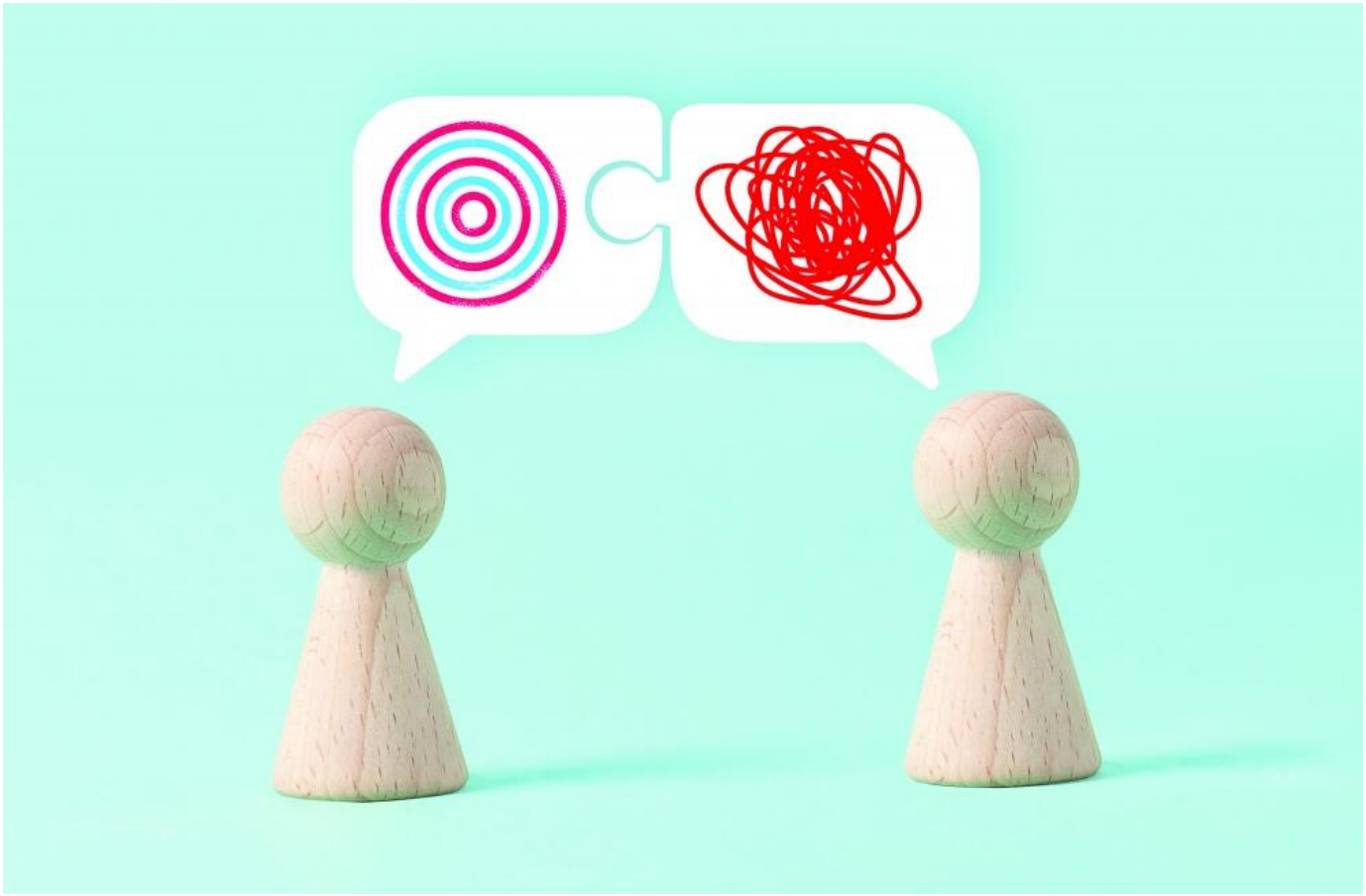
Do you disagree?

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HMRC’s Solicitor’s Office and Legal Services explain how statutory reviews can assist taxpayers who disagree with an HMRC decision

Key Points

What is the issue?

The statutory reviews process is a fresh look at disputed decisions, as evidenced by over 12,000 decisions altered in 2019/20 and over 14,000 in 2018/19.

What does it mean for me?

Requesting a statutory review costs nothing and it can be a cost-effective way to resolve a dispute.

What can I take away?

In requesting a statutory review, the taxpayer's statutory rights are unaffected. You can still take your appeal to tribunal if you are unhappy with the review officer's conclusion.

Statutory reviews were introduced in 2009 as part of the Tribunals Reform programme. The reviews are aimed at customers who disagree with an HMRC decision. Statutory reviews are carried out within HMRC's Solicitor's Office and Legal Services department (SOLS). The review is conducted by officers who are entirely outside the management chain of those making the disputed decisions. Both the Office of Tax Simplification and the House of Lords have said that HMRC's Review function provides a valuable service to customers.

The benefits of a statutory review

Reviews are an opportunity to take a fresh look at disputed decisions. In 2019/20, SOLS carried out 22,649 reviews, of which 12,822 decisions were subsequently cancelled or varied. 9,356 of the reviews related to VAT penalty cases where, in most instances, reasonable excuse was a consideration, leading to 81% of those decisions being varied or cancelled.

A similar picture arose in 2018/19 with SOLS reviewing 28,068 decisions and cancelling or varying 14,278 decisions. (Again, 14,905 of the total reviews related to VAT penalty cases, and 66% of decisions were cancelled or varied.)
Following a review, the majority of cases do not proceed to tribunal. Reviews are therefore an effective way to settle a dispute.

The reviews process is rigorous; most conclusions are countersigned by an officer of a senior grade to the review officer. They are also a quick, easy and cost-effective way to settle a dispute. The statutory time limit for reviews is 45 days (or a longer agreed time period). Conversely, having the tribunal determine an appeal is time consuming.

Requesting a statutory review would normally only incur a monetary cost if the customer seeks representation. As three quarters of reviews do not go onto appeal, and costs are generally higher for appeals in time and money, it is often more cost effective to initially request a review.

The reviews process can avoid unnecessary litigation, cost and stress, but customers can still appeal to tribunal if they disagree with a review conclusion.

Process and timing

Reviews can only be carried out once an appealable decision is made. When a caseworker makes a decision, they will tell the customer if they can appeal against the decision and what to do if they disagree. Examples of these include closure notices following an enquiry, assessments and information notices.

For indirect taxes (for example, VAT, excise or customs duty), the decision letter will include an offer of a review. Customers will have 30 days from the date of the decision to accept the offer, but if they have new information or arguments it is possible to delay the start of the review just in case agreement can be reached.

For direct taxes (for example, corporation tax or income tax), customers will have 30 days from the date of the decision to appeal to HMRC. Either at that stage, or later, they may request a review or they may be offered one. Again, if they have new information or arguments, then it would be useful to provide these to the caseworker to consider before the review process begins, as this may resolve the dispute.

Purpose of a review

The purpose of the review is to look at the decision again, not to assess new facts or evidence that haven’t been considered by the caseworker. However, the review officer will give customers the opportunity to send in further information during the review period. The review officer will then decide if the appealable decision is:

- legally and technically correct;
- consistent with HMRC’s policy; and
- consistent with HMRC’s Litigation and Settlement Strategy.

Some disputes involving a direct challenge on HMRC’s interpretation of legislation may need to be determined by the courts, since a review officer cannot override

HMRC policy. However, even in these cases a review can often help to clarify the facts and the understanding of both parties.

Outcomes of a review

At the end of the review, the review officer will conclude if the decision is upheld, varied or cancelled. The review officer will write to the customer to explain their conclusion, their reasons and the customer's next options. If the decision is upheld or varied, and the customer disagrees with the review officer's conclusion, they will have 30 days from the date of the review conclusion letter to appeal to the tribunal.

To help this process operate smoothly, it is important that you and/or your client clearly explain to the review officer what your client disagrees with and why. Did they rely on any case law or other evidence to form that view? Do they have any further information to support their case? Conversely, it is also useful to know what they agree with, as this will help focus the review to the key points in dispute.

More information about appeals and reviews can be found in the Appeals reviews and tribunal guidance manual at *bit.ly/35lgvzj.*