[2018] UKFTT 0243 (TC)

TC06475

Appeal number: TC/2017/965

STAMP DUTY LAND TAX *– Schedule 4A FA 2003 – higher rate of SDLT for high value residential acquisitions by companies – relief under para 5B for trades involving making a dwelling available to the public – acquisition of dwelling to convert to a care home*

FIRST-TIER TRIBUNAL
TAX CHAMBER

SEQUENCE CARE GROUP HOLDINGS LIMITED **Appellant**

-and-

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

TRIBUNAL: **Judge Peter Kempster**

Sitting in public at Centre City Tower, Birmingham on 7 February 2018

Mr Martin Jahreiss (Gateley Plc) for the Appellant

Mr Keith Golder (HMRC Solicitor's Office) for the Respondents

DECISION

1. The Appellant ("**the Company**") appeals against a closure notice ("**the Closure Notice**") issued by the Respondents ("**HMRC**") on 24 March 2016 charging £67,200 stamp duty land tax ("**SDLT**").

Background

2. The Company is a provider of specialist residential and care services entailing rehabilitative support for adults with learning disabilities, mental health needs, autism and Asperger's conditions.

3. On 13 February 2015 the Company completed the purchase of a five-bedroomed detached house in High Wycombe ("**the Property**") for £560,000. The Company filed an electronic SDLT return (form SDLT1) calculating the SDLT due as £18,000, and in response to the question (box 9) "Are you claiming relief?" stated No.

4. The Company had in October 2014 obtained planning consent for alteration and extension works, and a change of use to a care home for young adults with a learning difficulty. It carried out those works after the Property was acquired, and the first resident was admitted in February 2016.

5. On 3 December 2015 HMRC opened an enquiry into the return (para 12 sch 10 FA 2003 refers) and on 18 January 2016 HMRC issued a formal information notice (para 1 sch 36 FA 2008 refers). On 2 February 2016 the Company complied with the information notice. On 11 February HMRC wrote referencing sch 4A FA 2003; stating that the higher rate of 15% SDLT appeared to apply, and the exemptions therefrom did not appear to apply. On 23 February the Company claimed exemption from the higher rate pursuant to para 5B(2) sch 4A FA 2003. After further correspondence HMRC issued the Closure Notice. That decision was upheld by formal internal review on 19 December 2016. On 17 January 2017 the Company appealed to the Tribunal.

Law

6. The relevant legislation in force at the relevant time was contained in Finance Act 2003, and all statutory references are thereto unless otherwise stated.

7. Section 42 charges SDLT on land transactions (as defined). Schedule 4A (added in 2012) stipulates a higher rate of SDLT for certain transactions. Paragraph 3 provides (so far as relevant):

> "(1) Where this paragraph applies to a chargeable transaction—
>
> (a) the amount of tax chargeable in respect of the transaction is 15% of the chargeable consideration for the transaction, …
>
> (2) This paragraph applies to a chargeable transaction if—
>
> (a) the transaction is a high-value residential transaction, and
>
> (b) the condition in sub-paragraph (3) is met.

(3) The condition is that—

(a) the purchaser is a company, …"

8. Paragraph 2 states that a "high-value residential transaction" includes a "higher threshold interest", which is defined by para 1 as an interest in a single dwelling which is acquired for a chargeable consideration of more than £500,000.

9. Paragraphs 5 to 5K provide various exemptions/reliefs from the higher rate, the one relevant to this appeal being granted by para 5B:

"*Trades involving making a dwelling available to the public*

(1) Paragraph 3 does not apply to a chargeable transaction so far as its subject-matter consists of a higher threshold interest in relation to which the conditions in sub-paragraph (2) are met.

(2) The conditions are that—

(a) the higher threshold interest is acquired with the intention that it will be exploited as a source of income in the course of a qualifying trade, and

(b) reasonable commercial plans have been formulated to carry out that intention without delay (except so far as delay may be justified by commercial considerations or cannot be avoided).

(3) "Qualifying trade", in relation to a higher threshold interest, means a trade that—

(a) is carried on on a commercial basis and with a view to profit, and

(b) involves, in its normal course, offering the public the opportunity to make use of, stay in or otherwise enjoy the dwelling as customers of the trade on at least 28 days in any calendar year.

(4) For the purposes of sub-paragraph (3), persons are not considered to have the opportunity to make use of, stay in or otherwise enjoy a dwelling unless the areas that they have the opportunity to make use of, stay in or otherwise enjoy include a significant part of the interior of the dwelling.

(5) The size (relative to the size of the whole dwelling), nature and function of any relevant area or areas in a dwelling are taken into account in determining whether they form a significant part of the interior of the dwelling."

10. Paragraph 7 (so far as relevant) provides:

"*Meaning of "dwelling"*

(1) This paragraph sets out rules for determining what counts as a dwelling for the purposes of this Schedule.

(2) A building or part of a building counts as a dwelling if—

(a) it is used or suitable for use as a single dwelling, or

(b) it is in the process of being constructed or adapted for such use.

(3) Land that is, or is to be, occupied or enjoyed with a dwelling as a garden or grounds (including any building or structure on such land) is taken to be part of that dwelling.

(4) Land that subsists, or is to subsist, for the benefit of a dwelling is taken to be part of the dwelling. …

(7) A building or part of a building used for a purpose specified in section 116(2) or (3) is not used as a dwelling for the purposes of sub-paragraph (2) or (5).

(8) Where a building or part of a building is used for a purpose mentioned in sub-paragraph (7), no account is to be taken for the purposes of sub-paragraph (2) of its suitability for any other use."

11. Section 116(2) & (3) provide:

"(2) For the purposes of subsection (1) a building used for any of the following purposes is used as a dwelling—

(a) residential accommodation for school pupils;

(b) residential accommodation for students, other than accommodation falling with subsection (3)(b);

(c) residential accommodation for members of the armed forces;

(d) an institution that is the sole or main residence of at least 90% of its residents and does not fall within any of paragraphs (a) to (f) of subsection (3).

(3) For the purposes of subsection (1) a building used for any of the following purposes is not used as a dwelling—

(a) a home or other institution providing residential accommodation for children;

(b) a hall of residence for students in further or higher education;

(c) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present

dependence on alcohol or drugs or past or present mental disorder;

(d) a hospital or hospice;

(e) a prison or similar establishment;

(f) a hotel or inn or similar establishment."

Respondents' case

12. Mr Golder submitted as follows for HMRC.

13. It is common ground that the Property was a higher threshold interest – it was a residential property, it was purchased for £560,000, and was purchased by the Company. It follows that if relief from the higher rate is not applicable then SDLT will be chargeable on that transaction at the higher rate of 15% of the chargeable consideration.

14. HMRC accept that at the time of the acquisition, the Property was a "dwelling" for the purposes of sch 4A. However, on 17 October 2014, nearly four months before the Property was acquired, the Company had obtained planning permission for the construction of a two-storey side extension and change of use from residential to a "7 bed care home… for young adults with a learning difficulty". In correspondence the Company had confirmed that it purchased the Property with the intention of providing accommodation and personal care for adults with learning disabilities and mental health needs.

15. For relief to be available under para 5B, the Property should be acquired with the intention that it will be exploited as a source of income in the course of a "qualifying trade". By virtue of para 5B(3)(b) a qualifying trade is one which involves making a dwelling available to the public for at least 28 days a year. Paragraph 7 defines a "dwelling" for these purposes, and para 7(7) excludes those buildings which are used for reasons set out in s 116(3), including "(c) A home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder." The Company's intended and actual use of the Property falls within s 116(3)(c). It is therefore not a "dwelling" for the purposes of para 5B relief, and that relief is not applicable.

16. The Company contended that if the transaction took place today then it would be one of a non-residential property, by virtue of the amendments introduced by s 129 Finance Act 2016 for transactions after 31 March 2016. However, for the reasons set out above, the relief was not available on the basis of the legislation in force at the relevant time.

17. Section 116(3)(c) and para 7(7) sch 4A are plain and unambiguous and the Tribunal should give effect thereto; per Lord Diplock in *Duport Steels Ltd and others v Sirs and others* [1980] 1 All ER 529 (at 541):

> "… it cannot be too strongly emphasised that the British Constitution, though largely unwritten, is firmly based on the separation of powers:

> Parliament makes the laws, the judiciary interpret them. When Parliament legislates to remedy what the majority of its members at the time perceive to be a defect or a lacuna in the existing law (whether it be the written law enacted by existing statutes or the unwritten common law as it has been expounded by the judges in decided cases), the role of the judiciary is confined to ascertaining from the words that Parliament has approved as expressing its intention what that intention was, and to giving effect to it. Where the meaning of the statutory words is plain and unambiguous it is not for the judges to invent fancied ambiguities as an excuse for failing to give effect to its plain meaning because they themselves consider that the consequences of doing so would be inexpedient, or even unjust or immoral."

18. Even if, contrary to HMRC's contention, there is some ambiguity in the wording of the para 5B relief, the intention of Parliament to deny relief in the circumstances of this appeal (conversion of a house into a care home) was clear from the response from the then Exchequer Secretary to the Treasury to a question raised in the Committee debate on the Finance Bill 2013.

19. The Company has drawn comparisons between the relief in para 5B and the provisions relating to the "annual tax on enveloped dwellings" ("**ATED**") in Part 3 Finance Act 2013; in particular, the provision in s 112(4) FA 2013 which effectively excludes care homes from ATED. ATED is different from SDLT in its aim, application and scope, and differences in detailed provisions may arise.

Appellant's case

20. Mr Jahreiss submitted as follows for the Company.

21. It is accepted that the 15% higher rate of SDLT applies to the acquisition of the Property but for the availability of relief. Relief from the 15% higher rate was available in respect of the acquisition of the Property under the provisions of para 5B sch 4A on the basis that, on acquisition, it was intended that the Property would be made available to the public in the course of a qualifying trade.

22. Correspondence with HMRC on the dispute (including the formal internal review opinion letter in April 2016) had been unsatisfactory as HMRC had repeatedly referred to the SDLT relief in para 5B being available only to stately homes and wedding venues. That was clearly wrong, and HMRC had now abandoned that argument.

23. The relief in para 5B is applicable for the following reasons.

24. *The legislation must be read on a purposive basis in line with the policy objectives as elucidated by s 116 and para 7 sch 4A; HMRC's restrictive interpretation cuts through these policy objectives which have stood since 2003.*

> (1) It was important to consider the public policy underlying the relief. Residential care homes are not treated as residential property for SDLT purposes, by virtue of s 116(3)(c). Section 116(3) was introduced so that the lower commercial rates of SDLT would apply to certain types of property that were, as a matter of public policy, of social utility and benefit to the wider

community. The Government's consultation "Ensuring the fair taxation of residential property transactions" (the Consultation) and the summary of responses to the Consultation (the Responses) set out details relating to the 15% Rate reliefs, ATED, and ATED related CGT. These three taxes were aimed at tackling circumstances "where an individual establishes a company to envelope property owned for the personal use of that individual or family" (Consultation paragraph 2.4). The Government's Explanatory Note states that the "aim was to dis-incentivise the ownership of high value residential property in structures that would permit the indirect ownership or enjoyment of the property to be transferred in a way that would not be chargeable to SDLT" (paragraph 137). The Consultation states (at paragraph 1.5) that "As far as possible, the three measures will be aligned to minimise the administration and compliance burden and to ensure they are targeting similar activities". Persons interested in historic houses and rural estates were amongst the key respondents to the Consultation. This seems to have informed the drafting of the Respondent's own guidance contained in the SDLT Manuals, which often gives examples involving historic homes. The absence of a care home provider as an interested party in the Consultation should not be taken as an indication that care homes or dwellings acquired and converted into care homes are irrelevant to the Consultation and subsequent legislation and guidance. At paragraph 2.9 of the Responses, the Government stated that a "series of reliefs will therefore be implemented to exclude genuine businesses carrying out genuine commercial activity from [ATED] and the [15% Rate]". The Consultation noted that "Some unusual types of properties that may satisfy the definition of residential property will be exempted from the tax. For example, boarding schools accommodation, hospitals, student halls of residence, military accommodation, care homes and prisons." (Consultation paragraph 2.29). Although this paragraph in the Consultation refers to ATED, it is also applicable to the 15% rate given the Government's intention to align the reliefs: "The overall intention is that the coverage of [ATED] will be the same as that of the [15% Rate], with the same definition of non-natural persons and the same exclusions" (Consultation paragraph 2.16). It is reasonable to conclude that care home providers, run as genuine commercial businesses, may have relied on these statements that relief would be available from the 15% rate in the rare situation where a property was acquired as a dwelling and subsequently converted into a care home in deciding whether or not to respond to the Consultation. In the event that care home providers had considered it necessary to respond to the Consultation, as stately home owners did, the guidance may have been drafted in such a way as to put this issue beyond doubt.

(2) Where a property is acquired that is suitable for use as a residential care home, s 116(4) provides that no account must be taken of its suitability for any other use. Paragraph 7(8) sch 4A provides that care homes are not within the scope of sch 4A, so it is clear that where a care home is acquired the 15% rate shall never apply. However, where a dwelling is acquired (in circumstances where but for the availability of a relief the 15% rate would apply) and the dwelling is subsequently converted into a care home, HMRC assert that relief is not available because the property is not a dwelling at the date it is made available to the public. The Company contends that the imposition of this

requirement is not a necessary or correct interpretation of the relevant legislation. According to the Consultation and Responses, the 15% rate was introduced in order to tackle tax avoidance where "some people avoid the stamp duty the rest of the population pays including by using companies to buy expensive residential property" (Responses paragraph 1.8). The 15% Rate was intended to capture transactions such as those by high-net worth individuals acquiring properties as investments and trading them in corporate wrappers to avoid SDLT. The acquisition of a dwelling by a corporate entity in order to convert it into a care home is not the type of mischief the 15% Rate was introduced to address. Given the statements in the Consultation and Responses and bearing in mind the intention of Parliament in drafting SDLT provisions with the overarching motive of alleviating the liability of care home providers, the Relief should be interpreted in such a manner as to benefit also care home providers and further the underlying public policy rationale. The statements in the Consultation and Responses indicate that the Government did not intend that residential care homes should suffer an additional tax burden compared with stately homes or wedding venues.

(3) Finance Act 2016 amended the provisions of para 5 sch 4A so that relief from the 15% rate is available on any acquisition of a residential property by a non-natural person for use in its trade. HMRC argued in its decision letter that the amendment of para 5 "would have been unnecessary had not the pre-existing legislation been so restrictive". The amendment to para 5 is much wider than simply making the relief available in the circumstances of the acquisition. New sub-paragraph (1)(ab) makes the relief available where the acquisition is exclusively for the purposes of use in a relievable trade (being a trade run on a commercial basis with a view to profit). This is in line with the Government's original intention in legislating that "genuine businesses" should not be subject to the 15% rate. If the amendment had been targeted at the precise circumstances of the acquisition, it would be clear that the legislature felt that para 5B did not apply to the acquisition so that the amendment was necessary. Since the amendments to para 5 are wider, it is submitted that there can be no inference that para 5 was amended in order to resolve a deficiency in para 5B that would have precluded relief in the context of the acquisition.

25. *At the date of the transaction the Company intended to make available to the public property which was at the date of the acquisition a dwelling, satisfying the conditions of para 5B.* The rate of SDLT (whether residential or non-residential) is determined as at the effective date of the transaction. HMRC's guidance in the SDLT Manuals at SDLTM00365 and SDLTM09525 states that in establishing whether property is residential property "use at the effective date of the transaction overrides any past or intended future uses for this purpose". It is common ground that the Property was residential property as at the date of acquisition. It therefore follows that the Property that the Company intended to make available to the public was, as at the date of acquisition, a dwelling (since it had not yet been converted). The Company contends that the conditions for relief under para 5B were met at the date of acquisition. At that date the Company intended to make available to the public the then-dwelling. Paragraph 5B does not specify that the property must be a dwelling at the time the intention to make the property available to the public is eventually

realised. As such the conditions of Paragraph 5B were met at the relevant date and relief ought not to be denied by HMRC.

26. *Use of the term "dwelling" in para 5B(3)(b) was required because reference to property, building or higher threshold interest was not sufficient to delineate what the legislature intended to capture, as per its Consultation; and should not be read as a term of art imposing additional conditionality on the availability of relief to be determined at the later time of carrying out the relevant intention.* At paragraph 3.9 of the Responses, the Government outlined the new reliefs as including one in respect of: "Properties which are acquired and held to run as a trade in which the property is open to the general public with access to the interior for at least 28 days per year on a commercial basis, either for the public to visit and view the interior or for the provision of services to the general public in the property." The Government therefore intended a requirement that the interior of the property ought to be made available, rather than imposing a review of whether any dwelling condition remained satisfied. A dwelling can be part of a building (para 7(7) sch 4A). It would therefore not be possible to substitute the term "building" for the term "dwelling" in para 5B(3)(b). Notwithstanding this, HMRC referred to the exploitation of "the building itself" in the formal internal review opinion letter, showing the difficulty in identifying suitable language to convey the relevant subject-matter. The term "higher threshold interest" refers to the chargeable interest acquired, being the freehold or leasehold interest in land. If the term higher threshold interest had been used, it would be necessary to make the freehold or term of years absolute available to the public, rather than entry under short licence. It would therefore not be possible to substitute the term "higher threshold interest" for the term "dwelling" in para 5B(3)(b). Equally, references to "property" in FA 2003 are interpreted as the chargeable interest acquired. It would therefore also not be possible to substitute the term "property" for the term "dwelling" in para 5B(3)(b). If the terms "higher threshold interest" or "building" had been used in place of the term "dwelling" in para 5B(3)(b), it would be possible to claim relief in circumstances which cannot be said to have a public policy rationale. Using the terms "higher threshold interest" or "building" instead of the term dwelling would allow relief to be claimed in respect of:

> (1) A dwelling with large grounds and stables, where the stables were made available to the public (for example for riding lessons every weekend) but where the house itself was not made available.
>
> (2) A golf club in the grounds of a dwelling with expansive gardens, even with an outhouse converted into a club house.
>
> (3) Stately homes where the house itself is not made available but where outhouses, gazebos or intrigues are open to the public, for example the Mill and Engine House at Warwick Castle without the dwelling itself being open.

If the terms "higher threshold interest" or "building" were used in para 5B(3)(b) then each of the above examples could be used as the basis for claiming relief on the whole of the property, even where the house itself is not open to the public. This was clearly not the intention of the legislation, as set out in the Responses and Consultation, so a term other than "higher threshold interest" or "building" had to be adopted for the purposes of para 5B(3)(b). The use of the term "dwelling" in para 5B(3)(b) does not

introduce a test in its own right at the time the trading activities commence but is to be taken as a cross reference identifying the relevant part of the property required to be made available.

27. Even if the Company's claim for relief is unsuccessful, the amount assessed by the Closure Notice is excessive. HMRC claim that the additional amount owed by the Company is £67,200, being the difference between SDLT payable at a rate of 3% on £560,000 (ie £16,800) and the SDLT payable at a rate of 15% on £560,000 (ie £84,000). As the Company has paid SDLT in the amount of £18,000 with the return, if relief is determined not to be available, the additional amount of SDLT which would then be due would be £66,000 (ie £84,000 less £18,000) and not £67,200.

Consideration and Conclusions

28. It is common ground between the parties that the requirements in paras 2 & 3 sch 4A are satisfied in relation to the Company's purchase of the Property, so that the 15% higher rate of SDLT is *prima facie* applicable to the acquisition of the Property. The dispute concerns whether the exemption/relief provided by para 5B sch 4A is applicable to the transaction. I have concluded that the transaction does not satisfy the requirements of para 5B and, therefore, the relief is not available.

29. Taking each of Mr Jahreiss's submissions in turn, his first (see [24] above) may be summarised as being that the higher rate was intended as a deterrent to tax avoidance effected through ownership of high-value residential property via companies; it was not aimed at genuine commercial exploitation of dwellings, as evidenced by the reliefs for property letting businesses (para 5 sch 4A) and trades offering the public the opportunity to make use of dwellings (para 5B); care homes are just as worthy of exemption as, say, stately homes, and they would have been given appropriate exemption if they had lobbied for it at the time of the Government consultation on the proposed legislation; that was evidenced by the changes to the legislation introduced in 2016. While it is now well-established that the legislation must be construed purposively, I consider that Mr Jahreiss is asking me to go much further and engage in the hypothetical of what the legislation might have said if care home operators had lobbied as effectively as, say, owners of stately homes and wedding venues. In fact, the point is answered by the exchange in the House of Commons Finance Bill Committee debates, which Mr Golder referred me to (Hansard HC Deb (18 June 2013) col 590-592), where the exact position of the Company and its transaction was addressed. A member of the Committee, Ms Catherine McKinnell MP asked:

> "There is also one commercial situation that does not appear to be covered by the proposed reliefs: if an existing business such as a hotel, school or care home acquires a high-value dwelling in order to convert it and run it as part of its trade, rather than reselling it. The extended relief for redeveloping property appears to preclude such relief because of the references to resale, so will the Minister confirm the position with regard to that situation?"

30. The reply by the Exchequer Secretary to the Treasury (Mr David Gauke MP) was:

> "The hon. Lady also asked why there is no relief from the 15% rate for businesses that wish to purchase a residential property and convert it to non-residential for use in their trade, such as a care home. It is a general feature of the SDLT rules that there is a different rate for property that is residential or non-residential at the time of purchase. The rules are even-handed at present in that although a higher rate will apply to residential property for conversion, a lower rate applies to non-residential property that is acquired for conversion to residential. Additionally, such a relief could open up avoidance opportunities with companies claiming non-residential intentions to take advantage of the lower rate, but then not following through with the conversion. Although we could apply a clawback provision, we could still have anomalous situations in which the conversion could not proceed within the relevant time, so the rule might not solve all potential problems. It might be difficult to determine how much time to allow for the conversion to take place as well as for other operational complexities, such as knowing whether the property will be or is being used for non-residential purposes."

31. I conclude that Parliament was aware of the fact that the proposed legislation gave "no relief from the 15% rate for businesses that wish to purchase a residential property and convert it to non-residential for use in their trade, such as a care home", and legislated on that explicit basis. Accordingly, even if the statutory words were not plain – which I consider they are – a purposive interpretation would produce the exact reading contended for by HMRC.

32. Mr Jahreiss's second submission (see [25] above) may be summarised as being that one should look at the position at the date of acquisition of the Property; at that date the Property was a dwelling (as accepted by HMRC); also, at that date the Company intended to make the Property available to the public as required by para 5B, as evidenced by the planning consent already secured. The problem faced by the Company is that para 5B requires the exploitation of the higher threshold interest "in the course of a qualifying trade". "Qualifying trade" is a defined term by para 5B(3):

> "a trade that—
>
> (a) is carried on on a commercial basis and with a view to profit, and
>
> (b) involves, in its normal course, offering the public the opportunity to make use of, stay in or otherwise enjoy the dwelling as customers of the trade on at least 28 days in any calendar year."

33. I can only take those statutory words as referring to what the owner will be doing with the property when it is being commercially exploited and, therefore, the requirement for it to be a dwelling refers to its use at the time when it is being commercially exploited. I cannot read them as meaning that as the property must have been a dwelling when acquired in order to constitute a higher threshold interest (see para 1 sch 4A) then it must retain that character/definition thereafter in relation to para 5B. It is common ground that (by virtue of para 7(7) sch 4A and s 116(3)(c)) a care home is not a dwelling for the purposes of para 5B.

34. Those conclusions on Mr Jahreiss's first and second submissions also inform my views on his third submission (see [26] above), which may be summarised as being that no (or, at least, not too much) emphasis should be placed on the use of the word "dwelling" in para 5B(3)(b), and the legislation uses the word as synonymous with "property" or "building". I consider that submission is incorrect; "dwelling" is a defined term by para 7 sch 4A and a wider interpretation is not warranted.

35. I consider that the wording of para 5B sch 4A is plain and unambiguous, and does not confer relief from the higher rate of SDLT in the circumstances of the Company's acquisition of the Property. Even if there was any doubt as to the statutory wording, it was clearly Parliament's intention not to afford relief to the circumstances covered by the Company's acquisition of the Property – as evidenced by the exchange during the Finance Bill Committee debates.

36. In relation to quantum, Mr Jahreiss makes a sound point as to the arithmetic in the Closure Notice and I consider the best course of action is to allow the parties to discuss that further but if there are any computational issues which the parties cannot agree between themselves then I GRANT LEAVE to apply to the Tribunal for determination of final figures

Decision

37. The appeal is DISMISSED.

38. 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.

PETER KEMPSTER
TRIBUNAL JUDGE

RELEASE DATE: 30 APRIL 2018