

HMRC's Reviews and Appeals – 2013-14

Where customers disagree with a decision made by HM Revenue & Customs (HMRC), they can ask for a review, make an appeal to an independent tax tribunal, or take both actions. Every year HMRC makes a very large number of decisions, including more than a million in VAT alone, of which the most common relate to tax assessments and penalties. Customers ask for reviews and make appeals in relation to a very small proportion of these decisions.

This paper contains information about reviews of and appeals against HMRC's tax decisions for the period 1 April 2013 to 31 March 2014, and includes comparisons with published figures for previous years, where appropriate.

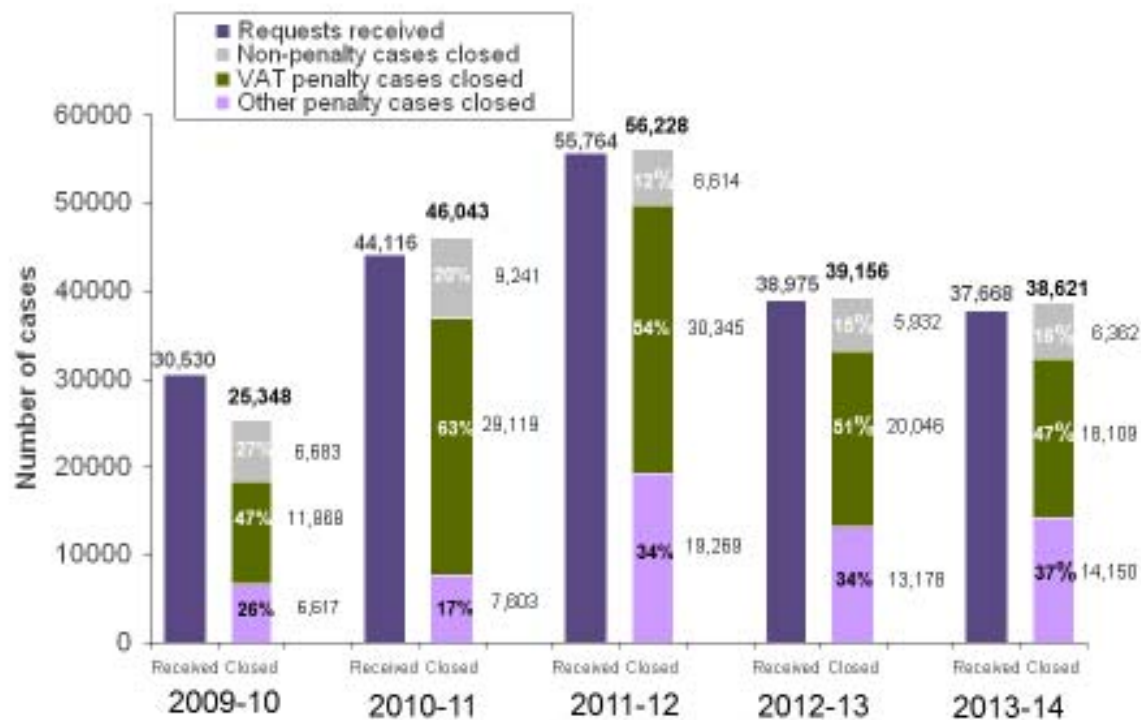
Readers should note that the source of information quoted in this publication is HMRC management information. The appeal data is not comparable with the official figures on appeals made to HM Courts and Tribunals Service (HMCTS)¹. For example, HMRC data does not include appeals regarding decisions on matters such as payment of appealed tax and information notices², those made prior to 1 April 2009, or those where further information has been requested by HMCTS.

Reviews

The statutory review system is designed to give customers a relatively quick and easy way to ask HMRC to look again at our decisions. The process is open to all HMRC's customers and is widely used by those who do not have an accountant or agent.

Receipts and closures

Review requests received and closed



¹ Official HMCTS figures on appeals made can be found at: <https://www.gov.uk/government/collections/tribunals-statistics>

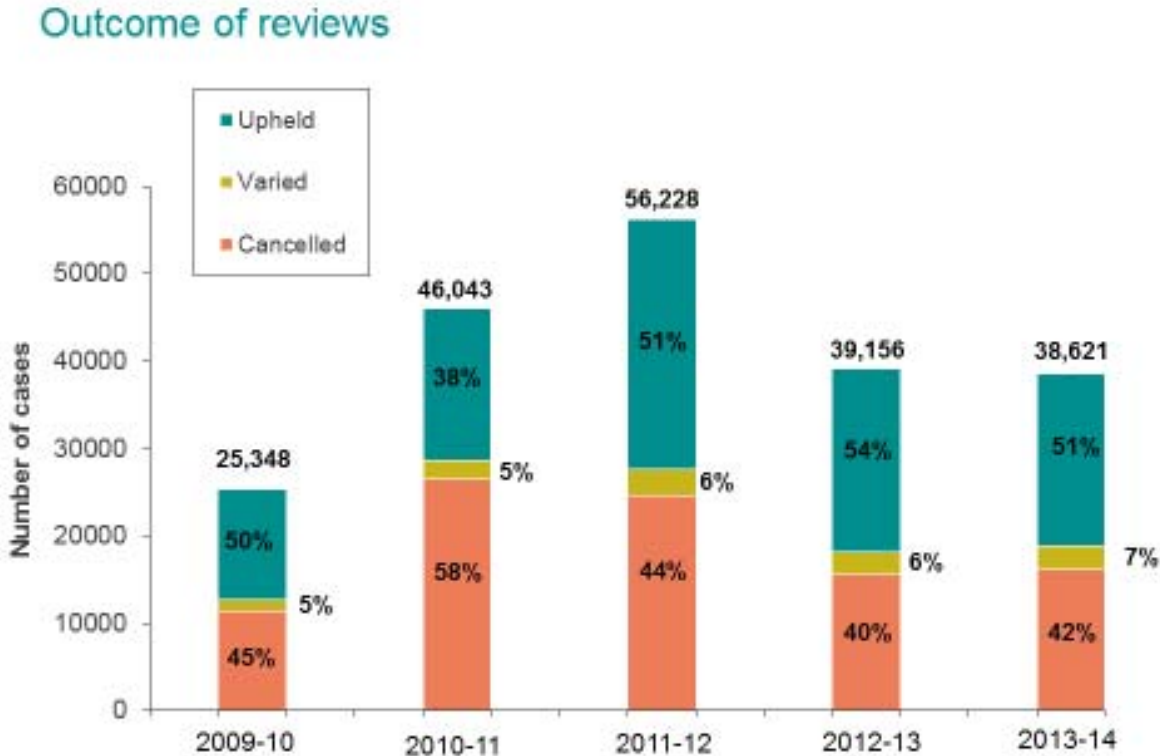
² These applications are not substantive appeals but disputes over procedural aspects of litigation.

The number of requests by taxpayers for review fell from 38,975 in 2012-13 to 37,668 in 2013-14. HMRC actually completed 38,621 reviews in 2013-14, including a small number which relate to previous years. It should be noted that requests received and completed may not relate to the same year.

The number of VAT penalty reviews fell from 20,046 in 2012-13 to 18,109 in 2013-14. The number of reviews of other penalty cases rose slightly, from 13,178 to 14,150, as did the non-penalty cases, which rose from 5,932 in 2012-13 to 6,362 in 2013-14.

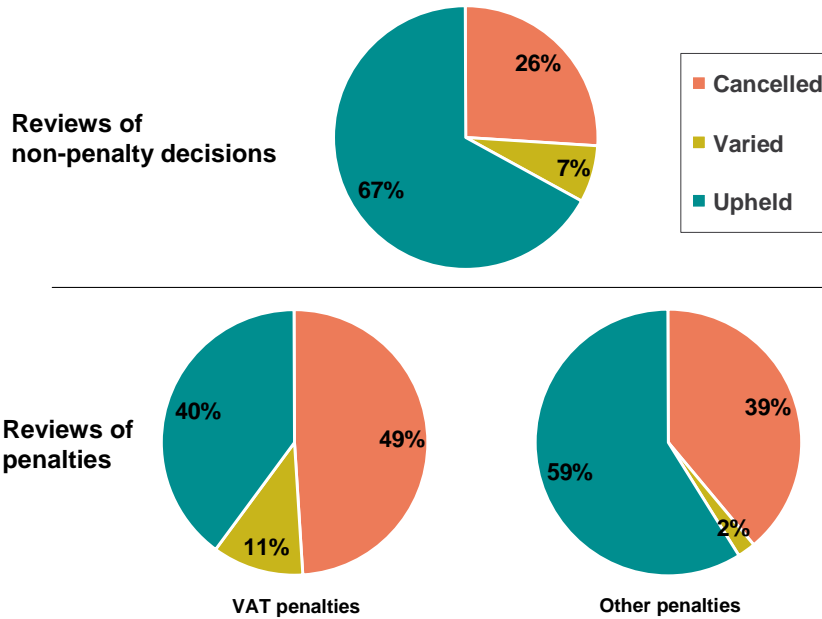
The majority of the penalty reviews requested concern late filing and late payment penalties, most of which are issued automatically when a return or payment is not received on time. The review process gives customers an early opportunity to challenge these decisions and put forward an explanation for the default that may result in the penalty being cancelled.

Outcome of reviews



When a customer asks for a review, the review officer examines the decision and considers any evidence that has been provided by the customer. This process may mean a decision being changed or cancelled in light of the additional information which was not available when the decision was originally made.

Outcome of reviews by type of case, 2013-14



There are differences across regimes in the pre-review process and this can impact on the outcome of the review.

Non-penalty cases include assessments, liability decisions, closure notices and refused claims. These decisions often involve significant discussion between HMRC and the customer. At review HMRC upheld its decision in two thirds of non-penalty cases.

In reviews of penalties in regimes other than VAT, HMRC upheld about six out of ten original decisions, much the same as in 2012-13.

Four out of ten VAT penalty decisions were upheld in 2013-14 when HMRC reviewed them. Where taxpayers submit their VAT return or pay their VAT late, HMRC writes to them to warn them that future late returns or payments may lead to a penalty. After repeated defaults a penalty is issued. This penalty will be waived if the taxpayer has a reasonable excuse for the late payment and the VAT penalty review process provides taxpayers with the opportunity to explain why a payment is late. The number of VAT penalty decisions cancelled on review represents a very small proportion, just over 2%, of the total number of VAT penalties issued, and in almost all cases simply means that HMRC accepts the explanation offered by the taxpayer for a late return or payment.

Reviews provide an effective resolution in the majority of cases, with most customers not subsequently submitting an appeal. Review provides HMRC and our customers with an opportunity to resolve disputes early at minimal cost.

Appeals

It is to everyone's advantage if disputes can be resolved satisfactorily, without the time and inconvenience of a tribunal hearing. However, there will always be cases where the parties cannot agree, and the customer appeals to the tax tribunal to decide the point.

The information in the chart below concerns appeals made to the First-tier Tribunal after 1 April 2009³ that were closed in the three years to 2013-14. This information does not include figures for cases heard by the Upper Tribunal or higher courts. There are relatively few such cases and all the decisions are published.⁴

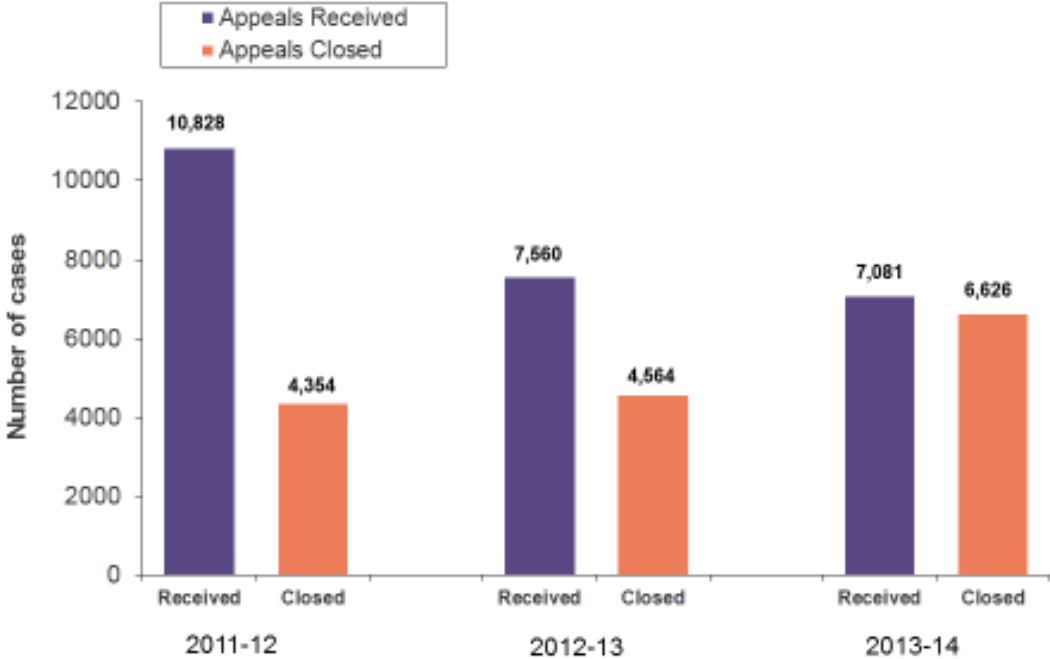
Receipts and closures

³ When the current tax tribunals were established

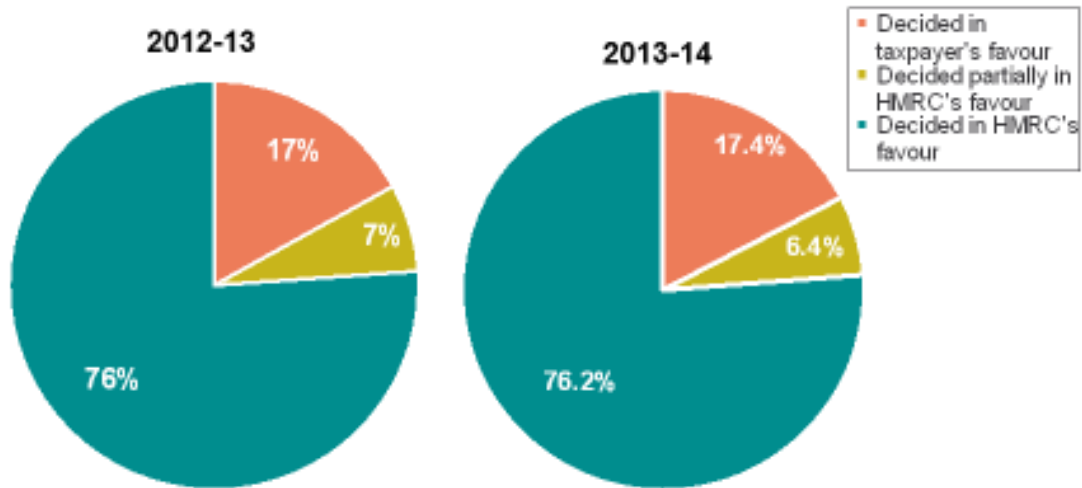
⁴ Upper Tribunal decisions can be accessed online at: <http://www.tribunals.gov.uk/financeandtax/Decisions.htm>

HMRC was notified of 7,081 appeals to the tribunal in 2013-14. Of these, 6,626 cases were settled either by a formal tribunal hearing or by agreement before the hearing. Most of the cases received but not closed are on hold pending a decision in a related lead case.

Appeals received and closed



Outcome of appeal hearings at the First-tier Tribunal



In 2013-14, three-quarters of decisions made by the tribunal were in HMRC's favour, much the same as in 2012-13.

Appeals resolved without a hearing

Just under four out of ten appeals were decided at a tribunal hearing, the rest being settled by agreement beforehand. There is a variety of reasons why cases may be resolved without a hearing. These include:

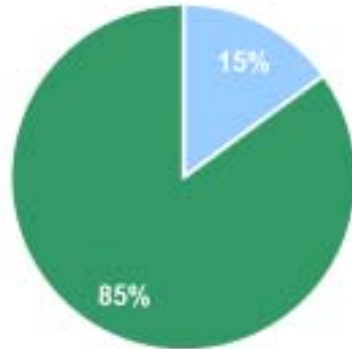
- appeals stood behind lead cases being closed when the lead case is decided
- cases where either party decided not to proceed, perhaps because of new information received
- cases where the parties reach agreement before the hearing date.

It is not uncommon for customers to provide new evidence after a review has been undertaken that allows a case to be resolved before the tribunal hearing. In cases that were concluded before a hearing, 44% were settled in the taxpayer's favour.

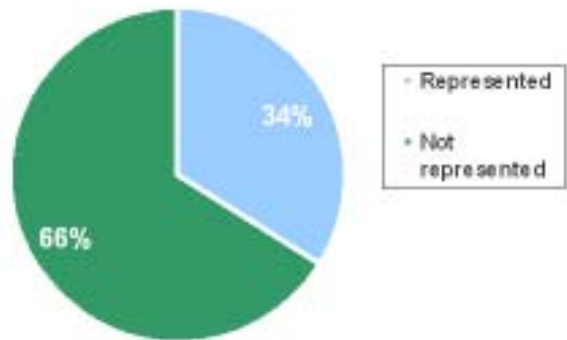
A relatively small proportion of cases that are reviewed proceed to appeal. Of the 6,626 appeals settled in 2013-14, 1,631 (25%) previously had a review. This could mean that the majority of reviews which uphold the original decision are accepted by customers and effectively resolve the dispute.

Representation of taxpayers in reviews and appeals, 2013-14

Representation at review



Representation at appeal



The majority of taxpayers are not represented by an agent at either the review stage or on appeal. In 2013-14 only 15% employed an agent to help with a review and 34% used an agent to assist with an appeal; these figures are very similar to the position in both 2011-12 and 2012-13. It is important that both the review and appeal processes are accessible to unrepresented taxpayers, so that everyone has an equal opportunity to resolve disputes with HMRC and take their case to the tribunal, if appropriate.

Appendix: full data

Reviews

Caseload

	2013-14		2012-13	
New review requests received	37,668		38,975	
Total number of reviews completed	38,621		39,156	
- of which agreed time limit extensions	2,736	7%	2,516	6%
Reviews completed, taxpayer unrepresented	32,960	85%	33,096	85%

Outcomes

Non-penalty cases

	2013-14		2012-13	
Upheld: review complete	4,224	66%	4,008	68%
Deemed upheld: time limit expired	40	1%	15	0%
Varied	415	7%	343	6%
Cancelled	1,683	26%	1,566	26%
TOTAL	6,362		5,932	

VAT penalty cases

	2013-14		2012-13	
Upheld: review complete	7,180	40%	8,579	43%
Deemed upheld: time limit expired	1	0%	0	0%
Varied	1,975	11%	1,809	9%
Cancelled	8,953	49%	9,658	48%
TOTAL	18,109		20,046	

Other penalty cases

	2013-14		2012-13	
Upheld: review complete	8,330	59%	8,420	64%
Deemed upheld: time limit expired	11	0%	22	0%
Varied	263	2%	366	3%
Cancelled	5,546	39%	4,370	33%
TOTAL	14,150		13,178	

Appeals ⁵

Volume

	2013-14	2012-13
New appeals received by HMRC	7,081	7,560
Total number of appeals closed	6,626	4,564

Hearings

	2013-14		2012-13	
In HMRC's favour	1,943	76.2%	1,095	76%
Partially in HMRC's favour	164	6.4%	101	7%
In taxpayer's favour	443	17.4%	237	17%
TOTAL	2,550		1,433	

Taxpayer represented by an agent

	2013-14		2012-13	
Unrepresented	4,369	66%	3,119	68%
Represented	2,357	34%	1,445	32%
TOTAL	6626		4,564	

⁵ These figures are not comparable with those published by HMCTS. This is because HMRC data does not include appeals regarding decisions on matters such as payment of appealed tax and information notices, those made prior to 1 April 2009, or those where information has been requested by HMCTS.