

## Explanatory Guide: How to Appeal to the Income Tax Board of Review

### 1 Introduction

- 1.1 This guide is designed to provide taxpayers with information on making an appeal to the Income Tax Board of Review (referred herein as the “**Board**”) against an Income Tax assessment made by the Comptroller of Income Tax (“**CIT**”).

### 2 At a Glance

- 2.1 An overview of the objection and appeal process is summarised in the table below. More details are provided in the later part of this guide and the appendices.

Steps	Explanation
a) Receipt of a Notice of Assessment	You would have received a Notice of Assessment (e.g. dated 31 March 2015) issued by the CIT.
b) Lodge a Notice of Objection to the CIT	If you disagree with the assessment, a Notice of Objection must be filed with the Inland Revenue Authority of Singapore (IRAS) <u>within 30 days for individuals or 2 months for corporations from the date of the Notice of Assessment</u> (e.g. by 31 May 2015).
c) Receipt of a Notice of Refusal to Amend	If you and the CIT are unable to reach a resolution, either the CIT may issue you or you may request the CIT to issue you a <u>Notice of Refusal to Amend</u> the assessment (e.g. by 30 June 2015).
d) Lodge a Notice of Appeal to the Board	If you wish to appeal against the CIT’s assessment, you must file a Notice of Appeal to the Board <u>within 30 days from the date of the Notice of Refusal to Amend</u> (e.g. by 30 July 2015).
e) Lodge a Petition of Appeal to the Board	You will have to submit the Petition of Appeal with the detailed grounds of appeal <u>within 30 days from the date the Notice of Appeal was lodged with the Board</u> (e.g. 30 August 2015 if the Notice of Appeal was submitted on 30 July 2015).
f) Pre-Trial Conference between you and the CIT	The Board will organise a Pre-Trial Conference (“PTC”) within six to eight weeks from the receipt of the Petition of Appeal for you and the CIT to identify the issues in dispute, to negotiate a settlement or, if a settlement is not possible, to proceed with a hearing. The Chairperson will give directions during the PTC.
g) Hearing of the appeal	The secretary of the Board will notify you and the CIT on the date, time and place of the hearing giving at least 14 days’ notice. The Board will then hear the appeal and will make a decision based on the submissions from you and the CIT.

### **3 What is the Income Tax Board of Review?**

- 3.1 The Income Tax Board of Review is an independent board set up under the Ministry of Finance.
- 3.2 The Board comprises the Chairperson, Deputy Chairperson and other members who are qualified persons appointed by the Minister of Finance to hear and decide income tax appeals. The board members are independently appointed and are not connected to IRAS and the CIT.
- 3.3 Details of the Board's Chairperson, Deputy Chairperson and other members of the Board can be found at the Singapore Government Directory Interactive ("SGDI") website<sup>1</sup>.

### **4 Income Tax Assessment and Objection Process**

- 4.1 The CIT is empowered under the Income Tax Act ("ITA")<sup>2</sup> to raise assessments based on the information furnished by you, or in the absence of information, to the best of his judgment.
- 4.2 If you do not agree with an assessment raised by the CIT, a Notice of Objection and the precise grounds of objection must be filed with the CIT within 30 days<sup>3</sup> from the date of service of the Notice of Assessment. If no valid objection has been filed within the stipulated time, the CIT's assessment is final.
- 4.3 After reviewing the Notice of Objection, the CIT will inform you in writing on whether your objection is accepted or not. The CIT may also request for additional information to verify your claims. If you and the CIT are unable to reach an agreement on the assessment, the CIT will issue a Notice of Refusal to Amend<sup>4</sup> to inform you of his decision and your right to appeal to the Board.
- 4.4 More information on the assessment and objection process can be found at IRAS e-Tax Guide on "Corporate Income Tax – Objection and Appeal Process". A copy is provided at [Annex A](#).

### **5 When can I Appeal to the Board of Review?**

- 5.1 You can only appeal to the Board after receiving the Notice of Refusal to Amend from the CIT. Specifically, after receiving the Notice of Refusal to Amend, you have the option to:

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<sup>1</sup> Click on link > [http://app.sgdi.gov.sg/listing.asp?agency\\_subtype=dept&agency\\_id=0000001424](http://app.sgdi.gov.sg/listing.asp?agency_subtype=dept&agency_id=0000001424)

<sup>2</sup> Section 72 of the ITA.

<sup>3</sup> Section 76(3) of the ITA. The filing deadline for Notice of Objection is extended to 2 months for corporate taxpayers by way of an administrative concession for all assessments issued on or after 1 January 2014.

<sup>4</sup> Section 76(6)(b) of the ITA. CIT may also issue the Notice of Refusal to Amend in other scenarios such as if information requested by IRAS remains outstanding after 2 years.

- a. Accept the CIT's decision on the item under objection. If so, the assessment will be regarded as final and conclusive; or
- b. File a Notice of Appeal to the Board within 30 days from the date of the Notice of Refusal to Amend.

## **6 Do I Need to Get Professional Advice to Appeal to the Board?**

- 6.1 Even though there is no requirement for taxpayers to seek professional advice, some seek professional advice before appealing to the Board as the issues in contention generally involve interpretation of the law based on principles established by local and foreign courts. The Board's decision on the assessment will be final and you may not appeal against the Board's decision unless there is any question of law or of mixed law and fact<sup>5</sup>.

## **7 What Are the Procedures for Appealing to the Board?**

- 7.1 Should you choose to appeal to the Board, you are required to submit the following documents<sup>6</sup>:
  - a. Within 30 days from the date of the refusal of the CIT to amend the assessment, a written Notice of Appeal in duplicate hardcopy; and
  - b. Within 30 days of the date on which such Notice of Appeal was lodged, a Petition of Appeal in quadruplicate containing a statement of the grounds of appeal.
- 7.2 Hardcopies of the Notice of Appeal and Petition of Appeal are to be sent to the address below:

**100 High Street  
#10-01 The Treasury  
Singapore 179434**

**Contact No: 6332 7323 (Ms Tan)  
Fax No: 6337 4134**

In addition, softcopies of the documents should be emailed to [itbr@mof.gov.sg](mailto:itbr@mof.gov.sg)

- 7.3 If a taxpayer is unable to file the Notice of Appeal or Petition of Appeal within the stipulated time, he has to seek the Chairman's approval for his appeal to be heard.
- 7.4 At the time of filing the Notice of Appeal, a taxpayer can object to not more than one-third of the members of the Board (excluding the Chairperson and

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<sup>5</sup> Section 81(2) of the ITA.

<sup>6</sup> Section 79(1) of the ITA.

Deputy Chairperson) by providing supporting reasons<sup>7</sup> (e.g. potential conflict of interest). The CIT can also object to not more than one-third of the members of the Board (excluding the Chairperson and Deputy Chairperson). After reviewing the list of objection (if any), the Chairperson decides on the Panel which will hear the case. The Panel will consist of either the Chairperson or Deputy Chairperson and two other members.

- 7.5 The formats for filing of the Notice of Appeal and Petition of Appeal are at [Annexes B1 and B2](#).

## **8 Pre-Trial Conference**

- 8.1 On receipt of a petition of appeal, the secretary to the Board will immediately forward one copy thereof to the CIT. A PTC will be scheduled for you and the CIT to identify the issues in dispute, to negotiate a settlement or, if a settlement is not possible, to proceed with a hearing.
- 8.2 The PTC is usually held 6-8 weeks from the date the petition of appeal is lodged with the Board.
- 8.3 Once you and the CIT decided to proceed for a hearing, you will have to prepare and submit the necessary documents for the hearing. A document checklist is provided at [Annex C](#).

## **9 Grounds of Appeal**

- 9.1 It is your responsibility<sup>8</sup> to prove to the Board that the tax assessment raised by the CIT is excessive or the amount of any unabsorbed losses, allowances or donations that may be carried forward ought to be of a higher amount (as the case may be). Failure to do so will result in the CIT's decision being upheld by the Board.
- 9.2 It is not enough to state that you do not agree with the CIT's assessment or that the tax assessed is excessive; there must be detailed arguments supported by law and fact against each of the item under appeal.
- 9.3 While you will be able to develop your arguments in a detailed submission to the Board and during the hearing, you may not rely on any grounds of appeal other than the grounds stated in your Petition of Appeal, except with the consent of the Board.
- 9.4 Therefore, it is important for you to state all the relevant issues, supporting fact and grounds for appeal in the Petition of Appeal and your supporting submission. An example is provided at [Annex D](#) for reference, though it cannot cover all circumstances.

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<sup>7</sup> Section 79(1) and (2) of the ITA.

<sup>8</sup> Section 80(4) of the ITA.

**10 Do I Need to Call for Witnesses to Submit Evidence Before the Board?**

- 10.1 You may request for witnesses to be called to give evidence before the Board by informing the Chairperson during the PTC. When the Chairperson gives direction to submit documents for hearing, a date will also be given for submitting of affidavit (in any), and all the documents are usually submitted at least one month before the hearing date. Should the parties wish to submit the affidavit after the deadline given by the Chairperson, approval need to be sought from the chairperson.
- 10.2 Affidavits are written statements under oath to give account of the facts (not opinions) to the Board. A sample affidavit is provided at [Annex E](#) for reference.

**11 Hearing of Appeals**

- 11.1 The hearing date and place will be fixed after all hearing documents had been filed. A 14 days’ notice will be given to both the appellant and the CIT on the time and place for the hearing of the appeal. The notice will also include the composition of the Panel.
- 11.2 The hearing must be attended by the appellant and the CIT, either in person or by an advocate and solicitor or accountant<sup>9</sup>.
- 11.3 A witness is required to submit written statements under oath in the form of an affidavit that provides the witness’ account of facts (not opinions) to the Board.
- 11.4 After the Hearing, the panel members will decide either to give an oral or written judgment. Oral Judgment will be given on the same day as the Hearing. Written Judgment will be given at a later time.

**12 Are There Any Filing Fees for Appeals?**

- 12.1 Non-refundable filing fees will be payable when filing the petition of appeal. The filing fees are as follows:

(a) a company	\$200 for each assessment appealed against
(b) a person other than a company	\$50 for each assessment appealed against

- 12.2 If the appeal is in respect of section 93A of the ITA (Relief in respect of error or mistake), the taxpayer must deposit a sum of \$250 with the secretary to the Board when filing the notice of appeal. This deposit will be refunded in the event of the appeal being allowed.

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<sup>9</sup> Section 2 of the ITA defines an “accountant” to mean a public accountant within the meaning of the Accountants Act (Cap. 2).

## **13 Withdrawal of Appeals**

- 13.1 You can withdraw your appeal at any time by writing to the Board. If the CIT decides to concede the matter in dispute, they will write to both the Board and you.

## **14 Appeal to the High Court**

- 14.1 A taxpayer or the CIT may appeal to the High Court against the Board's decision only if the issue involves a question of law or a question of mixed law and fact and the disputed tax payable and notional tax benefit<sup>10</sup> exceeds \$200.

## **15 Contact Information**

- 15.1 If you have any enquiries or need clarification on this guide please contact us at the Income Tax Board of Review at DID: 6332 6706 or email us at [itbr@mof.gov.sg](mailto:itbr@mof.gov.sg).

## **16 Frequently Asked Questions**

- (i) *How long will the appeal process take?*

The time taken for each appeal varies, as it depends on whether the CIT and the appellant are able to settle the issue amicably at the PTC stage or they need to proceed to hearing.

- (ii) *If the Notice of Refusal to Amend had not been issued by CIT, can an appeal be lodged with the Board?*

No. You will need to request the CIT to issue the Notice of Refusal to Amend. Thereafter, file the Notice of Appeal in duplicate within 30 days from the date of Notice of Refusal to Amend, together with the CIT's Notice of Refusal to Amend.

- (iii) *Is it necessary to engage a counsel?*

It is not a requirement to engage a counsel. You may represent yourself. However, at any time before the commencement of the hearing, you may engage a counsel if you wish to do so. As these appeals typically involve statutory interpretation of the Income Tax Act with reference to past judicial precedents and the application of the law to the facts, representation from counsel is helpful.

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<sup>10</sup> Notional tax benefit is defined under section 81(7) of the ITA. It generally refers to the difference in the amount of any unabsorbed losses, allowances or donations claimed by the taxpayer and the amount assessed by the CIT for any year of assessment.

(iv) *How long will the Hearing take?*

It depends on the complexity of the appeal; it may vary from one to three days.

(v) *Will there be any other cost involved during the process besides the filing fee for the appeal?*

The provisions of section 80(11) of the ITA empower the Board to order the appellant to pay a sum not exceeding \$250 as cost of the Board, if it is of the opinion that the appeal is vexatious and frivolous.

(vi) *How do I request for an extension of deadline to file the notice of appeal/petition of appeal?*

You may write in to request for an extension of deadline to file the notice of appeal/petition of appeal. The request will be considered on a case-by case basis and the Chairperson will decide whether to approve the request.

(vii) *Why is there a need to submit a Petition of Appeal and Affidavit separately?*

These documents are submitted for different purposes.

The Petition of Appeal filed by parties shall set out:

- a. the circumstances out of which the appeal arises;
- b. the issues arising in the appeal;
- c. the contentions to be argued by the party filing it and the authorities in support thereof; and
- d. the reasons for or against the appeal, as the case may be.

The affidavit is a written statement prepared by a witness to present evidence to the court to support the appeal.

## **Documents to Attach as Annexes**

### **Annex A - IRAS e-Tax Guide on “Corporate Income Tax – Objection and Appeal Process”**



etaxguides\_CT\_Objection and Appeal Proc

### **Annex B1 - Format for Filing a Notice of Appeal**



NOA\_ITBR\_2014.doc  
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### **Annex B2 - Format for Filing a Petition of Appeal**



POA\_ITBR\_2014.doc  
x

### **Annex C - Documents Checklist and Questionnaire**



Checklist for Documents.docx



Questionnaire.pdf

### **Annex D – Basic Outline for a Case Submission**



Basic Outline for Case Submission.doc

### **Annex E – Sample Affidavit**



Sample Affidavit.docx