Tribunal Procedure Committee: Written reasons consultation

General Features



18 November 2024

The CIOT and LITRG have submitted a joint response to the Tribunal Procedure Committee's recent consultation which proposes changes to the First-tier Tribunal (Tax Chamber) rules concerning the provision of written reasons for decisions.

Time limit for requesting written reasons

The consultation proposes reducing the time limit for requesting written reasons for a tribunal decision from 28 days to 14 days. In our submission, we acknowledge that prompt requests can improve the efficiency of proceedings, but we are concerned that a 14 day period may disproportionately affect unrepresented or vulnerable taxpayers.

These groups may need more time to understand the issues, seek advice and respond effectively. The existing 28 day period offers flexibility, also accounting for potential delays such as postal issues or holidays. Shortening the time limit could

increase late requests, consuming judicial resources and potentially leading to greater administrative burdens. Therefore, we suggest retaining the 28 day time limit to ensure fairness, particularly for taxpayers who may need additional support.

If the reduction to 14 days is implemented, we recommend that the tribunal adopts guidelines for late requests in cases involving vulnerable or unrepresented taxpayers, considering personal circumstances such as digital capability. This safeguard would ensure that taxpayers in these categories are not unfairly disadvantaged by the shorter timeframe.

Provision of written decisions

We express some concerns with the proposal to restrict full written reasons to the unsuccessful party when an oral decision, with reasons, has already been given at the hearing. We recommend the introduction of a practice direction to guide judges on which cases are in scope and when a full written decision is required, ensuring consistency and clarity in the tribunal's approach.

We think the proposal presents a risk that decisions on substantive or complex points of law may not be written up, leading to the loss of important decisions that could have wider relevance. There will be times, for example, when advisers would need to know the reasons for the successful appeal to assist in their arguments relating to similar cases. Limiting access to full written reasons to the unsuccessful party could also create an imbalance between taxpayers and HMRC, who will always have a better understanding of unpublished case information since they are party to all tax cases.

We have reservations about relying solely on the 'interests of justice' test for determining whether a full written decision is warranted. We support the tribunal's desire to streamline and speed up the process, but we believe that a more structured approach, through a practice direction, would offer clearer guidance.

This would also help to ensure that key decisions, particularly those with wider implications, are documented and accessible to all parties.

In cases where oral reasons are provided, it would also be helpful to ensure that these reasons are captured in some form of written or recorded format, particularly for unrepresented parties who may not have the resources to request or retain transcripts of hearings.

The full joint CIOT and LITRG response is available here: www.tax.org.uk/ref1395.

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