HMRC - COM71050 - Appeals Against Jeopardy Amendments

This subject is presented as follows.

Background

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There can only be one return and self assessment for any AP, so every amendment, whether it is a correction notice, taxpayer amendment, claim, jeopardy amendment or revenue amendment, revises the liability for that AP. If there is more than one amendment, the latest amendment displaces the previous one. You should note however that discovery assessments do not amend a self assessment. COM23070 has more information.

Where the company has appealed against a jeopardy amendment, the appeal and any related postponement application will still be open legally when you issue your closure notice with revenue amendment, as legislation prohibits determination or hearing of the appeal before that date.

The revenue amendment replaces the jeopardy amendment on COTAX, but the appeal against the jeopardy amendment remains in existence, even though the liability may have been changed by the revenue amendment.

The appeal against the jeopardy amendment can be determined by agreement, by the company withdrawing the appeal or by the Tribunal.

Alternatively, or in addition, once they have sent an appeal to HMRC, the company may either have a review, whether by accepting our offer or by requesting a review, or notify the appeal to the Tribunal.

For general information on appeals see the Appeals, Reviews and Tribunals Guidance (ARTG) Manual, particularly ARTG4000 on requesting a review and ARTG2400 on notifying the Tribunal.

It is advisable to ask the company during the negotiations leading up to the issue of the closure notice to give you their written agreement that the appeal against the jeopardy amendment can be withdrawn or settled by agreement under Section 54 TMA 1970 when the revenue amendment is recorded.

If the company agrees, you can use function RAMA (Record / Amend Assessment) screen COT121G to enter a S 54 TMA 1970 agreement message when you issue your closure notice with revenue amendment.

If the company does not agree, the decision maker should follow the advice in the ARTG Manual.

Do not release any tax postponed for recovery as a result of an appeal against the jeopardy amendment until the appeal has been formally determined.

Closure notice

You cannot conclude an enquiry into a company tax return by a jeopardy amendment, even if the figures subsequently stated in your closure notice are identical to those in the jeopardy amendment. To complete the enquiry, you must issue a closure notice.

Whether or not the jeopardy amendment is under appeal, your closure notice should follow the standard format. See COM71090 for further information.

You do not need to make any special reference to the jeopardy amendment as the closure notice states the amount of tax which should be included in the return.

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Jeopardy amendment under appeal - revenue amendment not appealed

If the company does not appeal within 30 days of the date of notification of the revenue amendment, you still have to dispose of the appeal against the jeopardy amendment.

If the company agrees to withdraw the appeal against the jeopardy amendment, it can be treated as determined by agreement under Section 54 TMA 1970.

If the company does not agree, the decision maker should follow the advice in the ARTG Manual. If the company refers the appeal to the Tribunal, the Business Review Unit should seek determination in the amount of the revenue amendment.

Do not release any tax postponed for recovery as a result of an appeal against the jeopardy amendment until the appeal has been formally determined.

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Jeopardy amendment under appeal - revenue amendment appealed

If a revenue amendment is made and the company appeals it, you have to dispose of the appeals against the jeopardy amendment and the revenue amendment. If you cannot reach agreement, the decision maker should follow the advice in the ARTG Manual.

You should not release any tax postponed for recovery as a result of an appeal against the jeopardy amendment until the appeal has been formally determined.

Although there are two appeals, the latest amendment displaces the previous one on COTAX, so the figures in the revenue amendment to the company’s return have displaced those in the jeopardy amendment to the self assessment.

If the company refers the appeal to the Tribunal, the Business Review Unit should ask the Tribunal to:

first, determine the appeal against the revenue amendment

then, determine the appeal against the jeopardy amendment in the same figures.

If necessary the Business Review Unit may need to explain that this is essentially an administrative procedure to dispose of the appeal against the jeopardy amendment and to give the company finality for the return period.

See:

COM71021 for a list of forms relevant to this subject

COM71011 for a list of functions to use in particular situations

COM71012 for legislation applying to this subject.

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