

Explanatory Guide: How to Appeal to the Goods and Services Tax Board of Review

1 Introduction

1.1 This guide is designed to provide taxpayers with information on making an appeal to the Goods and Services Tax Board of Review (referred herein as the “**Board**”) against the decision on the application for review and revision under section 49 made by the Comptroller of Goods and Services Tax (“**CGST**”).

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 CGST.
b) Lodge a notice of objection to the CGST	If you disagree with the assessment, a written notice of objection must be filed with the CGST <u>within 30 days from the date of the Notice of Assessment</u> (e.g. by 30 Apr 2015). You should state precisely the grounds of your objection in your notice of objection.
c) Receipt of a Notice of Comptroller’s Decision	If you and the CGST are unable to reach a resolution, the CGST will issue you a <u>Notice of Comptroller’s Decision</u> within a reasonable time (e.g. by 31 May 2015).
d) Lodge a Notice of Appeal to the Board	If you wish to appeal against the CGST’s decision, you must file a Notice of Appeal to the Board <u>within 30 days from the date of the Notice of Comptroller’s Decision</u> (e.g. by 30 June 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 July 2015 if the Notice of Appeal is submitted on 30 June 2015).
f) Pre-Trial Conference between you and the CGST	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 CGST 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 CGST 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 CGST.

3 What is the Goods and Services Tax Board of Review?

- 3.1 The Goods and Services Tax Board of Review is an independent board set up under the Ministry of Finance.
- 3.2 The Board comprises the Chairperson and other members who are qualified persons appointed by the Minister of Finance to hear and decide Goods and Services Tax appeals. The board members are independently appointed and are not connected to the IRAS and the CGST.
- 3.3 Details of the Board's Chairperson and other members of the Board can be found on the Singapore Government Directory Interactive ("SGDI") website¹.

4 Goods and Services Tax Assessment and Objection Process

- 4.1 The CGST is empowered under the Goods and Services Tax Act ("GSTA")² 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 CGST, a written notice of objection and the precise grounds of your objection must be filed with the CGST within 30 days³ from the date of the Notice of Assessment. If no valid objection has been filed within the stipulated time, the CGST's assessment is final.
- 4.3 The objection process is also applicable, for which no Notice of Assessment (NOA) was issued by the CGST⁴ (e.g. Decisions given through a ruling issued by the CGST).
- 4.4 After reviewing the notice of objection, the CGST will inform you in writing whether your objection is accepted. The CGST may also request for additional information to verify your claims. If you and the CGST are unable to reach an agreement on the assessment, the CGST will issue a Notice of Comptroller's Decision⁵ to inform you of his decision and your right to appeal to the Board.

5 When can I Appeal to the Board of Review?

- 5.1 You can only appeal to the Board after receiving the Notice of Comptroller's Decision from the CGST. Specifically, after receiving the Notice of Comptroller's Decision, you have the option to:
 - a. Accept the CGST's decision on the issue under objection. If so, the assessment will be regarded as final and conclusive; or

¹ Click on link > http://app.sgdi.gov.sg/listing.asp?agency_subtype=dept&agency_id=0000001452

² Section 45 of the GSTA

³ Section 49(2) of the GSTA

⁴ Section 49(1) of the GSTA

⁵ Section 49(3) of the GSTA

- b. File a Notice of Appeal to the Board within 30 days from the date of the Notice of Comptroller's Decision.

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 could 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 fact⁶. It is up to taxpayers to decide whether they wish to seek professional advice.

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 documents⁷:
 - a. Within 30 days from the date of the Notice of Comptroller's Decision issued by the CGST, 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 gstbr@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.
- 7.1 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 Deputy Chairperson) by providing supporting reasons⁸ (e.g. potential conflict

⁶ Section 54(2) of the GSTA

⁷ Section 51(1) of the GSTA

⁸ Section 51(2) and (2A) of the GSTA

of interest). The CGST 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 the Chairperson or Deputy Chairperson and two other members.

- 7.2 The format for filing of the Notice of Appeal is at [Annex A](#).

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 CGST. A PTC will be scheduled for you and the CGST 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 CGST 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 B](#).

9 Grounds of Appeal

- 9.1 It is your responsibility⁹ to prove to the Board that the decision of the CGST on the application for review and revision under section 49 is incorrect. Failure to do so will result in the CGST's decision being upheld by the Board.
- 9.2 It is not enough to state that you do not agree with the CGST's decision; there must be detailed arguments supported by law and fact against each of the issues under appeal.
- 9.3 While you will be able to develop your arguments in a detailed submission to the Board, 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. A sample template case submission is provided at [Annex C](#) for reference, though it cannot cover all circumstances.

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

⁹ Section 52(3) of the GSTA

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 needs 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 template affidavit is provided at [Annex D](#) 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 CGST 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 CGST, either in person or by an advocate and solicitor or accountant.
- 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

13 Withdrawal of Appeals

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

14 Appeal to the High Court

- 14.1 A taxpayer or the CGST 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 tax payable or any amount due to the appellant exceeds \$500¹⁰.

15 Contact Information

- 15.1 If you have any enquiries or need clarification on this guide, please contact us at the Goods and Services Tax Board of Review at DID: 6332 6706 or email us at gstbr@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 CGST and the appellant are able to settle the issue amicably at the PTC stage or they need to proceed to hearing.

- (ii) *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 Goods and Services Tax Act with reference to past judicial precedents and the application of the law to the facts, representation from counsel may be helpful.

- (iii) *How long will the Hearing take?*

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

- (iv) *Will there be any other costs involved during the process besides the filing fee for the appeal?*

The provisions of section 52(9) of the GSTA empower the Board to order the appellant to pay a sum not exceeding \$1,000 as cost of the Board, if it is of the opinion that the appeal is vexatious and frivolous.

- (v) *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.

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

¹⁰ Section 54(2) of GSTA

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 - Format for Filing a Notice of Appeal



Notice of Appeal to
the Goods and Service

Annex B - Documents Checklist and Questionnaire



Checklist of
Documents.docx



Questionnaire-GST.d
ocx

Annex C – Sample Case Submission



Sample Case
Submission.docx

Annex D – Sample Affidavit



Simple Affidavit.docx