



Taxpayers' Rights

Understanding Your Legal Rights in Resolving Tax Disputes

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KEY TAKEAWAYS

- While the statutory framework in Singapore affords various rights to taxpayers, such as the right of appeal, these rights may come with requisite conditions.
- Appeals to the General Division of the High Court in relation to income tax or GST can only be on a question of law or of mixed law and fact.
- As tax legislation may be amended from time to time, taxpayers should ensure that the technical issues and case law identified are applicable for the years of assessment in question.

While taxpayers are required to comply with their obligations in accordance with the prevailing tax legislation, not all are well-versed with the rights afforded to them by the Singapore statutory framework. By understanding their legal rights, taxpayers will be in a better position to safeguard their interests and organise their tax affairs.

At a recent webinar organised by the [Singapore Chartered Tax Professionals](#), Accredited Tax Advisor (Income Tax and GST) S. Sharma, Consultant at Adsan Law LLC, shed light on Singapore's statutory framework on taxpayers' rights and shared practical insights into how taxpayers can exercise their legal rights in resolving tax disputes with the tax authorities.

General Tax Policies on Rights of Taxpayers

The general rights and obligations of taxpayers are well summarised in the Organisation for Economic Co-operation and Development (OECD)'s Practice Note on Taxpayers' Rights and Obligations. Specifically, the Practice Note highlighted the following basic taxpayers' rights:

- The right to be informed, assisted and heard
- The right of appeal
- The right to pay no more than the correct amount of tax.
- The right to certainty
- The right to privacy
- The right to confidentiality and secrecy

Statutory Framework on Taxpayers' Rights in Singapore

Taxpayers' rights afforded in the various tax legislations in Singapore are fairly aligned to those outlined in the OECD's Practice Note.

Some notable sections under the Income Tax Act 1947 (ITA) that provide similar taxpayers' rights include:

- Section 6: The right to secrecy
- Section 74: The right to finality of assessments
- Section 76: The right to dispute assessments
- Section 79: The right of appeal against assessments to Income Tax Board of Review
- Section 80: The right of representation at appeal before Income Tax Board of Review
- Section 81: The right of appeal to the General Division of the High Court from the decision of the Income Tax Board of Review upon any question of law or of mixed law and fact
- Section 92: The right to seek remission, reduction and refund of tax
- Section 93: The right to repayment of tax
- Section 93A: The right to relief for error or mistake

Sections providing various taxpayers' rights are similarly incorporated into the Goods and Services Tax Act 1993 (GST Act), Property Tax Act 1960, and Stamp Duties Act 1929.

While the statutory framework in Singapore affords various rights to taxpayers, such rights may come with requisite conditions. For example, any objections to tax assessments must be made within the statutory timeline as stipulated in the relevant tax act; failure to do so can lead to the taxpayer losing his right to appeal and the assessment becoming final.

It should be noted that the statutory limitations provided under section 74(1) of the ITA and section 45(5) of the GST Act respectively are not applicable for cases involving fraud. Nonetheless, taxpayers have the right to dispute the fraud allegations and appeal on the tax authority's assessment.

Tax Dispute: Formulating an Acceptable and Conclusive Resolution

DETAILED FACT FINDING

The first step to formulate an acceptable and conclusive resolution in a tax dispute is to conduct a detailed fact-finding exercise. The goal is to gather all pertinent facts about the case and ensure that they are accurate. It does not matter if the taxpayer has strong legal basis to appeal if the facts do not support the basis.

It is also important to carefully review all the facts to be introduced at the Income Tax Board of Review, GST Board of Review, or Valuation Review Board. Further appeals to the General Division of the High Court on income tax or GST matters can only be on a question of law or of mixed law and fact. Further appeals on property tax matters are by way of rehearing. This means the taxpayers can appeal on a question of fact, for example, the valuation of the subject property, to the General Division of the High Court.

REVIEW LEGAL MERITS

Next, the taxpayer should obtain a clear understanding of the specific technical issues and conduct a careful review of the legal merits of its case.

A useful starting point for the taxpayer is to look for relevant case laws that support its position (versus those that support the Comptroller's position).

Separately, as tax legislation may be amended from time to time to cater to the evolving business and tax landscape, taxpayers should be cautious when identifying technical issues and case laws, and ensure that they are applicable for the years of assessment in question.

FORMULATE STRATEGY

A strategic plan should then be formulated for the appeal, specifying the grounds of appeal and how the appeal will be carried out.

It will also be useful to anticipate potential counter arguments and outcomes ahead of time, and proactively consider alternative arguments.

OUTCOME AND FURTHER APPEALS

An evaluation of the outcome should be conducted regardless of the outcome. The evaluation will help the taxpayer decide whether it should appeal the decision (where applicable), or help the taxpayer prepare to defend further appeal by the Comptroller.

Way Forward to Managing Tax Liabilities

To better manage tax liabilities going forward, the taxpayer should conduct a post-case review and close the circle by ensuring all case-related matters are finalised.

An analysis should be conducted to identify what went right and what went wrong in the appeal (for example, which arguments were accepted by the Courts and which arguments were unsuccessful). These findings may be used to fine-tune the taxpayer's tax dispute management.

Conclusion

As the saying goes, "It is better to be a warrior in a garden, than a gardener in a war."

Understanding one's legal rights together with a careful and detailed review of the relevant facts and circumstances of the case puts the taxpayer in a better position to safeguard his interests and advance his rights in a dispute with the tax authority, should the need arise.

Know your rights. Be prepared.

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