



TC06688

**Appeal number: TC/2016/05931
TC/2017/02448 & ors**

*PROCEDURE - whether Rule 18 direction for appeals to be related cases
appropriate - yes*

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

**(1) JONES BROS RUTHIN (CIVIL ENGINEERING) CO LTD Appellants
(2) BRITANNIA HOTELS LTD
& OTHERS**

- and -

**THE COMMISSIONERS FOR HER MAJESTY'S Respondents
REVENUE & CUSTOMS**

TRIBUNAL: JUDGE JENNIFER DEAN

Sitting in public at Taylor House, London on 25 June 2018

**Mr K. Prosser QC, Counsel instructed by Reynolds Porter Chamberlain LLP,
for Jones Bros Ruthin, Britannia Hotels & 54 others**

Mr K. Gordon, Counsel instructed by Jacksons, for Hull City Tigers Ltd

No representations were made on behalf of Mazars for Muller Dairy (UK) Ltd

Ms C. Gannon of Gannons Solicitors for Merchant Place Corporate Finance Ltd

**Mr T. Brennan QC leading Ms G. Hicks, Counsel instructed by HM Revenue
and Customs, for the Respondents**

DECISION

1. The Appellants represented by RPC apply for a Rule 18 Direction. The appeals
5 involve taxpayers who have used a scheme originally marketed by Grant Thornton.
The decisions appealed against are HMRC’s decisions in relation to the tax schemes
used (“Growth Securities Ownership Plans” (“GSOPs”)) designed to reward
employees, directors and/or shareholders with payouts on instruments said to be
“employment related securities” which fall within Part 7 of the Income Tax (Earnings
10 and Pensions) Act 2003 (“ITEPA”).

2. The majority of Appellants are represented by RPC. Others are represented by
Jacksons Cartered Accountants (TC/2018/00477) Hull City Tigers Ltd, Gannons
Solicitors (TC/2018/00330) Merchant Place Corporate Finance Ltd and Mazars LLP
15 (TC/2018/01723) Muller Dairy (UK) Ltd. Although the application for a Rule 18
Direction was made in relation to the Appellants represented by RPC, the other parties
were invited to provide observations on the application and attend the case
management hearing on 25 June 2018 as potentially related cases. References to the
Appellants in this Decision refer to those taxpayers represented by RPC and in respect
of whom the application is made. Any references to the remaining taxpayers will be
20 made by reference to the specific appeals and their respective representatives.

3. The Direction sought is that the appeals of Jones Bros and Britannia Hotels
should proceed as lead cases pursuant to Rule 18 of the FTT Rules with the remaining
RPC appeals stayed until 60 days after the decision of the Tribunal in relation to the
lead cases. The application is opposed by HMRC.

25 The Rules

4. Rule 18 of The Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules
2009 provides:

(1) This rule applies if—
30 (a) two or more cases have been started before the Tribunal;
(b) in each such case the Tribunal has not made a decision disposing of the
proceedings; and
(c) the cases give rise to common or related issues of fact or law.

(2) The Tribunal may give a direction—
35 (a) specifying one or more cases falling under paragraph (1) as a lead case or
lead cases; and
(b) staying (or, in Scotland, sisting) the other cases falling under paragraph (1)
 (“the related cases”).

(3) When the Tribunal makes a decision in respect of the common or related
40 issues—
(a) the Tribunal must send a copy of that decision to each party in each of the
related cases; and

(b) subject to paragraph (4), that decision shall be binding on each of those parties.

5 (4) Within 28 days after the date that the Tribunal sent a copy of the decision to a party under paragraph (3)(a), that party may apply in writing for a direction that the decision does not apply to, and is not binding on the parties to, that case.

10 (5) The Tribunal must give directions in respect of cases which are stayed or sisted under paragraph (2)(b), providing for the disposal of or further steps in those cases.

15 (6) If the lead case or cases are withdrawn or disposed of before the Tribunal makes a decision in respect of the common or related issues, the Tribunal must give directions as to—

(a) whether another case or other cases are to be heard as a lead case or lead cases; and

20 (b) whether any direction affecting the related cases should be set aside or amended.

Background

5. The following is a summary of the background facts taken from the parties' skeleton arguments. The purpose is to set out a general explanation of the facts and
25 issues arising in these appeals in order to consider whether, as submitted by the Appellants, they raise common or related issues. At this stage no evidence has been heard and no findings of fact made in relation to the substantive matters.

6. The Appellants participated in materially similar tax planning arrangements designed to provide rewards to employees of employer companies or to shareholders
30 of the companies. The Appellant company entered into a contract with an employee/director/shareholder under which:

(i) the company agreed to make a payment to the employee on a future specified date if a specified event occurred (for instance the company/its
35 group achieved a specified profit target), the amount of the payment being calculated by reference to a formula;

(ii) the employee agreed to make a (much smaller) payment to the company on that date if another specified event occurred (for instance of a smaller profit target was not achieved);

40 (iii) upon entering into the contract the employee also made an upfront payment (usually of a relatively small amount) to the company.

7. Grant Thornton advised the Appellants that the payment would not be earnings of the employee for income tax and NIC purposes because:

- (i) the Contract was, or was similar to, a “contract for differences” and therefore the employee’s rights under the Contract were an “employment-related security” within the meaning and for the purposes of Part 7 ITEPA 2003;
- 5 (ii) the security was an asset in the hands of the employee, analogous to the option in *Abbott v Philbin* [1961] AC 352, and therefore the payment arose from his ownership of that asset and not from his employment;
- (iii) there would be no charge to income tax under Part 7 ITEPA in respect of the payment or otherwise provided that the employee’s up front payment was at least equal to the value of the security, and provided also that a joint election was made by the company and the employee under s.431 ITEPA;
- 10 (iv) the payment would be a capital sum derived from an asset for CGT purposes.

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8. In some cases the employee had in the previous years received a discretionary bonus from the company, but in the particular year GSOP was implemented instead as a replacement for an employment bonus; Jones Bros is an example of this “bonus” category. In other cases the employee was also a shareholder of the company who could have received a dividend from the company instead of entering into the Contract under which “employment related” securities in the form of the CFD are received; Britannia Hotels is an example of this “shareholder” category.

9. The Appellants all made one or more payments to employees in accordance with the contracts; in doing so they did not deduct or account for PAYE or NIC. HMRC issued PAYE Regulation 80 determinations (and in most cases corresponding NIC decisions) to the Appellants challenging the effectiveness of GSOP on the following grounds:

- (i) The Contract was not a CFD because its predominant purpose was to structure payment of employment income or distributions, and therefore the rights of the employee under the Contract were not an “employment-related security” within Part 7 ITEPA;
- 30 (ii) Alternatively, if Part 7 applied, the payment was chargeable under s.447 ITEPA;
- (iii) Further or in the alternative the payment was earnings within Chapter 10 of Part 3 ITEPA;
- 35 (iv) HMRC puts the company to proof that the s.431 election was duly made.

10. At a case management hearing on 19 September 2017 it was directed that the appeals of Jones Bros and Britannia Hotels would be listed for consecutive

substantive hearings before the same Tribunal. Statements of Case have been served in both appeals and the parties are in the process of agreeing a Joint Statement of Agreed Facts. Statements of Case have also been served in 9 other appeals following which those appeals together with the others (including the appeals with representatives other than RPC) were stayed pending determination of this application.

Submissions on behalf of the Appellants

11. The Appellants contend that the 56 appeals involve the same GSOP arrangements and the same issues. In a letter to the Tribunal dated 19 January 2018 HMRC accepted as much stating:

“...there are a considerable number of common issues and facts as between the various appellants...in all the appeals, the FTT will need to decide whether the contracts entered into were genuine CFDs within the meaning of the legislation which will require consideration of common issues.”

12. It is also undeniable that a decision in relation to the Jones Bros and Britannia appeals will materially assist in the resolution of the other appeals. The Appellants submit that this too was accepted by HMRC in their letter dated 19 January 2018 in which they stated:

“...despite some diversity in the implementation of the scheme, there is sufficient commonality for a decision in one or more of the GSOP appeals to be of material assistance in determining the other cases.”

13. The Appellants submit that in light of HMRC’s comments it should be common ground that it would not be in line with the overriding objective for the Tribunal to hear a significant number of appeals which all involve the same GSOP arrangements and the same issues. In particular, to do so would not be in line with the requirement to deal with cases proportionately and without delay and would create the prospect of Tribunals reaching different decisions which would create uncertainty and bring the judicial process into disrepute.

14. The Tribunal should make a lead case direction under Rule 18 specifying Jones Bros and Britannia Hotels as lead cases in relation to the following five issues and stay the remaining appeals:

- (i) whether the payment is taxable as earnings;
- (ii) whether the Contract is a “contract for differences” within s.420(1)(g) and (4) ITEPA and therefore a “security”;
- (iii) Whether the Contract was at the time of acquisition a “restricted security” within s.423 ITEPA;
- (iv) Whether s.447 ITEPA (benefit in connection with employment-related securities) applies to the payment;

- (v) Whether the employee's rights under the Contract were, and/or the payment was, earnings of the employee chargeable under s.62 ITEPA or Chapter 10 of Part 3 ITEPA.

15. The Appellants submit that HMRC have given no reason for opposing the Rule 18 application. Moreover HMRC agree that two appeals should proceed with the remainder being stayed. If HMRC's proposal were to be followed the Tribunal's decisions in the two appeals would not be binding with the consequence that the stayed appeals may have to be heard at some stage. Mr Prosser QC highlighted that under Rule 18 it would be for any Appellant who did not wish to be bound to persuade the Tribunal; although there may be differences in detail in the appeals the issues are the same and therefore a Rule 18 direction is appropriate and HMRC's submission that two appeals are progressed with no Rule 18 direction makes no sense.

16. If the reason for HMRC's stance is that they will be able to litigate the stayed appeals if the lead appeals are allowed or, if the lead appeals are dismissed they would be able to issue follower notices to all the remaining Appellants thus requiring them to abandon their appeals or incur substantial penalties, then by their objection to a Rule 18 direction HMRC are not helping the Tribunal to further the overriding objective but are acting in their own self-interest.

17. The Appellants submit that the same argument applies in respect of the identity of the two lead cases. HMRC agree that Jones Bros should proceed as representative of the "bonus" category but do not agree that Britannia Hotels should be the other lead case as representative of the "shareholder" category, despite the Directions issued following the hearing on 19 September 2017. Instead HMRC propose that the lead case for the "shareholder" category should be CC Entertainments, however no reason is given and there has been no application to set aside Judge Short's Directions in this regard. The issue relating to shareholders are the same in both Britannia Hotels and CC Entertainments and therefore there is no reason why Britannia Hotels should not be the lead case. Furthermore the shareholder in CC Entertainments has indicated that they are not willing to be a lead case whereas Britannia Hotels have no objection.

18. On behalf of the Appellants a witness from Mr Stephen Nuttall, a partner of Deloitte LLP, was adduced. Mr Nuttall provided the witness statement the day before the hearing to address issues raised in respect of Britannia Hotels outlined in HMRC's skeleton argument and relied on by HMRC as a reason why Britannia Hotels is unsuitable to progress as a lead case. HMRC did not raise any objection to the statement being admitted or the fact that Mr Nuttall was not available to give evidence at short notice. Mr Nuttall explained that in March 2017 HMRC opened enquiries into the business and operations of 10 companies within the group for the year ended 31 March 2016 and its major shareholder for the period 2014-15. Although the enquiries remain on-going they do not concern the GSOP arrangements and relate to different tax years. There is no basis for the submission that the open enquiries may affect Britannia Hotels as a lead case; HMRC have already provided a list of documents upon which it relies and therefore it is unclear how the enquiries may affect availability of documents. It is also unclear how the enquiries could affect the accuracy of documentation, calculation of GSOP payments in the relevant years or

cast doubt on the dates of execution of documentation relevant to the GSOP appeals. The only witness Britannia Hotels intend to call is Mr Robert Ferrari who has indicated that the open enquiries have no bearing on his willingness to give evidence. Britannia Hotels has no intention of abandoning its appeal nor does it object to the parties to other appeals being aware of the position in relation to the enquiries. If the enquiries subsequently cause a difficulty with Britannia Hotels as a lead case the Tribunal will be notified but at present there is no evidence that HMRC's investigations will cause a problem.

10 Submissions on behalf of Hull City Tigers Ltd (TC/2016/05931) represented by Jacksons Chartered Accountants

19. Mr Gordon highlighted that the Appellant only recently became involved in the case management hearing fixed on 25 June 2018 when it learned that other similar arrangements were the subject of litigation. The Appellant has not yet received a Statement of Case and was stayed pending the outcome of the hearing.

15 20. The Rule 18 application made by RPC does not extend to this Appellant who is separately represented. However in terms of the progress of the appeal the Appellant can see the merits of a Rule 18 direction generally although there are characteristics of the appeal which appear to be unique to the company and for that reason it is submitted that it is not necessarily appropriate for it to be bound by a Rule 18 Direction at this stage.

21. Mr Gordon explained that there are matters which are effectively preliminary issues (an abuse of process argument relating to payment of the tax and HMRC's obligation to demonstrate careless conduct) which should be resolved prior to any substantive hearing. The preliminary matters may also lead to resolution without the need to consider the effect of the lead appeals. If the preliminary matters are resolved in HMRC's favour the appeal then becomes materially similar to the others and it is accepted that it would be appropriate for it to follow those other appeals (whether or not a Rule 18 direction is made).

22. The Appellant's representatives and the Appellant company do not have all relevant documentation at this stage as any paperwork that existed was lost by the time that the company's present management and ownership took over. For that reason the Appellant seeks a direction requiring HMRC to serve a Statement of Case which would assist in enabling the Appellant and Tribunal to determine whether a lead case would be of material assistance in resolving the issues before the Tribunal.

35 Submissions on behalf of Merchant Place Corporate Finance Ltd (TC/2018/00330) represented by Gannons LLP

23. Ms Gannon submitted that although the expediency of a Rule 18 direction is supported, the Appellant's case differs from the others. The main difference is that there was not one controlling shareholder; all GSOP members were shareholders who were paid a commercial salary and bonuses.

24. Ms Gannon contended that the appeal is distinguishable on the basis that there were genuine commercial reasons for its use of the scheme and that the facts differ from those in the other appeals.

HMRC's submissions

5 25. On behalf of HMRC Mr Brennan QC submitted that while superficially attractive as a means of managing a large number of cases, a Rule 18 direction is not appropriate. Furthermore Britannia Hotels is not a suitable case to be representative of other appeals.

10 26. Although there are common features there are also a wide variety of nuanced differences between the appeals, including implementation of the schemes. Rule 18 will not be useful in practice as it could potentially lead to a series of applications under Rule 18(4) on the basis that the relevant Appellant seeks to rely on a nuance of fact or implementation to argue that it should not be bound by the lead case; this is already the indication given by Jacksons Chartered Accountants and Gannons who
15 submit that the facts of their respective cases are distinguishable.

27. The purpose of Rule 18 is to avoid unnecessary litigations (see *288 Group Ltd & Others v HMRC* [2013] UKFTT 659 (TC)). HMRC submit that a Rule 18 direction in relation to these appeals would not avoid litigation.

20 28. HMRC are also reluctant for two lead cases to be chosen when a number of Appellants are either in the process of settling or have settled their appeals and so far £128 million has been recovered. Without prejudice discussions are continuing with many Appellants; should one of the lead cases take this course of action the remaining appeals would be delayed and a replacement lead case would have to be found. There is likely to be a potential delay of years and although a Rule 18 direction does not stop
25 taxpayers engaging with HMRC the reality is that this is the effect in practice.

29. HMRC have a dedicated team dealing with these appeals and it is in keeping with the overriding objective to allow HMRC to continue to work towards case-readiness and in many cases settlement. An expeditious determination of two cases will enable the remaining Appellants to take a realistic view of their prospects of
30 success. The practical utility of Rule 18 has been further diluted by the availability of the follower notice and accelerated payment regime.

30. HMRC submit that Jones Bros and CC Entertainments Co Ltd should be the two appeals progressed as examples of a “bonus” category and “shareholder” category respectively. Given the enquiries opened into Britannia Hotels HMRC
35 submit that it is an unsuitable appeal to be progressed; the enquiries cover the full range of their tax affairs and associated businesses and HMRC believe that RPC (who act on behalf of Britannia Hotels in respect of the GSOP scheme) do not represent them in relation to their wider tax affairs and are therefore not in possession of the full details; it appears that Britannia Hotels did not pass the information regarding the tax
40 investigation to RPC and there is a risk that the investigation will be widened so as to cover the GSOP period or that the findings of the investigation will have a bearing on

the issues in this appeal. There is a risk that issues may arise such as availability of documentation, accuracy of documentation, dates of execution of documents, privilege against incrimination, availability and willingness of witnesses, effect of investigation matters on the accounts and declared profit, position and behaviours of Mr Langsam a shareholder and possibility of overall contractual settlement removing the utility of the GSOP element to the appeals.

31. Britannia Hotels is non-typical in some respects; a usual feature of “profit extraction” cases is that participants received pay-outs which were in proportion to shareholding which is not the case with Britannia Hotels. The appeal of CC Entertainments is a straightforward “profit extraction” case where the single 100% shareholder signed a contract of employment and was awarded a GSOP security said to qualify as an employment related security.

32. HMRC therefore requests that Jones Bros and CC Entertainments progress and that no directions are made in relation to the remaining appeals pending the outcome of those two appeals. In relation to Hull City Tigers represented by Jacksons Chartered Accountants HMRC submit that the appeal can be stayed against the wishes of the party and that Jacksons should have all available information such that makes their request for a Statement of Case a fishing expedition and a waste of resources of both HMRC and the Tribunal.

Discussion and Decision

33. I do not accept HMRC’s objections to a Rule 18 direction on the grounds of its general operation or HMRC’s practical experience. Its purpose is to avoid unnecessary litigation and I agree with the comments of Judge Mosedale in *288 Group Ltd* at [39]:

“... that must include shortening the length of hearings. It must also include decreasing the risk of multiple tribunals deciding the same issues, and particularly to avoid the risk of FTT tribunals in different hearings coming to different conclusions on the same issue.”

34. The question for me to determine is whether a Rule 18 Direction is appropriate in these appeals and in reaching my decision I have borne in mind Rule 2 of the FTT Rules 2009:

“The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.

(2) Dealing with a case fairly and justly includes—

- (a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties;
- (b) avoiding unnecessary formality and seeking flexibility in the proceedings;
- (c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;
- (d) using any special expertise of the Tribunal effectively; and
- (e) avoiding delay, so far as compatible with proper consideration of the issues.

(3) The Tribunal must seek to give effect to the overriding objective when it—

(a) exercises any power under these Rules; or

(b) interprets any rule or practice direction.

(4) Parties must—

5 (a) help the Tribunal to further the overriding objective; and

(b) co-operate with the Tribunal generally.

35. Putting aside the issue of which appeals, the parties do not disagree to any significant extent. The Appellants seek a Rule 18 Direction whereas HMRC, as I
10 understand it, seek a direction to progress two appeals with the remaining appeals stayed. The practical difference is that HMRC are effectively seeking an informal Rule 18 with the consequence that any decisions in the lead cases would not be binding on the other Appellants. Both agree that the appeals have common features.

36. I do not accept HMRC's submission that nuanced differences of fact, such as
15 the implementation of the schemes, potentially leading to Rule 18(4) applications is a reason not to make a Rule 18 Direction; such potential exists in the making of any Rule 18(4) Direction. In my view it is not appropriate to speculate as to what action Appellants may or may not choose to take in relation to their appeals. It is the Appellants who seek this Direction and it is the decision on the common issues that is
20 binding; if Appellants subsequently seek to argue they should not be bound by the decision on related issues the Tribunal will decide the application on the merits. For those reasons I agree with and adopt the words of Judge Mosedale in *288 Group* at [41]:

25 "The difficulties which are likely to arise are where the parties dispute whether the facts in the related cases are sufficiently similar such that the decision on law in the lead case actually applies and binds the related case. Nevertheless, it seems to me that even this is a fairly weak objection in that Tribunals and courts regularly have to decide whether a case is distinguishable on the facts in order to decide whether the decision on the law by a superior court is binding."

30 37. I am also not satisfied that any on-going without prejudice discussions should prevent a Rule 18 Direction from being made. A Rule 18 Direction does not prevent HMRC and taxpayers engaging in without prejudice discussions or working towards resolution. I also take the view that the fact that HMRC have a dedicated team dealing with these appeals is not relevant to the issue of whether a Rule 18 Direction
35 is appropriate.

38. The position of both parties is that the majority of appeals should be stayed pending resolution of lead cases. In those circumstances I do not consider that making a Rule 18 Direction will cause any greater delay than the course of action proposed by HMRC.

40 39. The availability to HMRC of follower notices and the accelerated payment regime is not a factor which in my view should outweigh the overriding objective in the Tribunal's consideration as to whether a Rule 18 Direction is appropriate.

40. In furthering the overriding objective, in particular dealing with these appeals proportionately and avoiding delay I have concluded that there are sufficient common or related issues for a lead case decision to be of material assistance in determining the other cases.
- 5 41. Having concluded that it is appropriate to make a Rule 18 Direction in these appeals, the final matter to determine is which appeals should be designated as lead cases.
42. In relation to the “bonus” category of appeals both parties agree that Jones Bros should be the lead case and I therefore make that direction.
- 10 43. In relation to the “shareholder” category the Appellants submit that Britannia Hotels should be the lead case. HMRC disagree, submitting that CC Entertainments would be more appropriate.
44. I have considered the limited information provided in respect of the enquiries opened into Britannia Hotels’ tax affairs. As matters currently stand HMRC’s
15 investigations into Britannia Hotels do not relate to the same year as the GSOP appeal. However it is unknown whether or not the investigation will widen; if so, there is a risk that the enquiries could overlap with the issues arising in the GSOP appeal which could add unnecessary complication to the effect that any decision in the GSOP appeal would have in relation to other appeals. That said, I accept the
20 unchallenged evidence of Mr Nuttall and I am satisfied that at this stage there is no evidence before me upon which I can conclude that the potential difficulties highlighted by HMRC will arise. Moreover it seems to me that there is no reason to conclude that, even if HMRC’s investigations widen, the Tribunal would be unable to deal with the discrete issues raised in this appeal.
- 25 45. I have taken into account the parties’ submissions in relation to the alternative lead case proposed by HMRC, namely CC Entertainments. The attraction of designating this appeal as a lead case is that there are no additional matters under consideration by HMRC. However for the reasons set out above I am satisfied that the enquiries relating to Britannia Hotels should not prevent it progressing as a lead case.
30 I am told that the shareholder of CC Entertainments does not wish the appeal to be a lead case. Whilst I bear this in mind, it seems to me that whether a case is suitable to be a lead case is ultimately a case management decision for the Tribunal and not the taxpayer.
46. I have taken into account the various stages of the appeals; Britannia Hotels and
35 Jones Bros are at a more advanced stage than CC Entertainments having been directed at the case management hearing on 19 September 2017 to be the appeals that would be heard before the others. The Statements of Case in all three appeals have been served. In relation to Jones Bros and Britannia Hotels the parties are in the process of agreeing a joint Statement of Facts.
- 40 47. In weighing all relevant factors I have concluded that CC Entertainments should not be designated as a lead case. Jones Bros and Britannia Hotels will be designated

as lead cases with all others stayed as related cases pending the outcome of the lead cases.

Hull City Tigers Ltd (TC/2018/00477)

5 48. In principle Mr Gordon accepted that, subject to the preliminary issues raised, the appeal should be stayed pending the decisions in the lead cases.

10 49. I accept Mr Gordon's submission that the Appellants and their representatives are not at present in possession of all relevant documentation which was lost by the time that the company's present management and ownership took over. To assist in this regard I direct that HMRC should serve a Statement of Case which will clarify the basis of HMRC's decision. Once the Statement of Case is served the Appellant will be in a position to consider whether it wishes to pursue an abuse of process argument.

Merchant Place Corporate Finance Ltd (TC/2018/00330)

15 50. For the reasons set out at [36] above I do not accept that the differences in fact relied on by the Appellant are sufficient to outweigh the benefit of making a Rule 18 direction to determine the common issues. I therefore direct that this appeal is stayed as a related case pending the outcome of the lead appeals.

Muller Dairy (UK) Ltd (TC/2018/01723)

20 51. No representations were made on behalf of the Appellant and I am satisfied that there are sufficient common issues in the appeal such that it should be stayed pending the Decisions in the lead cases.

Summary of Decision

25 52. In principle pursuant to Rule 18 of the FTT Rules 2009 the appeals of Jones Bros and Britannia Hotels will be specified as lead cases. The Direction will be formally endorsed once the common or related issues of fact and law are identified.

53. Within 28 days of release of this Decision the parties must provide the Tribunal with an agreed form of words for the common or related issues to be determined by the lead cases if those issues differ from those set out at [14] above.

30 54. Within 28 days of release of this Decision the parties inform the Tribunal whether any amendments are sought to the Directions released on 19 October 2017. If no amendments are sought the Directions remain extant.

55. Within 28 days of release of this Decision HMRC must serve its Statement of Case in the appeal of Hull City Tigers Ltd.

35 56. No later than 21 days thereafter Hull City Tigers must notify HMRC and the Tribunal whether it seeks to pursue an abuse of process argument and provide draft directions for the matter to be heard as a preliminary issue.

57. All other appeals are stayed until 60 days after release of the Decisions in the lead appeals.

58. This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later than 56 days after this decision is sent to that party. The parties are referred to “Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)” which accompanies and forms part of this decision notice.

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TRIBUNAL JUDGE DEAN

RELEASE DATE: 30 July 2018