



TC05773

Appeal number: TC/2016/02074

VALUE ADDED TAX – registration – request of amendment of effective date of VAT registration refused – whether decision to refuse was unreasonable – held it was – appeal allowed and HMRC directed to remake the decision

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

ONYX OF LEICESTER LIMITED

Appellant

- and -

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

**TRIBUNAL: JUDGE JOHN WALTERS QC
LESLIE HOWARD**

Sitting in public at Nottingham Justice Centre, Nottingham on 29 March 2017

Mr M. Patel for the Appellant

Mrs S. Hancox, officer of Her Majesty's Revenue and Customs, for the Respondents

DECISION

The facts and the parties' submissions

5 1. The Appellant, Onyx of Leicester Limited ("Onyx"), is a company carrying on the business of training consultancy. Onyx's sole director is a Mr Dhaliwal, who was present at the hearing of the appeal and who, we understand, actually carries out the training consultancy constituting Onyx's business.

2. We heard, from Mr Patel and Mr Dhaliwal, an account of the factual
10 circumstances relevant to the appeal. These were not in dispute and Mrs Hancox did not seek to cross-examine Mr Dhaliwal.

3. Onyx was incorporated on 28 April 2003. On 2 January 2013 Onyx, through Mr Dhaliwal, submitted an online application to register for value added tax ("VAT"). This was on a form "HMRC VAT 1 Application for Registration". It was a Voluntary
15 Registration (that is a registration by a person not liable to be registered, pursuant to paragraph 9, Schedule 1, Value Added Tax Act 1994 ("VATA")). The application (under paragraph 13) stated that Onyx's turnover was below the then-current registration threshold and indicated "01/12/2012" as the "Register Date". Under
20 paragraph 17, under the heading "Exemption/Earlier Registration Date", the application stated "Proposed registration date 01/12/2012". An estimate of turnover for the next 12 months was given as £60,000 under paragraph 19.

4. The Respondents ("HMRC") processed Onyx's application and sent an acknowledgement, dated 29 January 2013, confirming that Onyx had been registered for VAT with effect from 1 December 2012 and allotting a VAT Registration Number
25 to Onyx.

5. In the application, Onyx had also applied to use the flat rate scheme. On 8 February 2013 HMRC issued a statement to Onyx informing it that it was authorised to use the scheme with effect from 1 December 2012.

6. We had before us screen shots from HMRC's website as at 18 March 2010,
30 constituting guidance notes in relation to voluntary registration. Mrs Hancox acknowledged that this was not a date which was relevant to the appeal but she told us (and we accept) that the information relating to 'Registering earlier' would have been on the website at the time Onyx made its application (2 January 2013).

7. That information is as follows:

35 'If you wish to register from an earlier date, this can be backdated up to three years from the date of this submitted application, provided you were eligible to be VATY registered throughout that time.

You should be aware that you will have to account for VAT on all your taxable supplies from that date.'

8. Mr Dhaliwal told us (and we accept) that his accounting year runs from 1 May to 30 April and that he intended to start charging output VAT on Onyx's supplies with effect from 1 May 2013. By making an application for voluntary registration on 2 January 2013, he was intending to make preparation for this. He told us (and we accept, and Mrs Hancox did not demur) that the on-line application for registration arrangements do not allow a person to put a proposed registration date as far in advance as 4 months (the interval between 2 January and 1 May 2013). In fact, it appears from the screen shots we have referred to that an advance notification requesting to be registered from a future date is possible only in relation to a date 'up to three months in the future'.

9. Mr Dhaliwal told us (and we accept) that he did not take any professional advice at the time of the application for registration. Indeed, it appears that he did not take professional advice until some time in 2015. He had read that it was possible to claim a deduction as input tax for VAT incurred up to 6 months before an effective date of registration and assumed that there was liberty not to charge output VAT for a period up to 6 months after an effective date of registration.

10. Onyx (through Mr Dhaliwal) actually began to charge output VAT with effect from the beginning of his financial year on 1 May 2013, which, at the time, he believed to be a correct procedure.

11. Onyx did not make any VAT returns until 28 March 2015, when he submitted electronic VAT returns for the period 1 December 2012 to 30 April 2013 (the first VAT period), the period 1 August 2013 to 31 October 2013, and the period 1 November 2014 to 31 January 2015. All those returns showed nil VAT due in the period and nil input VAT claimed.

12. On 7 April 2015, Onyx made electronic VAT returns for the periods 1 May 2014 to 31 July 2014 and 1 August 2014 to 31 October 2014. These returns showed sales of £8,126 and £25,920 respectively, with output VAT due of £877.70 and £2,799.36 respectively (with no deduction for input tax). On 24 April 2015 Onyx made an electronic VAT return for the period 1 May 2013 to 31 July 2013. This return showed sales of £17,195 and output VAT due of £1,857.16 (with no deduction for input tax). On 19 May 2015 Onyx made an electronic tax return for the period 1 November 2013 to 31 January 2014. This return showed sales of £32,785 and output VAT due of £3,278.58 (with no deduction for input tax). On 16 July 2015 Onyx made electronic VAT returns for the periods 1 February 2014 to 30 April 2014 and 1 February 2015 to 30 April 2015. These returns showed sales of £40,735 and £26,100 respectively, with output tax due of £4,399.45 and £3,132 respectively (with no deduction for input tax).

13. The returns for the quarterly periods ending 31 July 2015 to 31 January 2016 (the last return with out papers) were made in time and recorded sales of £31,110, £28,050 and £37,740 with output tax payable at a flat rate of 12% in all cases (and no deduction for input tax).

14. In the absence of returns, central assessments were issued. An assessment for the VAT period 04/13 (£1,268) was raised on 14 June 2013 and this VAT was paid on 15 July 2013. An assessment for the VAT period 07/13 (£818) was raised on 13 September 2013 and this VAT was paid on 14 October 2013. An assessment for the VAT period 10/13 (£814) was raised on 13 December 2013 and this VAT was paid on 6 January 2014. An assessment for the VAT period 01/14 (£995) was raised on 14 March 2014 and this VAT was paid on 7 April 2014. Assessments appear to have been raised for subsequent periods and HMRC's ledger details indicate that there were in fact overpayments of VAT by Onyx.

15. Meanwhile, on 28 September 2015, HMRC (through Compliance Officer Louise Hepton-Lloyd) had made a control visit to Onyx. She raised various issues with Onyx in a letter dated 5 November 2015. In particular, she noted that payments had been received by Onyx in the period between 1 December 2012 (the effective registration date) and 30 April 2013 which, she considered, attracted an output VAT charge of £7,814.61.

16. Officer Hepton-Lloyd's letter of 5 November 2015 was replied to by Mr Patel, on behalf of Onyx in a letter dated 5 December 2015. With regard to the effective date of registration, Mr Patel wrote:

‘My client is still adamant that his decision to charge VAT at the beginning of his companies [*sic*] financial year was correct as a ‘common sense’ approach would consider this to be normal. He believes that his decision to register earlier was attempt at foresight [*sic*] in readiness to charge VAT.’

17. Officer Hepton-Lloyd replied to Mr Patel in a letter dated 23 December 2015. In relation to the date of registration, she wrote that Onyx requested that it be registered for VAT with effect from 1 December 2012, that HMRC had approved this and that therefore VAT should have been accounted for on all sales made from that date. She went on to say that ‘the legislation does not allow a business to begin accounting for VAT at a later date than on which it is registered [*sic*] for VAT and HMRC have no discretion in this matter’.

18. Mr Patel replied in a letter dated 31 January 2016 referring to HMRC's practice published under reference ‘VATREG25350 – Effective date of registration (EDR): change of EDR at a later date’.

19. Mr Patel wrote:

‘This clearly states ‘the trader must demonstrate there was a genuine misunderstanding or error in completing the application form’. I wish also to consider that Mr Dhaliwal did not take advice from his agent (myself) and has paid assessments for 18 months. This matter only came to light to him at the enquiry. ...I do not agree that ‘HMRC has no discretion in this matter’ as VATREG25350 states that each case should be ‘looked at on its own merits’ and ‘all relevant factors should be taken into account’. Mr Dhaliwal began

charging VAT at the beginning of his tax year as he believed this to be correct. Therefore there was a clear misunderstanding.’

20. We had before us the text of VATREG25350. It is in the form of HMRC guidance to their own officers as part of the VAT registration manual. It is however published on HMRC’s website and can, we consider, be taken to represent HMRC’s policy in this area. The version we have bears a publication date of 26 April 2016. However Mrs Hancox did not suggest that the policy applicable at the (earlier) date(s) relevant to this appeal was in any different form.

21. The text of VATREG25350 published on 26 April 2016 is as follows:

‘You may receive requests from registered traders to amend their EDR [Effective Date of Registration] to a later date than that already allocated when they realise that they need not have registered when they did.

In limited circumstances, we may permit a retrospective charge to the EDR if there has been a genuine error in completing the VAT1 by the person registering.

The VAT Act 1994, Schedule 1, paragraphs 5 and 6 and paragraphs 9 and 10 do not allow an EDR to be varied after a trader is registered. When the trader applied for registration, he had the opportunity to negotiate his EDR: the registration legislation does not allow this date to be changed retrospectively. Also, the trader should have charged VAT from his EDR and any change to the EDR will present difficulties with accounting procedures and may lead to the possibility of unjust enrichment.

However, our collection and management of the tax powers at Schedule 11(1) give us some leeway to agree to an EDR change request where it would be unreasonable for us not to do so.

The eligibility criteria which we would usually apply when we are considering a request to change an EDR are

- the EDR given must, at the time of registration, have been a backdated EDR. In other words, at the time of application, the trader voluntarily applied for an earlier EDR
- the trader must demonstrate that there was a genuine misunderstanding or error in completing the application form. That does not include an error of judgment, for example, he thought he would be in repayment but found in fact he was a payment trader
- the request must be made before the due date of the first VAT return (that is, one month after the end of the first period), which must not have been rendered
- the trader must return the original VAT 4 certificate.

5 You are not expected to work on the mechanistic basis that every business which does not meet **all four** of the change eligibility criteria must automatically have its change request refused. You should consider each trader's circumstances separately and think about how a First-Tier Tribunal judge might regard those circumstances should the trader appeal against your decision to refuse the request.

The test of any decision is that it is reasonable and proportionate in all the circumstances of the case.

It is important that you:

- 10
- look at each case on its own merits
 - take account of all the relevant factors
 - don't allow irrelevant factors to prejudice your judgment
 - weigh the impact (if any) granting the request would have on overall tax yield against the impact refusing the request would have on the trader's business.
- 15

You should keep a written record of every decision – this is particularly important where you have refused the request. This should include the factors you considered and any other relevant information that you took into account. Save the record to EF [electronic file] so that, if the trader appeals against your decision, your appeals team colleagues will be able to see how you reached it.

20

You should discuss cases of difficulty with your team leader. In case of doubt, or where you feel that there is a need to do so, you should submit a Technical Advice Request (TAR) with full details and a reasoned recommendation to the VAT Registration and Accounting Policy team.

25 Additionally, we may have to allow such requests if there has been an element of Departmental error. It is important to ensure that there are no doubts as to the EDR requested by the trader when processing VAT 1 applications. As outlined in VATREG25200, contact the trader if any information regarding the EDR needs clarification. The importance of this approach has been highlighted by the tribunal cases of AJ & AE Rowe t/a Arthurs (LON/95/423A), Simon Damels and Stewart Stevenson trading as Homeforce (LON/02/58) and Yee Mei Young (MAN/02/405) which the Department lost.' (Original emphasis in **bold**.)

30

22. Officer Hepton-Lloyd replied by a letter dated 26 February 2016 to Mr Patel's letter of 31 January 2016 (emailed to her on 1 February 2016). In relation to the question of amending Onyx's date of registration for VAT she wrote:

35

'As stated in my previous letter current legislation does not allow a business to begin accounting for VAST at a later date than on which it is registered for

VAT [*sic*]. Onyx of Leicester Limited registered for VAT with effect from 01/12/12.

The guidance set out in VATREG25350 does allow for HMRC to consider a request to change the effective date of registration (EDR) in limited circumstances.

The eligibility criteria which usually apply when considering a request to change an effective date of registration are:

- The EDR must, at the time of registration, have been a backdated EDR. In other words, at the time of application, the customer voluntarily applied for an earlier EDR.
- The customer must demonstrate that there was a genuine misunderstanding or error in completing the application form. That does not include an error of judgment, for example, he thought he would be in repayment but found in fact he was a payment trader.
- The request must be made before the due date of the first VAT return (that is, one month after the end of the first period), which must not have been rendered.
- The customer must return the original VAT 4 certificate.

All requests to change an effective date of registration are considered by the Registrations Service and must be submitted to:

VAT Registration Service
HM Revenue and Customs
Crown House
Birch Street
Wolverhampton
WV1 4JX
United Kingdom

Until such a time that a request to change the effective date of registration is approved, the effective date of registration will remain as 01/12/12.’

23. We were told that no application to the VAT registration Service at Wolverhampton was made either by Officer Hepton-Lloyd or by or on behalf of Onyx.

24. Mrs Hancox also told us that she had no internal paperwork recording Officer Hepton-Lloyd’s reasons for writing as she did on 26 February 2016. Officer Hepton-Lloyd was not at the hearing and so was not available to give evidence. Mrs Hancox told us that her letter of 26 February 2016 should be taken as a decision that Onyx’s effective date of registration would not be changed from 1 December 2012, and that

the reason for that decision was that the Officer had thought that there had not been a genuine error or misunderstanding as referred to in the guidance VATREG25350.

25. Mrs Hancox also submitted that Officer Hepton-Lloyd's decision should be upheld because HMRC had not been made aware of the alleged misunderstanding or error in completing the application for registration until long after the effective registration date and even the date which Onyx wished now to be its effective registration date, and that no justification for the delay had been given.

26. Mrs Hancox referred us to the recent decision of this Tribunal in *Max Investments Limited v Commissioners for HM Revenue and Customs* [2016] UKFTT 290 (TC), a decision of Judge Brooks and Ms Debell. In that case, the Tribunal adjudicate on a refusal by HMRC to backdate the effective date of the appellant's VAT registration. It found that HMRC failed to take into account the fact that there had been a genuine error or misunderstanding and therefore could not reasonably have arrived at their decision. However, the Tribunal also found that HMRC would *inevitably* (their emphasis) have reached the same conclusion if they had taken that fact into account and on that basis dismissed the appeal.

Discussion and decision

27. *Max Investments* is an indication that this Tribunal has jurisdiction to consider a refusal to amend an effective date of registration for VAT notwithstanding that there is no express legislative authorisation empowering HMRC to make such an amendment.

28. Mrs Hancox submitted that we do have such jurisdiction and we agree. The statutory basis for our jurisdiction is section 83(1)(a) VATA which provides that an appeal shall lie to the tribunal with respect to ... the registration or cancellation of registration of any person under this Act. We interpret an appeal with respect to registration as including an appeal against a decision to amend or not to amend an effective date of registration.

29. As the guidance in VATREG25350 indicates, the decision to amend or not to amend an effective date of registration is a decision enabled by the general responsibility for collection and management of VAT conferred on HMRC by paragraph 1 of Schedule 11, VATA.

30. That being the source of the power to make such a decision, the jurisdiction which this Tribunal has pursuant to section 83(1)(a) VATA is clearly supervisory – as appeared to be common ground between the parties. Therefore we must decide, on general *Wednesbury* principles (as per *Associated Provincial Picture Houses Ltd v Wednesbury Corporation* [1948] 1 KB 223), whether the decision appealed against in this case is one which a reasonable body of commissioners could make.

31. It is not entirely clear that Officer Hepton-Lloyd has made a decision not to amend Onyx's effective date of registration, although both parties approached the appeal on the basis that she had and that this was the decision being appealed. (The appeal had originally been brought also against a decision to treat Onyx as eligible to

use the flat rate VAT scheme with a 14% (rather than a 12%) calculation – this decision has been withdrawn – and also a request to backdate deregistration – Mr Patel told us that this matter was not now being pursued).

5 32. What Officer Hepton-Lloyd did in her letter dated 31 January 2016 was to give a partial reiteration of the guidance in VATREG25350 and then to state that all requests to change an effective date of registration are considered by the VAT Registrations Service and must be submitted to it at the given Wolverhampton address, adding that until such a time that a request to change the effective date of registration is approved, the effective date of registration would remain as 01/12/12.

10 33. There are a number of difficulties with this letter. The first is the partial nature of the reiteration of the guidance in VATREG25350. We will return to that later.

34. The second is the statement that all requests to change an effective date of registration are considered by the VAT Registrations Service and must be submitted to it. This appears to be contradictory to the wording of the guidance in
15 VATREG25350 as we have set it out above.

35. The relevant paragraph of the guidance states as follows:

‘You should discuss cases of difficulty with your team leader. In case of doubt, or where you feel that there is a need to do so, you should submit a Technical Advice Request (TAR) with full details and a reasoned recommendation to the
20 VAT Registration and Accounting Policy team.’

36. The inference to be drawn from the guidance is that requests to change an effective date of registration are to be dealt with by the officer responsible for the VAT affairs of the trader (in this case, Officer Hepton-Lloyd) and that reference to the VAT Registrations Service is a back-up source of advice available to the officer in
25 cases of doubt.

37. The third difficulty is that the letter is ambiguous as to who ‘must’ submit a request to change an effective date of VAT registration for consideration by the VAT Registrations Service. The letter is open to the interpretation that it is Onyx who should make such a reference and also open to the interpretation that it is the officer
30 (Officer Hepton-Lloyd herself) who should make the reference. We were told that neither Onyx nor the officer had in fact contacted the VAT Registrations Service. We comment that the guidance in VATREG25350 is clear that the responsibility for making any such reference is clearly the officer’s. It is a matter of internal HMRC communication.

35 38. The fourth difficulty is as to the effect of the concluding sentence in Officer Hepton-Lloyd’s letter: “Until such a time that a request to change the effective date of registration is approved, the effective date of registration will remain as 01/12/12.”

39. Mrs Hancox invited us to treat this sentence as an appealable decision not to change the effective date of registration. Onyx had also proceeded on this basis.
40 There is no doubt that treatment of this sentence as such an appealable decision would

effectively address the dispute between the parties. We consider that it would be in conformity with the spirit of the overriding objective of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 (“the Rules”) to deal with cases fairly and justly (Rule 2(1)) to do this, rather than to treat the sentence as merely a statement of fact not involving any decision. On this basis we accept that Officer Hepton-Lloyd’s letter of 31 January 2016 contained the decision that Onyx’s effective date of registration for VAT would not be changed from 1 December 2012 and that the present appeal is against that decision.

40. In applying our supervisory jurisdiction, we take fully into account that it is reasonable for HMRC to have developed a policy to deal with cases where an amendment to an effective date of VAT registration is requested. That policy, we find, is contained in the formulation of VATREG25350 which we have set out above. We also find that the policy is reasonable in a *Wednesbury* sense. We also find that the reasonable course for an officer to adopt when considering a request for an amendment to an effective date of VAT registration is to apply the guidance set out in VATREG25350 to the case.

41. Unfortunately, we have concluded that Officer Hepton-Lloyd failed to do this to a reasonable standard in the present case.

42. First, we note (and it is clear from her letter of 31 January 2016 that Officer Hepton-Lloyd also noted) that the application of the tests of eligibility criteria given in the four bullet points in the guidance are those that are “usually”, not invariably, applied. We were told that Officer Hepton-Lloyd reached the view that there had not been a genuine misunderstanding or error in completing Onyx’s application form and had formed her conclusion that the effective date of registration could not be amended on the basis of that factor.

43. This was clearly not a reasonable course to adopt. Those bullet points contain factors which have to be considered and which in the usual case will determine what decision is made. However, officers are told that they are ‘not expected to work on the mechanistic basis that every business which does not meet **all four** of the change eligibility criteria must automatically have its change request refused’ (original emphasis). The evidence before us strongly suggests that Officer Hepton-Lloyd did indeed work on that mechanistic basis. We considered whether we ought to adjourn the hearing of the appeal and direct Officer Hepton-Lloyd to make a witness statement and attend at the adjourned hearing for cross-examination. However, we concluded that, applying the overriding objective in the Rules, that would not be the appropriate course. HMRC had attended the hearing without Officer Hepton-Lloyd and Mrs Hancox had told us the basis on which the officer had made her decision. We therefore decided that it would cause disproportionate inconvenience, expense and delay to adjourn the hearing to enable the officer to give evidence. We find that Officer Hepton-Lloyd worked on the mechanistic basis referred to in the guidance. This was unreasonable.

44. Second, we note certain factors which might count against the taxpayer, namely his tardiness in requesting that his effective date of registration be changed, and his

non-submission of several VAT Returns. Whilst these factors cannot assist his case, we consider that Officer Hepton-Lloyd has not stated whether she took these factors into account. They are certainly relevant factors to be taken into account in the necessary balancing exercise (see: paragraph 49 below). Also relevant, and to be taken into account, is any explanation for them, which Onyx is able to make.

45. Third, the guidance in VATREG25350 states plainly (and correctly) that ‘[t]he test of any decision is that it is reasonable and proportionate in all the circumstances of the case’. We find that Officer Hepton-Lloyd did not apply that test. There was no evidence before us to suggest that she gave any thought at all to the reasonableness and proportionality of her decision in all the circumstances of Onyx’s case. This was unreasonable. She did not (contrary to the guidance) look at Onyx’s case on its own merits, she did not take account of all relevant factors, and she did not weight the impact (if any) granting the request would have on the overall tax yield against the impact refusing the request would have on Onyx’s business. This was unreasonable.

46. We were told by Mrs Hancox that Officer Hepton-Lloyd had not kept a written record of her decision, which the guidance in VATREG25350 states is particularly important where the officer has refused the request. This, in itself, is not a factor rendering her decision unreasonable but it is plainly poor and culpable administrative practice. Such a record, when saved to the electronic file, would have been of assistance to HMRC’s appeals team (and Mrs Hancox) but it was simply not there.

47. We turn now to the question of whether Onyx has demonstrated that there was a genuine misunderstanding or error in completing the application form. Mrs Hancox submitted that there had not been – Onyx had simply made an error of judgment in putting down 1 December 2012 as the requested date of registration, similar to the error of judgment a trader might make when he put down an earlier date thinking (wrongly) that he would repayment rather than a payment trader.

48. We accept that Mr Dhaliwal entered the date 1 December 2012 intentionally in the application for Onyx’s VAT registration. We also accept that he did this in the genuine (but mistaken) belief that he was not obliged to implement the registration, that is, to charge VAT until a date 5 months after the date of registration. We consider that this amounts to a genuine misunderstanding or error in completing the application form, not simply an error of judgment. Mr Dhaliwal did not intend that the registration should be effective from the effective date of registration put down in the form. That is why Onyx did not charge its clients VAT from the effective date of registration. Mr Dhaliwal’s error was not simply an error of judgment as to how the VAT legislation would apply to Onyx as from the date of registration for VAT.

49. Of major importance, in our judgment, when considering whether it would be reasonable and proportionate in all the circumstances of Onyx’s case to allow the change in the effective date of registration for VAT to be amended from 1 December 2012 to 1 May 2013 is the balance between the effect of making the amendment on the overall tax yield, and the effect of not making the amendment on Onyx’s business.

50. When considering the effect of making the amendment on the overall tax yield, one factor to be taken into account is the amount of VAT assessed on Onyx as output tax for the period 04/13. This is £7,814.61. Another factor to be taken into account is the extent to which such output tax could, if tax invoices were issued and paid, be claimed as input tax deductions by Onyx's clients. If all of the output tax could be so claimed, then it is apparent that effect on the overall tax yield of making the amendment would be nil.

51. In the light of all the above, we have concluded that Officer Hepton-Lloyd's decision not to agree to Onyx's request to amend its effective date of registration for VAT was unreasonable in a *Wednesbury* sense, that is, that the decision was not one which a reasonable body of commissioners could reasonably take. We allow the appeal, taking the view that it is certainly not inevitable that a decision reasonably and properly taken would lead to the same result – that is, the refusal of an amendment.

52. As our jurisdiction in this appeal is supervisory in nature, the consequence of our allowing the appeal is that Officer Hepton-Lloyd's decision to refuse an amendment is quashed and we direct HMRC – through a different officer qualified for the purpose – to retake the decision of whether or not to allow the amendment sought, in the light of this Decision and the findings contained within it. Before retaking that decision, that officer should invite Onyx to make such further representations as it wishes, in the light of this Decision. Any representations made by Onyx should be taken into account when the decision is retaken.

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.

**JOHN WALTERS QC
TRIBUNAL JUDGE**

RELEASE DATE: 11 APRIL 2017