International Association of Tax Judges
6th Assembly, Lucerne, September 2015

Session on Wording of Tax Decisions – The United Kingdom

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The System of UK Tax Appeals

1. Most tax appeals are heard at first instance by the First-tier Tribunal (Tax Chamber) ("FTT"). The FTT deals with all direct and indirect taxes.

2. There is usually a further appeal from the FTT to the Upper Tribunal (Tax and Chancery Chamber) ("UT") and from there to the Court of Appeal in England and Wales or the Court of Session in Scotland. A small number of the most important cases may then go on appeal to the Supreme Court. Permission to appeal is required at every stage above the FTT.

3. This note deals principally with decisions in the FTT but some mention will be made at the end of appeals to the UT and above.

First instance tax appeals

The FTT's usual jurisdiction

4. The FTT is created by statute and only has the powers on appeal conferred by statute. The FTT's usual role in most appeals is:

    a. to receive evidence (documentary and witness evidence),

    b. to find the facts where they are in dispute,

    c. to apply the law to the facts (as agreed or as found to exist by the FTT), and

    d. to determine whether the Revenue's decision against which the taxpayer has appealed is right or wrong.

5. If the FTT concludes that the Revenue's decision is wrong, the FTT must determine what is correct and to replace the decision appealed against with the correct result.

6. In some matters the FTT has only a "supervisory jurisdiction" rather than a full appeal jurisdiction. These cases usually relate to some administrative matter or the way in which the Revenue has exercised a discretion that has been conferred upon it. In such cases the FTT must still find the relevant facts but is not concerned as such with whether the Revenue's decision was right or wrong or whether the FTT agrees with it. Instead, it is concerned with whether the decision was properly made, in particular whether in the circumstances it was a reasonable decision to make. If it was not, the FTT does not usually correct the decision itself but may require the Revenue to review or reconsider the matter and, having done so, remake its decision.

7. The Administrative Division of the High Court and the Upper Tribunal have a broader powers to review Revenue administrative action through their power of "judicial review". No such general

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power of review is vested in the FTT, which can only exercise a supervisory jurisdiction where specific power to do so has been vested in it by the relevant tax statute.

8. An appeal against the FTT's decision in only on a point of law, i.e. the person appealing the FTT's decision (whether the taxpayer or the Revenue authority) must show that the FTT has made an error in its legal reasoning or in the legal conclusion that it has reached. Subject to what is said in paragraph 56 below, there is no appeal against the FTT's findings of fact and generally speaking the higher appeal courts must reach their decisions on the law based on the facts as found by the FTT.

The composition of the FTT – who writes the decision?

9. Appeals in the FTT may be heard by a single legally qualified judge, or by a panel of two or three comprising a legally qualified judge (who will chair the proceedings) and either another judge or a lay tribunal member or members.[2] Certain categories of minor appeal can be heard without the necessity of a legally qualified Judge but with two or three lay members one of whom is qualified to chair the proceedings.

10. The panel chairman is usually responsible for drafting the decision but if the panel is more than one, responsibility for drafting the decision or part of a decision may be delegated to other panel members. The Judge will not usually delegate drafting to a lay member but there is no Rule against it. Where the panel comprises two Judges either of them may take responsibility for the drafting, or they may split the task between them.

11. The decision will always be written as a single decision, usually representing the unanimous conclusion of the FTT panel (if more than one). In contrast to the position often adopted in the Court of Appeal and Supreme Court, panel members do not write their own judgment. If the FTT panel cannot agree on an issue that must be decided (e.g. on a particular view of the evidence such as whether a witness should be believed or not or where conflicting evidence is involved, or on an issue of law that falls to be decided by reference to the facts), there will still only be a single decision. That single decision should usually record that the decision is not unanimous and may where appropriate record the different views of the panel on the issue and explain the reasons for the disagreement. The Chairman, however, has a casting vote on any issue in the case of equality so that the Chairman's view on the issue will ordinarily prevail.[3]

The appeal procedure – the materials available to write a decision

12. The FTT has procedural rules[4] that provide it with considerable freedom as to the manner in which it conducts its proceedings.[5] The FTT rules do not prescribe how its decisions should be written but the categorisation of the appeal and the pre-hearing procedure (including the system of Revenue reviews) will have some influence (see below) and there is provision for decisions to be given in short-form and summary form (see paragraph 33 below).

13. Before an appeal is lodged with the FTT, the taxpayer may be entitled to ask for an 'independent' review of the issue under appeal. The taxpayer can instead lodge his appeal with the FTT without a review. If a review is requested, it is conducted by a Revenue review team that has not previously been involved in any way in the dispute (and is therefore 'independent'

[2] The First-tier Tribunal and Upper Tribunal (Composition of Tribunal) Order 2008, SI 2008/2835.
[3] Ibid Article 8.
[4] The Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 as amended (hereafter "Rule" or "Rules"). Available at https://www.gov.uk/government/publications/tax-chamber-tribunal-procedure-rules.
[5] See in particular Rule 5 (Case management powers).

to that extent). The review team may uphold, vary or cancel the Revenue decision under review, which the taxpayer can accept or reject. If the taxpayer still wishes to appeal to the FTT, the appeal will be against the decision as upheld or varied on review. The review papers and the conclusion of the Revenue's review team will be among the papers available to the FTT.

14. It is the taxpayer who lodges the appeal with the FTT. The appeal notice must include certain material, including—

    a. Details of the decision appealed against;

    b. The result that the taxpayer is seeking;

    c. The grounds of his appeal, and

    d. Any written record of the decision appealed against and any statement of the reasons for that decision.[6]

15. This provides the FTT with the basic information that it needs to initiate its appeal procedures and categorise the appeal. The Rules categorise appeals as follows[7]:

    a. Default paper cases

    b. Basic cases

    c. Standard cases

    d. Complex cases.

16. The FTT procedure differs according to the category to which an appeal is allocated. A complex case is one that—

    a. requires lengthy or complex evidence,

    b. involves a complex or important principle or issue, or

    c. involves a large financial sum.[8]

17. As the name implies, "default paper cases" are dealt with solely on the papers and do not involve an oral hearing. They usually concern penalties imposed by the Revenue for failure to comply with some requirement (e.g. to file a particular return by a particular time). The majority of the papers outlining the facts and issues in dispute will come from the Revenue. Rule 25 requires the Revenue to provide a "Statement of Case" to the FTT and the taxpayer within 42 days[9] of the Revenue being notified by the FTT of the appeal. The Revenue's Statement of Case must:

    a. state the legislative provision under which the decision under appeal was made, and

[6] Rule 20(2) and (3).
[7] Rule 23.
[8] Rule 23(4). The FTT has a full costs jurisdiction in complex cases unless the taxpayer chooses to opt out of it within 28 days of the case being categorised as complex. If everybody agrees (including the FTT and UT), complex cases can also be transferred to the Upper Tribunal to be heard at first instance there rather than in the FTT.
[9] The FTT has discretion to extend this and any other time limit on application by any party to the appeal, Rule 5(3)(a).

b. set out the Revenue's position in relation to the case.[10]

18. The Revenue will usually provide the background documents to the appeal (e.g. prior correspondence between the taxpayer and the Revenue, the review papers) with its Statement of case. Rule 26 allows the taxpayer to reply to the Revenue's Statement of Case within 30 days. The reply may:

    a. set out the taxpayer's reply to HMRC's Statement of Case, and

    b. provide any further information (including, where appropriate, copies of the documents containing such information) which has not yet been provided to the Tribunal and is relevant to the case.[11]

19. Many appellant taxpayers in default paper cases will be unrepresented (i.e. will not have any professional adviser to assist them with their reply).

20. Either party may request an oral hearing of the appeal if they prefer. If neither of them does so, however, the FTT must proceed to determine the case on the papers.[12] For the form of its decision, see further paragraph 33 below.

21. All other appeals require an oral hearing unless all parties to the appeal consent to the issue being decided without a hearing and the FTT considers it can be dealt with without a hearing.[13] Many procedural disputes that arise in preparing an appeal for hearing are resolved by the FTT without a hearing on the papers alone.

22. In an appeal categorised as a basic case, HMRC do not produce a Statement of Case and there is no obligatory disclosure of documents. The appeal proceeds directly to an oral hearing.[14] Basic cases usually concern such matters as penalties imposed by the Revenue, notices requiring the taxpayer to produce certain information and notices requiring the Revenue to complete an enquiry into a taxpayer's tax return. If the Revenue intend to raise grounds for contesting the appeal which have not previously be communicated to the taxpayer, HMRC must notify the taxpayer of those grounds in advance as soon as reasonably practicable and in sufficient detail to enable the taxpayer to respond at the hearing.[15]

23. In standard and complex cases HMC have 60 days in which to produce a Statement of Case[16] and within 42 days of its production each party sends a list of the documents on which he intends to rely at the hearing.[17]

24. The Tribunal may always make directions in any case prescribing a more detailed pre-hearing procedure to be followed and may hold preliminary case management hearings at which the procedural steps leading to the hearing of the substantive appeal are discussed between the FTT (usually a judge but not necessarily the judge who will hear the appeal) and the parties or their representatives. This will usually occur in any complex case.

[10] Rule 25(2).
[11] Rule 26(3).
[12] Rule 26(6).
[13] Rule 29(1).
[14] Rule 24(2).
[15] Rule 24(3) and (4).
[16] Rule 25(1)(c).
[17] Rule 27(2).

25. Directions will often set the timetable that the parties must follow up to the hearing of the appeal and will prescribe such matters as—

    a. whether the taxpayer should also serve a statement of his case;

    b. the right of either party to reply to the other party's Statement of Case;

    c. the production by the parties of a Statement of Agreed Facts and Issues, setting out which facts are agreed and which are disputed and the particular legal issues that the FTT must decide based on the facts;

    d. the requirement of either party (but more usually the taxpayer) to produce documents;

    e. the production and service of witness statements (both factual and expert evidence);[18]

    f. the preparation of the appeal bundles,

    g. the service by each party of a 'skeleton argument', and

    h. the preparation of a bundle of statutory and case authorities relied upon by either party.

26. These pre-hearing steps are important because they determine the extent and scope of the materials available to the FTT at the hearing and, in due course, in writing its decision. An important aspect of the decision writing will be the extent to which these materials can or should be drawn upon and/or incorporated into or summarised in the decision.

27. At the oral hearing of an appeal the usual order that is followed is as follows:

    a. The taxpayer presents his case, including taking the Tribunal through any documents on which the taxpayer relies and producing witnesses to answer the Revenue's and the FTT's questions;

    b. The Revenue will present its case in response to that presented by the taxpayer, including taking the Tribunal through any documents on which the Revenue relies and producing witnesses to answer the taxpayer's and the FTT's questions; and

    c. The taxpayer is then allowed a short reply to any points that the Revenue has raised.

28. The FTT panel will take a careful note of the oral hearing, in particular recording the answers that the witnesses give to questions that are put to them. In larger complex cases the parties may arrange for a verbatim transcript of the proceedings to be taken and supplied to the FTT panel.

29. Hearings must ordinarily be held in public but the FTT may direct that the hearing or part of it is held in private in certain limited circumstances (e.g. national security, to protect a person's right to respect for their private or family life or to maintain confidentiality of sensitive information).[19] If the hearing or part of it has been heard in private, that may affect what can be reported in the decision (see paragraph 48 below).[20]

[18] It is more usual for the taxpayer to call witness evidence (including the taxpayer's own evidence) than the Revenue. This is because the burden of proof of any facts generally lies with the taxpayer.
[19] Rule 32.
[20] Rule 32(6).

The decision

30. Either party may withdraw from the appeal, in which case the FTT is required to do no more than notify each party in writing of the withdrawal.[21] The parties may also request that the FTT make a consent order disposing of the appeal (e.g. if the parties have agreed how the dispute should be resolved). The FTT will only make the order if it considers it appropriate to do so but the FTT need not provide reasons for the order.[22]

31. The FTT may give its decision orally at the conclusion of the hearing[23] or it may reserve its decision for further consideration. Once the FTT has reached its decision (including one given orally), the parties are sent a decision notice stating the FTT's decision and notifying the parties of any further right of appeal and the time and manner within which a party must exercise that right of appeal.[24] The parties may agree that nothing more is required but otherwise the decision notice must either—

    a. include a summary of the findings of fact and reasons for the decision, or

    b. provide full written findings of fact and reasons for the decision.[25]

32. If the FTT has provided no findings or reasons or only a summary of its findings or reasons, either party may apply in writing within 28 days of the decision notice for the FTT to provide full written findings and reasons. If a party wishes to apply for permission to appeal the decision to the UT, they must request full written findings and reasons.[26]

Writing the decision

33. As appears from above, there are three forms of decision:

    a. a 'short-form' decision giving no detail beyond the outcome of the appeal;

    b. a 'summary' decision providing a summary of the findings of fact and the FTT's reasons for its decision; and

    c. a 'full' decision giving full details of the findings of fact and of the reasons.

34. A short-form decision requires the parties' consent. It will usually arise in a simple case where the decision has been given orally at the end of the hearing and the parties are then asked whether they are content with a mere record of the outcome or whether they would like a summary or full decision. Even where the parties agree to a short-form decision it may still be appropriate to include a brief statement (a sentence or two) of the reason why the appeal succeeded or failed. Decisions in default paper cases will inevitably have to be a summary or full decision.

35. Decisions (other than short-form) are published and may be the subject of report and comment in the professional press (and sometimes the national or local press. Nevertheless, decisions should be addressed to the parties to the appeal, not to a wider audience, and their content should allow the parties to know that their evidence and arguments have been fully considered and that there are valid reasons for the FTT's conclusions.

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[21] Rule 17.
[22] Rule 34.
[23] Rule 35(1).
[24] Rule 35(2).
[25] Rule 35(3).
[26] Rule 35(4) and (5).

36. The existence of three possible further appeals beyond the FTT mean that whoever is appealing the FTT decision will seek to find fault with its conclusions on the evidence and its legal reasoning. While the FTT does not always get the law right (especially if a novel point or an untested area of law is involved), the decision writer should always aim to avoid the criticism that the decision fails to make proper or adequately expressed findings of fact or has overlooked or disregarded a particular submission or argument put forward by one of the parties.

37. Neither the statute nor the Rules (other than as indicated at paragraph 33 above) prescribe the form in which a decision must be written. The FTT adopts a "house style" for statutory and case references, formatting and the like but otherwise each judge has considerable freedom to decide how he wishes to present a decision and the order it should take.

38. The nature of the legal or factual issue in dispute and the character of the parties to the appeal are likely to influence strongly the way in which a judge decides to write the decision. The Revenue, who are a party to every appeal, may be assumed to understand the issues raised in any decision but taxpayers may range from the largest multi-national company represented by a team of lawyers and specialist advocates to an individual who is unrepresented and has never been in a tribunal or court before.

39. Every decision has two basic functions: to record and to communicate. It must do both effectively having regard to both the issues and the audience to which it is address – the parties to the appeal. So far as possible it should be written in simple, layman's language and even when it has to descend into more technical detail, whether the tax law in question or the subject matter of the dispute, it should aim to be readily intelligible and clear.

40. The essential elements of every decision are:

    a. the issues,

    b. the facts,

    c. the law, and

    d. the conclusions.

41. The opening paragraph should identify the nature and subject matter of the dispute between the parties and link it to the jurisdiction of the FTT to deal with the matter. It should clearly identify the decision or the matter under appeal.

42. Where a large amount of evidence has been given at the hearing it is often introduced by setting out a list of the witnesses who gave evidence, identifying them by name and role. If a witness produced a statement that was unchallenged and therefore stood as that witness' evidence, this should be recorded. Similarly, some summary of the principal documents produced in support of each party's case may be appropriate at the outset.

43. It is never usually necessary to reproduce verbatim a document or a witness statement as part of the decision although relevant extracts may always be quoted if appropriate. Similarly, it is unnecessary to record every question put to a witness and his answer. What is generally required is an overall summary of evidence given to the extent that it is relevant to the FTT's conclusions on the facts, the issue in dispute and the legal reasoning.

44. Where conflicting evidence on a relevant matter is given this should be recorded and reasons given for preferring one account to another. It will be important to record the fact that

particular evidence is not accepted or believed, and why. The summary of the witness evidence may be dealt with witness by witness or issue by issue. How best it is dealt with depends entirely upon the nature of the evidence and the factual issues in dispute.

45. Where there is a significant factual dispute that is material to the issue to be decided, the FTT's record of the evidence that each party has produced and the factual conclusions that it has reached on the evidence is the most important part of its decision. The scope to appeal a finding of fact is limited and on any appeal from the FTT the appeal court will usually be bound by the FTT's findings of fact. Thus:

> "[The findings of fact] must be relevant to the issue or issues in the appeal. They must be clearly and unequivocally found and stated. A narrative, and usually chronological, statement of the facts is often the best approach. Where the facts, or some of them, are agreed they can usually be shortly summarised, and in some cases it may be appropriate to adopt the parties' written agreement. When they are not agreed it is essential, if it has not already been done in the course of describing the evidence, that the decision identifies which witness's evidence has been preferred and why. Likewise, if the tribunal has had to infer a fact in the absence of direct evidence, the decision should say so clearly and explain why it has been necessary and relevant to do so." [FTT Bench Book, paragraph 11.51]

46. On any appeal from the FTT's decision, the witness statements and documents given in evidence (or a relevant selection of them) will be available to the appeal court. Nevertheless, appeal courts are reluctant to start trawling through the evidence at all or in the same detail as the FTT is supposed to have done. The appeal court will want to know that such an exercise is actually needed given the alleged inadequacies of the FTT's decision.

47. The golden rule, therefore, particularly as regards the evidence, is that:

> "the decision must be self-contained: everything which is necessary for a proper understanding must be in the decision itself, while material which is unnecessary should be omitted. The inclusion of the irrelevant is distracting and in an extreme case can obscure what is important." [FTT Bench Book, paragraph 11.53]

48. If the hearing or any part of it has been heard in private, the FTT must, so far as practicable, ensure that the decision does not disclose information which was referred to only in a part of the hearing that was held in private if reference would undermine the purpose of holding the hearing in private.[27] In any event, judges should always use their discretion to avoid including private or confidential material in the decision that is unnecessary for a proper understanding of the evidence or the issues or the conclusions reached.

49. The relevant tax legislation should be set out and any relevant case authorities, in particular to the extent that they have been relied upon and cited by either party. The legislation can be paraphrased in a simply-worded fashion if appropriate, especially where verbatim citation of the legislation might prove unintelligible to an unrepresented taxpayer. If the relevant legislation is extensive and needs to be set out in full rather than summarised or paraphrased, this can always be done in an appendix to the decision. Citations from case authorities should be kept to a reasonable number and length but generally speaking it is usually better to reproduce a relevant extract verbatim rather than to attempt to summarise or paraphrase what another judge has said on an issue.

[27] Rule 32(6).

50. The citation of case authority can often most usefully be done in summarising the parties' arguments and in referring to the authorities on which they rely, and for what legal principle. In most standard and complex cases the FTT will be able to draw upon the parties' Statements of Case and skeleton arguments as a source of material for this element of its decision, as well as the FTT's notes of the oral arguments made by the parties at the hearing. Even if the FTT has rejected particular points or considers them irrelevant, it may be advisable to record them so that the party concerned knows that they have not been ignored and so that any appeal court knows that the point was raised in the FTT.

51. Having set out the issue, recorded the evidence and its factual conclusion, set out the law and summarised the parties' submissions, the decision may then include a "discussion section" in which the FTT reviews the parties' arguments and the legal issues it must decide before it arrives at its conclusion. What is essential is that the FTT's conclusion, and its reasons for reaching its conclusions, should be clear and unambiguous. It particular, it is essential that the losing party (whether taxpayer or Revenue) should understand that the FTT's decision has gone against him *and why*. The decision should usually say if it is not a unanimous decision of the panel. The final paragraph of the decision will be a statement of the parties' appeal rights.

52. Decisions of the FTT do not represent legal precedent that is binding on other FTT panels. The FTT is necessarily bound by decisions of the UT or higher appeal courts. On occasion, therefore, FTT panels may arrive at conflicting legal decisions which then need to be resolved by an appeal in one or more cases to the UT or beyond.

Post-decision matters and further appeals

53. Most decisions are published on the FTT's website following their release to the parties. Professional journals may publish short summaries of the more noteworthy decisions or a more detailed commentary or analysis if merited. The more important decisions may be selected for publication by outside publishers in their series of case reports (e.g. Simon's First-tier Tax Decisions).

54. The FTT has power to correct clerical mistakes and other accidental slips or omissions in a decision.[28] It also may set aside a decision or part of a decision and remake it where there has been some procedural irregularity and it is in the interests of justice to do so.[29] A party wanting to ask the FTT to exercise this power must do so within 28 days of the release of the decision.[30]

55. A party wishing to appeal the FTT's decision must apply in writing for permission to do so within 56 days of the release of the full decision.[31] The application must identify the alleged errors in the decision and state the result that the appealing party is seeking.[32] Depending upon the alleged errors, the appeal may therefore be against the entire decision or against a specific part of it. On receipt of the application the FTT must consider whether to review the decision, which it may do if it is satisfied that there is an error of law in the decision.[33] It is unusual for the FTT to review a decision even if the application sets out cogent reasons as to why the decision is wrong. More usually the FTT in such cases will grant permission to appeal to the UT.[34] If, however, the

[28] Rule 37.
[29] Rule 38.
[30] Rule 38(3).
[31] Rule 39(1), (2).
[32] Rule 39(5).
[33] Rules 40(1) and 41.
[34] Rule 40(2)

FTT refuses permission the party concerned may renew its application for permission before the UT.

56. An appeal to the UT requires that the FTT has made an error of law. Thus, as a general matter no appeal lies against the FTT's findings of fact, which will form the basis on which the UT and the higher appeal courts will review the matter. To challenge the FTT's findings of fact a party will usually have to show that the FTT has found facts for which there was no basis or has reached a conclusion on the facts that no tribunal could reasonably have reached. The mere fact that another tribunal might have reached a different conclusion on the evidence is not enough.

57. If the FTT's decision does involve an error of law, however, the UT has power to set aside the decision and either remake the decision or remit the case to the FTT for reconsideration. In those circumstances, the UT is given power to make further findings of fact rather than just remit the case to the FTT to make further findings. To do so the UT would usually have to exercise its power to admit further evidence.

58. The UT will usually comprise either a single judge or two judges. In the latter case the UT's decision will be a single decision as in the FTT (see paragraph 11 above). The form and layout of the decision will be similar to that of the FTT decision but will focus in particular on the FTT's decision and that part of it which is said to be wrong. Unless there is a serious challenge to the FTT's findings of fact or the UT has agreed to admit further evidence, the UT will have no need to record evidence or to make findings of fact based on that evidence. Instead it will summarise the facts found by the FTT or reproduce the relevant passages of the FTT decision.

59. An appeal from the UT to the Court of Appeal is by permission only, granted either by the UT or the Court of Appeal (Civil Division) in England and Wales or the Inner House of the Court of Session in Scotland. To obtain permission the case must be shown to involve either that:

    a. The proposed appeal would raise some important point of principle or practice, or

    b. There is some other compelling reason for the relevant appellate court to hear the appeal.[35]

60. While the FTT and UT are regarded as specialist tribunals with judges who have particular expertise in tax matters,[36] the Court of Appeal and Court of Session are part of the general court system dealing with all civil appeals. Their Judges may have entirely different legal backgrounds and may never have dealt with a tax case before. The Court is composed of three Judges[37], each of whom will usually produce a judgment. The Judges may therefore decide a case for reasons that differ. The majority view as to the appropriate outcome of the appeal will prevail but the minority Judge will produce a dissenting judgment. In many cases where the view is unanimous, however, one Judge will be chosen to write the decision and the remaining Judges will just agree with that judgment if neither of them wishes to add anything.

[35] The Appeals from the Upper Tribunal to the Court of Appeal Order 2008, SI 2008/2834.

[36] The particular tax expertise of the tribunal judges varies considerably. They include, for example, full time tax judges and part-time judges who may be in current tax practice or have retired from tax practice and also judges of the High Court Chancery Division who may have had limited tax experience before being appointed to the High Court and UT. Even among those judges with considerable experience of tax practice, the scope of the FTT's and UT's jurisdiction is such that they may often be involved in hearing cases on aspects of the tax system about which they have little relevant practical experience or knowledge.

[37] 4 Judges can hear the case in the Court of Session.

61. Thereafter there is an appeal to the Supreme Court with permission of the Appeal Court (which is usually refused) or on application to the Supreme Court. To secure permission it must be shown that there is an arguable point of law which is of general public importance. The Supreme Court Judges (as in the Court of Appeal and Court of Session) are likely to have entirely different legal backgrounds and may never have dealt with a tax case before. The Court is usually composed of five (or sometime seven) Judges. Each may choose to render a separate judgment but more often only one, two or perhaps three substantive judgments are produced and the remaining judges will restrict themselves to agreeing with one or other of those judgments.

62. At each stage of appeal from the UT to the Supreme Court a selection of the documents that were originally before the FTT and that are most relevant to the factual background and the issues under appeal will be produced to the appeal court. The parties will also produce written materials at each stage elaborating on the grounds of appeal and setting out the opposing legal arguments. The higher the appeal progresses the more 'inquisitorial' the oral proceedings become. The appeal court will have the benefit of the previous decisions in the case as well as the increasingly refined legal argument by the parties explaining why the previous decisions were right or wrong. The Judges in the Court of Appeal and the Supreme Court are therefore more interested at the oral hearing to hear answers from the advocates for each party to what the Judges believe to be the most relevant questions rather than just listen to what the advocates want to tell them about the case.