

**FIRST-TIER TRIBUNAL****TAX CREDITS**

Appellant: [REDACTED]	Tribunal Ref
	NI No [REDACTED]
Respondent: HMRC	

DIRECTIONS NOTICE

1. [REDACTED]'s representative claims that his letter of 14.01.11 to HMRC constituted a valid appeal against HMRC's decision of 24.12.10. However HMRC have done nothing to forward that appeal or its response to that appeal to the Tribunal. [REDACTED] therefore asks the tribunal to direct HMRC to put forward its appeal response.
2. I accept following CH/2812/2005 that it is for the tribunal to rule on whether there is a valid appeal before it: fundamentally that is right because it must be for the tribunal in a genuine dispute to rule on its own jurisdiction rather than allowing the first-tier agency effectively to do so. I therefore differ to the approach adopted earlier by Judge Gill.
3. Moreover, it seems to me that the representative has put forward at least an arguable case that the letter of 14.01.11 was a valid appeal.
4. In the circumstances I direct as follows.
5. A file and reference number is to be created by the Tribunals Service for this application/appeal.
6. A copy of these directions plus the documents filed to date must then be sent to HMRC.
7. HMRC must by no later than 6.11.11 have sent to Tribunals Service in Sutton either (i) the appeal response, or (ii) a submission that sets out clearly and comprehensively why the letter of 14.01.11 does not in law constitute an appeal.

8. If an ordinary appeal response is received from HMRC then the appeal must then be processed in the normal manner.
9. However if either (i) nothing is received from HMRC by 13.11.11 OR (ii) HMRC do file a submission but it is one in which they argue that there is no right of appeal, then the file must be put before Judge S M Wright for further directions to be given.

A party is entitled to challenge any direction given by applying for another direction which amends, suspends or sets aside the first direction.

Signed:	Mr S M Wright	Date:	6.10.11
	Tribunal Judge		
<i>Issued to the parties on:</i>			

**FIRST-TIER TRIBUNAL****TAX CREDITS**


Appellant: M. [REDACTED]	Tribunal Ref
	NI No [REDACTED]
Respondent: HMRC	

DIRECTIONS NOTICE

1. My directions of 6.10.11 refer.
2. HMRC have since then replied by a letter dated 20.10.11. That letter does not meet either of the two alternatives set out in paragraph 7 of the 6.10.11 directions.
3. In fact what the letter does is say is that HMRC's settlement team is trying to settle this appeal and they therefore request an adjournment of the appeal.
4. This short letter tells the tribunal that HMRC now accept that there is a valid appeal (indeed as matter of law the settlement powers in section 54 of the Taxes Management Act 1970 can only apply if there is an appeal). In those circumstances I cannot see any basis for HMRC continue to deny the tribunal and the appellant the response to the **appeal** that it is statutorily required to provide. Moreover it is a legal nonsense to seek to invoke section 54 of the Taxes Management Act 1972 as a ground for adjourning the appeal **and** as a basis for not providing the appeal response. Axiomatically the appeal must be an appeal (and be lodged with the tribunal as such) before any settlement step under section 54 can take place.
5. I am not yet prepared to rule on whether HMRC are by their actions deliberately (and therefore unlawfully) seeking to keep this appeal from the tribunal (though it is difficult to discern what the rational and proper basis is for them continuing to fail to lodge the appeal response with the tribunal). **But HMRC must take urgent and immediate steps to lodge the appeal response with the tribunal.**
6. I therefore refuse HMRC's request for an adjournment of this appeal.

7. I further rule that HMRC must by no later than the deadline previously given (i.e. 6.11.11.) have lodged with the Tribunals Service in Sutton its appeal response.

8. A copy of these directions is to be faxed to HMRC on 01 [REDACTED] today.

Signed:	Mr S M Wright	Date:	1.11.11
Tribunal Judge 			
Issued to the parties on:			