

# ISLE OF MAN INCOME TAX COMMISSIONERS

## Homepage

Welcome to the website for the Isle of Man Income Tax Commissioners.

This Website is provided by the General Registry to give general guidance only in relation to the Income Tax Commissioners ("the Commissioners") and is not, and should not be treated as, a complete and authoritative statement of the law. Advice from legal or other appropriate sources should be sought as necessary.

A [Glossary](#) is available to assist with the meaning, and aid your understanding, of some of the words and terms used in the following information.

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### **Glossary**

# The Income Tax Commissioners

## 1 Who are the Commissioners?

The Commissioners are appointed by the Appointments Commission to hear appeals in cases where a person is in a tax dispute with the Assessor. The Commissioners are completely independent of the Assessor and chosen for their impartiality and appropriate experience. They are bound by strict confidentiality rules. They are paid a statutory allowance for attending meetings.

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## 2 How are the Commissioners appointed and who are the current Commissioners?

The Commissioners are constituted in accordance with section 88 of the Income Tax Act 1970 (the "Act") which provides that the Commissioners shall consist of:

"(a) a chairman;

(b) a deputy-chairman, who shall —

(i) be a barrister, advocate or solicitor, in each case of not less than 7 years' standing;

(ii) be appointed for the purpose by the chairman, from among the eight other commissioners to be appointed in accordance with paragraph (c); and

(iii) be responsible for performing the functions of the chairman on all occasions when the chairman is unavailable and the deputy-chairman is available; and

(c) eight other commissioners, also appointed by the Appointments Commission, at least one of whom must be a barrister, advocate or solicitor (in each case, of not less than 7 years' standing)."

A minimum of three Commissioners, including the Chairperson, will hear an appeal.

The Act prevents a person who is a serving officer, or in the preceding 3 years has been an officer, of any Government Department dealing with income tax from being eligible to be a Commissioner.

The Act can be viewed at [Isle of Man Legislation Website](#).

The current Income Tax Commissioners are:

- Mr A L Vaughan-Williams (Chairperson)
- Mr P C Hotchkiss
- Mr A W Bath
- Mr T R H Sowler
- Ms A M Main Thompson
- Mr B P J O'Kelly
- Mr D Molyneux

The Commissioners are assisted by the Secretary who is not a member of the Commissioners but deals on their behalf with correspondence and organises the Commissioners' meetings.

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## What happens if I disagree with the Income Tax Assessment?

### 3 How do I appeal?

If you disagree with an assessment (other than a default assessment) issued by the Assessor, you must first of all give written notice of the disagreement to the Assessor within the statutory period of 30 days from the date of issue of the assessment. There is no standard format for such a notice but it must be in writing and must clearly identify what you are appealing against and why you think it is wrong.

You should send your written notice (your appeal) direct to the Assessor at the [Income Tax Division](#), **NOT** to the Commissioners.

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#### 4 What happens next?

Someone from the Income Tax Division, on behalf of the Assessor, will contact you direct and will normally seek to settle any differences of opinion by correspondence or by having a meeting with you.

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#### 5 What if I miss the 30 day deadline?

An appeal made after the 30 days from the date of the issue of the assessment will only be accepted if it is being made late because you have been away, have been ill or have another reasonable cause. If the Assessor does not accept the late appeal, it will be referred for a final decision to the Chairman of the Commissioners.

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#### 6 Is there a charge for making an appeal?

No - you are not charged a fee for making an appeal.

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#### 7 What happens if no agreement is reached?

Provided that the full amount demanded in the Assessment, or such portion of it as remains outstanding, has been paid to the Assessor then the Assessor will give notice to the Commissioners that an appeal hearing is required. If the Assessor fails to give such notice then the person contesting the Assessment, or their representative, may give notice to the Commissioners (again subject to the payment of the full amount demanded or such portion of it as remains outstanding).

The Commissioners may, **in exceptional circumstances**, determine that in a particular case the person to whom the Assessment relates need not pay the amount demanded in the Assessment at the time the notice is given.

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#### 8 Does the Income Tax Division have a website?

Yes - the website address is: <https://www.gov.im/about-the-government/departments/the-treasury/income-tax-division/>

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#### 9 How do I contact the Income Tax Division?

The contact details are:

Income Tax Division  
Government Office  
Douglas  
Isle of Man  
IM1 3TX

Tel: +44 1624 685400

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## Taking an Appeal to the Commissioners

#### 10 Do I have to continue negotiating with the Assessor until he decides that it is time to notify the Commissioners of my appeal?

No - you can contact the Secretary and ask for a hearing to be arranged if you are sure you and the Assessor cannot reach an agreement, however see 7 above re payment requirements. You can, however, continue to negotiate with the Assessor right up to the day of your hearing.

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## **11 What provisions are made to govern the procedures of the Commissioners?**

The proceedings of the Commissioners are regulated by section 88 of the Income Tax Act 1970. In addition, the Commissioners have issued Standard Directions which can be viewed [here](#), and may issue specific procedural directions for your case to help both you and the Assessor prepare for the hearing.

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## **12 Do I have to attend the appeal hearing?**

No – but the Commissioners will normally expect you to do so. If you want to present evidence or question witnesses, you will have to attend the hearing. Often, the documentary evidence available may not be enough on its own to enable the Commissioners to reach a decision, and they will need to question you to establish the full and accurate facts of the case.

Most importantly, attending the hearing can often help your appeal; you can discuss your case face to face, clear up any difficulties or doubts which the Commissioners may have, and actively help them to reach the right decision.

About 6 weeks before the hearing, you will receive notice from the Secretary telling you the date, time and place of the hearing. If there is good reason, such as illness or bereavement, why you cannot attend, the Commissioners may agree to postpone the hearing to a later date.

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## **13 Can someone else represent me at the appeal hearing?**

Yes - you can authorise anyone you choose to represent you.

If an appeal is made by a company rather than by an individual, the Commissioners may agree to a director or the secretary of the company appearing. It is also common for companies to be represented by a professional agent such as a lawyer or accountant.

If you have arranged to be represented at the hearing, please inform the Secretary as soon as possible. Even if you are represented, the Commissioners will, in most cases, still expect you to attend the hearing yourself as well.

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## **14 What happens if I fail to attend the appeal hearing?**

If you, or your representative, fail to attend without good reason, the hearing may proceed in your absence. The Commissioners will consider the available evidence before making their decision to confirm or amend the assessment. You will be given notice in writing of their decision.

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## **15 Who will represent the Assessor at the appeal hearing?**

The Assessor may attend the hearing himself, be legally represented by an Advocate or be represented by an officer from the Income Tax Division of the Treasury.

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## **16 What if my address, or that of my representative, changes after my appeal is submitted?**

In the event that you change your address, or your chosen representative changes address, it is vitally important that such is communicated immediately in writing to the Secretary.

**Please note that once the details of a representative have been provided, future correspondence will only be issued to that representative.**

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## How should I prepare for my Appeal Hearing?

### 17 Can I get help with preparing my appeal?

You may wish to seek your own legal and/or other professional advice for preparing and presenting your case. You will have to meet any costs, including travel costs, but in very limited circumstances assistance may be available for legal advice under the Legal Aid Green Form Scheme (see below).

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### 18 Is Legal Aid available for proceedings before the Income Tax Commissioners?

No - Legal Aid is not available for proceedings before the Income Tax Commissioners, although very limited assistance may be available (should your means be such as to comply with the rules) under what is termed the Green Form Scheme. This enables an appellant to obtain legal advice from an advocate, but this does not include representation at an appeal hearing.

Further information on the Green Form Scheme is available from the Legal Aid Office, contact 685977, or should be sought from an advocate, a list of which is available from the Isle of Man Law Society website: [www.iomlawsociety.co.im](http://www.iomlawsociety.co.im). Alternatively the Law Society can be contacted by telephoning 662910.

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### 19 How should I prepare for my appeal hearing?

You should assume that the Commissioners have no knowledge of the facts or nature of your appeal before the hearing and that you will have to explain everything to them. You will probably find it helpful to discuss the case with the Assessor and to put together an agreed statement of facts and a collection of relevant paperwork (this may be referred to as "the bundle of documents"). This will simplify your preparations, save time at the hearing and let the Commissioners focus on the matter in dispute.

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### 20 Do I have to submit a written Statement of Case?

Yes - when the Assessor refers the Appeal to the Commissioners, the Secretary will write to both parties requesting a 'Statement of Case'. In your Statement of Case you should clearly identify your grounds for making the appeal and the facts upon which you wish to rely. You will be advised how many copies you should provide and a final date for submission. Usually this will be a minimum of 14 days prior to the date to be set for the appeal hearing (see below).

Failure to submit the Statement of Case within the strict time limit may prejudice the presentation of your appeal.

The Secretary will forward copies of your Statement of Case to each of the Commissioners and to the Assessor. The Assessor will also provide a Statement of Case and this in turn will be forwarded to you (or your representative). The Secretary will make sure the Statement of Cases are exchanged on the same day.

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### 21 Do I have to supply copies of the documents that I want to submit in support of my appeal?

Yes - you should make up a file or bundle of copies of the documents you want to refer to as support for your appeal. The same time limits apply to the copy documents as to the Statement of Case and the Secretary will tell you how many copies of the documents you must send in and the date by which they are to be sent.

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## **22 How should I prepare my documents for submission?**

You should have the original documents available to produce at the appeal hearing.

It is helpful if all copies of documents are on A4 paper and they should be in ring binders or tagged in the upper left hand corner, rather than stapled. All text should be legible. All pages should be numbered in the top right hand corner and all bundles of documents should include an index.

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## **23 When must I submit my documents?**

You must send the bundles of documents to the Secretary 14 days before the hearing so that they can be sent to the Commissioners and the Assessor in time for them to read them and prepare for the hearing. The Assessor is subject to the same time limit and a copy of his bundle of documents will be sent to you and to the Commissioners before the hearing.

Failure to submit your copy documents within the time limit may result in the Commissioners refusing to accept the documents in support of the appeal.

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## **24 Can the time limits for submitting the Statement of Case or the documents be extended?**

Yes - the Commissioners have discretion to extend the time limit. If you wish to apply for an extension of time you should write to the Secretary as soon as possible, and before the time limit expires, explaining why you require an extension. You must also send a copy of your request to the Assessor.

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## **Withdrawing an Appeal**

### **25 If an appeal is made to the Income Tax Commissioners, can it be withdrawn?**

Yes, the Commissioners may allow you to withdraw an appeal at any time before they have made their decision on your appeal.

If you want to withdraw your appeal, you must inform the Secretary in writing and send a copy to the Assessor.

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## **Adjournments**

### **26 Adjournments**

The Commissioners prefer not to adjourn cases but they do have power to adjourn a sitting from one day to another. If at the time of adjourning the Commissioners do not fix the time, place and date of the next sitting, the Secretary will write to you giving you notice in due course.

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### **27 What if I need to apply for an adjournment?**

Upon receiving notice of the hearing date, if you wish to apply for an adjournment you should write to the Secretary as soon as possible, explaining why you require an adjournment. You must also send a copy of your request to the Assessor. It is likely that the views of the Assessor will be sought before the Commissioners make a decision on your request.

Your request for an adjournment will only be granted in exceptional circumstances and then only if you provide proof to the Commissioners that the amount of tax assessed in the disputed assessment has been paid. If your appeal results in a reduction of your tax liability, you will be entitled to a refund of any tax overpayment.

Likewise, the Assessor may also apply for an adjournment although again he would have to

demonstrate the exceptional circumstances that would warrant an adjournment being granted by the Commissioners. Furthermore, you would be asked for your views on this request before the Commissioners make a decision.

If necessary, the Commissioners may ask you both to attend a short hearing before they make a decision on any adjournment request.

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## Arrangements for the Appeal Hearing

### 28 Notice of appeal hearing

The Commissioners will set a date and time for the hearing and the Secretary will send written notice to you (through your representative if you have one) and the Assessor confirming the arrangements.

You will be given at least 28 days' notice of the hearing date unless you and the Assessor agree to a shorter notice period.

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### 29 Witnesses

The Commissioners may summon any person (except the person making the return and the person in respect of whose income the return was made) to give evidence that would help the Commissioners reach their decision.

A person who is to be summoned as a witness will be served by the Coroner with a written summons, either in person or by leaving it with someone at the witness's usual address, and will be given at least three clear days notice. It is an offence under the Income Tax Acts to fail to answer a summons or refuse to answer questions put by the Commissioners.

In accordance with section 89 of the Act, any summoned witness is entitled to the same daily allowance as is paid to witnesses in cases in the courts of the Isle of Man.

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## Costs

### 30 Can a party be liable for costs in proceedings before the Income Tax Commissioners?

No - legislation does not make any provision for costs to be awarded.

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## Attending the Appeal Hearing

### 31 When should I make my arrangements to attend the appeal hearing?

As soon as you receive notification of the date for the hearing you should contact your representative and any witnesses you wish to call and make arrangements for you all to be able to attend the hearing.

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### 32 What about travel and parking arrangements?

You will normally be asked to arrive 15 minutes before the hearing is due to commence. It is important that you plan your travel arrangements to ensure that you will be on time. If you are not sure as to the location, or indeed any other matters, please contact the Secretary.

You should make arrangements for car parking for yourself, your representative and any witnesses. Please allow sufficient time to avoid incurring parking penalties. Please note parties and witnesses are responsible for their own parking fees, and indeed any parking penalties incurred.

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### **33 How long will the hearing take?**

This question is often asked, but is extremely difficult to answer in advance with any accuracy as the length of the hearing will, in the main, depend on how each party presents their case and how long it takes for each party's witnesses to give evidence.

The Commissioners will try to estimate the length of time required to hear each case and set an appropriate timetable. If the hearing is estimated to take more than one day, you will be notified in advance.

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### **34 Will there be any breaks in the hearing?**

Yes - comfort breaks are likely mid-morning and mid-afternoon, and a lunch break of approximately an hour is normally taken at around 1pm, although the precise timing and length of any breaks are likely to be fixed to reflect convenient points reached in the hearing and to fit with the estimated timetable.

Should a party need a comfort break, it is quite in order to ask for such at any time.

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### **35 Will each party have their own separate waiting area?**

Parties will be given separate waiting areas and the letter telling you the date and time of the appeal hearing will also tell you where you should wait. Please note that it may not always be possible to allocate you a private waiting area and you may have to wait in a public waiting area.

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### **36 Where do witnesses wait?**

Prior to the hearing starting, your witnesses can meet and wait with you in your waiting area. Witnesses normally remain out of the hearing room until they give their evidence. This is because a witness who has been present in the hearing room before giving evidence may have been influenced by what he or she has heard.

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### **37 What if I have a disability or other needs?**

Please advise the Secretary of any arrangements we may need to make for you when dealing with your case. Examples of this may be if you are hard of hearing and require a hearing loop when you attend an appeal hearing, or if you will require an interpreter to be present. If you are unsure, please contact the Secretary and discuss the matter as appropriate.

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## **During the Appeal Hearing**

### **38 What if I feel I may not be able to understand the procedure used for the appeal hearing?**

The Commissioners aim to be as informal as possible and, although they cannot help a party to present his or her case, they will be able to help on the procedure as the case progresses. The Commissioners seek to obtain all the relevant information to enable them to make a decision, and will use their best endeavours to ensure that no party is intimidated or fearful of the procedure.

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### **39 Who will be present in the hearing room?**

The Secretary will take both parties into the hearing room at the same time. The Commissioners will already be present and seated when the parties enter. The Secretary will stay for the hearing.

The following people will normally be present at an appeal hearing:

- at least three Commissioners, one of whom will be the Chairman;
- the Secretary;
- you and/or your representative;
- the Assessor or one or more of his representatives, if he has any;
- Witnesses as and when called to give evidence.

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#### **40 Will the hearing be open to the public?**

The hearing will be held in private, but the Commissioners have discretion to allow non-parties to be present. If you would like someone other than a witness to be allowed to attend the hearing, please contact the Secretary in advance.

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#### **41 How do parties address the Chairman and Commissioners?**

It is customary to address the Commissioners via the Chairman who should be called either 'Sir' or 'Madam'. If it is necessary to address any of the Commissioners directly, they again may be referred to as 'Sir' or 'Madam' or alternatively by name. You will be told the names of the Commissioners present.

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#### **42 Are there any other formalities I should observe?**

Hearings before the Commissioners are less formal than, for example, those in the High Court so no-one will be wearing wigs and gowns. It is not necessary to bow to the Commissioners upon entering and leaving the hearing room and it is not necessary to stand to address the Commissioners unless, of course, you prefer to do so.

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#### **43 Is the hearing recorded?**

Yes - the Secretary will ensure that the hearing is recorded and you will see microphones for this purpose located on each of the tables.

Although copies of the recording may be purchased, on payment of the prescribed fee, following the hearing, (it usually takes a few days for this to be made available) it is your responsibility to take your own notes for use during the proceedings.

It is not permitted for parties, or any other person attending the hearing, to use any form of recording equipment at any time during the hearing.

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#### **44 How is the hearing opened?**

There is no formal opening procedure. Once the parties have arranged their papers and taken their seats, the Chairman will normally welcome everyone and introduce the Commissioners. The Chairman will ask the parties to identify themselves and will ask for the names of anyone else present.

The Chairman will then outline the procedure to be followed during the hearing and deal with any preliminary questions that either party, or indeed the Commissioners, may have.

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#### **45 How is the documentary evidence produced at the hearing?**

The Commissioners may require you and your representative to verify any written statement and the genuineness of all books of account or other documents produced at the hearing. If you refer to any

documents or have produced copies, for instance in the bundle you have sent with your Statement of Case, the Commissioners may want to see the original documents.

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#### **46 How do witnesses give their evidence?**

It is usual for witnesses to give their evidence on oath (involving swearing on an appropriate Holy Book) or affirmation (non religious) and the Chairman will provide the appropriate written wording to be read aloud by the witness for this purpose. The Secretary should be advised, in advance, if any particular procedure will be necessary for a witness who is to take the oath.

The Chairman is empowered to administer oaths to parties and witnesses at the hearing.

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#### **47 Which party goes first at the hearing?**

All hearings follow the general pattern described below.

Normally, you and your representative will be asked to present your case first, explaining why you think the assessment is wrong and supporting your argument with documentary evidence and/or the spoken evidence of your witnesses.

The Assessor or his representative will then be asked to present the Assessor's case, again explaining it in detail and offering evidence to support the original assessment.

If you would prefer, you can ask to have the Assessor's case presented first and yours second, but the Commissioners will make the final decision on this.

While a party is presenting his case, the other party will be allowed to ask questions and/or to respond to points raised. If the Commissioners feel the questions are not relevant or if they have accepted the point, they may ask you to stop or move on. The Commissioners may ask questions of you and/or your representative and your witnesses, the Assessor or his representative and any witnesses for the Assessor.

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### **After the Appeal Hearing**

#### **48 What happens after the hearing?**

When the hearing of your appeal has finished, the Commissioners will ask everyone to leave the hearing room while they consider their decision. The Commissioners may reach their decision on a majority vote.

In simple cases the Commissioners may inform you of their decision orally at the end of the hearing but if the case is complex, they may reserve the decision to be notified later. In either case, a written copy of the decision will be sent to you and to the Assessor. The decision will state whether the Commissioners confirm or amend the assessment (the determination) and will normally include a summary of the reasons for the determination.

When the Commissioners reserve the decision in a complex case, their written reasons and the determination may be sent out some weeks after the hearing. The reasons and determination will not be published and will be kept confidential. Sometimes the Assessor will issue guidance or a practice note afterwards, taking account of the Commissioners' decision, but you will not be named and your identifying details will be removed.

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#### **49 What can I do if I lose my appeal?**

The right to any further appeal is governed by section 90, Income Tax Act 1970.

If the decision of the Commissioners goes against you and you want to take the matter further, there is no appeal from the Commissioners on a question of fact, that is, matters provided in evidence upon

which the Commissioners have based their decision.

An appeal may be made to the Staff of Government Division of the High Court of Justice of the Isle of Man for the determination of a question of law. If you want to appeal to the Staff of Government Division, you must give notice of the appeal to the Assessor within 21 days from receiving the notice of determination issued by the Commissioners. If the Assessor wants to appeal on a question of law, he may do so but must first give you written notice of appeal, again within 21 days after receiving the notice of determination.

Broadly speaking, a question of law arises if you think the Commissioners misinterpreted the law relevant to your case, or applied the wrong law, or reached a conclusion which was completely inconsistent with the evidence, or breached the rules of natural justice, i.e. acted unfairly or with bias or prejudice. Before you decide to appeal it is often advisable to seek professional advice from a solicitor, an accountant or a specialist tax adviser.

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## Contacting the Commissioners

### 50 How do I contact the Commissioners?

Contact details for the Secretary are:

Secretary to the Income Tax Commissioners  
Tribunals Office  
Isle of Man Courts of Justice  
Deemsters Walk  
Bucks Road  
Douglas  
Isle of Man, IM1 3AR

Tel: 682382 email: [tribunals@gov.im](mailto:tribunals@gov.im)

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## Useful Links

Isle of Man Law Society: [www.iomlawsociety.co.im](http://www.iomlawsociety.co.im)

Income Tax Division: <https://www.gov.im/about-the-government/departments/the-treasury/income-tax-division/>

Isle of Man Legislation Website: <http://www.legislation.gov.im/cms/en>

**The Tribunals Office is not responsible for the content of external internet sites.**

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## Glossary

**Adjournment:** Postponement, extension of time

**Appeal:** When a taxpayer formally contests the decision made by the Assessor, such as the taxpayer's liability to tax as notified in a tax assessment

**Assessment and Notice of Assessment:** Notice from the Assessor setting out the amount of income tax which he thinks is due and which may include penalties.

**Assessor:** The Assessor of Income Tax for the Isle of Man.

**Commissioners:** The Income Tax Commissioners for the Isle of Man.

**Determination and Notice of Determination:** After an appeal hearing the Commissioners send a written copy of their decision, known as the Notice of Determination, to the parties to the proceedings.

**Hearing:** Where an appeal cannot be settled by negotiation between the taxpayer and the Assessor the two parties may argue their cases in person (with representation if desired) before the

Commissioners. This is the hearing of the appeal.

**Parties to the proceedings:** The two sides in an appeal: the taxpayer (together with his or her representative) and the Assessor.

**Secretary:** The person who acts as Secretary and Clerk to the Commissioners.

**Statement of Case:** A summary of the facts and legal issues in dispute to be submitted before the hearing.

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