HMRC - CFM99080 - Administration: Penalties: Appeals Against Penalties For An Incorrect Return

TIOPA10/PARAS 35, 36.

TIOPA10/PARA 35 provides that a company can appeal against the levying of a penalty under PARA30 or 32 or its amount. PARA36(1) requires the appeal to be made to HMRC within 30 days of receiving notification of the penalty.

The tribunal can accept or reject an appeal against a decision to impose a penalty. Where the appeal is against the amount of a penalty, the tribunal is also permitted to substitute a revised amount, but only if HMRC had the power to impose a penalty of that amount.

Where the tribunal substitutes a different level of penalty, it may make a reduction for special circumstances under PARA33(5), see [CFM99050], either to the same extent as an officer of HMRC, whilst substituting a different starting point, or to a different extent, but only if the tribunal considers HMRC’s decision to have been flawed, when considered in the light of principles applied in judicial review (PARA36(4) and (5)). For further guidance on the application of this approach in the general penalty regime (FA07/SCH24), see CH64000.

The provisions of TMA70/PT5 apply as they do for an appeal against an assessment to corporation tax. For general guidance on appeals procedures see ARTG2400 et seq.

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