

**Case No. D7/24**

**Property tax** – appeal out of time – extension of time – service address overseas – sections 66(1)(a) and 66(1A) of the Inland Revenue Ordinance (IRO) [Decision in Chinese]

Panel: Hau Pak Sun (chairman), Ching Yuet Wa Stephanie and Chong Wai Ming.

Date of hearing: 28 March 2024.

Date of decision: 19 August 2024.

The appellant (Ms A) challenged the property tax assessments issued by the Hong Kong Inland Revenue Department (IRD) for the years 2015/16 to 2018/19 and 2020/21. She claimed the assessments were excessive and argued that she should be taxed under personal assessment instead. On 27 April 2022, she submitted an objection to the IRD and requested that all correspondence be sent to her new address in Province B, the Chinese Mainland.

On 8 February 2023, the IRD issued a determination regarding her objection and sent it via registered mail to the designated Mainland address. According to records from Hongkong Post and China Post, the letter was successfully delivered on 11 March 2023. However, the appellant did not submit her appeal within the statutory one-month period, which expired on 11 April 2023. Instead, the Board of Review received her appeal notice on 8 November 2023—nearly seven months late.

The appellant argued that she had not received the determination until she personally visited the IRD office on 24 October 2023. She claimed that her residence in the Mainland prevented her from receiving the mail and that she had made multiple phone inquiries to the IRD between June and October 2023 without receiving a satisfactory response. She asserted that her absence from Hong Kong was the reason for the delay and requested an extension of the appeal period under section 66(1A) of the Inland Revenue Ordinance.

The Board concluded that the determination was properly served to the appellant's last known address, as per her own instructions. Under section 58 of the Ordinance, once a notice is sent to the taxpayer's designated address, it is deemed served regardless of actual receipt. The Board emphasized that the appellant had a responsibility to ensure she could receive correspondence at her chosen address and that her absence from Hong Kong did not automatically justify an extension.

**Held:**

1. The central legal issue was whether the appellant's notice of appeal was submitted within the statutory time limit prescribed under section 66(1)(a) of the Inland Revenue Ordinance (IRO), and if not, whether the Board should exercise its discretion under section 66(1A) to extend the deadline. The Board first confirmed that the IRD had properly served the determination letter to the appellant's last known address in the Mainland, as per her own instructions. Under section 58(2) and 58(3) of the IRO, once a notice is sent by registered mail to the taxpayer's designated address, it is deemed served the day after it would ordinarily be received—even if the taxpayer does not actually receive it.
2. Based on postal records, the Board found that the determination was successfully delivered on 11 March 2023, meaning the appeal deadline expired on 11 April 2023. The appellant's notice of appeal was received on 8 November 2023, well beyond the statutory limit. The Board emphasized that the law requires strict compliance with the one-month deadline, and even a delay of one day would render an appeal invalid unless an extension is granted under section 66(1A).
3. To qualify for an extension, the appellant needed to prove she was 'unable' to file the appeal in time due to illness, absence from Hong Kong, or other reasonable cause, see Chow Kwong Fai v Commissioner of Inland Revenue and Excelter Investment Ltd v Inland Revenue Board of Review. The Board noted that the appellant had not provided any evidence of illness or other compelling reasons, and her absence from Hong Kong did not prevent her from eventually submitting the appeal—demonstrating that she was capable of doing so.
4. The Board opined that the appellant had chosen to use a Mainland address for correspondence and bore the responsibility to ensure she could receive mail there. The fact that she did not receive the determination until October 2023 was irrelevant under the legal framework, which focuses on the date of delivery—not actual receipt. The Board also pointed out that the IRD had made additional efforts to resend the documents and even emailed them to the appellant, yet she still failed to act within the required timeframe.
5. The Board found that the appellant did not meet the strict criteria under section 66(1A) for extending the appeal period. Her reasons were insufficient and unsupported by evidence. As a result, the Board dismissed the application for extension and rejected the appeal.

**Appeal dismissed.**

(2024-25) VOLUME 39 INLAND REVENUE BOARD OF REVIEW DECISIONS

Cases referred to:

Chan Chun Chuen v Commissioner of Inland Revenue [2012] 2 HKLRD 379  
D2/04, IRBRD, vol 19, 76  
D3/91, IRBRD, vol 5, 537  
Chow Kwong Fai v Commissioner of Inland Revenue [2005] 4 HKLRD 687  
Excelter Investment Limited v Inland Revenue Board of Review [2021] HKCA  
1049  
D11/89, IRBRD, vol 4, 230  
D9/79, IRBRD, vol 1, 354  
D19/01, IRBRD, vol 16, 1835  
D30/12, (2012-13) IRBRD, vol 27, 657

Appellant in person.

Wong Hoi Ki and Ng Sui Ling, for the Commissioner of Inland Revenue.

案件编号 D7/24

**利得税**—逾期上诉—延展上诉期限—海外送达地址—《税务条例》第66(1)(a)及66(1A) 条

委员会:侯百燊(主席)、程月华及庄惠明

聆讯日期:2024年3月28日

裁决日期:2024年8月19日

上诉人(A女士)就2015/16至2018/19及2020/21课税年度的物业税评税提出反对,认为税务局的评税过高,并主张应以个人入息课税方式处理。她于2022年4月27日向税务局提交反对通知,并要求将其通讯地址更改为中国内地B省的地址。

税务局于2023年2月8日向该地址发出决定书,并由香港邮政以挂号邮件寄出。根据香港邮政及中国邮政的纪录,该决定书已于2023年3月11日成功送达上诉人指定的地址。然而,上诉人并未在法定的一个月期限内(即2023年4月11日前)向税务上诉委员会提交上诉通知。直至2023年11月8日,委员会书记才收到上诉人的上诉通知书,距离法定期限已过近七个月。

上诉人辩称,她表示在2023年10月24日亲自前往税务局领取决定书之前,并未收到任何通知。原因是由于她居住在内地,未能收到税务局的信件。她亦指出曾多次从内地致电税务局查询进度,但未获明确回复。她声称自己居住在中国内地,无法收到邮件,并且在2023年6月至10月期间多次致电税务局查询,但均未得到满意答复。她声称自己不在香港是导致延误的原因,并根据《税务条例》第66(1A)条申请延长上诉期限。

委员会裁定,决定书已根据上诉人本人的指示妥善送达其最后为人所知的地址。根据《税务条例》第58条,通知一旦送达纳税人指定的地址,即视为已送达,无论是否实际收到。委员会强调,上诉人有责任确保其所选地址能够收到信件,并且她不在香港并不自动成为延期的理由。

**裁决:**

1. 本案的核心法律问题是上诉人的上诉是否在《税务条例》第66(1)(a)条所规定的法定时限内提交上诉通知书;若否,委员会是否应根据第66(1A)条的酌情权,批准延长上诉期限。委员会首先确认,税务局已根据上诉人提供的中国内地地址将决定书妥善送达其在内地的最后已知地址。根据《税务条例》第58(2)和58(3)条,决定书一旦以挂

号信的方式寄送到纳税人指定的地址，即视为在通常收到决定书的次日送达——即使纳税人实际上并未收到决定书。

2. 根据邮寄记录，委员会裁定决定书已于2023年3月11日成功送达，这意味着上诉截止日期已于2023年4月11日到期。上诉人的上诉通知于2023年11月8日收到，远远超过了法定期限。委员会强调，法律要求严格遵守一个月的期限，即使延迟一天也会导致上诉无效，除非根据第66(1A)条获得延期。
3. 要符合延期资格，上诉人需要证明她因疾病、不在香港或其他合理原因而「未能」及时提起上诉，见 Chow Kwong Fai v Commissioner of Inland Revenue 和 Excelter Investment Ltd v Inland Revenue Board of Review 案。委员会注意到，上诉人没有提供任何生病或其他令人信服的理由的证据，而且她不在香港并不妨碍她最终提出上诉——表明她有能力这样做。
4. 委员会认为，上诉人选择使用内地地址进行通信，并有责任确保她能在那里收到邮件。上诉人直到2023年10月才收到决定书，但根据法律框架，这无关紧要，因为法律框架关注的是送达日期，而不是实际收到日期。委员会还指出，税务局已尽额外努力重新发送文件，甚至透过电子邮件发送给上诉人，但她仍然未能在规定期限内采取行动。
5. 委员会认为上诉人未能符合第66(1A)条所订的严格准则延期上诉。上诉人提出的理由不充分，缺乏证据支持。因此，委员会拒绝其延期申请，并正式驳回上诉。

## 上诉驳回。

### 参考案例:

Chan Chun Chuen v Commissioner of Inland Revenue [2012] 2 HKLRD 379  
D2/04, IRBRD, vol 19, 76  
D3/91, IRBRD, vol 5, 537  
Chow Kwong Fai v Commissioner of Inland Revenue [2005] 4 HKLRD 687  
Excelter Investment Limited v Inland Revenue Board of Review [2021] HKCA  
1049  
D11/89, IRBRD, vol 4, 230  
D9/79, IRBRD, vol 1, 354  
D19/01, IRBRD, vol 16, 1835  
D30/12, (2012-13) IRBRD, vol 27, 657

上诉人亲自出席聆讯。

黄恺棋及吴瑞玲代表税务局局长出席聆讯。

## 决定书:

### 事实背景

1. 上诉人A女士(以下简称「**上诉人**」)反对税务局向她作出的2015/16至2018/19及2020/21课税年度物业税评税。上诉人声称评税过高,并应符合资格以个人入息课税方式评税。
2. 于2023年11月28日税务局致函给委员会的来信中,表明了税务局的立场拟就这种上诉的有效性提出争议,原因是上诉人并非在《税务条例》(以下简称「**税例**」)第66(1)条规定的一个月期间内提出上诉。
3. 就上诉人提出的上诉,委员会首先须决定的是上诉人的上诉是否于税例第66(1)条规定的法定期限内提出。如果上诉人逾期提出上诉,委员会则须决定是否可根据税例第66(1A)条延长上诉期限。如果委员会决定上诉人并没有逾期上诉或是容许上诉人延长上诉期限,则这次上诉的实质聆讯处理实体上诉理由将会押后,重新订立聆讯日期。
4. 与本聆讯的文件记录相关事实及时序如下:

日期	事件
27-04-2022	上诉人就2015/16至2018/19及2020/21课税年度物业税评税提出反对,并要求税务局更改其通讯地址为B省C市XX区XXXX里XXX号XXXXX号楼XXXX(邮编XXXXXX)(以下简称「 <b>B省地址</b> 」)
08-02-2023	税务局副局长就上诉人2015/16至2018/19及2020/21课税年度物业税评税所提出的反对发出决定书及附件(决定书及附件以下合称「 <b>该决定书</b> 」),该决定书连同一封列明上诉人上诉的权利、程序和期限的信件(以下简称「 <b>有关信件</b> 」),以挂号邮件方式寄往B省地址。
08-02-2023	香港邮政确认税务局以挂号方式投寄该决定书及有关信件给上诉人。
11-03-2023	香港邮政确认该决定书及有关信件已被成功于2023年3月11日派递。
27-04-2023	由于上诉人没有就该决定书向委员会提出上诉,评税主任按该决定书调整2015/16至2018/19及2020/21课税年度物业税评税,并发出修订评税通知书。
08-06-2023	评税主任发信给上诉人(以下简称「 <b>信件一</b> 」),夹附该决定书及有关信件副本。信件一以平邮方式寄往B省

	地址。
20-09-2023	评税主任发信给上诉人(以下简称「信件二」),夹附该决定书及有关信件副本,并指出该决定书已于2023年2月8日发出,请上诉人参阅与该决定书同日发出的有关信件上关于向委员会提出上诉的程序和时限。信件二以平邮方式寄往B省地址。
20-09-2023	评税主任发出电邮给上诉人,夹附信件二、该决定书及有关信件副本。
24-10-2023	上诉人到访税务局。评税主任把该决定书、有关信件、信件一及信件二副本交给上诉人,并由上诉人签收确认。
08-11-2023	委员会书记收悉上诉人日期为2023年11月6日的上诉通知书。

5. 根据入境事务处提供的数据,上诉人在2023年2月8日(即该决定书发出日)至2023年11月8日期间只有共八天的时间在香港(在香港日期为2023年2月21日至2023年2月24日及2023年10月23日至2023年10月26日)。

### 有关条例法律原则

6. 税例第51(8)条规定:

「.....应课税的人如更改其地址,须于1个月内将更改的详情以书面通知局长。」

7. 税例第58(2)条规定:

「每份凭借本条例发出的通知书,可面交送达有关的人,或送交或以邮递方式寄往该人的最后为人所知的通讯地址.....」

8. 税例第58(3)条规定:

「除非相反证明成立,否则以邮递方式寄送的通知,须当作是在收件人经一般邮递程序应接获通知书之日的翌日送达。」

9. 税例第58(4)条规定:

「在证明是以邮递方式送达通知书时,只须证明装载有关通知书的信件已妥为注明地址及投寄,即已足够。」

10. 税例第66(1)条规定:

「任何人(下称上诉人)如已对任何评税作出有效的反对,但局长在考虑

该项反对时没有与该人达成协议,则该人可—

(a) 在局长的书面决定连同决定理由及事实陈述书根据第64(4)条送交其本人后1个月内;或

(b) 在税务上诉委员会根据第(1A)款容许的更长期限内,

亲自或由其获授权代表向委员会发出上诉通知;该通知除非是以书面向委员会书记发出,并附有局长的决定书副本连同决定理由与事实陈述书副本及一份上诉理由陈述书,否则不获受理。」

11. 税例第66(1A)条订明:

「如委员会信纳上诉人是由于疾病、不在香港或其他合理因由而未能按照第(1)(a)款规定发出上诉通知,可根据第(1)款发出上诉通知的时间延长至委员会认为适当的期限。」

### 送达通知的有关原则

12. 就税例第58(2)及58(3)条的法律效力,上诉庭于Chan Chun Chuen v Commissioner of Inland Revenue [2012] 2 HKLRD 379一案第27(2)及(3)段中指出税务局局长可以邮政服务发出通知,寄往纳税人的最后为税务局所知悉的通讯地址,而除非相反证明成立,否则经邮递的通知,将被推定于收件人经一般邮递程序应接获通知书之日的翌日送达,即使纳税人并没有在该推定的时间或之前收到该通知,甚至完全没有收到通知。相关英文判辞原文节录如下:

*‘27(2) ... Section 58(2) is the governing provision for giving notice by way of postal service. Once it is invoked the Commissioner does not need to show further that the notice had “actually” come to the knowledge of the taxpayer. This is because, first, the very fact that a mode of service other than personal service is permitted, is by itself an indication that service will be completed when the requirements stipulated for service have been fulfilled. Although s.58(2) does not use words that postal service “shall be deemed to be service”, the wording in that section clearly carries that meaning ... once the document was properly served under s.58(2), actual notice was treated to have been given to the taxpayer. It is then up to the taxpayer to ensure that the document which he had chosen to be sent to a specified address would be brought to his attention.*

*27(3) ...s.58(3) merely provides the rebuttable presumption on the time that the notice sent by post is deemed to have been served, namely, on the day succeeding the date on which the notice would have been received in the ordinary course by post. Even if the notice is not received by that presumed time or at all, nonetheless it is deemed to have been served ...*



27(5) ... Under the statutory framework there is no requirement to serve on all the known addresses of the taxpayer. The taxpayer's rights are further protected because he has the right under s.51(8) to choose which address he wishes the notices from the IRD to be sent to him...

13. 委员会在案例D2/04, IRBRD, vol 19, 76中裁定,税例第66(1)条中「送交其本人后1个月内」是指送交程序完成后起计的1个月,而送交程序的结束是指决定书已被送达收件人的地址,并非指收件人亲自收妥(见当中第7段)。相关英文判辞原文节录如下

*'Thus, by virtue of section 10B(2) of the Interpretation and General Clauses Ordinance, the word "1 month after the transmission to him under section 64(4) of the Commissioner's written determination" in the English text are presumed to mean the same as "送交其本人后". The question is whether those words mean that the intended appellant has one month from the date when the process of transmission begins (that is, when Commissioner despatched his determination), or whether he has the one month period after the process of transmission has been completed. In our view, the latter meaning is more consonant with the legislative intention. We derive support from the fact that the words used are "after transmission to him" and the Chinese "送交其本人后" ... We should observe that the end of the process of transmission does not depend upon whether the determination has physically reached the recipient. The process of transmission would normally end when the determination reaches the address that it was sent to.'*

14. 除委员会根据税例第66(1A)条决定延长上诉期限之外,上诉人必须严格遵守上诉时限,即使上诉只超过法定时限一天,亦不获委员会接纳(见委员会案例D3/91, IRBRD, vol 5, 537)。

### **延长上诉期限的有关原则**

15. 税例第66(1A)条就批准逾期上诉的关键词眼是「由于疾病、不在香港或其他合理因由而未能按照第(1)(a)款规定发出上诉通知」。

16. 在上诉法庭案例Chow Kwong Fai v Commissioner of Inland Revenue [2005] 4 HKLRD 687中,纳税人逾期3个月才提出上诉。纳税人声称误解了税例第66(1)条就有效上诉的规限,以为他须亲自拟备事实陈述书,并连同上诉理由一并递交,否则委员会不会接纳他的上诉。上诉法庭驳回纳税人的上诉,并且有以下的裁决:

- (1) 英文版税例第66(1A)条内的「prevented」一字,最适宜以该条文的中文版内「未能」一词的含义去理解。「未能」是指「没有能力办到」的意思,虽然没有「prevented」一字般严格,但所需的准则仍较仅仅提出一个托辞的要求为高。相关判辞原文如下:

*‘20. In my opinion, while a liberal interpretation must be given to the word “prevented” used in s.66(1A), it should best be understood to bear the meaning of the term “未能” in the Chinese language version of the subsection ... The term means “unable to”. The choice of this meaning not only has the advantage of reconciling the versions in the two languages, if any reconciliation is needed, but also provides a less stringent test than the word “prevent”. On the other hand, “unable to” imposes a higher threshold than a mere excuse and would appear to give proper effect to the rigour of time limit imposed by a taxation statute ...’*

- (2) 纳税人单方面对上诉通知规限的误解并不构成「合理因由」。相关判辞原文如下：

*‘45.... Any misunderstanding on the part of the appellant that he had to prepare a statement of facts which took him beyond the one month limit must be a unilateral mistake on his part. Such a mistake cannot be properly described as a reasonable cause which prevented him from lodging the notice of appeal within time...’*

- (3) 假若有合理因由,而纳税人是由于该合理因由而没有在规定的时间内递交上诉通知,他便符合了税例第66(1A)条的规定。相关判辞原文如下：

*‘46. If there is a reasonable cause and because of that reason an appellant does not file the notice of appeal within time, then he has satisfied the requirement of s.66(1A)...’*

17. 在 Excelter Investment Limited v Inland Revenue Board of Review [2021] HKCA 1049 一案中,上诉法庭裁定纳税人的实体上诉理由及案情与其「未能」于法定期限内提出上诉的原因无关,因此在决定是否可根据税例第66 (1A)条延长上诉期限时,这些事项都不应获考虑。相关英文判辞原文节录如下(第228页第23段):

*‘... The grounds of the taxpayer’s appeal, and its merits are not matters that relate to the reasons for his being prevented from filing a timely notice, and as such are not a relevant matter for consideration.’*

18. 在委员会个案 D11/89 4 IRBRD 230,委员会指出有关条文的字眼是十分清晰和带有限制的,纳税人须符合严格的准则才能证明税例第66( 1A)条适用(第234页)。

19. 委员会在案例 D9/79 1 IRBRD 354 一案中裁定,「未能」一词是有别于一名纳税人在可以发出通知书的情况下而没有这样做。对行使权利方面或所采取步骤方面疏忽延误或无知,均不是可获批准延期的合理因由。相关英文判辞原文节录如下(第355页):

*‘... The word “prevented”, as we see it, is opposed to a situation where an appellant is able to give notice but has failed to do so. In our view, therefore, neither laches nor ignorance of one’s rights or of the steps to be taken is a ground upon which an extension may be granted ...’*

20. 在委员会个案D19/01 16 IRBRD 183中,裁定「不在香港」并非必然获得延长法定上诉期限。纳税人必须证明他是由于不在香港而引致其未能在税例的期限内发出上诉通知。相关英文判辞原文节录如下(第185页第14段):

*‘Absence from Hong Kong does not confer an automatic right for extension of time. It is for the Taxpayer to satisfy us that he was so prevented from giving the requisite notice.’*

21. 在委员会D30/12 (2012-13) 27 IRBRD 657一案中,纳税人自退休后长时间不在香港,从此使用其妻子亲戚的地址为其通讯地址。纳税人只会定期回港接受治疗。决定书是以挂号邮递方式寄往该通讯地址,并于2011年8月4日获认收。不过,纳税人在2011年9月26日才提交完整的上诉通知书。纳税人辩称直至他于2011年9月11日回港治疗才知道有决定书寄给他,所以延误了提交上诉通知书。委员会引用Chan Chun Chuen一案,指出纳税人将会离开香港一段长时间,应谨慎处理以确保他能获悉送交给他的书信。若纳税人曾作出适当的安排,他本可以在适当的时间收到决定书。委员会不接纳纳税人因不在香港由而未能在法定时限内提出上诉,并驳回他的延期上诉申请。委员会裁定上诉期由决定书于2011年8月4日根据税例第58(2)条寄给纳税人当日开始计算,与纳税人是否和何时实际获悉有关决定书并无关系。相关英文判辞原文节录如下:

*‘The majority of this Board think it is likewise true for a taxpayer who knows that he will be out of Hong Kong for lengthy periods of time that he should exercise due diligence to ensure that he would be notified of his correspondence. The Appellant could have received the Determination in proper time if he had made proper arrangements to do so. He bears the burden of satisfying this Board that he was prevented from giving notice in time by his absence from Hong Kong within the meaning of section 66(1A) of the IRO. By a majority of this Board, we are not so satisfied and we are not prepared to grant him the extension he sought.’ (第662页第17段)*

*‘[Sections 58(2) and 58(4)] have been properly complied with. The Determination was duly delivered to Address A, the correspondence address designated by the Appellant himself and his last known postal address. Time began to run on 4 August 2011. Whether or when the Appellant had actual knowledge of the Determination was irrelevant (see Chan Chun Chuen v CIR CACV 113/2011). He was required to give notice of appeal to the BOR within 1 month thereafter, namely on or before 5 September 2011’ (第660页第5段)*

**上诉人要求上诉延期的理由**

22. 在日期为2023年11月6日的上诉通知中及在上诉人出席本次聆讯的陈词中, 上诉人声称:

- (1) 上诉人不在香港居住;
- (2) 上诉人于2022年8月12日去信反对物业税缴纳要求, 直到2023年10月24日亲自去税务局大楼领取才收到该决定书, 期间一直都没有收到任何税务局长的批覆;
- (3) 上诉人期间于2023年4月27日在网上得知税务局声称上诉人需要交的物业税替上诉人扣除了修葺税项;
- (4) 随后上诉人于2023年6月7号, 2023年7月18号, 2023年9月13号及2023年10月19号共四次从内地致电香港税务局查询为什么税务局还没有回复, 税务局回答说2023年3月已经寄出了;
- (5) 上诉人直至2023年10月23日回香港才第一时间自己过去税务局取该决定书; 及
- (6) 上诉人解释上诉通知迟了提交是因为税务局寄给上诉人的信上诉人在内地没有收到。

### 上诉是否逾期提出?

23. 上诉人于2022年4月27日亲自签名发给税务局的信中要求税务局将所有给上诉人的信件寄到B省地址。委员会接纳B省地址为上诉人的最后为税务局所知悉的通讯地址以及有效送达地址。

24. 在本案中香港邮政的文件证据显示:

- (1) 该决定书(连同有关信件)于2023年2月8日, 以挂号邮件方式投寄往上诉人指定的内地通讯地址(即B省地址)。
- (2) 该决定书及税局有关信件已于2023年3月11日送到上诉人的B省地址, 完成派递。

25. 税务局也呈上中国邮政速递物流的邮件轨迹证明了有关信件在2023年2月8日从香港寄出以及在2023年3月11日已妥为签收。

26. 委员会接纳税务局局长呈上的证据证明该决定书已于2023年3月11日送达。

27. 按税例第66(1)(a)条, 上诉期限为税务局局长的书面决定送交纳税人后

1个月内。根据Chan Chun Chuen 一案及委员会案例D2/04,送交过程完成是指决定书已被送达收件人的地址,无须是收件人亲自收妥。而且该决定书一旦根据税例第58(2)条送达上诉人的通讯地址,应视为已向上诉人作出实际通知。

28. 按上述案例的裁决,该决定书应被视作于2023年3月11日送交,而税例第66(1)(a)条规定的1个月上诉期则于2023年4月11日届满。

29. 由于委员会书记直至2023年11月8日才收悉上诉人的上诉通知书,而当时已是超过上诉期限接近7个月。故此,根据税例第66(1)条上诉人是逾期提出上诉。

30. 无论如何及无损以上结论的前提下,上诉人声称没有收到该决定书,评税主任因应上诉人的要求,于2023年6月8日及9月20日,再将该决定书以平邮方式寄往B省地址,并于2023年9月20日发送到上诉人的电邮地址(文件证明上诉人也有使用同一电邮地址和委员会书记通信,例如上诉人致函委员会书记2023年11月16日的电邮)。委员会接纳这些均是证据证明已向上诉人作出实际通知上诉人该决定书,而上诉人均没有在1个月上诉期内提出上诉。

### 上诉人是否「未能」在法定期限内发出上诉通知?

31. 由于上诉人是逾期提出上诉,委员会须考虑是否可根据税例第66(1A)条行使权力延长1个月的上诉期限。就此,委员会必须信纳上诉人是「由于疾病、不在香港或其他合理因由」而「未能」在法定期限内发出上诉通知。

32. 上诉人居于内地,既然上诉人选择以B省地址作为与税务局通讯的地址,上诉人应采取适当的安排和措施,以确定该地址能让上诉人收取税务局发出的信件。委员会接纳税务局陈词称若上诉人曾作出适当的安排,上诉人本可以在适当的时间收到该决定书。援引D30/12 一案,上诉人的上诉期应由该决定书于2023年3月11日根据税例第58(2)条送交上诉人当日开始计算,与上诉人声称在2023年10月24日才实际获悉该决定书无关。

33. 委员会也接纳税务局陈词称上诉人没有说明上诉人不在香港如何令上诉人「未能」在法定期限内提出上诉,亦未有提供其他理由及证据以支持上诉人因「不在香港」未能提出有效上诉通知。上诉人虽然于2023年10月27日至11月8日期间不在香港,但上诉人仍然能安排将日期为2023年11月6日的上诉通知书于2023年11月8日送达委员会书记。可见上诉人虽然不是身在香港,但未有影响上诉人向委员会书记发出上诉通知书。委员会也接纳税务局陈词称,显然上诉人不是因「不在香港」而未能向委员会书记提出上诉。上诉人仅声称上诉人没有在2023年10月24日前收到该决定书,但正于前文所说,该决定书应被视作于2023年3月11日送交给上诉人,与上诉人是否和何时实际获悉该决定书并无关系。

34. 上诉人也未有提供其他证明以证实她是由于疾病或其他合理因由而未能法定期限内提交上诉通知书。

## 结论

35. 按D11/89 的裁决,上诉人未能符合税例第66(1A)条的严格准则,因此不应获批准延期提出上诉。

36. 基于上述原因,委员会认为上诉人不能证明任何合理因由导致上诉人未能在法定时间内发出就该决定书的上诉通知。因此,委员会驳回上诉人逾期上诉的申请。