

## EXPLANATORY GUIDE: HOW TO APPEAL TO THE INCOME TAX BOARD OF REVIEW

### 1. Introduction

- 1.1. This guide is designed to provide the appellant with information on filing an appeal to the Income Tax Board of Review (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
1.	Receipt of a Notice of assessment	You would have received a Notice of Assessment (e.g. dated 31 March 2015) issued by the CIT.
2.	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) within 30 days for individuals or 2 months for companies from the date of the service of the Notice of Assessment (e.g. by 31 May 2015).
3.	4. 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 Notice of Refusal to Amend the assessment (e.g. by 30 June 2015).
5.	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 within 30 days after the date of the Notice of Refusal to Amend (e.g. by 30 July 2015).
6.	Lodge a Petition of Appeal to the Board	You will have to submit the Petition of Appeal with the detailed grounds of appeal within 30 days after the date the Notice of Appeal was lodged with the Board (e.g. 30 August 2015 if the Notice of Appeal was submitted on 30 July 2015).
7.	Case Management Conference	The Board will organise a Case Management Conference (“CMC”), if necessary, 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 CMC.
8.	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’ prior notice. The Board

		will then hear the appeal and will make a decision based on the submissions from you and the CIT.
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### **3. What is the Income Tax Board of Review?**

- 3.1. The Board is an independent board constituted by the Income Tax Act (“ITA”).
- 3.2. The Board comprises the Chairperson, Deputy Chairperson(s) and other members who are qualified persons appointed by the Minister for 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(s) 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 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 for individuals or 2 months for companies<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 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<sup>4</sup>.

### **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:
  - a. Accept the CIT’s decision on the item under objection. If so, the assessment will be regarded as final and conclusive; or

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<sup>1</sup> Click on link > <https://www.gov.sg/sgdi/ministries/mof/departments/itbr>.

<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 for all assessments issued on or after 1 January 2014.

<sup>4</sup> Please see [www.mof.gov.sg/policies/taxes/appeal-to-board-of-review](http://www.mof.gov.sg/policies/taxes/appeal-to-board-of-review) > ITBR > Annex A.

- b. File a Notice of Appeal to the Board within 30 days after 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 the appellant 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 after the date of the refusal of the CIT to amend the assessment, a Notice of Appeal by email to [itbr@mof.gov.sg](mailto:itbr@mof.gov.sg); and
  - b. Within 30 days after the date on which such Notice of Appeal was lodged, a Petition of Appeal containing a statement of the grounds of appeal by email to [itbr@mof.gov.sg](mailto:itbr@mof.gov.sg).
- 7.2. If you have any difficulty filing a notice of appeal or a petition of appeal by email, you may send a hardcopy to the address below, and provide reasons why you are unable to file the documents by email:

**Secretary  
Income Tax Board of Review  
100 High Street  
#10-01 The Treasury  
Singapore 179434  
Fax No: 6337 4134**

- 7.3. If the appellant is unable to file the Notice of Appeal or Petition of Appeal by email or within the stipulated time, the person has to seek the Chairperson's approval for his appeal to be heard.
- 7.4. At the time of filing the Notice of Appeal, the appellant must indicate objections (if any), with supporting reasons, to any member of the Board hearing the appeal. The CIT can also indicate objections (if any), with supporting reasons, to any member of the Board hearing the appeal. After reviewing the list of objections (if any), the Chairperson decides on the Panel which will hear the case. The Panel may be a single-member Panel consisting of either the Chairperson or a Deputy Chairperson, or a 3-member Panel consisting of the Chairperson or a Deputy Chairperson with 2 other members.

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

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

7.5. The prescribed forms for filing of the Notice of Appeal and Petition of Appeal are at Annexes B1 and B2<sup>7</sup>.

## **8. Case Management Conferences**

8.1. On receipt of a petition of appeal, the secretary to the Board will forward one copy thereof to the CIT. A CMC will be scheduled, if necessary, 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 CMC 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<sup>8</sup>.

## **9. Grounds of Appeal**

9.1. It is your responsibility<sup>9</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 facts and grounds for appeal in the Petition of Appeal and your supporting submission. An example is provided at Annex D<sup>10</sup> 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 CMC and notifying the Secretary of your request at least 14 days before the hearing. When the Chairperson gives directions to submit documents for the hearing, a date will also be given for the submission of affidavits (if any). All the documents required for the hearing are usually submitted before the appeal is fixed for hearing. Should the parties wish to submit the affidavit after the deadline given by the Chairperson, approval need to be sought from the Chairperson.

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<sup>7</sup> Please see [www.mof.gov.sg/policies/taxes/appeal-to-board-of-review](http://www.mof.gov.sg/policies/taxes/appeal-to-board-of-review) > ITBR > Annexes B1 and B2.

<sup>8</sup> Please see [www.mof.gov.sg/policies/taxes/appeal-to-board-of-review](http://www.mof.gov.sg/policies/taxes/appeal-to-board-of-review) > ITBR > Annex C.

<sup>9</sup> Section 80(4) of the ITA.

<sup>10</sup> Please see [www.mof.gov.sg/policies/taxes/appeal-to-board-of-review](http://www.mof.gov.sg/policies/taxes/appeal-to-board-of-review) > ITBR > Annex D.

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. At least 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>11</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 may 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

If the appeal is in respect of section 93A of the ITA (Relief in respect of error or mistake), the appellant 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.

12.2. Payment of prescribed fees to the Income Tax Board of Review shall be made by way of PayNow Corporate.

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<sup>11</sup> Section 2 of the ITA defines an "accountant" to mean a public accountant within the meaning of the Accountants Act (Cap. 2).

- 12.3. Please enter our UEN as “T08GA0013EM01” when making payment or scan the following QR code:



- 12.4. For payment by way of PayNow Corporate, please indicate “ITBR-” followed by your Identification No. (first and last four characters only) or UEN in the remarks when making the transfer. For e.g. If the Identification No. is S1234567A, the reference in the remarks will be “ITBR-SXXXX567A” and if the UEN is 123456789A, the reference in the remarks will be “ITBR-123456789A”.
- 12.5. Please note that if any authorisation for the payment of fees to the Board is dishonoured or revoked, and if payment is not received within seven days after being notified of such dishonour or revocation, the notice of appeal or notification that the dishonoured or revoked payment was made for would be deemed not to be lodged.
- 12.6. In the event that there is excess payment received, the refund of the excess amount will approximately take 2 weeks (subject to any rejection from the Bank) from the next working day after your bank account details are verified to be in order. If you do not have an existing bank record with the Accountant-General, you will be required to fill in a Direct Credit Authorisation Form before the refund can be processed. It is recommended that you contact the Board to confirm the filing fee payable, if you are unsure.

### **13. Withdrawal of Appeals**

- 13.1. You can withdraw your appeal at any time by writing to the Board, and your application for withdrawal is subject to the Board’s consent and any conditions that may be imposed by the Board (e.g. in relation to costs). 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. You 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 exceeds \$200<sup>12</sup>.

## 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 8548 or email us at [itbr@mof.gov.sg](mailto:itbr@mof.gov.sg).

## 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 CMC 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 within 30 days after the date of Notice of Refusal to Amend in accordance with para 7.1 above, together with the CIT's Notice of Refusal to Amend.

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

It is not a requirement to engage a legal 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.

- (iv) *How long will the hearing take?*

It depends on the complexity of the appeal; it may vary from one to three days, or longer if necessary.

- (v) *How do I request for an extension of deadline to file the notice of appeal/petition of appeal/hearing submissions and/or adjournment of CMC/hearing dates?*

You may write in to request for an extension of deadline to file the notice of appeal/petition of appeal/hearing submissions and/or adjournment of CMC/hearing dates. Subject to the directions of the Chairperson or Deputy Chairperson, the request should be submitted in writing at least one week in advance of the given deadline and

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<sup>12</sup> Section 81(2) of the ITA.

will be considered on a case-by case basis and the Chairperson or Deputy Chairperson will decide whether to approve the request.

Any party, who requires an extension of time for the submission of forms/documents and/or an adjournment of CMC/hearing dates, is to seek the consent of the other party to the appeal. Unilateral requests made without first seeking the consent or views of the other party to the appeal will not be acceded to, except in the most exceptional circumstances. The applicant should state the reason for the request as well as the position of the other party on such extension. If the consent of all parties to the appeal is obtained, the request should state that all parties have consented to the request for extension of time. However, this does not mean that the request will be granted as a matter of course. In any event, the Board retains its discretion whether to grant such extension of time.

(vi) *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 sets 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 Board to support the appeal.