



Appeal number: TC/2013/06946

PROCEDURE– application for stay in proceedings - refused

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

JUMBOGATE LIMITED

Appellant

- and -

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

TRIBUNAL: JUDGE HARRIET MORGAN

**Sitting in public at the Royal Courts of Justice, the Strand, London on 7
December 2015**

Mr Ben Elliott, as counsel, instructed by PwC, for the Appellant

**Mr Richard Vallatt, as counsel, instructed by the General Counsel and Solicitor
to HM Revenue and Customs, for the Respondents**

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DECISION

1. The hearing was to consider HMRC's application made on 5 June 2015 for the
5 tribunal to direct that the appeal be stayed until 30 days after the Court of Appeal's
decision in *Tower Radio Limited & Others v The Commissioners for Her Majesty's
Revenue and Customs* (appeal reference: 2015/1379). The parties were informed that
the application was refused shortly after the hearing. This decision now sets out the
reasons for that refusal.

10 **Background**

2. The appeal is made against a determination (the "**Determination**") under
regulation 80 of the Income Tax (Pay as You Earn) Regulations 2003 in the sum of
£5,996,500.02 and decisions (the "**Decisions**") in respect of liability for national
insurance contributions under s 8 of the Social Security (Transfer of Functions etc)
15 Act 1999 amounting to £2,074,145.74, each of which was issued by HMRC on 2
September 2009. HMRC assert that these taxes are due on dividends paid on shares
awarded to certain employees of the appellant.

3. It is common ground that this case involves a scheme of a similar type to that in
the *Tower Radio* case to which HMRC's application relates and to the case of
20 *Deutsche Bank/UBS v Commissioners for HM Revenue and Customs* [2014] EWCA
Civ 452. Each case involves a scheme intended to take advantage of the exemption
from income tax and NICs for an award of "restricted securities" (under Part 7 of the
Income Tax (Earnings and Pensions) Act 2003 ("**ITEPA**")). Although there is no tax
on the award of shares which are restricted securities, there is intended to be a charge
25 when value is later derived from the shares. In each of these schemes, however, the
award of shares is followed by a further step intended to allow the relevant employees
to benefit with little or no tax charge:

(1) In *Deutsche Bank/UBS*, the shares were sold in circumstances designed to
fall within an exemption in s 429 ITEPA.

30 (2) In *Tower Radio*, the relevant companies were liquidated which is not an
event which usually triggers a charge under the restricted securities rules.

(3) In this case, dividends were paid which were intended to be taxed at the
lower dividend tax rate to the exclusion of the earnings charge, as in the earlier
case of *PA Holdings*.

35 4. It is also common ground that the decision in *Tower Radio* is to an extent
dependent on the reasoning of the Court of Appeal in *Deutsche Bank/UBS*. The
appeal on this case was heard by the Supreme Court on 3 December 2015 who were
expected to give judgment in March 2016. At the time of the hearing *Tower Radio*
was listed to be heard by the Court of Appeal on 28 and 29 June 2016.

40 5. HMRC made the application on the basis that given the similarity in the issues
in these cases it would be in accordance with the overriding objective in the rules

governing the tribunal (the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 (the “**Rules**”), in particular rules 2(2)(a) and (d) that the appeal be stayed pending the outcome of *Tower Radio* (and by consequence *Deutsche Bank/UBS*). In their view this will avoid the unnecessary use of judicial resource, avoid unnecessary expense and provide both parties with the opportunity to consider their positions in the light of the guidance provided by the higher courts. They state that the ultimate determination of the instant appeal will inevitably depend on the application of the decisions in *Deutsche Bank/UBS*.

History of the proceedings

6. The history is as follows:

(1) On 13 October 2009 the appellant appealed against the Determination and Decisions.

(2) Following a formal review, on 3 October 2013 the appeal was notified to the tribunal.

(3) On 15 August 2014 the appeal was struck out by the tribunal.

(4) By a letter dated 29 August 2014 the appellant applied for the appeal to be reinstated. HMRC opposed that application.

(5) Following a contested hearing on 19 January 2015, the appeal was reinstated and directions were made on 22 January 2015. In support of its contention that the appeal had a reasonable prospect of success, the appellant made reference to the Court of Appeal decision in *Deutsche Bank/UBS*.

(6) The directions provided for the parties to agree a statement of facts and issues and to exchange witness statements by 25 May 2015 and to provide an estimate of the length of the hearing and a list of dates to avoid by 8 June 2015. The dates to avoid were to cover the period 1 September 2015 to 19 December 2015.

(7) On 13 February 2015 the decision of the Upper Tribunal in *Tower Radio* was released (the decision of the tribunal had been issued on 11 July 2013).

(8) Pursuant to the directions, the parties agreed a statement of facts and issues and the appellant prepared and served two witness statements on HMRC.

(9) On 5 June 2015 HMRC provided their dates to avoid (indicating that their chosen counsel had no availability during the period designated for the hearing of this appeal) and made the present application for a stay. The parties are in agreement in estimating that the hearing will take 2 ½ days.

HMRC’s submissions

7. HMRC noted that, given that the Court of Appeal can generally be expected to release a decision within three months, as *Tower Radio* was then listed for hearing in June 2016, this is effectively a request for a stay only until September or October 2016.

8. As noted, it is common ground that *Tower Radio* concerns substantially similar issues. HMRC do not see that the appellant could succeed if the taxpayer in *Tower Radio* fails. HMRC do not consider, however, that if the taxpayer in *Tower Radio* succeeds that would necessarily determine this appeal. HMRC would need to test the
5 factual as well as the legal case. HMRC have not accepted the appellant's proposal, therefore, that the appeal can be stayed by agreement on the basis of HMRC accepting that *Tower Radio* will necessarily determine the appeal.

9. Moreover, the appellant's case rests heavily on the analysis of the Court of Appeal in *Deutsche Bank/UBS*. The appeal from that decision was heard in the
10 Supreme Court on 3 December 2015 with judgment reserved. Assuming it is available in time, the Supreme Court's decision in *Deutsche Bank/UBS* will also be relevant to Court of Appeal in *Tower Radio* (as one can see from the Upper Tribunal decision in that case).

10. The proper approach to the question whether a court/tribunal should grant a
15 stay is as set out in *Revenue and Customs Commissioners v RBS Deutschland Holdings GmbH* [2007] STC 814 as considered by the tribunal in *Peel Investments (UK) Ltd v Revenue and Customs Commissioners* [2013] UKFTT 404 and *Coast Telecom Ltd v Revenue and Customs Commissioners* [2012] UKFTT 307 namely:

(1) The tribunal should ask itself whether the decisions of the other courts
20 will (not might) provide material assistance; and

(2) If so, the tribunal should ask itself whether it is expedient to stay proceedings.

11. In other words, the prospect of assistance from the other cases is a threshold
25 requirement before the tribunal considers whether to grant the stay on the basis of the usual case management principles of dealing with the case fairly and justly, including making directions that are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties (under rule 2(1) and (2)(a) of the Rules).

12. It cannot seriously be doubted that both *Tower Radio* (given the agreed
30 substantial similarity with the present case) and *Deutsche Bank/UBS* (given the reliance placed by the appellant on the Court of Appeal decision) will provide material assistance to the tribunal in determining the present appeal. However, HMRC consider *Tower Radio* to be of greater assistance as the facts are more similar to the present case than those of *Deutsche Bank/UBS*. In particular:

(1) *Tower Radio* and this case concern owner managed businesses where the
35 directors concerned are effectively deciding to award themselves bonuses.

(2) *Tower Radio* and this case both involve the delivery to the
owners/shareholders of a pre-determined amount of cash, without any significant investment risk or long terms holding of shares.

(3) On the other hand in *Deutsche Bank/UBS* the arrangements were put in
40 place by banks as regards employees of the banks and the arrangements in some

cases were in place for up to 2 years before the relevant cash amounts were received. It may not necessarily be the case, given these differences, that *DB/UBS* will determine the position in *Tower Radio* or the current appeal. It is possible that the taxpayers in *Deutsche Bank/UBS* might succeed on the basis that one cannot treat shares held for 2 years as a cash delivery mechanism falling outside ITEPA but the taxpayers in *Tower Radio* might fail on the basis that their arrangements were a cash delivery mechanism falling outside ITEPA. Both cases will need to be considered to understand the proper application of the law in this areas.

13. The appellant presents the purported use of “restricted securities” as a distinction between its case and *PA Holdings*. For the avoidance of doubt, however, this is another reason for the scheme to fail rather than a point on which it might succeed, in that there might either be a charge on issue of the shares if they are not restricted securities (i.e. the *Deutsche Bank/UBS/Tower Radio* point) or on the payment of the dividend (i.e the *PA Holdings* point).

14. Accordingly:

(1) If HMRC succeed in *Tower Radio* or *Deutsche Bank/UBS*, it seems very likely that the present appeal would have to be dismissed.

(2) If HMRC lose in *Tower Radio* and *Deutsche Bank/UBS*, the present appeal will still have to be considered (because HMRC have other legal arguments and have put the appellant to proof of the factual position) but the decisions will inform the tribunal’s approach to both the law and the facts.

15. The threshold test (that the decisions will provide material assistance) is therefore met and the question becomes one of expediency.

16. In *Peel Investments* the tribunal granted a stay, concluding that:

(1) The relevant decision was of material assistance because the principle to be derived from consideration of the legal issues was fundamental to the approach to be taken to the facts (see [29]).

(2) The findings to be made were largely a matter of drawing inferences from the primary facts, which would have been “a much more profitable exercise when carried out against the settled legal principles” (see [31]).

(3) Despite the prospect of a lengthy stay (potentially upwards of two years), a stay would be expedient because the disadvantages were “strongly outweighed by the benefits of having a much better informed decision” as a result of awaiting the relevant decision (see [37]).

17. HMRC’s position is that similar considerations to those set out in *Peel Investments* apply here and in fact, applying those principles, there is a stronger case for a stay here. Staying proceedings may avoid the need for a hearing in this case altogether and will almost certainly significantly reduce the scope of the factual enquiry required. The parties will be able to reconsider their position on the law in light of obviously relevant (and binding) authorities and the tribunal will not have to

risk making a decision at odds with the developing case law in this area, which would require an appeal to rectify. The tribunal reached a different decision in *Coast Telecom* on the basis that it would not be right to stay proceedings where findings of fact (particularly as to knowledge/means of knowledge) were required to be made (see [31]). However, is not a case where the primary facts are in dispute as such (as in *Coast Telecom*) but where the issue will be what inferences are to be drawn from the primary facts (as in *Peel Investments*).

18. HMRC understand the only prejudice the appellant has raised is the accrual of interest and a desire to bring matters to a close. But:

10 (1) The tax is postponed so as matters stand it is HMRC rather than the appellant who might be thought to be financially prejudiced by the delay.

(2) The appellant has the use of the money in the meantime so the interest itself should not be seen as prejudicial. And if the taxpayer wished to stop interest running it could pay the tax or buy certificates of tax deposit. The mere
15 desire to bring matters to a close is not something that should weigh against grant a stay that is otherwise expedient as a matter of good case management.

19. This appeal has already suffered significant delays. It took the appellant 4 years to notify the appeal to the tribunal and he appeal was struck out because of the appellant's failure to participate in the proceedings. In such circumstances a further
20 delay aimed at good case management is neither unfair to the appellant nor inappropriate.

20. The stay is likely to reduce rather than increase the costs to be incurred by the parties.

25 (1) The decision in *Deutsche Bank/UBS* and *Tower Radio* may remove the need for a hearing altogether.

(2) The stay removes the risk of an appeal from the tribunal's decision on the basis that it is at odds with either of those decisions

(3) Regardless of which side wins those other cases, the decisions will allow the parties and the tribunal to focus on the relevant facts and legal arguments rather than trying to anticipate all the factual points and legal submissions that
30 might be required depending on the outcome of those cases.

21. The impact of a stay on the quality of evidence will be negligible. The appellant's witness statements have already been prepared. The events in question are already over 12 years ago and there is no reason to think a further delay of around 1
35 year will adversely affect the witness evidence. The appellant's witnesses already accept that they remember very little about the events; their witness statements do little more that exhibit board minutes and assert their accuracy.

22. On the other hand a stay will allow the tribunal to carry out its fact finding role more profitably. As in *Peel* this is a case where the findings of fact to be made are
40 largely a matter of drawing inferences from the primary facts. That will be much more profitable when carried out against the settled legal principles.

Appellant's submissions

23. HMRC have refused to reach any agreement or make any concessions in relation to the facts of this appeal. In particular they have refused to make any admission on the accuracy or true effect of any of the documentation evidencing the transactions and have put the appellant to proof "as to each and every fact and matter upon which it relies for its case" (see para 8 of HMRC's Statement of Case).

24. HMRC declined to agree that they would withdraw from the appeal if the decision in *Tower Radio* (in favour of the taxpayer) is upheld by the Court of Appeal on the basis that there are factual issues to be determined. It therefore remains HMRC's position that there are significant factual issues which require resolution before the tribunal and, regardless of the outcome of the *Tower Radio* before the Court of Appeal (or ultimately the Supreme Court), HMRC will continue to oppose this appeal.

25. Similarly, regardless of the outcome in *Tower Radio*, the appellant will continue to contest the appeal because the issues in both the present case and *Tower Radio* (and *Deutsche Bank/UBS*) are fact-dependent, and the appellant will rely on its alternative grounds that the appeal should be allowed due to the application of the House of Lords decision in *Abbott v Philbin* [1961] A.C. 352. The appellant's position is that the dividends declared are not emoluments but are dividends (and fall to be taxed as such) because the source of those payments was the legal right bestowed by the shares and not the employee's employment.

26. This appeal is now ready for hearing and considerable costs have been incurred by the appellant in preparing this case for hearing. Consequently, at this stage the appellant will be proceeding with the appeal regardless of the outcome in *Tower Radio*.

27. The appellant agreed with the statement of principle to be taken from *RBS* as applied by the tribunal in *Peel Investments* and *Coast Telecom* as set out in 2 above. The appellant also noted that in considering whether to exercise its powers to grant a stay, the tribunal must seek to give effect to the overriding objective contained in Rule 2 of the Rules that the tribunal should seek to deal with cases fairly and justly including dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties, ensuring, so far as practicable, that the parties are able to participate fully in the proceedings and avoiding delay, so far as compatible with proper consideration of the issues.

28. The appellant noted the following:

(1) A decision of another court may be considered to be of material assistance notwithstanding that the decision will not be determinative of the issues in the case in question. However, it must be considered that the decision of another court will provide material assistance. It is not sufficient that the decision in the other court may provide assistance (*Coast Telecom* at [21]; *RBS* at [22]).

(2) Where issues of law alone remain in dispute it may be that a stay is justified, however it is not generally expedient to order a stay in circumstances where very material findings of facts fall to be made by the first instance tribunal (*Coast Telecom* at [22] and [24]).

5 (3) The risk of prejudice to witness evidence as memories fade is a relevant factor in considering whether it is expedient to grant a stay (*Coast Telecom* at [23]).

10 (4) It is relevant to consider whether the case is ready for hearing, or whether granting the stay might avert the need for the parties to incur costs preparing for a hearing.

(5) The tribunal should consider and compare the likely outcome in practice if it were to grant the stay and/or the outcome if it were to refuse the stay - in particular whether there is any realistic prospect that the stay will avert the need for a hearing.

15 29. The appellant submits that HMRC's stay application should be refused as, applying the principles set out above:

20 (1) The decision in *Tower Radio* is unlikely to be of material assistance in determining the present appeal. This is because the relevant principles and guidance will be provided by the Supreme Court in *Deutsche Bank/UBS. UBS/DB* and that decision will be available by the time that the present appeal is heard. Whilst the Court of Appeal will decide *Tower Radio* on its own facts, the Court of Appeal will be bound by the law stated in *Deutsche Bank/UBS* (since that case concerns the same legislation and the same general issues) and, therefore, it is highly unlikely that the Court of Appeal will seek to depart from the law as stated by the Supreme Court. Therefore it cannot be considered that the decision in *Tower Radio* will be of material assistance in determining the present appeal. It is not likely that *Tower Radio* will change the law; it will merely apply the principles set out by the Supreme Court in *Deutsche Bank/UBS* to the facts of that case.

30 (2) This appeal relates to transactions carried out in 2003 and was first appealed in September 2009. The appeal was notified to the tribunal in October 2013 and therefore has already been underway for over two years. It is not fair or appropriate for the determination of this appeal to be further delayed.

35 (3) In particular, the long-standing nature of this dispute is potentially prejudicial to the appellant's financial position as interest accrues at a rate of almost £5,000 a week.

40 (4) The hearing of this appeal was directed to be heard between 1 September 2015 and 19 December 2015 (albeit that HMRC's chosen counsel was unavailable during that period). The hearing has already been substantially delayed by the last-minute nature of HMRC's stay application.

(5) If the proposed stay is granted, the earliest that this appeal will be heard is in the first half of 2017 (most likely later). If *Tower Radio* is appealed to the

Supreme Court it is likely that the present appeal will not be determined for a further 2 to 3 years.

5 (6) The appeal is ready for hearing and the appellants have already incurred significant costs preparing this matter for hearing. Any delay will only result in further costs being incurred by both parties.

10 (7) HMRC have stated their intention to mount a fundamental challenge on the facts and documents relied upon by the appellant. This appeal is therefore one in which the findings of fact are likely to be highly material and, indeed, if HMRC's submissions on the facts are accepted then the findings of fact will be determinative of the appeal. In such circumstances it is not expedient for a stay to be granted.

15 (8) Furthermore, in a case in which HMRC have indicated their intention to challenge the facts and documents relied upon by the appellant, which will necessarily entail cross-examination of those witnesses, any delay is likely to be highly prejudicial to the appellant's case and contrary to the interests of justice because:

(a) The witnesses' memories will fade further when seeking to recall events which occurred over 12 years ago;

20 (b) There will be a substantial and inappropriate delay between the preparation of the witnesses' statements and the time when they are cross-examined on the contents of those statements. If the proposed stay is granted there is likely to be a gap of at least two years between the preparation of the witness statements and the cross-examination of the witnesses.

25 (9) HMRC assert that the primary facts are not in issue and that it only a question of what inferences should be drawn from the primary facts. However, HMRC have stated the appellant is to be put to proof of each fact and matter. It is clear that there is no material agreement on the primary facts and the hearing will include cross examination of the witnesses.

30 (10) Any potential costs saving is speculative and in any event is outweighed by the other factors set out above and the costs incurred as a result of the delay

35 (11) A hearing before the tribunal in this matter is inevitable as both sides have indicated their intention to proceed regardless of the outcome in *Tower Radio*. The appropriate course in the circumstances is for that hearing to proceed as soon as possible to enable the facts to be found.

(12) HMRC refer to the appellant's delays but the appeal was reinstated and little blame for the strike out was attributed to the appellant.

40 30. The appellant further submitted that if there is any doubt as to whether the application of the above principles point in favour of granting the stay, then the default position must be that the appellant is entitled to exercise its statutory right of appeal to the tribunal and that appeal process should be allowed to continue.

31. HMRC refer to the appellant's delays but the appeal was reinstated and little blame for the strike out was attributed to the appellant.

Decision

5 32. The question is whether the appeal should be stayed pending the outcome of the case of *Tower Radio*. There is no dispute that the principle to apply, in determining whether an appeal should be stayed against the wishes of a party, is that set out in *RBS* (at [22]):

10 "As we would see it, a tribunal or court might sist proceedings against the wish of a party if it considered that a decision in another court would be of material assistance in resolving the issues before the tribunal or court in question and that it would be expedient to do so."

15 33. The parties also referred to the application of this principle in the tribunal in *Coast Telecom* and *Peel Investments*, in particular, as regards the expediency part of the test. I note that in that *Coast Telecom* Judge Berner commented on the principle set out in *RBS* (at [21]) that the question is not "whether the determination of another court might provide assistance, but whether it will provide material assistance."

34. The first question is, therefore, whether the decision in *Tower Radio* will be of material assistance in resolving the issues in this case. It is only necessary to consider whether it would expedient to stay the appeal if that test is met.

20 35. It is common ground that both *Tower Radio* and *Deutsche Bank/UBS* concern the same main issue albeit that the facts of each case differ. In outline, as set out above, each of these cases involves a scheme which intended to take advantage of the exemption from income tax and NICs for an award of "restricted securities" under Part 7 ITEPA. The question, therefore, is whether the award and related payments
25 fall to be taxed exclusively under that regime or not. At the time of the hearing, the Supreme Court had heard the *Deutsche Bank/UBS* appeal and judgment was expected to be released in March 2016. The *Tower Radio* case was due to be heard by the Court of Appeal at the end of June 2016 (so with the benefit of the Supreme Court decision).

30 36. The Upper Tribunal in *Tower Radio* and the Court of Appeal in *Deutsche Bank/UBS*, approached that question by seeking to interpret the rules of the restricted securities regime under the modern purposive approach to statutory interpretation. The Upper Tribunal referred at some length to the authorities including the Court of Appeal decision in *Deutsche Bank/UBS*. In that case HMRC put forward what was
35 described as a broad and narrow *Ramsay* approach. The broad approach was that the scheme had no commercial purpose, only a tax avoidance purpose. It was wrong to regard it as a scheme under which employees were being rewarded by the allocation of shares. Its sole purpose was to reward them in cash. The shares were not therefore restricted securities at all and the scheme fell outside those rules. The narrower
40 submission focused on the fact that the restrictions imposed on the shares were

inserted solely to achieve the intended tax avoidance, not for a commercial purpose which prevented the shares from being restricted securities.

37. The appellant argued essentially that the legal principles will be established by the Supreme Court decision in *Deutsche Bank/UBS*. The decision in the Court of Appeal in *Tower Radio* will, on the basis that they will have the benefit of the Supreme Court decision merely apply the principles established by the Supreme Court as to the correct approach to take to the particular facts of the *Tower Radio* case. HMRC's view, however, is that *Deutsche Bank/UBS* will not necessarily be determinative given that the factual circumstances are not as similar to this case or those in *Tower Radio* as further set out in their submissions.

38. I agree with the appellant. Whether and how the restricted securities regime is to apply to the schemes in question is a mixed question of law of fact; the issue is the correct statutory interpretation on a purposive approach, taking a realistic view of the facts. There are differences in the facts of each of this case, *Tower Radio* and *Deutsche Bank/UBS*. The Supreme Court decision in *Deutsche Bank/UBS* will set out the correct principles to apply in this context which the Court of Appeal will have to apply in determining the case before it and this tribunal will have to follow in deciding this appeal. I cannot see that the decision in *Tower Radio* will, as a matter of legal principle, provide any further assistance. Whilst the facts of that case are more similar to those of this case than the facts in *Deutsche Bank/UBS*, they are not the same. In each case the appeal will have to be decided on the correct statutory interpretation, as established by the Supreme Court in *Deutsche Bank/UBS*, according to the tribunal or court in question taking a realistic view of the particular facts before it. As noted the judgment of the Supreme Court in that case was at the time of this hearing expected to be available in March 2016 which on any realistic estimate is before this appeal would be heard.

39. For this reason, I do not consider that HMRC's application satisfies the initial requirement for a stay to be granted. I am not satisfied that the decision in *Tower Radio* will provide material assistance to the determination of the issues in this case. It is not necessary, therefore, to decide whether, having regard to the overriding objective of dealing with matters fairly and justly, it would be expedient for the appeal to be stayed. However, on balance my view is that it would not be expedient given, in particular, the need to avoid further delay given that facts are to be found requiring witness evidence, that both parties intend to proceed whatever the outcome in *Deutsche Bank/UBS* and *Tower Radio* and the inevitable consequence of some further costs as a result of delay. I do not regard the fact that 12 years has already elapsed as meaning that any further delay is not a material factor as regards the quality of witness evidence (and I note the potential elapse of time between the preparation of witness statements and giving evidence). Whilst drawing inferences from facts is a task better undertaken with the benefit of settled legal principles I am unable to see, given the issues in the *Deutsche Bank/UBS* case, that the Supreme Court decision in that case will not determine the relevant principles.

40. I note that the appellant stated that, if it was successful, it wished to apply for its costs in respect of this application to be paid by HMRC. The appellant is requested, if

it wishes to proceed with that application, to provide details to the tribunal and HMRC within 28 days of the date of this decision.

5 41. 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.

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HARRIET MORGAN

TRIBUNAL JUDGE

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RELEASE DATE: 2 NOVEMBER 2016