



OHT Guide

Tax Appeals Commission - Appeal Process

Notice of Appeal

A taxpayer who disagrees with an assessment raised by Revenue can appeal to the Tax Appeals Commission ("TAC") within 30 days. The notice of appeal must include the grounds of appeal, the relevant legislation, and the supporting case law. Failure to identify a ground of appeal at this stage could limit the scope of the appeal at hearing. There is an option to apply to include an additional ground of appeal at a later stage, but only if it can be shown that the new ground could not reasonably have been stated in the notice at the time it was submitted.

The TAC has sole discretion as to whether to accept or refuse any application for appeal. In the event an application is refused the taxpayer has the option of applying to the High Court to have the decision not to take the appeal judicially reviewed.

Statement of Case

If the appeal is accepted, the TAC direct the preparation of a Statement of Case by the taxpayer and may also request one from Revenue. This statement should set out the facts, list of documents to be relied on, details of any witnesses, statutory provisions to be relied on, details of any relevant case law and an estimation of the duration of the appeal.

The information sought by way of Statement of Case may include:-

- an outline of the relevant facts;
- a list of, and copies of, any written documents upon which the party intends to rely or which the party intends to produce in the proceedings;
- brief details of any witness who may be called upon by the party to give evidence in the proceedings;
- details of the statutory provisions to be relied upon;

- details of the case-law that will be relied upon;
- whether the party assents to documents being furnished and notices given by email;
- whether the party assents to the appeal being determined without a hearing;
- the party's estimate of the likely duration of a hearing;
- whether the party wishes the hearing, or a specified part thereof, to be heard in camera; and,
- whether the party considers that the matter under appeal is one that could be settled by agreement.

In a tax appeal the burden of proof falls on the taxpayer to show that the assessment is incorrect.

Revenue may opt to produce evidence to support an assessment at an appeal hearing but there is no obligation to do so.

Determination without Hearing

The Tax Appeals Commission can decide not to have an oral hearing but, instead, to make a decision based on written material provided by the taxpayer and Revenue. This is more likely to happen where the matter being appealed is straightforward.

If the Commissioners decide to adjudicate on a matter under appeal without a hearing, they will notify the parties in writing of their intention to so adjudicate, and the parties then have 21 days to requested in writing that a hearing be held prior to adjudication. If no such request is received the TAC may proceed to adjudicate on the matter without holding a hearing.

Where the Commissioners feel that a case should be dealt with by reference to a previous determination made by them as there are common or related issues, they may notify the parties that they intend to determine the new

appeal in light of the previous determination without holding a hearing.

The TAC will send a copy of any relevant previous determination to the parties, and the parties have 21 days to submit an objection in writing to the case being determined on the basis of the prior determination.

Case Management Conference

Prior to the main hearing, there will be a preliminary hearing or Case Management Conference in order to identify the issues to be heard and deal with any preliminary applications.

The Commissioner will normally fix a date and time for an initial Case Management Conference following the receipt of the Statement of Case, and this will be notified to the parties at least 14 days prior to the date of the hearing.

The Commissioners may hold such further Case Management Conferences as appear to them necessary or desirable with the aim of securing the completion of the proceedings in a fair and expeditious manner.

TAC Directions

The Commissioners may at any time in the course of an appeal (including at or subsequent to a Case Management Conference) give the parties directions relating to the conduct or disposal of the appeal as they believe necessary or appropriate. If a party fails to comply to the Commissioners' satisfaction with a direction the Commissioners may dismiss the appeal (under S. 949AV Taxes Consolidation Act 1997).

Hearing of Appeal

The Commissioners will fix the time and place for the hearing of an appeal, and notify the parties not less than 14 days prior the relevant date.

Determination

Once the TAC has heard the appeal, the Commissioners will determine the appeal as soon

as practicable after the completion of the adjudication. Where possible, the parties to the appeal will be advised of the likely timeline for a determination.

The TAC must publish a report of the determination on the website (www.taxappeals.ie) within 90 days of its decision.

What You Cannot Appeal

There are certain matters that you cannot appeal to the Tax Appeals Commission. The more important of these are listed below:-

- Dissatisfaction with the conduct or behaviour of a Revenue official.
- Dissatisfaction with a particular piece of legislation and whether you think it is unfair or unconstitutional.
- A difference of opinion between you and Revenue where the Revenue opinion has not reached the stage where an assessment or a formal decision has been made.
- Your self-assessed tax or duty liability or an agreed amount or matter that you have included in a return or other statement you submitted to Revenue.
- A Revenue assessment where you have not submitted a return of income and paid the self-assessed tax liability declared in the return.
- Some appeals involving a dispute about the market value of land or property must be made to a body called the Land Values Reference Committee and not to the Tax Appeals Commission. This applies to valuations that are used to establish a person's liability to Stamp Duty, Capital Acquisitions Tax (CAT) and the Domicile levy.
- You cannot appeal against Vehicle Registration Tax (VRT) or Customs Duty decisions to the Tax Appeals Commission without first getting Revenue to review the matter. The Revenue decision can then be appealed to the Tax Appeals Commission.
- Disputes relating to the amount of a penalty imposed by tax law must be decided by a court and not by the Tax Appeals Commission.

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Caveat: These notes are intended as a general guide to the TAC appeals process. OHT has endeavoured to provide an accurate commentary but the notes cannot cover all circumstances so OHT strongly recommends that formal tax advice be obtained before any steps are taken that may have a tax effect.