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**TECHNICAL**

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**TAX CASE UPDATE – GHFSB vs PEMUNGUT DUTI SETEM (2019) (COURT OF APPEAL)**

The following tax case update has been recently uploaded on the [website of the Inland Revenue Board of Malaysia \(LHDNM\)](#):

No.	Case Title	Reference in <a href="#">Stamp Act 1949</a>
1.	<a href="#">GHFSB (Appellant) vs Pemungut Duti Setem (Respondent)</a>  Court of Appeal decision on 16 May 2019	<ul style="list-style-type: none"><li>• S. 38A (1) – Right to object to assessment of stamp duty and apply to the Collector to review the assessment</li><li>• S. 38A (5) – Collector shall notify the person in writing of his decision</li><li>• S. 39(1) – Further right to appeal against the Collector's decision under S. 38A (5) by filing an appeal to the High Court within 21 days after that person is notified in writing of the Collector's decision</li></ul>

GHFSB was dissatisfied with the decision of the Collector of Stamp Duty (the Collector) under S. 38A (5) of the Stamp Act 1949, which maintained the assessment of stamp duty raised by the Collector. GHFSB subsequently filed an appeal to the High Court. The appeal must be filed within 21 days of the Collector's decision pursuant to S. 39(1) of the Stamp Act 1949. However, GHFSB filed the appeal to the High Court after the expiration of 21 days due to various discussions between GHFSB and the Collector to resolve the matter. The Collector raised an objection to GHFSB's appeal on the grounds it was filed after the time limit prescribed under S. 39(1) had lapsed. GHFSB subsequently applied for an abridgment of time to appeal under S. 39(1).

The Court of Appeal unanimously dismissed the appeal by GHFSB against the decision of the Kuala Lumpur High Court which dismissed GHFSB's application for an abridgment of time to appeal under S. 39(1) and dismissed GHFSB's originating summons to appeal against the Collector's decision under S. 38 (5). The Court of Appeal confirmed that the time limit to file an appeal to the High Court under S. 39(1) of the Stamp Act 1949 is mandatory. Failure to observe the time period is fatal and renders the appeal invalid.

Members may read the full Case Report at the [Institute](#) website and the [LHDNM](#) website.

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