



TRIBUNALS  
JUDICIARY

**FIRST-TIER TRIBUNAL TAX CHAMBER  
PRACTICE DIRECTION  
ALLOCATION OF CASES TO CATEGORIES IN THE TAX CHAMBER**

This Practice Direction has been made by the Chamber President with the approval of the Senior President of Tribunals and the Lord Chancellor to give guidance to the Tax Chamber and to inform Tribunal users in relation to the categorisation of cases under Rule 23 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. It replaces all previous Practice Directions and Practice Statements on categorisation of cases in the Tax Chamber with effect from 1 June 2022.

Rule 23 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 provides that when the Tribunal receives a notice of appeal, application notice or notice of reference, the Tribunal must give a direction allocating the case to one of the categories set out in that Rule, namely:

- (1) Default Paper cases (which will usually be disposed of without a hearing);
- (2) Basic cases (which will usually be disposed of after a hearing with minimal exchange of documents before the hearing);
- (3) Standard cases (which will usually be subject to more detailed case management and be disposed of after a hearing); and
- (4) Complex cases (to which special rules apply in relation to costs awards and eligibility for transfer to the Upper Tribunal).

The Tribunal may, either on the application of a party or on its own initiative, give a further direction at any time re-allocating a case to a different category.

This Practice Direction sets out the practice of the Tribunal with regard to the allocation of cases to categories. The fact that a case falls within the descriptions set out in this Practice Direction for a particular category does not mean that the case must, or will, be allocated to that category. Nothing in this Practice Direction affects the ability of any party to a case to make an application regarding the categorisation of that case.

**DEFAULT PAPER CASES**

1. When the Tribunal receives a notice of appeal, application notice or notice of reference in one of the following types of cases, the Tribunal will allocate the case to the Default Paper category, which are normally determined on written submissions without a hearing, unless (a) the Tribunal considers that there is a reason why it is appropriate to allocate the case to a different category or (b) a party makes a written request to the Tribunal for a hearing (which will be conducted by video if possible).

- (1) In relation to all taxes and duties, appeals against penalties amounting in aggregate to not more than £500 for late filing of returns, statements, accounts or documents and late submission of notices of being chargeable to tax.

- (2) Appeals against penalties amounting in aggregate to not more than £500 for late payment of any tax or duty.

#### **BASIC CASES**

2. When the Tribunal receives a notice of appeal, application notice or notice of reference in one of the following types of cases, the Tribunal will allocate the case to the Basic category which will be determined at a hearing, by video if possible, unless the case is of a type listed in paragraph 1 (Default Paper cases) or the Tribunal considers that there is a reason why it is appropriate to allocate the case to a different category.

- (1) Appeals

- (a) against penalties for late filing of returns and documents and late payment of duties;
- (b) against penalties for inaccurate returns or documents, except where the penalties are for deliberate action or cases where an appeal is also brought against the assessment of the tax to which the return or document relates;
- (c) seeking the mitigation or reduction of penalties, and those in which a reasonable excuse is asserted;
- (d) against information notices and penalties for non-compliance with information notices; and
- (e) against Pay As You Earn (PAYE) coding notices.

- (2) Applications

- (a) for permission to make or notify a late appeal;
- (b) for an indirect tax appeal to be entertained without payment of tax or duty on grounds of hardship (hardship applications);
- (c) for the postponement of the payment of tax pending the determination of an appeal; and
- (d) for a direction that HMRC close an enquiry into a personal, partnership or company self-assessment return.

#### **STANDARD CASES**

3. Any case that is not allocated to any of the Default Paper, Basic or Complex categories will be categorised as a Standard case.

#### **COMPLEX CASES**

4. Rule 23 provides that the Tribunal may allocate a case as a Complex case only if the Tribunal considers that the case:

- (1) will require voluminous or complex evidence or a lengthy hearing;
- (2) involves a complex or important principle or issue; or
- (3) involves a large financial sum.

5. A hearing is generally considered 'lengthy' if it is expected to last more than five days.

6. A financial sum is generally considered 'large' in relation to taxes and duties if the amount in dispute in the proceedings is:

- (1) £750,000 or more of direct taxes; and
- (2) £2,000,000 or more of indirect taxes and duties.

7. The Tribunal will assess whether, having regard to the nature of a particular case, any one or more of these criteria are satisfied. In making this assessment the Tribunal will take into account all the circumstances, including the implications of the costs-shifting regime (subject to the right of the taxpayer to opt out) and the fact that cases allocated to the Complex category are eligible, subject to various consents, to be transferred to the Upper Tribunal.

8. If on such an assessment the Tribunal considers that a case meets one or more of the stated criteria, it will, in the absence of special factors, allocate the case to the Complex category.

Judge Greg Sinfield  
Chamber President

12 May 2022