

Complaint against the Inland Revenue Department - delay in responding to a tax objection.

The complaint

The complainant, a business enterprise, received a demand for profits tax for the assessment year 1992/93 from the Inland Revenue Department in May 1994. Disagreeing with the amount of tax charged, the complainant immediately filed an objection. In September 1994, the Department notified the complainant that the reasons given to substantiate the objection were not accepted. The complainant then wrote to the Department on 22 September 1994 to further pursue the matter. Without receiving any response from the Department, it wrote again in June and September 1996 to check on the progress. When no reply was yet received by April 1997, the complainant lodged a complaint to this Office against the Department for delay in responding to its tax objection.

Findings and observations

2. Upon investigation, this Office observes that after receiving the complainant's letter of 22 September 1994, the Department had not taken any further action until August 1995 when instruction was given for an objection report on the tax objection case to be prepared. The report was compiled by November 1995, and the Senior Assessor, after vetting the report, referred the case to the Appeals Section in March 1996 for determination by the Deputy Commissioner of Inland Revenue in accordance with the relevant procedure. After this Office had brought the present complaint to the Department's attention, it issued a letter of apology to the complainant and finally a determination on the objection in May 1997.

3. This Office observes that in the course of the Department's processing of the complainant's tax objection, there had been a period of inaction which lasted for almost a year from September 1994 to August 1995. While the Department was unable to ascertain the exact circumstances at the material time, it suggested that the unfortunate and accidental tearing away of the action tag attached to the complainant's letter, followed by an oversight of the Department's staff in returning the file to the filing rack were possible causes. In addition, this happened at a time when the Department's objection control procedure was relaxed. In this regard, during the period from late 1994 to early 1996, some of the staff members of the work unit handling the complainant's objection were redeployed for work in relation to the profits tax computer system and organizational restructuring of the unit. Because of the heavier work load associated with these additional duties, and as an exigency measure, a number of control procedures had to be temporarily relaxed, including the quarterly review of outstanding objection cases. As a result, the inaction in respect of the complainant's tax objection had not been discovered earlier, and it was only upon a review, conducted in August 1995, of objection cases which had remained outstanding for over 12 months that the present objection case was brought out again.

4. This Office also observes that there had been a time lag of over 3 months before the objection report was vetted and referred to the Appeals Section for determination. During this period, the case officer had proceeded on leave for over a month, and was afterwards redeployed to another post. In the circumstances, the Senior Assessor supervising the processing of the case had originally intended to finalize the report himself. Unfortunately, other commitments had interrupted the work and the report was not ready until early March 1996. On the other hand, after receiving the complainant's subsequent letters in June and September 1996, the Department had hoped to draft a determination in time to provide an adequate response. However, preparation of the draft was

again interrupted by other work commitments and the need to issue a reply was overlooked.

Conclusion and recommendation

5. Overall, this Office considers that although the tearing away of the action tag might be a mishap undetected under normal attention, the returning of a tax file with outstanding action to the file rack could have been avoided had greater care been taken to see that the file rack was then the right place that the file should go to. In addition, better resource planning to ensure continuity in the operation of staff members could reduce, if not eliminate, the functional vacuum created upon the outward movement of any members of the work unit. Had these been better taken care of, a substantial portion of the time taken before a determination was reached on the complainant's objection could have been saved. With these considerations, the complaint is substantiated.

6. The Ombudsman is pleased to note that the Department has since reminded its staff of the need to pay greater attention to safeguarding against the recurrence of oversights and delays similar to those encountered on the present occasion, and that it has adopted a revised monitoring mechanism that may help to speed up the processing of tax objections. Nevertheless, in the light of the circumstances of this complaint, The Ombudsman recommends the Department to examine if the existing staff deployment arrangements are adequate in preventing or reducing disruption of work flow in the event of transfer and other movement of staff members. The Department accepted The Ombudsman's findings of the case and his recommendation.

Implementation of recommendation

7. Pursuant to The Ombudsman's recommendation, the Department had conducted a review on the existing staff deployment arrangement and found the existing policy on staff transfers, which was

mainly to cater for staff development and operational needs to be in order. The Department nevertheless considered that a good handover system would help reduce disruption of work caused by staff movements and would facilitate the supervisors concerned in deciding whether any part of the outstanding work of the outgoing officers should be taken up by other officers as a temporary measure. In this regard, the Department had issued a circular on handover arrangements, setting out a standardized format for preparing handover notes and giving guidelines on the involvement of the outgoing officers, their senior officers and the incoming officers in the related work arrangements.

Office of The Ombudsman

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