



TC07838

Appeal number: TC/2019/00352

Excise Duty - tobacco products seized - appeal against assessment and wrongdoing penalties - no challenge of seizure in Magistrates Court - provisions of Schedule 3 CEMA 1979 considered - HMRC failed to give notice of seizure - whether such failure permitted the tribunal to consider the appellant's grounds of appeal that the goods were for his personal use - yes – whether personal use - yes - whether the assessment was correct - no - whether special circumstances - yes - penalty discharged - appeal allowed

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

JOHN MOSSON

Appellant

- and -

**THE COMMISSIONERS FOR HER
MAJESTY'S
REVENUE & CUSTOMS**

Respondents

**TRIBUNAL: JUDGE MICHAEL CONNELL
MARYVONNE HANDS**

**Sitting in public at Nottingham Justice Centre, Carrington Street, Nottingham on
29 January 2020**

The Appellant in person

Mr Thomas Nicholson, Officer of HMRC, for the Respondents

DECISION

1. This is an appeal by Mr John Mosson (“the appellant”) against a decision by the Respondents (“HMRC”) on 25 April 2018, to issue the appellant with an Excise Duty Assessment in the amount of £884 (“the Assessment”) and a Wrongdoing Penalty in the amount of £176 (“the Penalty”).

Background

2. On 2 December 2017, the appellant arrived at Dover Eastern Docks travelling on a National Holiday’s coach, on return from Oostende, Belgium.

3. At 18.20pm he was stopped and questioned by UK Border Force Officer Sherman who proceeded to ask the appellant if he had purchased any alcohol, cigarettes or tobacco. The appellant informed the Officer that he had purchased 4 Kg Drum Original hand rolling tobacco and some wine and produced receipts for the goods.

4. The appellant advised that the tobacco was for his wife and the wine for himself. He stated that the tobacco would last his wife until May/June 2018, when he would travel again. He said that his wife smokes two pouches of tobacco a week and he had previously travelled in 2017 to purchase the same amount of tobacco for his wife. The appellant confirmed that his wife was in employment and would pay for the tobacco. He was in receipt of a state pension.

5. After initial questioning (from 18.20 pm to 19.00 pm) Officer Sherman read and explained the commerciality statement to the appellant and advised that he needed to carry out a further interview to establish if the goods were for personal or commercial purposes. The appellant says that he felt unwell and declined the further interview and could not wait for the paperwork which is issued on a seizure of goods (see paragraph 9 below). Officer Sherman informed the appellant that if he did not stay for interview and satisfy the Officer that the tobacco was for personal use, he may conclude that the goods were held for a commercial purpose.

6. He asked the appellant to countersign his notebook entries. The appellant said that he did not have his reading glasses with him. Officer Sherman therefore read out his notes. The appellant signed the Officer’s notebook agreeing that they were a true and accurate account and that he understood the commerciality statement. At 19.07pm the appellant left the control room.

7. The appellant explains that he had to leave and could not wait to be interviewed as he was in considerable discomfort. He suffers from heart problems, prostate cancer and has significant mobility problems. The interview with Officer Sherman’s had taken much longer than he thought necessary. Officer Sherman’s notebook entries show that

from the time the Officer stopped the appellant at approximately 18.20pm to the time when the appellant decided he had to leave, almost 50 minutes had elapsed.

8. Officer Sherman's notes show that approximately 4 minutes after the appellant left, at 19.11pm he seized the goods, having concluded that the goods were held for a commercial purpose and therefore liable to forfeiture under s 49(1)(a)(i) of the Customs and Excise Management Act 1979 ("CEMA") and Regulation 88 of the Excise Goods (Holding Movement and Duty Point) Regulations 2010 for the contravention of the Regulations, including the non-payment of duty. The tobacco was seized under s 139 (1) CEMA.

9. Because the appellant had declined to wait for the paperwork (forms BOR 156 (Seizure Information Notice) and BOR 162 (Warning Letter about Seized Goods) and Public Notices 1 and 12A, Officer Sherman did not have the appellant's address to send them to him. The BOR156 and other documentation were not sent to the appellant and therefore the appellant never received a Notice of Seizure. He did not receive any correspondence from HMRC or an explanation as to why Officer Sherman concluded that the goods were held for a commercial purpose until some months later when he was notified of the assessment and penalty.

10. Notice 12A explains that a challenge to the legality of seizure in the Magistrates' court should be made within one month of the date of seizure. The warning letter makes it clear that a seizure is without prejudice to other action that could be taken and that this includes HMRC issuing an assessment for evaded excise duty and a wrongdoing penalty.

11. The appellant did not challenge the legality of seizure within the permitted one month period and therefore all of the seized goods are deemed to have been legally seized.

12. Where an appellant fails to challenge the liability to forfeiture, paragraph 5 of Schedule 3 to CEMA provides that the goods in question shall be deemed to have been duly condemned as forfeited. That is a conclusive determination regarding the liability to forfeiture of the goods, and that they were held for a commercial purpose. As such, a duty point was prompted under Regulation 13(1) of the Excise Goods (Holding & Movement and Duty Point) Regulation 2010 and the Commissioners may assess for duty under s 12 of the Finance Act 1994.

13. On 29 March 2018, Officer White wrote to the appellant to advise him that HMRC would not seek criminal proceedings against him, but excise duty on the seized goods of £884 would be due. In her letter Officer White said:

"civil action (against you) may include an assessment to recover the duty that is due and the imposition of a financial penalty. This was explained to you in Form BOR162... you had the right to make a claim that the goods seized as liability to forfeiture were not so liable by submitting a Notice of Claim to the boarder force within one calendar month of the date of seizure, this was explained in Notice 12A. As no such claim was made your goods are duly condemned as forfeited. This means that you no longer have

the right to challenge the lawfulness of the seizure or the liability of the goods to forfeiture”.

The documentation bundle prepared by HMRC for the appeal hearing and which included correspondence between HMRC and the appellant confirmed that forms BOR156, BOR162 and Public Notices 1 and 12A had not been sent to Mr Mosson, possibly because initially, at least, HMRC did not have Mr Mosson’s address. Clearly HMRC had ascertained Mr Mosson’s address by the time Officer White wrote to him on 29 March 2018.

14. Officer White went on to advise that a Wrongdoing Penalty of £185 would be charged. A penalty explanation was included in relation to the penalties being charged. The appellant was given the opportunity to submit any relevant information that may affect Officer White’s view of the matter.

15. The letter was accompanied with copies of:

- CC/FS9 ‘Human Rights Act and penalties’
- CC/FS1d General information about compliance checks into Excise matters
- CC/FS12 ‘Penalties for VAT and Excise wrongdoings’
- NPPS 100 Penalty Explanation
- NPPS100(S) Penalty explanation - Schedule 1
- Excise Duty Schedule

16. Officer White referred the appellant to HMRC’s fact sheet which explains how penalties are calculated. The fact sheet states that the penalty percentage “will fall within a range. This range will depend on HMRC’s view of the type of behaviour and whether the disclosure was unprompted or prompted. The following table shows the penalty ranges”.

<u>Type of behaviour</u>	<u>Unprompted disclosure.</u>	<u>Prompted disclosure</u>
Non-deliberate	10% to 30%	20% to 30%
Deliberate	20% to 70%	35% to 70%
Deliberate and concealed	30% to 100%	50% to 100%

17. The Penalty notice explained that HMRC can reduce the percentage depending on their view of how much assistance the appellant had given them during their check. This assistance is referred to as the ‘quality of disclosure’ (or as ‘telling, helping and giving’). It explained that HMRC work out the difference between the minimum and maximum penalty percentages (Stage 1) and then multiply that figure by the total reduction (Stage 2) to get the percentage reduction.

18. Officer White considered that the behaviour of the appellant was ‘non-deliberate’ but that the disclosure was prompted because he did not tell UKBF about the wrongdoing before he had reason to believe they had discovered it, or were about to discover it.. For this ‘non deliberate’ wrongdoing, with a prompted disclosure, the minimum penalty percentage is 20% and the maximum penalty percentage is 30%.

19. For 'telling', HMRC had given partial reduction of 20% as the appellant did disclose the inaccuracy in full but failed to admit there was a wrongdoing and how the wrongdoing arose. For 'helping' a full reduction of 30% had been given as no helping was needed to calculate the excise assessment. For 'giving' a full reduction of 30% had been given as no giving of information was needed to calculate the excise assessment. HMRC had therefore given a total of 90%. The maximum penalty was 30% of the duty that would have been payable and that was reduced by 90% of the 10% difference between the maximum and minimum penalties, that is 9.00% leaving a penalty of 21.00% of the potential lost revenue payable, that is £185. Calculations were provided to the appellant to show how HMRC had arrived at the assessments and penalties.

20. On 9 April 2018, the appellant replied to HMRC reiterating that he had purchased the goods for his wife and had done the same the year before. On that occasion the Border Force Officer was satisfied with his explanation and allowed him to keep the goods. The appellant informed Officer White that he was in poor health and suffers from prostate cancer, heart problems, diabetes, eyesight problems, is housebound and living in a warden aided accommodation. The appellant also said that he could not afford to pay the amount due

21. On 25 April 2018, HMRC Officer Halliday issued the excise assessment and wrongdoing penalty to the appellant. Officer Halliday advised the appellant that she had considered the additional information provided and reduced the wrongdoing penalty to £176 by applying a 100% reduction of the 10% penalty range, thereby increasing the reduction to 90% and imposing a 20% penalty. Enclosed with this letter were the documents EX601(1), EX601(2), EX603, excise duty schedule, NPPS2, NPPS2S and NPPS8B.

22. On 20 November 2018, the appellant wrote to HMRC requesting an independent review. He again stated that in the previous year he had bought back the same amount of goods and was stopped and questioned but was allowed to keep the goods. On this occasion his partner had paid approximately £660 for the tobacco which was for her consumption and was now being asked to pay £400 more. In his view the tobacco was unfairly seized.

23. On 26 November 2018 Officer Davies notified the appellant that the late review request had been accepted and the case was referred to the Reviews Team for an independent review.

24. On 7 January 2019, Officer Noble of HMRC Reviews & Litigation Team, issued the appellant with a review conclusion letter. The Officer found that the decision to issue the Assessment in the amount of £884 and wrongdoing penalty in the amount of £176 should be upheld.

25. Officer Noble said that he could not consider the legality of the seizure on 2 December 2017 itself as part of his review. The legality of the seizure is something which can only be considered by the Magistrates' court.

26. Officer Noble explained that the Customs and Excise Management Act 1979, schedule 3, states that if the traveller does not agree that goods seized were for a

commercial purpose, they have one calendar month in which to submit a notice of claim against the seizure. The Border Force Officer had read the commerciality statement to the appellant who declined to stay for an interview or wait for a copy of the seizure paperwork, following which the Officer seized the goods. As such, Officer Noble was satisfied that the appellant was aware why the goods had been formally seized and it had been open to the appellant to challenge that decision in the Magistrates' court if he wished to do so.

27. On 16 January 2019 the appellant sent a Notice of Appeal which was acknowledged by the Tribunal on 26 January 2019.

Evidence

28. HMRC provided a hearing bundle in two parts which included correspondence between HMRC and the appellant, the witness statements of Officer Halliday and Officer Sherman, a copy of Officer Sherman's notebook entry together with relevant authorities and legislation. Officer Sherman gave no evidence to the tribunal

The law

29. Regulation 5 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 states:

“5. Subject to Regulation 7(2), there is an excise duty point at the time when excise goods are released for consumption in the United Kingdom”

30. Regulation 6 (1), (2), (3) and 10 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 provide that:

“6.(1) Excise goods are released for consumption in the United Kingdom at the time when the goods -

1. leave a duty suspension arrangement;
2. are held outside a duty suspension arrangement and UK excise duty on those goods has not been paid, relieved, remitted or deferred under a duty deferment arrangement;
3. are produced outside a duty suspension arrangement; or
4. are charged with duty at importation unless they are placed, immediately upon importation, under a duty suspension arrangement.

(2) In paragraph (1)(d) “importation” means -

- (a) the entry into the United Kingdom of excise goods other than EU excise goods, unless the goods upon their entry into the United Kingdom are immediately placed under a customs suspensive procedure or arrangement; or
- (b) the release in the United Kingdom of excise goods from a customs suspensive procedure or arrangement.

(3) In paragraph (2)(a) “EU excise goods” means excise goods imported into the United Kingdom from another Member State which have been produced or are in free circulation in the EU at that importation.”

10.(1) The person liable to pay the duty when excise goods are released for consumption by virtue of regulation 6(1)(b) (holding of excise goods outside a duty suspension arrangement) is the person holding the excise goods at that time.

(2) Any other person involved in the holding of the excise goods is jointly and severally liable to pay the duty with the person specified in paragraph (1).

(b) in the case of chewing tobacco.”

31. Regulation 88 of the Excise Goods (Holding Movement and Duty Point) Regulations 2010 states:

“88. If in relation to any excise goods that are liable to duty that has not been paid there is -

(a) a contravention of any provision of these Regulations, or

(b) a contravention of any condition or restriction imposed by or under these Regulations,

Those goods shall be liable to forfeiture.”

32. The Customs and Excise Management Act 1979 (“CEMA”) provides:

“49.(1) Where -

a) except as provided by or under the Customs and Excise Acts 1979, any imported goods, being chargeable on their importation with customs or excise duty, are, without payment of that duty -

those goods shall ...be liable to forfeiture.

“139.(1) Anything liable to forfeiture under the Customs and Excise Acts may be seized or detained by any officer...”

33. Schedule 3 CEMA provides:

Provisions Relating to Forfeiture – Notice of seizure

1. (1) The Commissioners shall, except as provided in sub-paragraph (2) below, give notice of the seizure of any thing as liable to forfeiture and of the grounds therefor to any person who to their knowledge was at the time of the seizure the owner or one of the owners thereof.

(2) Notice need not be given under this paragraph if the seizure was made in the presence of

(a) The person whose offence or suspected offence occasioned the seizure, or

- (b) The owner or any of the owners of the thing seizure or any servant or agent of his; or
 - (c) In the case of anything seized in any ship or aircraft, the master or commander.
2. Notice under paragraph 1 above shall be given in writing and shall be deemed to have been duly served on the person concerned:-
- (a) if delivered to him personally; or
 - (b) if addressed to him and left or forwarded by post to him at his usual or last known place of abode or business or, in the case of a body corporate, at their registered or principal office; or
 - (c) where he has no address within the United Kingdom [or the Isle of Man], or his address is unknown, by publication of notice of the seizure in the London, Edinburgh or Belfast Gazette.

Notice of Claim

3. Any person claiming that any thing seized as liable to forfeiture is not so liable shall, within one month of the date of the notice of seizure or, where no such notice has been served on him, within one month of the date of the seizure, give notice of his claim in writing to the Commissioners at any office of customs and excise.
4. (1) Any notice under paragraph 3 above shall specify the name and address of the claimant and, in the case of the claimant who is outside the United Kingdom [and the Isle of Man], shall specify the name and address of a Solicitor in the United Kingdom who is authorised to accept service of process and to act on behalf of the claimant.
- (2) Service of process upon a Solicitor so specified shall be deemed to be proper service upon the claimant.
5. If on the expiration of the relevant period under paragraph 3 above for the giving of notice of claim in respect of any thing no such notice has been given to the Commissioners, or if, in the case of any such notice given, any requirement of paragraph 4 above is not complied with, the thing in question shall be deemed to have been duly condemned as forfeited.
6. Where notice of claim in respect of any thing is duly given in accordance with paragraphs 3 and 4 above, the Commissioners shall take proceedings for the condemnation of that thing by the court, and if the court finds that the thing was at the time of seizure liable to forfeiture the court shall condemn it as forfeited.

The Appellant's Case

34. The appellant appeals on the grounds that the tobacco was for his wife's own personal use. The grounds of appeal as stated in his Notice of Appeal are:

“The original goods were seized and confiscated even though I explained that the tobacco was purchased for my wife. I was treated as though I was a smuggler but had not travelled since December the previous year, almost 12 months. I was checked and allowed to pass through customs without any problems so at a loss as to why a year later they deemed it fit to penalise me. I now suffer severe health problems which includes prostate cancer and heart problems leaving me virtually housebound and unable to walk long distances and this has caused me so much stress/anxiety exacerbating my illnesses. I feel it is unjustified and unfair as per the reasons stated in attached document. The monthly amount I have been asked to pay exceeds what I have left each month to live on so it is totally unreasonable. I live in a warden aided property and have no savings.”

35. At the hearing, the appellant reiterated the above grounds of appeal. He added that on the day he was stopped he had been travelling since 5.00am and was in need of medication. During the questioning process, Officer Sherman had taken his passport (to write up his notebook notes) and did not return for quite a long time. He felt very unwell and needed his medication. That was the reason he declined to stay for interview.

36. The appellant said that he was very aggrieved that it had not been clearly explained to him why Officer Sherman considered he, the appellant, had a commercial purpose. Whilst the amount of tobacco exceeded guidelines, that was only because he went to Belgium very infrequently and the tobacco was intended to last his wife until May 2018. No attempt had been made by Officer Sherman to address that particular point. Furthermore, the decision maker now accepted that any wrongdoing, (which he, the appellant denied in any event) was 'non deliberate'. He had also not been given the opportunity of explaining in writing why he considered he had not committed any wrongdoing before the Assessment and Penalties were issued on 29 March 2018.

HMRC's Case

37. The appellant did not challenge the legality of seizures and therefore the goods were deemed to be duly condemned as forfeit under Paragraph 5 Schedule 3 of CEMA. Thus, the legality of the seizure and the underlying reason for this - that the goods were for a commercial purpose and not for own use - has been deemed a fact.

38. In consequence the Tribunal cannot reopen this issue and has no jurisdiction to hear evidence about whether the goods were intended for personal use because that fact has been finally determined by the Magistrates or Paragraph 5 of Schedule 3. Whether or not the appellant might have afterwards given the goods to his wife and/or not sold any of the goods himself, is wholly immaterial.

39. The appellant is liable to pay the Assessment as he was “holding the goods intended for commercial use” pursuant to Regulation 13(2)(b) of the 2010 Regulations. For the purposes of Regulation 13(2)(b) of the 2010 Regulations it is irrelevant whether

or not the appellant was involved in the sale and purchase of the goods or whether he owned those goods, what is relevant is the appellant's 'holding' of the goods.

40. Officer Noble was satisfied that a non-deliberate penalty was appropriate as there was insufficient evidence to show that the appellant was deliberately importing non-duty paid goods into the United Kingdom. He was also satisfied that a non-concealed wrongdoing was the correct conclusion as there is nothing to suggest that the appellant attempted to conceal the goods from the Border Force Officer when stopped on 2 December 2017. He was also satisfied that a penalty based on prompted disclosure should be maintained.

41. Pursuant to Schedule 41 of the Finance Act 2008, the assessment was calculated based on a percentage of the total Potential Lost Revenue ("PLR"), which was £885. The penalty was calculated at 20.00% of the PLR because of the appellant's level of co-operation during the enquiry the maximum reduction for a non-deliberate prompted disclosure was given. The penalty was therefore £176.

42. Officer Noble gave consideration as to whether there was a reasonable excuse for the non-deliberate wrongdoing, in this instance relating to the penalty of £176. HMRC consider reasonable excuse to be something that stops a person meeting their tax obligation despite them having taken reasonable care to meet that obligation. Officer Noble considered the information the appellant had provided with regards to his current health situation, however he had not provided the Officer with any evidence of how his condition contributed to the wrongdoing on 2 December 2017. In consequence Officer Noble did not find that the information provided that the appellant could be considered as having a reasonable excuse.

Conclusion

43. The facts of the matter are not in dispute.

The Excise Duty assessment

44. HMRC assert that because the appellant did not challenge the seizure and the goods were therefore deemed to be duly condemned as forfeit under Paragraph 5 Schedule 3 of CEMA, the legality of the seizure has been deemed a fact.

45. The tribunal recognises that the deeming process limits the scope of the issue which the appellant is entitled to ventilate with regard to his appeal against the assessment. Ordinarily it is not open to the Tribunal to consider whether the goods were legal imports improperly seized by HMRC by finding as a fact that they were intended for own use. The deemed effect of failure to contest the seizure and condemnation of the goods is that the appellant acquired possession of the goods and carried the goods into the UK for a commercial purpose.

46. However, in this case HMRC did not comply with the provisions of 1 and 2 of Schedule 3 CEMA. The seizure of the goods by Officer Sherman took place after the appellant had left UK Border Force Control and a Notice of the Seizure, that is,

BOR162, BOR156 and Public Notices 1 and 12A were not given to the appellant. The Notice of Seizure was not posted to the appellant as required pursuant to paragraph 1 of Schedule 3 and there is no assertion by HMRC that the notice of seizure was published in the London Gazette (being an alternative method of service pursuant to paragraph 2(c) of Schedule 3.

47. Officer White's letter to the appellant dated 29 March 2018 was incorrect in so far as it stated that the appellant had received form BOR162 and Public Notice 12A.

48. Accordingly HMRC did not follow due process with regard to giving Notice of Seizure and in consequence the provisions of Regulations 13(1) and 13(2) of the Excise Goods (Holding Movement and Duty Point) Regulations 2010 which render the appellant liable to pay an excise duty assessment do not apply and his right to challenge the lawfulness of the seizure remained open.

49. Officer Sherman's notebook and a witness statement confirmed that after Mr Mosson had declined to stay for interview and await the paperwork, he seized the 4kg Drum hand rolling tobacco under Section 139 CEMA without setting out in his notes why he had arrived at that conclusion. At the hearing, although it would not ordinarily be open to the tribunal to consider whether the goods were legal imports improperly seized by HMRC, in answer to questions put to him Officer Sherman was unable to elaborate on why he considered that the tobacco purchased by the appellant for his wife had been held for a commercial purpose. He had not asked the appellant any questions as to the quantity of tobacco purchased or how many cigarettes Mrs Mosson smoked.

50. In all the circumstances we have to conclude that HMRC did not follow the correct procedure for the purposes of seizing and forfeiting the goods and that it is open to this tribunal to conclude, as we do, that the goods were in fact held for personal use.

51. We accordingly discharge the assessment.

The Penalty

52. Where HMRC are satisfied that there has been a wrongdoing, they are empowered to issue a wrongdoing Penalty under Schedule 41 of the Finance Act 2008.

53. For the same reasons that are given above with regard to our decision to discharge the excise duty assessment we conclude that there was no wrongdoing and also discharge the wrongdoing penalty.

54. In the event that we are incorrect in deciding that the excise duty assessment should be discharged we consider that the penalty should be discharged because there are special circumstances which make it right to do so.

55. HMRC's review of the penalty states that: "Special circumstances are either; uncommon or exceptional, or where the strict application of the penalty law produces a result that is contrary to the clear compliance intention of that penalty law". It found that no special circumstances arose in this case.

56. We accept the appellant's explanation as to why he could not wait to be further interviewed and had to leave. He was unwell and Officer Sherman's notebook entries show that at the time he left, 50 minutes had already elapsed. The Officer had informed the appellant that if he could not provide the Officer with a satisfactory explanation or did not stay for interview, he *may* conclude that the goods were held for a commercial purpose but he had not asked the appellant any questions as to how long the cigarettes would 'last' Mr Mosson.

57. Officer Sherman's notes show that less than five minutes later at 19.11pm he seized the goods as liable for forfeiture, having concluded that they were held for a commercial purpose.

58. Officer Sherman knew at that stage that he did not have the appellant's address to send the necessary paperwork which would have notified the appellant of the seizure and explained how a seizure of goods can be challenged within a certain time period). Although Officer Sherman may have considered that he had valid reasons for arriving at his decision, those reasons were not explained and are not apparent from his notebook entries. In our view there was nothing in what the appellant told Officer Sherman that may have supported a conclusion that the goods were held for a commercial purpose. However, almost immediately after the appellant left, Officer Sherman arrived at that decision.

59. HMRC subsequently decided that the appellant had committed a wrongdoing but he had not done so deliberately. HMRC also decided that it had been a non-concealed wrongdoing and there was nothing to suggest that the appellant attempted to conceal the goods from Officer Sherman. Had the appellant been well enough to submit for further interview, Officer Sherman may have come to the conclusion that the goods were for personal use and not held for a commercial purpose. Although that particular issue is now a deemed fact if by reasoning in paragraphs 45-49 above is incorrect it has resulted an outcome which appears disproportionate, unfair and contrary to the compliance intention of the penalty law. We therefore conclude that in the particular circumstance of this case special circumstances exist to justify a cancellation of the penalty.

60. Accordingly, the appeal against the penalty for wrongdoing of £176 is allowed.

61. This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later than 56 days after this decision is sent to that party. The parties are referred to "Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)" which accompanies and forms part of this decision notice.

**MICHAEL CONNELL
TRIBUNAL JUDGE**

RELEASE DATE: 10 SEPTEMBER 2020

