

## EXPLANATORY GUIDE: HOW TO APPEAL TO THE GOODS AND SERVICES TAX BOARD OF REVIEW

### 1. Introduction

- 1.1. This guide is designed to provide the appellant with information on filing an appeal to the Goods and Services Tax Board of Review (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
1.	Receipt of CGST’s decision	You would have been notified of a decision by the CGST (e.g. on 31 March 2015).
2.	Lodge a notice of objection to the CGST	If you disagree with the decision, and the decision is covered under s 49(1) of the Goods and Services Act 1993 (“GSTA”), a written notice of objection for review and revision of that decision must be filed with the CGST within 30 days after you were notified of CGST’s decision (e.g. by 30 Apr 2015). You should state precisely the grounds of your objection in your notice of objection.
3.	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 Notice of Comptroller’s Decision within a reasonable time (e.g. by 31 May 2015).
4.	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 within 30 days after the date of the Notice of Comptroller’s Decision (e.g. by 30 June 2015).
5.	Lodge a Petition of Appeal to the Board	You will have to submit the Petition of Appeal (“POA”) with the detailed grounds of appeal within 30 days after the date the Notice of Appeal was lodged with the Board (e.g. 30 July 2015 if the Notice of Appeal is submitted on 30 June 2015). The Board will inform you on the appeal number of your appeal upon receipt of your POA.
6.	Case Management Conference between you and the CGST	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 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 CMC.
7.	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’ prior notice. The Board will then hear

		the appeal and will make a decision based on the submissions from you and the CGST.
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### **3. What is the Goods and Services Tax Board of Review?**

- 3.1. The Board is an independent board constituted by the Goods and Services Tax Act.
- 3.2. The Board comprises the Chairperson and other members who are qualified persons appointed by the Minister for 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”) website<sup>1</sup>.

### **4. Goods and Services Tax Assessment and Objection Process**

- 4.1. The CGST is empowered under the GSTA<sup>2</sup> to raise assessments (such as where you fail to make the required returns or submit incomplete or incorrect returns) 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 days<sup>3</sup> from the date of the Notice of Assessment, unless the CGST grants an extension of time. If no valid objection has been filed within the stipulated time, the CGST’s assessment is final.
- 4.3. The objection process may also be applicable where no Notice of Assessment (“NOA”) was issued by the CGST<sup>4</sup>.
- 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 Decision<sup>5</sup> 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

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

<sup>2</sup> Section 45 of the GSTA.

<sup>3</sup> Section 49(2) of the GSTA.

<sup>4</sup> Section 49(1) of the GSTA.

<sup>5</sup> Section 49(3) of the GSTA.

- b. File a Notice of Appeal to the Board within 30 days after 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 the appellant 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 is final and you cannot appeal against the Board's decision unless there is any question of law or of mixed law and fact and the tax payable or amount due to you is more than \$500<sup>6</sup>. It is up to you to decide whether you 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 documents<sup>7</sup>:
  - a. Within 30 days after the date of the Notice of Comptroller's Decision issued by the CGST, a Notice of Appeal by email to [gstbr@mof.gov.sg](mailto:gstbr@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 [gstbr@mof.gov.sg](mailto:gstbr@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  
GST Board of Review  
100 High Street  
#10-01 The Treasury  
Singapore 179434  
Fax No: 6337 4134**

- 7.3. If you are unable to file the Notice of Appeal or Petition of Appeal by email or within the stipulated time, you will have to seek the Chairperson's approval for your appeal to be heard<sup>8</sup>.
- 7.4. At the time of filing the Notice of Appeal, you must indicate objections (if any), with supporting reasons, to any member of the Board hearing the appeal. The CGST 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.

<sup>6</sup> Section 54(2) of the GSTA.

<sup>7</sup> Section 51(1) of the GSTA.

<sup>8</sup> Section 51(5) of the GSTA.

7.5. The prescribed form for filing of the Notice of Appeal is at Annex A<sup>9</sup>.

## **8. Case Management Conferences**

8.1. On receipt of a petition of appeal, the secretary to the Board will forward it to the CGST. A CMC will be scheduled, if necessary, 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 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 CGST decide 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<sup>10</sup>.

## **9. Grounds of Appeal**

9.1. It is your responsibility 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<sup>11</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 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 a hearing, a date will also be given for the submission of affidavits (if any). All the documents required for the hearing 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.

## **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 CGST on the time and

<sup>9</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) > GST > Annex A.

<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) > GST > Annex B.

<sup>11</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) > GST > Annex C.

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<sup>12</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 decision appealed against
(b) a person other than a company	\$50 for each decision appealed against

- 12.2. Payment of prescribed fees to the Goods and Services Tax Board of Review shall be made by way of PayNow Corporate.
- 12.3. Please enter our UEN as “T08GA0013EM01” when making payment or scan the following QR code:



<sup>12</sup> Section 2 of the GSTA defines an “accountant” to mean a public accountant within the meaning of the Accountants Act (Cap. 2).  
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- 12.4. Please indicate “GSTBR-” followed by your GST Registration No. in the remarks when making the transfer. For e.g. If the GST Registration No. is A12345678A, the reference in the remarks will be “GSTBR-A12345678A”.
- 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 of 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 the appellant’s bank account details are verified to be in order. If the appellant does not have an existing bank record with the Accountant-General, the appellant is required to fill in a Direct Credit Authorisation Form. It is recommended that the appellant contacts the Board to confirm the filling fee payable.

### **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 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. You 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 \$500<sup>13</sup>.

### **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 8548 or email us at [gstbr@mof.gov.sg](mailto: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 CMC stage or they need to proceed to hearing.

- (ii) *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 Goods and

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<sup>13</sup> Section 54(2) of GSTA.  
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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, or longer if necessary.

(iv) *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 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 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. The Board retains its discretion whether to grant such extension of time.

(v) *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.