F-tT should be bound by the High Court in preference to a conflicting Upper Tribunal decision.

36. We consider that we are bound by the decision of the Upper Tribunal in *Gilchrist.* The scrip dividend and the proceeds thereof are capital in the hands of the Trustees for the purposes of IHT.

Calculating the Exit Charge

37. Section 68 defines the rate at which tax is to be charged under section 65 where property ceases to be relevant property, for example where it ceases to be comprised in a settlement. The rate is defined partly by reference to the tax which would be charged on the value transferred by a hypothetical chargeable transfer which gives the "effective rate" of tax.

38. The hypothetical chargeable transfer is described by section 68(4) and (5). For present purposes it may be described as a chargeable transfer where:

(1) The value transferred is equal to the value of:

(a) property comprised in the settlement when it commenced, together with

(b) the value of any property which became comprised in the settlement after commencement at the time it became so comprised.

(2) It is made at the time the exit charge arises by a transferor who in the seven years prior thereto has made chargeable transfers equal to those made by the settlor in the 7 years prior to commencement of the settlement.

39. The tax rate applicable to the hypothetical chargeable transfer is the lifetime rate of 20%.

40. The issue between the parties focuses on the extent to which property should be treated as becoming comprised in the settlement after the date of commencement. For the purposes of the hypothetical chargeable transfer, section 68(5)(c) requires the following to be taken into account:

> " *(c) the value, immediately after it became comprised in the settlement, of any property which became so comprised after the settlement commenced…*"

41. Mr Buchsbaum characterised the dispute in terms as to whether the scrip dividend constitutes an addition to the settlement. We do not consider it helpful to consider the issue in those terms. The dispute is whether the scrip dividend is property which became comprised in the settlement after commencement of the settlement for the purposes of section 68(5)(c).

42. Mr Buchsbaum's argument was that the reference to "property" becoming comprised in the settlement should be read as referring only to property which became comprised in the settlement as a result of a chargeable transfer.

43. Mr Buchsbaum observed correctly that a chargeable transfer involves a disposition made by an individual which has the effect of reducing the value of that individual's estate. He also observed correctly that when a scrip dividend is issued there is no chargeable transfer because no individual has made a disposition and there has been no reduction in the value of a transferor's estate.

44. We accept, and Mr Yates did not contend otherwise, that when the scrip dividend preference shares came to be held by the Trustees it was not the result of a chargeable transfer.

45. In support of his argument Mr Buchsbaum submitted that section 68 was a deeming provision and that it should be given a meaning no wider than the minimum necessary to achieve its purpose. He relied on a passage in *Gilchrist* at [53] where the Upper Tribunal cited Peter Gibson J sitting in the Court of Appeal in *Marshall v Kerr [1993] STC 360* as follows:

> " *For my part, I take the correct approach in construing a deeming provision to be to give the words used their ordinary and natural meaning, consistent so far as possible with the policy of the Act and the purposes of the provisions so far as such policy and purposes can be ascertained; but if such construction would lead to injustice or absurdity, the application of the statutory fiction should be limited to the extent needed to avoid such injustice or absurdity, unless such application would clearly be within the purposes of the fiction. I further bear in mind that, because one must treat as real that which is only deemed to be so, one must treat as real the consequences and incidents inevitably flowing from or accompanying that deemed state of affairs, unless prohibited from doing so.*"

46. The Upper Tribunal in *Gilchrist* cited that passage in the context of section 249(6) ICTA 1988 which deems a scrip dividend to be income in the hands of trustees for income tax purposes.

47. We do not consider that section 68 is a deeming provision as such. It is not deeming something to be the case for any purpose. It is postulating a hypothetical chargeable transfer by reference to which the effective rate of tax is to be calculated. We are not satisfied therefore that this rule of construction applies in the present context. In any event, for the reasons given below we are not satisfied that to construe section 68(5)(c) without limiting it to property becoming comprised in the settlement by way of a chargeable transfer results in any injustice or absurdity.

48. Section 68(5) focuses on the property comprised in the settlement at the time the settlement commenced, and any property which subsequently becomes comprised in the settlement prior to the distribution. For the purposes of IHT generally the term "property" is not specifically defined. Section 272 is not a definition as such.

49. Mr Yates who appeared for HMRC submitted that there is no basis to read into section 68(5)(c) a requirement that only property which became comprised in the settlement as a result of a chargeable transfer should be taken into account. Essentially, if that was what Parliament had intended that is what Parliament would have said.

50. Mr Yates submitted that such a requirement was to be read into section 68(5)(c) then the value taken as transferred for the purposes of the hypothetical chargeable transfer would ignore any property that had become comprised in the settlement by way of an exempt transfer. For example within the settlor's annual exemption or by way of normal expenditure out of income.

51. Mr Buchsbaum accepted that exempt transfers made by a settlor into the settlement would still be property to be taken into account under section 68(5)(c). He suggested that would be the case because the transfers would only be exempt by reference to the settlor's position and would be chargeable transfers if made by the hypothetical transferor envisaged by section 68(4)(b). We do not accept that reasoning. Section 68(4)(b) says nothing about the transferor making the hypothetical chargeable transfer other than that he has the same aggregate amount of chargeable transfers in the previous seven years as the settlor had at the commencement of the settlement. If it was intended that the transferor should not have the benefit of certain exemptions the section would have to say so expressly but it is silent.

52. There was some discussion in the submissions before us as to the position in relation to property comprised in the settlement which increases in value. It is clear that this does not affect the value to be taken under section 68(5)(c) which uses the value of property at the time it became comprised in the settlement, not at the time of the exit charge. Hence if property comprised in a settlement increases in value, the increase in value is irrelevant to an exit charge prior to the first 10 year anniversary. Equally, if property comprised in the settlement is sold realising a gain prior to the exit charge, no new property becomes comprised in the settlement. The existing property was already comprised in the settlement and has simply changed nature, from the original asset to the proceeds of sale. The Act is not concerned with gains or losses, but with whether property is comprised in the settlement. In contrast, a scrip dividend involves new shares becoming comprised in the settlement. The new

preference shares do not in any sense replace the existing shares which are still held by the Trustees. Nor are the original shares split into different components as suggested by Mr Buchsbaum.

53. We noted above that section 43 is expressed to apply for determining what is to be taken for the purposes of the Act as a settlement and also "*what property is, accordingly, referred to as property comprised in a settlement …*". It is clear from section 43 that a settlement requires a disposition of property. However it does not provide that property can only become comprised in a settlement where that property is the subject of a separate disposition. In the present context the original disposition of shares carries with it any subsequent scrip dividend whereby the preference shares became comprised in the settlement. We do not consider that section 43 assists in the present context of identifying what property is to be treated as comprised in a settlement.

54. We accept Mr Yates' submission that the scheme of Chapter III of the Act is to charge IHT at a maximum of 6% every 10 years. The purpose of the exit charge prior to the first 10 year anniversary is to impose a pro rata charge by reference to the period of time since commencement of the settlement. That would suggest that the hypothetical chargeable transfer for an exit charge would be defined by reference to the same principles as apply for the 10 year anniversary charge.

55. The 10 year anniversary charge under section 64 applies to "*…all or any part of the property comprised in a settlement [which] is relevant property…*". The effective rate of the 10 yearly charge is also calculated under section 66 by reference to a hypothetical chargeable transfer. By section 66(4) the hypothetical transfer of value for that purpose is calculated by reference to the relevant property comprised in the settlement at that time together with:

> "…
>
> *(b) the value immediately after it became comprised in the settlement of any property which was not then relevant property and has not subsequently become relevant property while remaining comprised in the settlement.*"

56. Despite the fact that section 66(4)(b) uses the same material words as section 68(5)(c), Mr Buchsbaum did not suggest that this should be limited in the same way to property which had become comprised in the settlement only by means of a chargeable transfer. He did submit that the exit charge before the first 10 year anniversary was calculated by reference to the settlor's position, in particular paragraph 68(4)(b). In contrast the position at the 10 year anniversary and subsequently focuses solely on the settlement and property in the settlement for the purposes of any IHT charges. We do not consider that such a distinction adds any weight to Mr Buchsbaum's submission in relation to section 68(5)(c). If Parliament had intended the value transferred to be identified by different criteria it would have used different language.

57. In our view Mr Buchsbaum's submission goes beyond construing section 68(5)(c) and would amount to re-writing that provision to introduce words which are not there and do not need to be there. There is no principled basis in our view for any words to be added to the words used by Parliament. Mr Buchsbaum has not suggested any statutory purpose which would justify the limitation he proposes.

58. For these reasons we find that the value of the scrip dividend when it was received by the Trustees is property comprised in the settlement for the purposes of section 68(5)(c).

Accumulation of Income

59. In the light of our decision in relation to the first and second issues it is not strictly necessary for us to deal with the third issue. The third issue arises out of [17] of HMRC's Statement of Case which reads as follows:

> "*Further and in any event, HMRC require the Appellants to prove that, insofar as the scrip dividends were in fact income for English trust law purposes (which is denied), by the time of the capital distribution in 2009, the Appellants had not already accumulated such income. In particular, HMRC would note that the Appellants had held the proceeds of the scrip dividend for over 9 years and had expressly made a capital distribution.*"

60. The Trustees did not engage in relation to this issue which was raised by Mr Yates during his submissions. Essentially HMRC were putting the Trustees to proof as to how they had dealt with the scrip dividend. A similar issue had arisen in *Pierce v Wood* in the High Court and was fully dealt with by His Honour Judge Hodge QC. However there was no evidence before us one way or the other relating to whether the scrip dividend had been accumulated.

61. Section 224 of the Act provides in relation to appeals that the Tribunal must confirm the determination unless satisfied that it ought to be varied or quashed. The burden is therefore on an appellant to establish that the determination ought to be varied or quashed. In this appeal, the burden is on the Trustees to establish that the scrip dividend was not accumulated so as to become part of the capital of the settlement.

62. Even if we had resolved the first issue in favour of the Trustees, in the absence of any evidence as to accumulation we cannot be satisfied that the scrip dividend remained part of the income of the settlement at the date of distribution.

Conclusion

63. For the reasons given above we have concluded that:

(1) As a matter of principle the scrip dividend was capital in the hands of the Trustees.

(2) The scrip dividend does fall to be taken into account in section 68(5)(c) for the purposes of calculating the exit charge.

(3) Even if the scrip dividend was received as income in the hands of the Trustees, the Trustees have not satisfied us that it remained unaccumulated at the time of the distribution on 1 March 2009.

64. In the circumstances we confirm the determination and dismiss the appeal.

65. 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: 9th April 2015