



TC06175

**Appeal numbers: TC/2016/05548 & TC/2016/05527
TC/2016/05531 & TC/2016/05546
TC/2016/05547 & TC/2016/05530**

Income tax - Schedule 36 FA 2008 - COP9 letters issued to the Appellants - contractual disclosure offered and refused - Whether FtT has jurisdiction to close a COP9 enquiry - no - whether information reasonably required by HMRC - yes - appeal dismissed

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

**ISMAIL MIAH,
ALA UDDIN
ABDUL ZALIL
- and -**

Appellants

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

**TRIBUNAL: JUDGE MICHAEL CONNELL
MEMBER PHILIP JOLLY**

**Sitting in public at Alexandra House, The Parsonage, Manchester on 30 June
2017**

**Mr Taher Nawaz of T Nawaz & Co Chartered Accountants, Bradford for the
Appellant**

Ms Joanne Bartup, Officer of HMRC, for the Respondents

DECISION

The Appeal

1. These are appeals by Ismail Miah, Ala Uddin and Abdul Zilal (“the Appellants”) against a Notice to provide information issued to each of them under Schedule 36 FA 2008.
2. Mr Miah also makes a Closure Application under s 28A (4) TMA 1970, in respect of a s 9A TMA 1970 enquiry opened by Her Majesty’s Revenue & Customs (“HMRC”) into his tax affairs on 19 January 2016 relating to his self-assessment return for the 2013-14 year.
3. The Appellants also ask for closure of a COP9 enquiry opened into their affairs.
4. On 26 November 2016, the Tribunal directed that the appeal and application by Mr Miah be heard together. The Tribunal has also directed that his appeal be conjoined with the appeals by Mr Uddin and Mr Zilal.

Background

5. On 19 January 2016, HMRC opened a s 9A enquiry into Mr Miah’s 2013-14 self-assessment return.
6. On 19 and 20 January 2016, HMRC wrote to each of the Appellants informing them that HMRC intended to enquire into their affairs under Code of Practice 9 (“the COP9 letter”). Each Appellant was provided with the booklet which sets out the Code of Practice (“the COP9 Booklet”), which has the subheading: “HMRC investigations where we suspect tax fraud”.
7. The COP9 booklet explains that the Commissioners of HMRC reserve complete discretion to pursue a criminal investigation with a view to prosecution where they consider it necessary and appropriate. In cases where a criminal investigation is not started, the Commissioners may decide to investigate using the Code of Practice 9 (“COP9”) investigation of fraud procedure.
8. The COP9 Booklet informed the Appellants that they had a time-limited opportunity to sign a “Contractual Disclosure Facility” (“CDF”), admitting that they had been involved in tax fraud and agreeing to make a full disclosure. Paragraph 2.3 of the COP9 Booklet says “this is the only way that you can be certain that we will not carry out a criminal investigation into the tax frauds we suspect.”
9. The COP9 letters were signed for by Mr Miah on 20 January 2016, by Mr Zalil on 21 January 2016 and by Mr Uddin on 22 January 2016.
10. On 11 April 2016, as there had been no response from the Appellants by the end of the 60 day period given to accept or deny CDF, HMRC wrote to the Appellants giving the CDF rejection letter (as is the policy when no response received).

11. Also on 11 April 2016 HMRC also issued a Formal Notice for information and documents to each of the Appellants, under paragraph 1 of Schedule 36 to the Finance Act 2008. Mr Calvert, the Officer dealing with the enquiries, says that his reasoning for the immediate use of Schedule 36 powers was that in previous enquiries the individuals had failed to respond to formal requests for information and also because no formal response had been received in relation to their acceptance or denial of CDF.

12. Mr Calvert, in his witness statement, says that information held by HMRC from various sources including commercial credit rating companies, suggested that the income declared by the Appellants was insufficient compared to their outgoings. The Schedule 36 notice was issued as the information was reasonably required to check the Appellants' income tax positions.

13. In the Notice for information and documents Mr Calvert requested from Mr Miah:

- i. Copy Bank Statements for all accounts held between 6 April 2012 and 31 December 2015.
- ii. Mortgage/rental documentation relating to 34-36 High Street, Dore, Sheffield, S17 3GU.
- iii. Mortgage documentation for 10 Gillyfield Avenue, Sheffield, S17 3NS.
- iv. An analysis of shares held in Limited Companies since 6 April 2010.
- v. Details of all properties for which Mr Miah had received rents since 6 April 2012, to include dates of purchases, rents charged and mortgage documentation.
- vi. Documentation relating to the purchase of the Bay of Bengal at White Lane, Sheffield, S12 3GB, including any mortgage documentation.

14. Mr Calvert requested from Mr Uddin:

- i. Bank Statements for all accounts held between 6 April 2012 and 31 December 2015.
- ii. Mortgage documentation relating to 88 Devonshire Road, Sheffield, S17 3NW.
- iii. An analysis of shares held in Limited Companies since 6 April 2010.

15. Mr Calvert requested from Mr Zalil:

- i. Copy Bank Statements for all accounts held between 6 April 2012 and 31 December 2015.
- ii. Mortgage documentation relating to 5 Rydale Gardens, Bawtry, Doncaster, DN10 6XL
- iii. An analysis of shares held in Limited Companies since 6 April 2010.

iv. Details of all properties for which Mr Zalil had received rents since 6 April 2012, to include dates of purchases, rents charged and mortgage documentation.

5 16. On 29 April 2016, by fax, Mr Nawaz the Appellants' accountant queried the issue of the Schedule 36 notice, saying that if the Appellants were suspected of committing tax fraud, HMRC should release the information and records held by them.

10 17. Mr Nawaz said that Paragraph 1 of Part 1 to Schedule 36 requires HMRC to be reasonable in their request for information and in the absence of HMRC showing justification for the COP9 enquiry he would apply, on behalf of the three Appellants to the FtT, for closure notices. He requested a review of the decision to issue the Schedule 36 Notices, on the basis that they were unreasonable and unjustified.

15 18. On 13 May 2016 Mr Calvert responded to Mr Nawaz's fax of 29 April 2016 explaining that the legislation does not require an informal notice to be given in the first instance and that his clients were suspected of committing serious tax fraud. Therefore, the information and records requests were reasonably required. He also advised that a request for closure of a COP9 enquiry is a matter for Judicial Review and cannot be considered by the Tribunal.

19. On 16 May 2016, Mr Nawaz replied that:

20 • The Appellants had already been through a prolonged investigation and it was clear that the latest investigation was not appropriate, given the eventual very modest settlement in respect of the first investigation. He expressed the view that the new enquiry had "*emerged potentially as a result of pique [on the part of HMRC] and as such can be construed as being mala fides. This is precisely the sort of case where an application for closure of enquiries would seem appropriate*".

25 • HMRC keep referring to serious fraud and yet the Appellants had not been given the opportunity to comment on any such fraud or alleged fraud.

30 • No informal request for this information has been made. HMRC have gone straight to the issue of a formal notice. This is considered unreasonable. It is far better to deal with these matters through co-operation rather than the issue of a formal notice.

35 • The rental income accounts were prepared by another accountant and an approach to them has so far proved fruitless. This information is therefore not within the Appellants possession or power to obtain.

20. On 28 September 2016 following a further exchange of correspondence, HMRC undertook a formal review of their decision to issue the information notices. Officer Chidwick who undertook the reviews, said that their decision to issue Schedule 36 Notices was based on the following:

- i. HMRC have no legal obligation to issue an informal request for information prior to the issue of a formal notice under Schedule 36 FA 2008.
- ii. The Appellants are directors of a closed company that failed to comply with Schedule 36 information notices issued to them during an earlier investigation.
- 5 iii. HMRC did not receive a response either rejecting or accepting the CDF offered in 19 January 2016.

21. The HMRC Officer who undertook the review referred to Compliance Handbook CH21620, which provides guidance and explains that information can only be reasonably required where it could affect a person's tax position. If having the information could not affect a person's tax position now or in the future it is not reasonable to require it. The key test is whether the information is reasonably required for the purpose of checking the tax position, not whether as a matter of fact it turns out to affect their tax position. Ultimately "reasonably required" means getting the balance right between:

- 15 a) The burden put on someone to provide the information, and
- b) How important the information is in deciding on the correct tax position.

Tax position is defined in paragraph 64(1) Schedule 36 FA 2008 as:

20 *In this Schedule, except as otherwise provided, "tax position", in relation to a person, means the person's position as regards any tax, including the person's position as regards-*

- (a) *past, present and future liability to pay any tax,*
 - (b) *penalties and other amounts that have been paid, or are or may be payable, by or to the person in connection with any tax, and*
 - 25 (c) *claims, elections, applications and notices that have been or may be made or given in connection with [the person's liability to pay] any tax,*
- and references to a person's position as regards a particular tax (however expressed) are to be interpreted accordingly.*

30 22. Officer Chidwick observed that:

With regard to Mr Miah:

- 35 • HMRC suspected that his self-assessments for several years may have been insufficient. His self-assessment tax returns for the last 5 years (2010-11 – 2014-15) included various PAYE pages (for different directorships), Income from Property pages (that report income from 3 properties) and declarations of dividend income from UK companies.

- There were no white space entries or any attachments or schedules with any of the returns submitted for 2010-11 – 2012-13 and 2014-15. For 2013-14 there is a white space entry explaining that he received no payments/benefits from his directorships with Rufford Properties Ltd and Master Chef Bawtry Ltd.

5 With regard to Mr Uddin:

Mr Uddin had submitted self-assessment tax returns for 2010-11 – 2013-14 which included details of a directorship with Almas Restaurant Ltd and dividend income from UK companies. However there were no white space entries or any attachments/schedules with any of the submitted returns. Also,
10 Mr Uddin did not appear to have filed his 2014-15 return.

With regard to Mr Zalil:

Mr Zalil's self-assessment tax returns for the previous five years 2010-11 - 2014-15 included various PAYE pages (for different directorships), income from property pages and declarations of dividend income from UK companies.
15 However there were no white space entries or any attachments or schedules with any of the returns.

23. Officer Chidwick said that having consulted the relevant legislation and HMRC's Compliance Handbook CH21620, he could not agree to Mr Nawaz's argument that the documents/information requested by HMRC were not reasonably required to
20 check the Appellants' tax position and could not therefore cancel the information notices.

24. HMRC guidance at CH23560 clarifies that 'reason to suspect' means that there are facts which, either alone or taken together with others, lead HMRC to think that a person may have been under-assessed or may have underpaid tax. It goes on to state
25 that having a reason to suspect does not mean that HMRC has to be in a position to make an assessment but they will use their information powers to enable them to decide what, if any, assessment must be made. Officer Chidwick believed HMRC's letters dated 19 January 2016 (to Mr Miah) and 20 January 2016 (to Messrs Uddin and Zalil) made it clear that they had reason to suspect that each of the Appellants
30 may have understated their income for several years and that tax fraud was suspected.

25. The information/documents HMRC had requested were therefore reasonably required. The guidance explained that in order to satisfy the reasonable requirement test, the information requested need only be that which could affect a person's tax position. There is no doubt that the required information would go a long way towards
35 enabling HMRC to establish the correct tax treatment of the various strands to the Appellants' income. There are numerous rental properties and directorships involved and HMRC needed to seek clarification and appropriate documentation that would enable them to check the Appellants' tax position. It could not be suggested that it was too burdensome or onerous to provide or to obtain information even if not
40 currently in their possession.

26. The Appellants had been each given the opportunity to make a full disclosure under a Contractual Disclosure Arrangement, but chose not to respond to the offer. Officer Chidwick emphasised that HMRC were not using the legislation at s 9A TMA 1970. The COP 9 investigation was a completely separate matter, as previously explained.

27. HMRC guidance at CH223100 explained that most information requests will be informal, which may be made in writing, over the telephone or during a visit. HMRC should only consider using an Information Notice when:

- The person whose tax position being checked has not responded to an informal request for information or documents, or
- It is not appropriate to ask the person to supply the information voluntarily, for example-
 - (i) they have a history of non-compliance and you have reason to believe that information will not be provided if requested informally;
 - (ii) an informal request is likely to cause an unacceptable delay;
 - (iii) pre-approval of a taxpayer notice is appropriate;
 - (iv) an investigation into a tax avoidance scheme would benefit from the early use of formal powers.

28. In this case the Appellants appear to have been directors of a Company that failed to respond to an earlier Information Notice issued by HMRC under the Schedule 36 legislation and HMRC therefore have reason to believe the information/documents they are seeking would not be provided if they were requested informally.

29. The Appellants' agent had explained that the rental income accounts had been prepared by another accountant and that he had been unable to obtain any records or information from him.

30. Officer Chidwick referred to s 12B Taxes Management Act ("TMA") 1970 as amended by Schedule 37 to the Finance Act 2008, which explains that a person must keep and maintain records and that these must be retained until the 5th anniversary of 31 January following the end of the year of assessment. It was clearly the Appellants' responsibility to ensure they did this and the accountant who prepared their rental income accounts would be aware of the need to retain records.

31. On 13 October 2016, Mr Nawaz for the Appellants, submitted Notices of Appeal against the review decisions to the Tribunal.

COP 9 Enquiry

32. Mr Nawaz applied for a direction ordering closure of the COP9 enquiries for each taxpayer under s 28A (4) TMA "as there appears to be no basis for an enquiry".

33. He said that there was nothing to suggest any significant wrongdoing, as HMRC had suggested.

34. Mr Nawaz said that HMRC appeared to have carried out some exercises in 2015 but had provided no information or explained what the latest COP9 enquiries were about, despite HMRC being under an obligation to let the taxpayer know from an early stage in proceedings the precise case against him. The Appellants had absolutely no knowledge as to what the issues were.

35. He said that HMRC have an enquiry window of 12 months from submission of a self-assessment return to commence enquiries. The commencement of enquiries in January 2016 would only enable HMRC to seek information in respect of the return submitted in the previous 12 months, that is the return to 5 April 2014, which would have been submitted in January 2015. Although the discovery procedure provides an exception to this, there had been no mention by HMRC of discovery proceedings. He said there had to be either an enquiry under s 9A TMA or a discovery enquiry under s 29 TMA. There appeared to have been neither.

Schedule 36 Notices

36. Mr Nawaz set out the Appellants' grounds of appeal as below:

- i. "HMRC investigated the cases of the three Appellants with enquiries commencing on 14 January 2005 in respect of the accounts of two companies, being Almas Restaurant Ltd (for the year to 30 June 2003) and Evening Management Ltd (for the year to 30 November 2003). The enquiries resulted in massive assessments running into several years both pre 2003 and subsequently, and potential interest and penalties amounting to several times the combined value of the two companies.
- ii. Appeals were raised against the assessments and the FtT listed the appeals for a week-long hearing in December 2013, but an agreement was reached at a figure not much more than 1% of the combined potential value of the assessments, interest and penalties.
- iii. As part of the enquiries the means of the three taxpayers were duly considered and in fact the enquiries into the returns were not closed until 30 April 2012 and only then after the intervention of the tribunal.
- iv. The Appellants have asked for details of correspondence and observation evidence so that the Appellants could comment if relevant, but no information has been provided.
- v. The review decision is a simple narrative of the correspondence exchanged with little attention being paid to the facts on the ground or the actual matters complained of. The taxpayers have no knowledge of what the issues are.
- vi. In the ordinary course of events, HMRC have an enquiry window of twelve months from the date of the submission of an SA return to commence

- enquiries. The commencement of enquiries in January 2016 would only enable HMRC to seek information in respect of the return submitted in the previous twelve months and that would be for the year to 5 April 2014. From the advent of self-assessment in 1996-97, Parliament afforded a degree of certainty to the taxpayer, by providing the comfort of an “enquiry window” of twelve months and, although there are exceptions such as “discovery” there is no evidence or even a suggestion of discovery in the present case.
- 5
- vii. The information sought is for the period from 5 April 2012 to 31 December 2015. Whilst a return covering the period to 5 April 2015 has been submitted the following return for the year to 5 April 2016 would not be due and as such material required for the period from 6 April 2015 to 31 December 2015 was not at the time of the Information Notices due to be submitted.
- 10
- viii. A request for information must relate to an enquiry period. [The Appellants] sought clarification as to the period of the enquiry but there has been no response. A copy of this was supplied to the review officer, yet he has not addressed the issues as to why information is sought in respect of periods for which the enquiry windows have long since closed.
- 15
- ix. There must either be an enquiry under s 9A of TMA 1970 or a discovery assessment/enquiry under s 29 TMA. There does not appear to have been either.
- 20
- x. The review officer, in his decision, touches on a number of issues in respect of which the Appellants have concerns:
1. That the tax paid under self-assessment may have been insufficient for several years. There is no evidence or any alluded to. HMRC have been challenged to provide evidence of any discovery and have produced none.
 2. There is a suggestion that the taxpayers have not submitted a return for Almas Restaurant Ltd for 2014-15. Companies House records show that the company had been listed for strike off on 17 April 2014 and again on 19 May 2015 clearly indicating that the company is not trading and therefore there is no return to submit for 2014-15.
 3. He says that he has ‘consulted legislation’ but does not comment on the fundamental part of the self-assessment legislation and the twelve-month enquiry window which has long since closed or the previous settlement reached which is partially within the same period for which enquiries are being conducted.
 4. Quotes HMRC guidance which does not have force of law and as such is meaningless under the circumstances.
- 25
- 30
- 35

5. Speaks of CDF (Contract Disclosure Facility) which again is meaningless if there is no disclosure to be made that the taxpayers are aware of.

5 6. Speaks of a failure to respond to an earlier s 36 Notice which neither the taxpayers nor their advisors are aware of.

xi. In all the circumstances of the case:

1. it is clear that there is no discovery nor any evidence of discovery;

10 2. the enquiry window in respect of most periods has long since expired and for the latest period even the return is not due. It can therefore be seen how unreasonable the s 36 notice is.”

Legislation

37. The relevant statutory provisions of Schedule 36 Finance Act 2008 are as follows:

15 Paragraph 1 provides that an officer of HMRC may by notice in writing require a taxpayer to provide information or documents if reasonably required for the purpose of checking the taxpayer’s tax position.

Paragraph 18 (Restrictions on Powers) provides that an information notice only requires a person to produce a document if it is in the person’s possession or power. It is worth noting that there is no equivalent provision in relation to information.

20 Paragraph 29(1) provides for a right of appeal against “the notice or any requirement in the notice”.

Paragraph 32 sets out the procedure for appeals against an information notice, including the jurisdiction of the Tribunal. In particular:

25 (3) On an appeal that is notified to the tribunal, the tribunal may -
(a) confirm the information notice or a requirement in the information notice.
(b) vary the information notice or such a requirement, or
(c) set aside the information notice or such a requirement.

30 (4) Where the tribunal confirms or varies the information notice or a requirement, the person to whom the information notice was given must comply with the notice or requirement -

35 (a) within such period as is specified by the tribunal, or
(b) if the tribunal does not specify a period, within such period as is reasonably specified in writing by an officer of Revenue and Customs following the tribunal’s decision.

40 (5) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007 a decision of the tribunal on an appeal under this Part of this Schedule is final.

Discussion and Conclusion

Jurisdiction over closure of COP9 enquires

38. HMRC's powers to carry out a COP9 enquiry derive from its statutory responsibility for the collection and management of taxes, as provided for by s 1
5 TMA and s 5 Commissioners for Revenue and Customs Act. The FtT is a creature of statute, and no statutory provision gives it the power to supervise a COP9 enquiry or to order that it be closed. Supervision of HMRC's general powers rests with the Administrative Court. The FtT has no inherent judicial review powers, see *Hok v HMRC* [2012] UKUT (TC) at [41] where the Upper Tribunal said "*there is no room*
10 *for doubt that the First-tier Tribunal does not have any judicial review jurisdiction*". See also *HMRC v Noor* [2013] UKUT 071 (TCC).

39. We therefore find that the FtT has no jurisdiction to close the COP9 enquiry. The only recourse open to the Appellants if they wish to challenge that enquiry is by judicial review at the Administrative Court.

15 Schedule 36 Notices

40. It is clear that HMRC can only issue a Schedule 36 Information Notice in respect of documents or information reasonably required for the purpose of checking a taxpayer's tax position.

41. It is also firmly established that the burden of proof in relation to the 'reasonably required' test rests on the Appellant, and not on HMRC. It is the taxpayer who knows the relevance of information or documents to his tax position, because he knows the full facts. This rationale is consistent with the objective of Schedule 36, which is "to ensure that the information will ensure that the correct amount of tax can be determined", see *HMRC v Tager* [2015] UKUT 0040 (TCC) at [16], per Judge
20
25 Bishopp.

42. What was requested in the Notice was quite clear. Indeed the Appellants do not challenge the form or substance of the Notices. The need to produce material to support their income tax self-assessments must have been apparent to the Appellants. Their persistent failure to comply with the notices, particularly given the background
30 of a COP 9 Enquiry, other than that some of the information requested was held by another accountant, has not been substantially explained.

43. Mr Nawaz says that he has asked for details of evidence held by HMRC which may support a COP 9 enquiry so that the Appellants could comment, and that no information has been provided.

35 44. However, as the COP 9 information clearly states, in cases where a criminal investigation is not started, the Commissioners may decide to investigate using the COP 9, investigation of fraud procedure. The recipient of a COP 9 notice is given the opportunity to make a complete and accurate disclosure of all their deliberate and non-deliberate conduct that has led to irregularities in their tax affairs. Where HMRC
40 suspects that the recipient has failed to make a full disclosure of all irregularities, the

Commissioners reserve the right to start a criminal investigation with a view to prosecution, and pending any such proceedings HMRC clearly state that they will not usually tell the taxpayer what their suspicions are. It is for the taxpayer to decide whether to make a disclosure to HMRC.

5 45. In his reference to a previous enquiry and appeal, Mr Nawaz in effect argues that
HMRC are abusing their powers, suggesting that it would be more appropriate for the
matter to be resolved informally without recourse to the Schedule 36 procedure. As
stated above, this Tribunal does not have a judicial review jurisdiction, so this is not a
10 matter we can decide, or take into account as part of the appeal. However, we find, for
the record, that there was nothing before us to support a submission that the
Appellants are being improperly investigated.

46. The enquiry arose for reasons which are clearly set out in the COP 9 Notices and
in the Schedule 36 Notices. In addition, HMRC identified information missing from
the Appellants' returns.

15 47. Contrary to Mr Nawaz's assertions, there does not need to be either an enquiry
under s 9A of TMA 1970 or a discovery assessment/enquiry under s 29 for HMRC to
issue the Schedule 36 Notices.

48. We find that the items contained within the Schedule 36 Notices are "reasonably
required", firstly because the Appellants' returns were incomplete and secondly
20 because of HMRC's concerns that tax fraud was suspected.

49. With regard to the information requested, Mr Nawaz argues that in the ordinary
course of events, HMRC have an enquiry window of twelve months from the date of
the submission of an SA return to commence enquiries. The commencement of
enquiries in January 2016 would only enable HMRC to seek information in respect of
25 the return submitted in the previous twelve months and that would be for the year to 5
April 2014. The information sought is for the period from 5 April 2012 to 31
December 2015. The return for the year to 5 April 2016 would not be due, and as such
material required for the period from 6 April 2015 to 31 December 2015 was not, at
the date of the notices, yet due to be submitted.

30 50. Against the background of a COP 9 enquiry we disagree. Paragraph 1 of Schedule
36 provides that an officer of HMRC may by notice in writing require a taxpayer to
provide information or documents if reasonably required for the purpose of checking
the taxpayer's tax position. Paragraph 1 is not qualified in the way Mr Nawaz
suggests. The test of whether information and documents are reasonably required is
35 clearly an objective test, and to request information to the end of the calendar year
immediately preceding the issue of the Notices was in our view reasonable. Further,
Schedule 36 specifically states that the expression "tax position" means the person's
position as regards any tax, including the person's position as regards past, present
and future liability to pay any tax.

40

51. For the reasons given above we are satisfied that the information required by the Schedule 36 Notices is reasonably required to check the Appellants' tax position. We therefore confirm the Notices and the requirements set out in the Schedule to the Notices. The appeals are accordingly dismissed.

5 52. Mr Miah's application for a Closure Notice is refused.

53. The Tribunal has no jurisdiction to close the COP 9 enquiry.

54. Paragraph 32(4) Schedule 36 makes provision for the Tribunal to specify a period for compliance with the Notice. The Appellants should provide the information required by the Notice within 30 days from the date of release of this decision.

10 55. Pursuant to paragraph 32(5) Schedule 36 Finance Act 2008 there is no right of appeal against this decision.

MICHAEL CONNELL

15

TRIBUNAL JUDGE
RELEASE DATE: 19 OCTOBER 2017