



Annual Report 2017



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Foreword

In accordance with section 21 of the Finance (Tax Appeals) Act 2015, we are pleased to present the second annual report of the Tax Appeals Commission.

The Tax Appeals Commission ("TAC") was established on 21 March 2016 and this, our second annual report, represents the first opportunity to give an overview of a full year's operations in the Commission. Our annual review has afforded us the opportunity to properly evaluate the extent of the workload facing the Commission and to assess the resources necessary to manage and deal with that workload.

In doing so, we have been particularly conscious not only of the fact that all parties to the appeal system are entitled to have their appeals determined in a timely and efficient manner, but also of the fact that the taxes under appeal amount to an extremely large sum of money, estimated by one source to be as high as €1.6 billion.

Perhaps the most striking statistic is the number of appeals being made to the TAC. The Office of the Appeal Commissioners (up to 20 March 2016) and the TAC (from 21 March 2016 onwards) together received a total of 901 new appeals during 2016 (excluding the legacy appeals transferred by Revenue during that year). For 2017, that figure had increased to 1,751, almost double the number of the previous year. The number of appeals being received thus far in 2018 shows yet a further increase to approximately 150 appeals per month.

It is now abundantly clear from the figures available that the workload of the TAC is of an order of magnitude greater than previously anticipated. In addition to the hearing of appeals, some of which take days and others weeks, the drafting of determinations is a time-intensive process which requires exacting attention to detail and very careful deliberation. Adjudication work should be afforded the greatest part of our time and attention; we hope that the low number of staff in the TAC can be increased, which would enable us to establish a secretariat within the TAC to deal with more routine case management and administration issues, thereby increasing the time available for us to hear and determine appeals.

In order to be able to manage the workload of the TAC, we believe that it will be necessary for the Commission to:-

- (a) encourage alternative methods of dispute resolution, such as internal or external reviews of Revenue decisions or by informing taxpayers and their advisors of previous determinations that may deal with the issue they wish to appeal; and

- (b) introduce new practices and procedures for processing appeals, for example by the involvement of suitably qualified Case Managers to assist with pre-hearing resolution of appeals, by the establishment of a Commission secretariat to deal with administration and governance and by the increased use of Case Management Conferences.

We have already taken many steps to implement these measures. Parties to appeals will have noticed the increased use of Case Management Conferences, using new powers conferred by the 2015 Act, which we have found to be highly effective in managing and securing the early resolution of appeals. In addition, we have recently completed a recruitment process, carried out by the Public Appointments Service, to engage a number of tax-qualified Case Managers who will be responsible for the day to day management of appeals.

However, in order to fully implement these measures, the TAC needs to be adequately resourced. At the moment, it is not. While the Commission's staff has increased over the course of 2017, that increase has not been sufficient to meet the Commission's needs. We hope to move to new, larger premises in mid-2018 which will resolve in large part the difficulties currently caused by the Commission operating from premises which it has long since outgrown; however, the move to new premises will further strain an already-stretched budget. In addition, the TAC continues to move towards full independence from the Service Level Agreement with Revenue; this progression, while necessary, will again put additional pressure on the Commission's staff resources and budget.

The budget and staffing levels of the Commission are determined by the Department of Finance and the Department of Public Expenditure & Reform. We have advised these Departments of the urgent need for additional staff and resources for the Commission and have formally reported to the Minister for Finance on this issue pursuant to section 21(5) of the 2015 Act. We believe that the issue of resources for the TAC is one which needs to be addressed as a matter of urgency if the Commission is to have a real opportunity to discharge its statutory functions in a timely and efficient manner.

The TAC completed a public consultation exercise in relation to its rules and procedures in September 2017. Detailed submissions were received from a number of interested parties. The submissions confirmed the problems we had already identified and uniformly flagged the issue of the Commission being severely under-resourced. The submissions also made a number of helpful suggestions as to how the Commission might better manage its case load in the interests of all parties. We will have regard to these suggestions when we are revising and refining the Commission's procedures and we would like to take this

opportunity to again express our thanks to everyone who made a submission in response to the consultation process.

In addition to dealing with appeals, the TAC must also ensure that it complies with its governance obligations. We have achieved a great deal in this regard during 2017; some examples include updating our Code of Governance, putting in place a 3-year Statement of Strategy, appointing Internal Auditors and establishing weekly governance workshops, with clear delineation of responsibilities and reporting structures.

However, much remains to be done and again the lack of resources is impeding our ability to properly and fully address issues. One example of these difficulties is the work necessary to ensure our compliance with the General Data Protection Regulation which will come into force on 25 May 2018. It will require a great deal of work for the Commission to become and remain compliant with the GDPR but at the moment, we simply do not have sufficient staff available for this work.

In terms of the challenges facing the TAC in 2018, we believe that the key issues which we will need to address are:-

- ensuring the TAC has adequate resources, in terms of staff, premises and budget, to deal with its inherited and current workload;
- if resources permit, restructuring the TAC so that a dedicated secretariat is established to manage administration, governance and day to day management issues, thereby allowing the Commissioners more time to focus on managing, hearing and determining appeals;
- managing the planned move to new premises and the additional work that will arise in consequence, such as the installation of new IT and communications systems;
- continuing the implementation of our new Case Management System and populating it with the necessary data;
- continuing to implement the measures identified in our 3-year Statement of Strategy;
- moving away from the TAC's Service Level Agreement with Revenue, to a position of full independence;
- establishing an Audit & Risk Committee;
- if resources permit, improving our website and allowing greater transparency in relation to the scheduling of hearings;
- ensuring compliance with the General Data Protection Regulation; and
- collating data to enable compliance with the Government's Open Data initiative.

Some of these issues are set out in greater detail in the chapter on "Challenges with Progressing Appeals" and elsewhere in the body of the Report.

We welcome the appointment during 2017 of Conor Kennedy BL as a Temporary Appeal Commissioner. Commissioner Kennedy has been given the primary task of dealing with the 2,731 legacy appeals (i.e. open appeals which had been made to Revenue prior to 21 March 2016, but which had not been notified to the Office of the Appeal Commissioners) which were transferred by Revenue to the TAC in the second half of 2016. As appears from the body of the Report, Commissioner Kennedy has already carried out a significant amount of work in dealing with the legacy appeals and will continue to do so over the course of his appointment.

Finally, we would like to take this opportunity to acknowledge and express our thanks for the work carried out by the Commission's staff during 2017. We are extremely fortunate to have such a hard-working, enthusiastic and committed team in the Commission and we are very grateful for all they have achieved over the past year.

In conclusion, our statutory mandate requires us to put in place the independent, effective and efficient tax appeals system envisaged by the 2015 Act, but this cannot be achieved without adequate resources. We believe that if we are provided with the necessary increased resources, we will be able to make improvements and to fulfill our mandate for the benefit of all stakeholders.



MARK O' MAHONY
Appeal Commissioner



LORNA GALLAGHER
Appeal Commissioner

Glossary

GENERAL TERMS

Appeals adjourned prior to hearing	Appeals that were allocated a date for hearing and adjourned at the request of the parties prior to the commencement of the hearing.
Appeal Commissioner	A member of the Tax Appeals Commission appointed by the Minister for Finance pursuant to section 8 of the Finance (Tax Appeals) Act 2015.
Appeals Closed	Appeals that have been finalised and no longer require further action.
Appeals on hand	Live/active appeals that require further action.
Appeals settled	Appeals that have been settled by agreement between the parties.
Appeals settled prior to hearing	Appeals settled between the parties after the appeal had been listed for hearing, but before the commencement of the hearing.
Appeal withdrawn	The Appellant has notified the TAC that he/she no longer wishes to proceed with his/ her appeal.
Appeal Dismissed	Section 949AV, TCA 1997 allows the Appeal Commissioners to dismiss an appeal where a party fails to comply with the directions of the Appeal Commissioners.
Appeal Refused	Section 949N, TCA 1997 specifies the grounds upon which the Appeal Commissioners can refuse to accept an appeal.

Appeal Determined	The Appeal Commissioner has adjudicated on the matter and informed the parties.
A.P.	Assistant Principal
C&AG	Office of the Comptroller and Auditor General
CMC	Case Management Conference
Case Management System	Database that contains details of all appeals, both open and closed.
C.O.	Clerical Officer
E.O.	Executive Officer
FLAC	Free Legal Advice Centre
FSS	Financial Shared Services
GDPR	General Data Protection Regulation
Hearing commenced and adjourned	Includes appeals where the hearing commenced and was adjourned for one or more of the following reasons: for determination; for further hearing; for additional information; for additional documentation; for further submissions; or for the attendance of witnesses.
H.E.O.	Higher Executive Officer
HR	Human Resource
ICT	Information and Communications Technology

Leader follower appeals	Those characterized by being part of a group of appeals which relate to similar points of law and fact. In some instances, the parties to these appeals will run a test case from the Group, the determination of which is likely to be dispositive of the other appeals in the Group.
Legacy appeals	Appeals that were submitted to Revenue prior to the establishment of the TAC. These legacy appeals were transferred to the TAC during the second half of 2016.
Notice of Appeal	Section 949 of the TCA 1997 states that all applications for appeals to the TAC must be submitted by completion of a Notice of Appeal.
Office of the Appeal Commissioners	‘OAC’. Prior to the establishment of the TAC, the body seised with the adjudication of tax appeals. As of 21 March 2016 the Office of the Appeal Commissioners is no longer in existence.
OPW	Office of Public Works
Outline of Arguments	‘OOA’. Section 949S, TCA 1997 allows the Appeal Commissioners to request an Outline of Arguments a party intends to rely upon at the appeal hearing
PAS	Public Appointments Service
P.O.	Principal Officer
Pre-Establishment appeals	Appeals that were on hand in the Office of the Appeal Commissioners prior to 1 st January 2016.

PSSC	Payroll Shared Service Centre
Quantum	The amount of tax in dispute, which is the difference between the assessment and what the Appellant considers is due.
Revenue	Office of the Revenue Commissioners
SLA	Service Level Agreement
Statement of Case	<p>‘SOC’. Section 949Q, TCA 1997 allows the Appeal Commissioners to make a direction requiring parties to submit a Statement of Case.</p> <p>The Statement of Case is the first stage of the appeals process after lodgement of the Notice of Appeal. This document sets out the facts and evidence that a party expects to present at the hearing in support of the appeal</p>
TAC	Tax Appeals Commission
TAX RELATED TERMS	
AVC	Additional Voluntary Contribution
BIK	Benefit In Kind
CAT	Capital Acquisitions Tax
CAT Group (a) threshold	The threshold for CAT exemption in relation to gifts from a parent, to a child
CATCA 2003	Capital Acquisitions Taxes Consolidation Act 2003
CGT	Capital Gains Tax
CT	Corporation Tax
DIRT	Deposit Interest Retention Tax

DWT	Dividend Withholding Tax
EII	Employment and Investment Incentive
HRI	Home Renovation Incentive
IT	Income Tax
LPT	Local Property Tax
OMSP	Open Market Sale Price
PAYE	Pay As You Earn
PREM	PAYE & PRSI paid by the Employer
PRSI	Pay Related Social Insurance
PSWT	Professional Services Withholding Tax
RCT	Relevant Contracts Tax
SPCCC	Single Person Child Carer Credit
SURE	Start-up Refunds for Entrepreneurs
TCA	Taxes Consolidation Act 1997, as amended
TCC	Tax Clearance Certificate
USC	Universal Social Charge
VATCA 2010	Value Added Tax Consolidation Act 2010, as amended
VRT	Vehicle Registration Tax

Reform of the Tax Appeals System

Following a commitment in Budget 2014 by the Minister for Finance to reform the role, functions and structure of the Office of the Appeals Commissioners, the Tax Appeals Commission was established on 21 March 2016. The Tax Appeals Commission replaced the Office of the Appeal Commissioners.

Various aspects of the arrangements surrounding the operation of the tax appeals system were the subject of consideration by numerous bodies over the last 15 years or so. These include the Oireachtas Committee of Public Accounts, the DIRT Inquiry, the Revenue Powers Group, the Law Reform Commission Report on a Fiscal Prosecutor and a Revenue Court; and the Commission on Taxation. In addition, there were proposals for changes to the appeals system from representative bodies and a number of reports made recommendations on this area in that time.

The Minister introduced reforms to the tax appeal process in order to ensure an enhanced and cost-effective appeal mechanism for tax cases, providing transparency and increased certainty for taxpayers, and to ensure that the appeals forum met the independence and impartiality requirements contained in Article 6 of the European Convention on Human Rights; in this regard, while there is no suggestion of actual partiality under the former system, it is important that the Appeal Commissioners are fully independent and there must be no actual or perceived bias in the operation of the Appeals system.

The main reforms introduced include –

- Statutory underpinning of the independence of the TAC
- A new focus on flexible and active case management
- Discretion to make determinations based on written submissions in the case of straightforward matters, subject to the agreement of the parties to the proceedings
- Public hearings as the default position, although an appellant may request that a hearing or part of a hearing be held in private
- Publication of determinations
- Ability to dismiss appeals where, for example, a taxpayer does not comply with directions given by Appeal Commissioners in relation to the conduct of the proceedings
- A renewable fixed term of office of Appeal Commissioners, of 7 years
- Introduction of a requirement for the TAC to submit annual reports
- Decisions of the Appeal Commissioners are now final and conclusive. Ability to appeal to the High Court on a point of law only and not in relation to the facts of a case

- Enhanced case management procedures, including the power to determine a broad range of interlocutory applications, to facilitate a more efficient and structured flow of appeals

Statutory Basis of the Tax Appeals Commission

The TAC is an independent statutory body tasked with providing a modern and efficient appeals process in relation to the hearing and adjudication of tax disputes, in accordance with the provisions of relevant legislation.

The legislation concerned is the Finance (Tax Appeals) Act 2015, the Taxes Consolidation Act 1997, as amended and related legislation.

The Finance (Tax Appeals) Act 2015 was signed into law by the President on 25 December 2015. The Minister for Finance signed the relevant commencement orders to give effect to the new legislative provisions on 26 February 2016. On 21 March 2016, the TAC was established and the new regime for the processing of tax appeals entered into force.

Section 10 of the Finance (Tax Appeals) Act 2015 specifically provides that the Commission and its members shall be independent in the performance of their functions. In addition, various provisions in the 2015 Act provide the Commissioners with powers to manage cases more actively than in the past, thereby reinforcing the independent operation of the appeals process.

The Commission currently comprises two Appeal Commissioners appointed by the Minister for Finance, a temporary Appeal Commissioner and a number of administrative staff who support the Commissioners in their work.

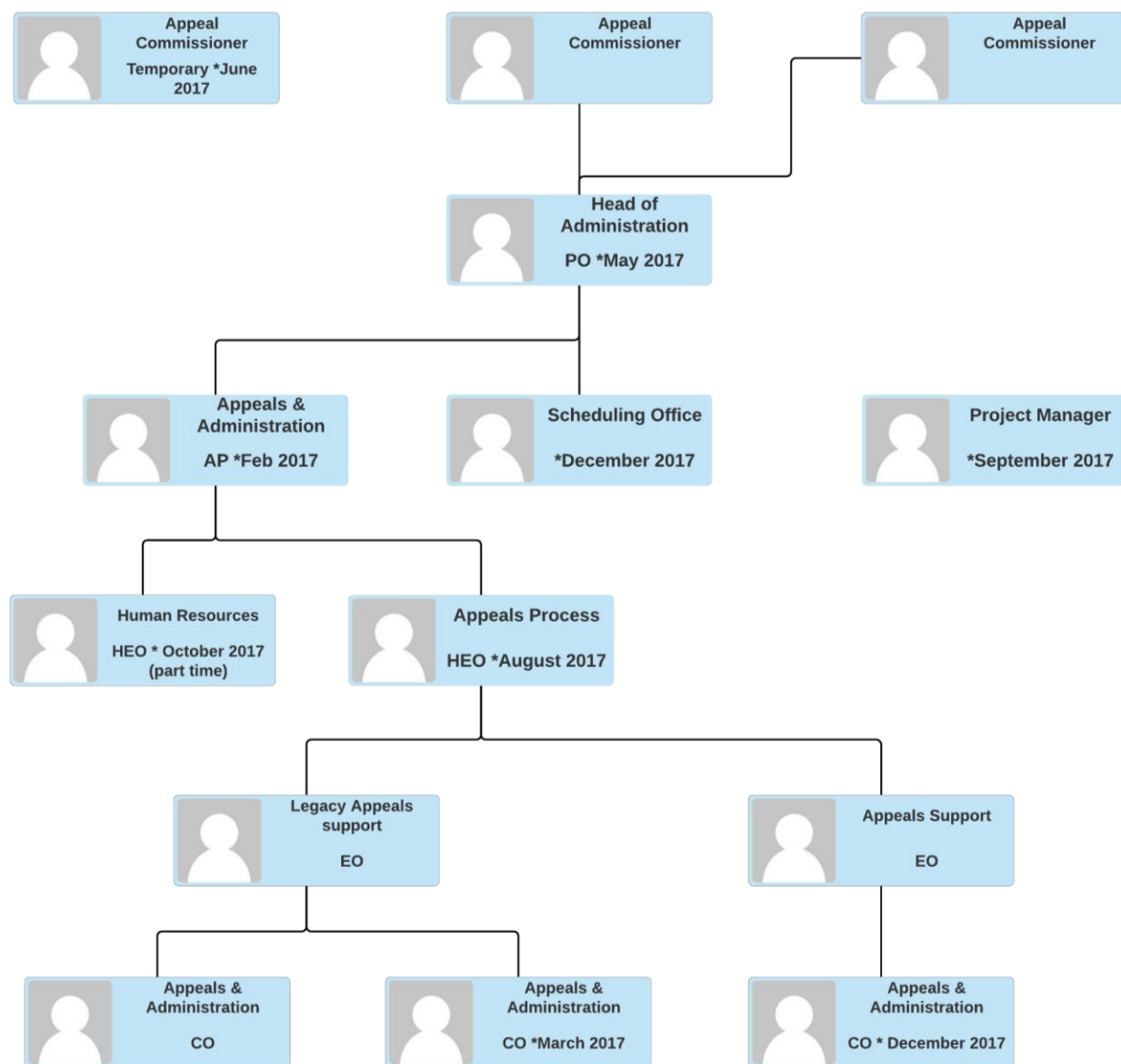
Functions of the Tax Appeals Commission

The main role of the TAC is to adjudicate, hear and determine appeals against decisions and determinations of Revenue, concerning taxes and duties. The specific functions of the Appeal Commissioners are set forth in section 6 of the Finance (Tax Appeals) Act 2015.

In carrying out their functions, the Appeal Commissioners are obliged to ensure that proceedings before them are accessible, fair and conducted as expeditiously as possible.

The 2015 Act contains a number of provisions which are intended to underpin and safeguard the impartiality and independence of the Commissioners in the exercise of their functions, including, *inter alia*, section 3 which establishes the Commission as a body corporate, section 6 which establishes the functions of the Appeal Commissioners and section 10 which requires the Commission to be independent in the performance of its functions.

Organisation Chart



Current Appeals

For the purpose of this report, “Current appeals” are those which were received on or after 1 January 2016.

Current appeals are received, processed and determined in accordance with the provisions of Part 40A of TCA 1997. During 2017, the TAC conducted a review of hundreds of current appeal files and made decisions (and where appropriate, gave directions) in relation to holding Case Management Conferences, seeking further information and/or statements of case and/or outlines of argument. Where possible, appeals were listed for hearing.

In 2016, 901 such appeals were received and a further 1,751 were received in the course of 2017.

A detailed analysis of the types of appeals received is contained in the chapter on “Statistics”. It can be seen therefrom that there has been an increase in the level of Income Tax appeals, which now make up almost half of all appeals received by the TAC. The statistics also show that there is a huge variance in the types of appeals received, for instance in relation to the complexity of issues, the years of assessments and involvement of multiple appellants.

481 current appeals were closed in the course of 2017, of which 222 were appeals received in 2016 and 259 were appeals received in 2017.

26 current appeals were listed for hearing in the course of 2017 and 11 determinations have issued following those hearings. Of the remaining 15, nine are awaiting determination, 2 settled just before or after hearing and 4 were adjourned at the request of the parties.

Some of the current appeals listed for hearing in the course of 2017 were lead appeals, whose determination will impact on a number of others; for example, one current appeal, heard in November 2017 and awaiting determination, is likely to affect the outcome of approximately 350 further appeals.

As with all other aspects of the TAC's functions, our ability to progress current appeals was constrained by the limited resources available to us. Delays in the progression of appeals arose on foot of the many requests received by the Commission from parties seeking extensions of time for the delivery of statements of case, outlines of arguments, documents or other information. Accordingly, while mindful of our statutory obligation to afford parties to appeals an opportunity to resolve appeals by agreement wherever possible, an increased staff will allow the TAC to require closer adherence to the time limits imposed upon parties in relation to directions given.

Legacy Appeals

Legacy appeals were initially processed by Revenue in accordance with the provisions of section 31 of the Finance (Tax Appeals) Act 2015 and, where a settlement could not be agreed, were transmitted to the TAC for processing in accordance with Part 40A of TCA 1997. 2,731 legacy appeals could not be settled and were transferred by Revenue to the TAC in the second half of 2016

During 2016, preparatory work was undertaken to assist with the progression of legacy appeals. The Minister for Finance sanctioned the provision of additional personnel resources to assist the Commission with its additional, substantial workload and, in particular, the legacy appeals. Preliminary work was undertaken in respect of the recruitment of Temporary Appeal Commissioners, with a view to appointing Temporary Commissioners during 2017. In June 2017, we welcomed the appointment of Conor Kennedy BL as a Temporary Appeal Commissioner.

In the second half of 2017, work commenced on identifying issues in the legacy appeals and we considered the optimum manner in which this group of appeals might be progressed. On review of the files and the grouping work already conducted by Revenue, the TAC identified that some 1,568 of the appeals represented multiple appeals by appellants and could be grouped accordingly. In light of this review, the number of individual appellants who had brought the 2,731 legacy appeals, stood at 1,163.

In many instances, there was inadequate supporting information and documentation in relation to the nature and status of legacy appeals and therefore in the first half of 2017, the Commission requested statements of case from relevant parties. On review of this documentation, it was clear that only a small number of legacy appeals were ready to be scheduled for hearing.

As the legacy appeals had been unresolved for some time prior to their transmission to the TAC, it was necessary not only to seek statements of case but also to ascertain if the appeals remained extant and, if so, whether resolution might be progressed. The TAC scheduled a series of case management conferences to address these issues.

In terms of hearings and determinations, Commissioner Kennedy issued five determinations in the second half of 2017. Two of these determinations were appealed by Revenue, by way of case stated.

On further review of the legacy appeals, we identified 13 lead-follower type appeals, involving 441 appellants. Significant progress has been made in relation to the processing of these appeals in accordance with the statutory framework, with two schemes, involving 112 appellants, expected to be finalized shortly after year-end. In relation to the remaining 11 groups, involving 329 appellants, it is anticipated that we will be able to schedule hearings readily once the TAC has moved to new premises and if we have more staff to assist with all matters.

By year end, 182 appeals were concluded as a result of determination, settlement, withdrawal and dismissal.

As highlighted throughout this report, the rate of progression of appeals (including legacy appeals) in accordance with the statutory framework for processing same, the scheduling of hearings and the production of determinations has been adversely affected by the extremely low staff numbers and resources available to the TAC. This is a matter of the utmost concern for the Commission and as at the date of drafting of this report, we continue to operate with insufficient staff resources.

Pre-Establishment Appeals

For the purpose of this report, pre-establishment appeals are appeals which were on hand in the OAC prior to 1 January 2016. These consisted of appeals which had been transferred to the OAC from Revenue with a view to the OAC conducting the hearing. They tend to be complex in nature and, for the most part, a hearing will be required as settlement between the parties is unlikely.

Some of these appeals were part-heard by the OAC and therefore the specific manner in which they are to be progressed is contained in sections 27 and 28 of the Finance (Tax Appeals) Act 2015. In certain circumstances, the Appellant may proceed with the appeal under the rules and procedures which applied prior to the establishment of the TAC.

The complexity of these appeals is further compounded by the age of the disputes and the years of assessment under appeal. Some unresolved matters date back as far as 1996. The Pre-establishment appeals also cover the gamut of tax heads, credits and reliefs and, in many instances, multiple years of assessment. In the majority of these appeals, the amount of tax in dispute is in excess of €30,000.

The TAC did not have the resources in 2017 to deal with these matters adequately, as the Pre-establishment appeals require significant review and analysis, given their age and the fact that they were previously processed by the OAC, which steps had to be reviewed and considered. Nevertheless, by end-2017, the Commission was able to conduct a preliminary review of the file contents and log the appeals to our case management system. It was possible to identify appeals that either would shortly be, or had closed and as a result, the position in 2017 is that there were 278 such appeals at the beginning of the year and throughout:

- 24 hearings took place;
- 19 appeals were determined;
- 2 were withdrawn;
- 8 settled between the parties;
- 1 was dismissed; and

of the 248 appeals in this category, that remained open at the end of 2017, 32 are part of a group of appeals, whereby the outcome of one is likely to affect all 32.

Cases Stated

Section 949AP TCA 1997 provides that a party who is dissatisfied with a TAC determination on the grounds that the determination is erroneous on a point of law, may require the Appeal Commissioner to state and sign a case stated for the opinion of the High Court.

During 2017, there were 3 requests for an appeal by way of case stated. In all 3 determinations, the Appellant had succeeded and the appeals by way of case stated were requested by Revenue. The requests arose in the following appeals:-

- **10TACD2017** – This appeal concerned a claim for dwelling-house exemption from Capital Acquisitions Tax, pursuant to section 83 of CATCA 2003. The Appellant inherited the family home together with a bequest of an interest in four other properties in the deceased's estate. All properties devolved through the residue clause in the Will and were in the nature of residuary legacies. The determination held that the bequest of the interest in the other four properties did not mean that the Appellant was, as of the date of the inheritance, *'beneficially entitled ... to any interest in any other dwelling-house'* (within the meaning of section 86(3)(b)), because she did not become beneficially entitled to these properties until the net estate had been ascertained, which was some months subsequent to the date of the inheritance.

Revenue expressed dissatisfaction with the determinations and requested the Appeal Commissioner to state and sign a case for the opinion of the High Court.

- **17TACD2017 and 18TACD2017** - Both these appeals concerned the entitlement of the Appellants to the employee tax credit, pursuant to section 472 TCA 1997, in respect of the tax arising on the increase in the rate of the old age (contributory) pension. The determinations concluded that section 14 of the Social Welfare and Pensions Act 2007 required that the increased pension be paid directly to the *"qualified adult"*, which had the effect of bestowing the beneficial entitlement of such income to the *"qualified adult"* and, as a consequence, the standard rate band was to be increased and a corresponding entitlement to the employee tax credit to be applied to the tax arising on such income.

Revenue expressed dissatisfaction with the determinations and requested the Appeal Commissioner to state and sign cases for the opinion of the High Court.

In addition to the foregoing three requests for cases stated, the TAC had 72 pre-establishment cases stated on hand during 2017, *i.e.* appeals which were determined and where requests for a case stated were made by a dissatisfied party, prior to the establishment of the TAC. These pre-establishment cases stated are being processed by the TAC in accordance with the transitional provisions contained in sections 29 and 30 of the Finance (Tax Appeals) Act 2015. At the end of 2017, the number of pre-establishment cases stated on hand had been reduced to 43.

Determinations Overview

Please note that this chapter is a commentary highlighting relevant issues in the context of determinations generally. For detailed information on all published determinations please see our website at www.taxappeals.ie

Lead-Follower appeals

If taxpayers disagree with a determination in a lead-follower appeal, in circumstances where they are a party to an appeal in the lead-follower group, they may apply to differentiate the facts and circumstances of their appeal from the appeal which has been determined and they may seek to have their appeal heard independently, with reference to the provisions of section 949AN TCA 1997.

On other occasions, a single appeal may be determined by the TAC in circumstances where the Commission is not yet seised of the follower appeals. The consequence of a determination in these circumstances may result in the resolution of the legal issues for other potential appellants.

In addition, an appeal which has not started life as a lead-follower appeal may clarify the law in a manner which is likely to affect other taxpayers. These appeals are not lead-followers as such, but they may impact on numerous, similarly situated taxpayers.

Some appeals involve multiple appellants. These are different to lead-follower appeals, as they involve fewer parties. They may be heard together in a single hearing, with separate determinations issuing (see determinations **02TACD2016**, **03TACD2016** and **04TACD2016**) or, if the circumstances of each taxpayer are similar, the Appellants may agree that one determination will bind all of the Appellants (see determinations **10TACD2016**, **14TACD2016** and **12TACD2017**).

Lead-follower appeals determined to date include: 03TACD2017, 10TACD2016 and 2TACD2018. At the date of publication of this report, several other lead-follower appeals are under consideration.

Complex/substantial appeals

Appeals vary greatly in terms of their subject matter, substance, complexity and value. As there is no limitation on the financial jurisdiction of the TAC, the Commission determines appeals where the tax sums in dispute are insubstantial (in determination 02TACD2017, the sum in dispute was €214) and substantial (in determination 24TACD2017, the sum in dispute was approximately €129,000,000) and where the legal issues are complex and non-complex.

During the initial administrative process, appeals are identified as complex or non-complex. However, at present there is no formal tiered system for the streaming of appeals within the TAC on grounds of complexity or value. We are aware that there have been requests for a tiered process of hearing and adjudication. Many of these requests arose from our public consultation process in September 2017. We were pleased to receive these comments and suggestions, as they concurred with views we already held and we will endeavour to develop the systems and infrastructure of the Commission in a manner which best meets the needs of our stakeholders.

At the time of publication of this report, we continue to press for greater resources and an increased budget. It is hoped that with the necessary resources we can take steps towards a tiered approach, based on considerations including legal complexity, value of disputed tax amounts and age of appeals.

Quantum

A significant number of appeals come before the TAC in which the matter under appeal does not relate to the interpretation of a provision of the Taxes Acts, but where the dispute between the parties concerns the quantum of taxable income earned and/or the quantum of a deduction sought (see determinations ***31TACD2017***, ***06TACD2017*** and ***09TACD2017***).

These appeals require a detailed review of the books and records of the Appellant's trade or business. Appellants are bound not only to retain documentation in accordance with the requisite statutory provisions (section 886 TCA 1997 and section 84 VATCA 2010), but to produce such documentation as may be required. In a tax appeal, if the Appellant cannot succeed in demonstrating that the assessment is incorrect, the assessment shall stand.

In determination 09TACD2017, the Appellant was assessed to income tax in relation to a series of missing invoices. The Appellant submitted that none of the missing invoices related to paid work for the relevant periods of assessment. However, because the Appellant did not produce the invoices, he was unable to prove this to be the case. As a result, the Appellant did not succeed in discharging the burden of proof and did not succeed in his appeal. This case highlights the need for an understanding among taxpayers that they bear the burden of proof in a tax appeal and that they must produce documentation in support of the cases they wish to make before the Commission.

Claims for repayment of tax and the four-year statutory limitation period

The statutory limitation periods which apply to taxpayers seeking a repayment of tax provide that claims for repayment must be made within four years after the end of the tax periods to which they relate. The relevant date is the date upon which a valid claim is first made; see section 865 TCA 1997 and section 99 VATCA 2010.

When it has been established and/or when the taxpayer accepts that a valid claim was made outside the four-year period, the refusal of the repayment claim will be upheld by the TAC, as the legislation provides that a valid claim must be made within the four-year statutory period.

If the parties to an appeal differ in relation to the date upon which a valid claim was made, there is a case to contest and this could result in a determination in favour of either party, depending on the facts of the appeal. However, if the parties are agreed that the claim was made outside the four-year period, the Appellant's claim will fail.

In the determinations published in relation to the four-year rule, the TAC has made plain its adherence to the clear statutory language used to ensure that the four-year rule has uniform application. The TAC does not have authority to dis-apply the rule for extenuating circumstances, or to create exceptions to the four-year rule on compassionate grounds. The determinations are consistent with the legislation and do not provide for exceptions to the rule, when the claim for repayment is not made within the statutory four-year period.

The TAC anticipates that the publication of determinations in relation to the four-year rule will serve to reduce the number of these appeals over time (see determinations **2TACD2017**, **8TACD2017**, **11TACD2017**, **26TACD2017**, **18TACD2016**, **19 TACD2016**, **21 TACD2016** and **26 TACD2016**).

Directors' emoluments

Taxpayers who appeal assessments raised under section 997A TCA 1997 may be unaware of the constraints of the TAC in dealing with such appeals (see determinations **30TACD2017**, **31TACD2017** and **23TACD2017**).

Section 997A(3) TCA 1997 provides that a credit in relation to tax deducted from emoluments, paid by a company to a proprietary director, shall not be given unless there is documentary evidence to show that the tax deducted has been remitted to Revenue.

In appeals previously determined in the context of section 997A TCA 1997, the Appellants accepted that tax due had not been remitted to Revenue, but appealed on grounds of undue hardship; however, the TAC does not have jurisdiction to set aside an assessment on grounds of hardship or oppression. The Commission is required to act in accordance with the clear statutory language in section 997A TCA 1997.

The TAC expects that appeals taken on grounds of hardship and oppression caused by a particular statutory provision will diminish over time, as awareness grows in relation to the Commission's inability to set aside assessments on these grounds.

Dwelling-house exemption - Capital Acquisitions Tax

Determinations 07TACD2017 and 10TACD2017 relate to an exemption commonly known as 'dwelling-house exemption', in accordance with section 86 CATCA 2003.

Determination 07TACD2017 concerned a claim for exemption in the context of an appointment from a trust involving the execution of deeds of appointment, deeds of transfer and deeds of rectification. The determination also addresses the law on intention, escrow and delivery of deeds in the context of this appeal.

In determination 10TACD2017, the Appellant inherited the family home in relation to which she claimed an exemption in accordance with section 86 CATCA2003. She also inherited a share in four other properties in the estate of her late father. The determination concluded that on 27 October 2010, the date of the inheritance, the exemption claim in relation to the family home was *prima facie* available to the Appellant, the Appellant having satisfied the criteria as to occupation on the date of the inheritance and for three years preceding. The Appellant was not disqualified from claiming the exemption on foot of section 86(3)(b), because the Appellant was not, on the date of the inheritance, '*beneficially entitled to any interest in any other dwelling-house*'. In accordance with the Supreme Court authorities of Gleeson v Feehan (No. 2) and O'Hagan v Grogan, the Appellant did not become beneficially entitled to these other properties until March 2011 at the earliest, some five months after the date of the inheritance. Accordingly, the TAC determined that the Appellant was entitled to avail of the dwelling house exemption in relation to her inheritance of the family home.

The TAC was requested by Revenue to state and sign a case for the opinion of the High Court in respect of this determination, pursuant to the provisions of Chapter 6 of Part 40A of the TCA 1997. This case stated was drafted and signed by the Commissioner on 1 December 2017.

Capital Acquisitions Tax on gifts

In determination 13TACD2017, the deeds to a property transferred by parents to their daughter and son-in-law were executed in a manner which resulted in a tax liability in circumstances where the daughter's group (a) threshold was not fully utilised. The liability could have been avoided had the deeds been drafted in a manner so as to reflect the purported intentions of the parties, namely, a 39% interest in favour of in the son-in-law and a 61% interest in the name of his wife.

When property is gifted, unintended tax consequences may arise if the documentation is not executed in a manner so as to give effect to the intentions of the parties. The determinations highlight that in cases involving the transfer of property, it is important for taxpayers to consider obtaining, if necessary, appropriate taxation and legal advice (see also determinations **03TACD2016** and **04TACD2016**).

Vehicle Registration Tax

The TAC receives a substantial volume of appeals each year in relation to VRT.

Many of the appeals relate to disputes between taxpayers and Revenue, in relation to the value to be attributed to a vehicle's 'open market selling price' ('OMSP') (see determinations **05TACD2016**, **07TACD2016**, **22TACD2016**, **24TACD2016**, **23TACD2016**, **25TACD2016**, **19TACD2017**, **27 TACD2017**, **28TACD2017** and **33TACD2017**). Broadly put, the 'open market selling price' is the price, inclusive of all taxes and duties, which the vehicle might reasonably be expected to fetch on a first arm's length sale thereof in the State.

Some appellants do not present alternative valuations in support of their suggested OMSP but nonetheless, seek to argue that valuations furnished by Revenue are overstated. Appellants who wish to challenge an OMSP assigned bear the burden of proof in VRT appeals, as in all tax appeals.

While most appeals which have been determined on the subject of OMSP seek to reduce the OMSP assigned, some contend for an increased OMSP (see determinations **33TACD2017** and **04TACD2017** in relation to the repayment of VRT in accordance with the export repayment scheme). Other VRT appeals have addressed claims for relief in the context of the transfer of residence and for temporary exemption (see **25TACD2017** and **03TACD2017**).

In relation to determination 03TACD2017, a lead-follower appeal, the TAC is seised with 49 similar appeals. These appeals are at various stages of completion in accordance with the operation of sections 949U (adjudication without a hearing), 949AN (appeals raising common or related issues) and 949T (case management conference) TCA 1997. These appeals will be determined based on the principles contained in determination 03TACD2017, in addition to the relevant domestic and European law.

Artists' exemption

In the context of grouping appeals which relate to claims for exemption, the TAC receives a significant number of appeals each year in relation to claims for exemption pursuant to section 195 TCA 1997, commonly known as 'artists' exemption'. Some appellants choose to have their appeals adjudicated without a hearing in accordance with section 949U TCA 1997.

Determined cases under section 195 TCA 1997 include the following:

- Determination 15TACD2016 clarifies that the insight provided by the Appellant in collating material to include in her work was insufficient to satisfy the 'original and creative' test under the guidelines in force, in accordance with section 195 TCA 1997;
- Determinations 17TACD2016 and 20TACD2016 provide clarification in relation to the criteria in relation to whether a non-fiction work may satisfy subsection 12(b)(ii) of section 195 TCA 1997. This subsection provides for exemption where the work is based on research from archives which are more than 30 years old and which relate to Ireland;
- Determination 20TACD2017 assists in the clarification of the meaning of 'autobiography';
- Determination 21TACD2017 clarifies the approach taken by the TAC where a work falls into more than one category of non-fiction works.

It is anticipated that the publication of these determinations, clarifying the parameters of the various categories of exemption for writers, composers and artists, will serve to reduce over time the number of appeals received in relation to section 195TCA 1997.

Other tax heads and determinations

Determinations have also issued in relation to the following:

Corporation tax

- Determination 14TACD2016 held that the raising of CT assessments in relation to VAT and PAYE amounts written down in an examinership, is not precluded by section 24(6) of the Companies (Amendment) Act 1990;
- Determination 24TACD2017 held that a banking corporation involved in the provision of mortgage finance, which changed ownership and which changed its trade to the provision of loan portfolio management services, had ceased trading for the purposes of section 396(1) TCA 1997. The determination further concluded that there had been a major change in the nature of the trade and in the conduct of the trade carried on by the Appellant, within a period of three years of the change in ownership of the Appellant, in accordance with section 401 TCA 1997.

Capital Gains Tax

- Determination 01TACD2017, in the context of CGT, held that proceeds received by the Appellant from an energy company, in respect of the grant of a series of rights on the Appellant's lands under forestry, represented a capital sum for the use or exploitation of an asset, in accordance with section 535(2)(a)(iv) TCA 1997 and that there was no "disposal ... of woodland" for the purposes of section 564 TCA 1997 and that the exemption did not apply;
- Determination 34TACD2017 concerned an appeal against an assessment to CGT and clarifies the deductions available in respect of enhancement expenditure on the sale of a property. In particular, it confirms that the value of the personal time and personal work carried out to enhance a property is not "expenditure" for the purposes of section 552(1)(b) of TCA1997;
- Determination 12TACD2017 relates to the valuation of the base cost of shares for the purposes of CGT. This determination clarifies the relevant principles in relation to valuing such shares, including the statutory hypothesis, minority discounts and the special purchaser.

Capital Acquisitions Tax

- In the context of capital acquisitions, Determination 14TACD2017 held that a clawback of agricultural relief is not an 'event' for the purposes of section 104 CATCA 2003, nor can it be said that the clawback and the capital gain (in respect of the disposal of land) arose in respect of the 'same event' for the purposes of section 104 CATCA 2003;

- See also determinations 02TACD2016, 03TACD2016, 04TACD2016, 12TACD2016, 07TACD2017, 10TACD2017, some of which are discussed above.

Income Tax

- Determination 22TACD2017 concerned an appeal against the refusal of retirement relief and sets forth the approach of the TAC to the 'trade benefit' test contained in section 176(1)(a)(i)(I) and the 'substantial reduction' test contained in section 178(4) TCA1997. It further clarifies the approach of the Commission to the issue of the sequence in which documents are executed, in circumstances where a large number of documents are executed contemporaneously, or within a very short interval of time;
- Determination 15TACD2017 upheld assessments raised on the basis they were raised within 4 years from the end of the year of assessment in which returns were filed. This determination also clarified that the Appellant's rental income represented consideration for the exclusive use of the premises and therefore did not constitute "relevant sums" and as such, was not amenable for 'rent-a-room' relief. Furthermore, the failure of the Appellant to occupy the premises as his sole or main residence excluded any entitlement to 'rent-a-room' relief;
- Determinations 17TACD2017 and 18TACD2017 concerned the entitlement to the employee tax credit, pursuant to section 472 TCA 1997, in respect of the tax arising on the increase in the rate of the old age (contributory) pension. The determinations concluded that section 14 of the Social Welfare and Pensions Act 2007 required that the increased pension be paid directly to the "qualified adult", which had the effect of bestowing the beneficial entitlement of such income to the "qualified adult" and, as a consequence, the standard rate band was to be increased and a corresponding entitlement to the employee tax credit to be applied to the tax arising on such income. These determinations - 17TACD2017 and 18TACD2017 - have been the subject of appeals by way of case stated;
- See also determinations 01TACD2016, 06TACD2016, 09TACD2016, 13TACD2016, 18TACD2016, 19TACD2016, 21TACD2016, 26TACD2016, 06TACD2017, 08TACD2017, 09TACD2017, 11TACD2017, 26TACD2017, 29TACD2017, 31TACD2017 and 32TACD2017, some of which are outlined above.

Local Property Tax

- In determination 16TACD2017, which related to LPT, the issue was whether the taxpayer was a liable person for the tax on the basis that he was a person “entitled to immediate possession” of a residential property for a period “that may equal or exceed 20 years”. While the taxpayer was in the process of selling his home at the time, he had not, on the relevant date, executed a conveyance and thus the determination concluded that he was the liable person.

Opportunities for resolution

It should be noted that all taxpayers are entitled to avail of an internal review facility with Revenue, prior to pursuing an appeal before the TAC. This facility obviates the need for an appeal to the TAC in the event that the taxpayer is satisfied with the outcome of same. If the taxpayer is dissatisfied with the outcome of Revenue’s internal review facility, that taxpayer may pursue an appeal to the TAC notwithstanding. It is imperative for taxpayers to be aware of the fact that an assessment or a determination must be appealed within 30 days of the date of same to be within time to pursue an appeal with the TAC.

Once the TAC is seised with an appeal, it aims to facilitate engagement between appellants and Revenue, with the objective of assisting parties achieve resolution pre-hearing, where possible. Where both parties agree that an adjournment may facilitate talks, such applications are generally granted.

For more information on published determinations please visit our website at www.taxappeals.ie

Challenges with Progressing Appeals

Despite our best efforts, there are issues outside the control of the TAC that are hampering our ability to progress all appeals as efficiently as we would like. We acknowledge the assistance and advice provided by our parent Department, the Department of Finance and continue to work with that body on issues that can be addressed either administratively or by way of legislation. However, it is important to highlight some of the difficulties, to provide assurance that they are identified and that we are striving to rectify and enhance our operations.

Resources

Our biggest issue, during 2017 and ongoing, has been a shortage of staff and inadequate premises from which to operate. There is a significant administrative process in relation to the opening, management and initial review of appeals and the interaction with appellants, their agents and Revenue. Coupled with this is the general administrative function of a Civil Service body. The TAC has a small number of staff to deal with all these matters and has had one hearing room for part of 2017 and none at all for the last quarter. As a result of these issues, it has proved difficult to provide efficient and appropriate customer service for most of 2017.

It should be noted that the TAC has been tasked with addressing the considerable volume of historic and complex appeals that transferred to us in late-2016 from Revenue and the OAC, while simultaneously attempting to manage all new appeals made directly to us since the second quarter of 2016 (on average, over 150 per month in 2017). It is hoped that some or all of these matters can be addressed going forward, as new premises were agreed upon with the Office of Public Works in the final quarter of the year and will result in the TAC moving to premises in 2018 that allow for multiple hearings to take place in parallel. However, we remain constrained in relation to staffing numbers and our budget.

Case Management System

During the latter half of 2017, the TAC adopted a case management system, for two purposes: (i) to assist in identifying priorities for the management of appeals, e.g. identifying complex, substantial or high value appeals, identifying appeals which may require a CMC, identifying appeals which may be determined without an oral hearing or establishing leader-follower processes; and (ii) for general reporting purposes, in relation to the appeals we manage.

This necessitated significant and onerous quality assurance checks on the large volume of data we had on hand and, for the most part, manual input of several hundred thousand items of data to the system during the second half of 2017. In relation to the “legacy” appeals alone, the information on those was transmitted to the TAC from Revenue via a large volume of A3 documents that had to be manually uploaded, once cross-referenced with the files for quality assurance purposes. This work was and continues to be conducted by the small number of staff, while striving to meet our day to day obligations in relation to new appeals, new information on existing appeals and the general obligations and accountability in relation to our roles as Civil Servants. It is impossible to overstate the scale of the work undertaken in this task and its impact on our ability to efficiently progress appeals when there have not been the resources to divert attention to numerous obligations contemporaneously.

Number of Appeals and Appellant Expectations

The TAC had approximately 5,500 appeals on hand during the course of 2017. It is of note that we have a small number of staff to address all appeal-related matters in the first instance, such that it would be impossible for us to make the progress with them that might be anticipated by appellants. In contrast, these appeals and all new ones are handled by a large contingent of Revenue staff – approximately 575 case workers across the State, as well as central Revenue resources such as its legal staff who have the capacity to address or raise issues more readily. It is also an ongoing issue that many taxpayers confuse the TAC with Revenue, so that we take a large volume of calls and correspondence from taxpayers seeking information and assistance in relation to their tax affairs.

Validity of Appeals

All notifications of appeal have to be logged and processed to some extent. Any follow up correspondence from appellants must also be reviewed and logged to our systems. The TCA 1997 requires us to notify all appealable matters to Revenue and await that office’s views. Needless to say, this requires time and resources. The TAC receives a significant volume of appeals that must be processed but which cannot ultimately lead to any outcome on foot of our involvement, e.g. matters relating to the application of surcharges or interest, or “first stage” appeals in relation to VRT or Customs & Excise matters, which must be addressed by Revenue.

The TAC, in the last quarter of 2017, has made efforts to address these issues by way of producing guidance notes for appellants, which include information as to what is or is not appealable. We have also had discussions with Revenue in relation to the correspondence that issues from that office and in relation to assisting taxpayers to understand the types of matters which may not be appealed to the TAC. There should be greater awareness of the right (or need) to appeal matters directly to Revenue in the first instance, using that office's internal/external review procedures. This could significantly reduce the number of appeals to the TAC. Revenue's review procedures do not interfere with an appellant's statutory right to appeal to the TAC, which can be done even while the matter is being reviewed by Revenue. However, availing of Revenue's review systems in the first instance might bring clarity on matters for both parties and assist with early settlement. It is of note that in 2016, the TAC received 899 appeals, yet only 13 internal/external reviews were conducted by Revenue in the same period.

Quantum

Regardless of the quantum at issue, the TAC is obliged to open and process all tax appeals it receives. Although the TAC did not collect data on quantum during 2017, many notices of appeal indicate disputes in relation to matters as small as 49 cents.

Expertise

In mid-2017, the TAC identified the need to engage a team of suitably qualified staff, who could conduct case management conferences with a view to expediting all or parts of appeals towards resolution; prepare briefing and research papers for Commissioners in relation to appeals; and quickly identify invalid appeals, or those which require more information from appellants. The TAC considers this would provide valuable assistance to the Commissioners in the production of their determinations. During 2017, having tried various other avenues in the hope of expediting matters, we conducted a recruitment drive for case managers via the Public Appointments Service, which is itself under considerable pressure to manage these processes for a large number of public sector bodies. The PAS was very helpful but, given the competing priorities it has to manage, recruitment for the TAC has taken some time and by year-end we did not have a team in place.

Compliance with TAC Directions

As highlighted in the statistics chapter of this report, in several hundred appeals during 2017, appellants and Revenue officials sought extensions to deadlines set by the TAC, a stay in proceedings or a deferral of hearing dates to allow for ongoing settlement negotiations between parties. In most instances, a decision was made to grant the request. However, as a consequence, these appeals remain “live” on our system and give the impression of matters not being addressed, at a time when the number of, or our progress with appeals has been the subject of media reports and public comment. There have been additional issues in relation to appellants failing to advise the TAC if they have withdrawn their appeal or settled the matter with Revenue.

Systems for Settling Appeals without Recourse to a Hearing

Section 949U of TCA 1997 gives Appeal Commissioners the authority to adjudicate on an appeal without a hearing, where they consider it appropriate. We must notify the parties of that view. A Commissioner may consider that the Appellant’s statement of case or other documentation provides adequate information to do so. Furthermore, section 949AN permits an Appeal Commissioner to adjudicate on an appeal without holding a hearing if the Commissioner deems that appropriate, having regard to a previous determination on an appeal or appeals that raised common, or related issues.

However, in relation to the 949U provisions, the Appellant retains the right to insist on a hearing regardless of a Commissioner’s views and it has been the TAC’s experience during 2017 that most appellants wish to attend and present their case at a hearing. Therefore, the legislative imperative and our lack of facilities and other resources during the year meant that many appeals that might have been concluded without the need for hearing, remain to be heard.

In all of the above, the TAC remains of the opinion that much – though not all – of the solution rests with addressing our lack of resources.

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It is important to note that there are daily changes to the statistics in relation to appeals. For example, while we can say that there were a given number of income tax appeals or matters awaiting determination at any given point in time, this can change almost immediately, with the subsequent dismissal, settlement or withdrawal of an appeal, or where a determination has issued but not yet been published. Similarly, the TAC may not receive notification for several months that an appeal has settled between parties, yet the information on same is logged onto our system with reference to the actual date the matter did settle/close. This has retrospective impact on our numbers. Furthermore, we can receive hundreds of correspondences daily in respect of individual appeals or new appeals. At the time of writing, we have in excess of 1,000 items of correspondence awaiting attention. There is a small number of staff to deal with the issues raised therein, before they can update the actions taken onto our case management system, from which we gather statistics. The appointment of additional support staff to assist with the processing of appeals, including management of our database, would greatly enhance our ability to report accurately at all times.

Number of Appeals – Year Received in the TAC

The TAC was established on 21 March, 2016 and at that time a system of categorisation was developed that reflected the period in which we received appeals, as some were notified directly to us after March 2016, some came from Revenue and some were transferred to the TAC from the OAC.

During 2017, the number of appeals on hand was as follows:

Carry over from 2016	705
Appeals received during 2017	1,751
Legacy Appeals received in 2016	2,731
Pre-Establishment Cases Stated	72
2017 Cases Stated	3
Pre-Establishment Appeals	278
TOTAL	5,540

In many instances, an appellant is appealing multiple years of assessment, each of which could be categorised as an individual appeal. Furthermore, a taxpayer may have appealed a matter to Revenue before the TAC's existence (and, as such, this is a "legacy" appeal if it remains to be settled) and subsequently appealed another or related matter directly to the TAC. For administrative purposes, these "multiple" appeals are often merged into a single file, so that all issues relating to an appellant can be addressed in the round. Clearly, this results in the number of appeals on hand at any given time being fluid, as some appeals warrant this administrative treatment, while others do not.

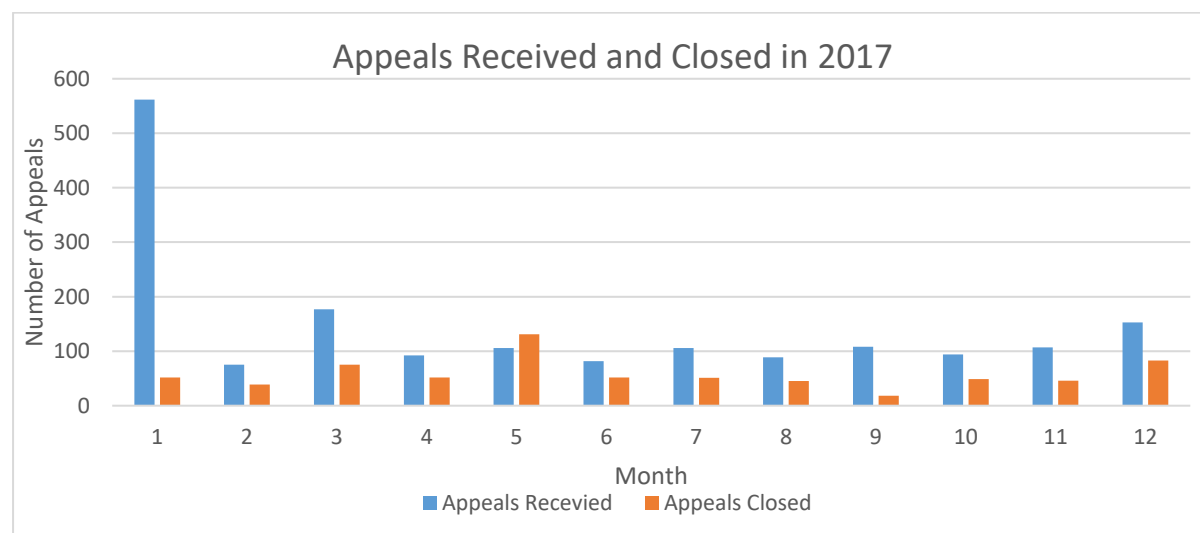
Of general note in relation to all appeals:

- 1,489 of the appeals (open and closed) in 2017 are, or were, managed by an agent for the appellant;
- At least one third of the appeals have multiple years or periods (e.g. VAT) of assessment in dispute;
- At least 1,000 appeals on hand are in groups of appeals, where a similar issue(s) is under appeal.

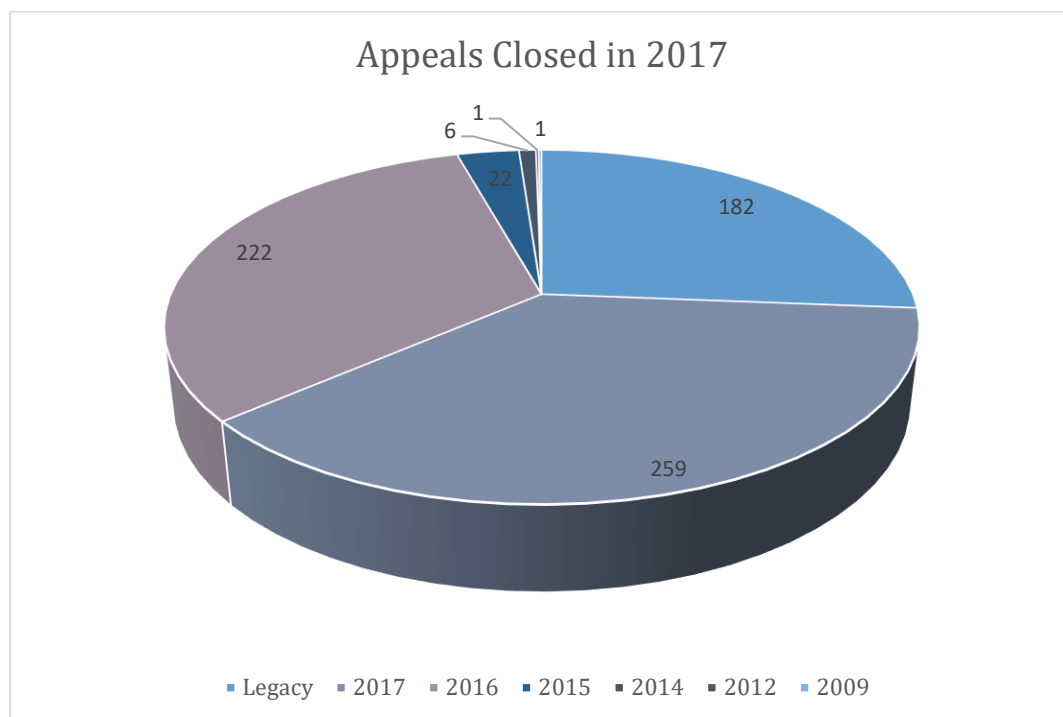
Appeals received & Closed in 2017

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Appeals Received	562	75	177	92	106	82	106	89	108	94	107	153	1751
Appeals Closed	52	39	75	52	131	52	51	45	18	49	46	83	693

“Appeals closed” relates to all appeals, not just those received in 2017.



Appeals Closed in 2017



Year/Period	No. of Appeals Closed
Legacy	182
2017	259
2016	222
2015	22
2014	6
2012	1
2009	1
TOTAL	693

- A further 29 pre-establishment cases stated closed in 2017.
- Three 2017-related cases stated also closed in 2017.

Closed Files in 2017

The TAC closed a number of appeals in 2017, by determination, settlement, withdrawal of the appeal, or dismissal. Details of these are included elsewhere in this chapter.

Further to these, as detailed below, we are retaining several thousand closed files that have been or now need to be catalogued and stored pending decisions about the retention, return or destruction of same. The TAC considers it a matter of some urgency that the issue of ownership and storage of these files is settled, as not only is there a risk involved in the retention of dormant files but they occupy valuable space in the TAC's already limited premises. Clearly, the number will grow as we dispose of more appeals. The following tables provide an outline of the position at year end.

Files stored off-site in 2017	791
Files stored off-site in 2015 & 2016	1,927
Files stored in TAC offices	2,492
TOTAL	5,210

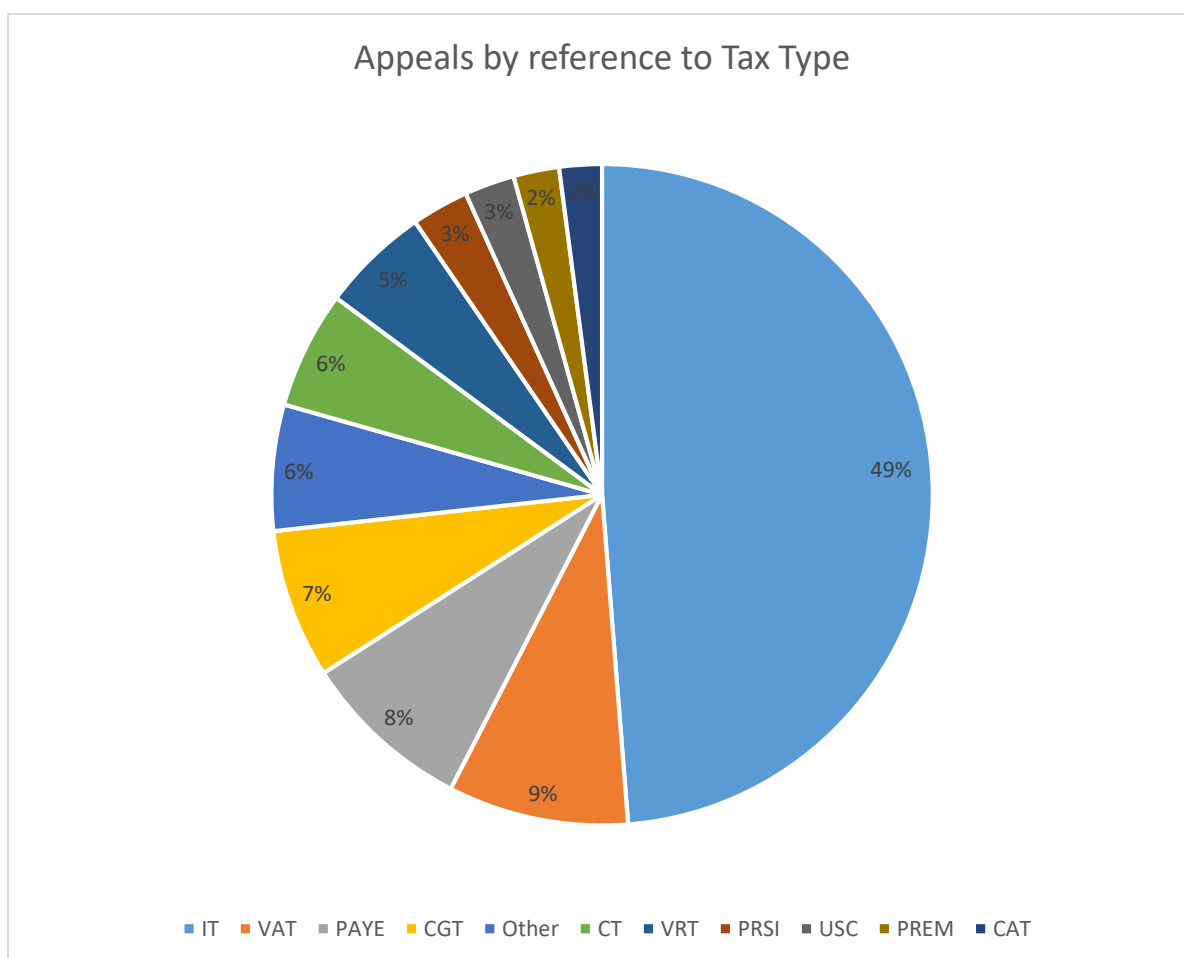
Appeals – Main Tax Type

Although many appeals are in relation to more than one tax type or, in some instances, are in relation to disputes about multiple tax credits or reliefs and/or the assessment of, e.g. USC or PRSI, the table below gives an indication of the main tax type or issue that has been disputed across all appeals. The figures do not relate to distinct appeals, as some are contained in disputes involving multiple tax types. They are presented as an indication of the types of tax dispute arising.

All appeals on hand (open and closed) at end Dec 2017

Tax Head	No. of References in Appeals	%
IT	2,248	49
VAT	407	9
PAYE	386	8
CGT	337	7
Other*	284	6
CT	265	6
VRT	244	5
PRSI	129	3
USC	113	3
PREM	103	2
CAT	96	2
	4,612	100

*Other includes RCT, LPT, C&E, DIRT, PSWT & Stamp Duty & DWT



Clearly, income tax is the matter most frequently raised in appeals. VAT, PAYE, CGT and CT make up a further 30% of the subject matter of all appeals on hand, but it is of note that in many of the appeals where those tax matters are in dispute, there is often a combination of tax types at issue and many of these appeals are often more complex and/or have a higher quantum at stake.

2017 Appeals

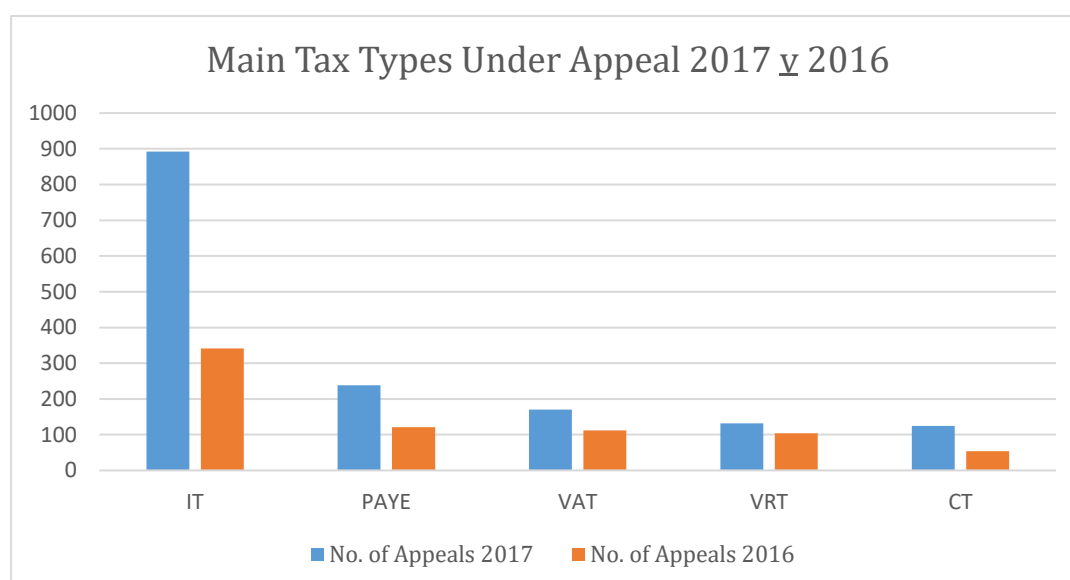
In relation to appeals received in 2017, income tax remains the most frequently appealed matter, followed by PAYE, then VAT. In 2017, the TAC received 132 VRT appeals, which represented 7.5% of all appeals in the year.

In 2017, the TAC received 238 appeals which referenced PAYE, 90 appeals referencing PRSI and a further 77 referring to USC. The combined total of these tax heads accounts for 23% of all tax types under appeal in 2017. Although some of these are appealable matters, many could be more correctly categorised as queries rather than appeals, as they relate to matters which might be dealt with more appropriately through Revenue's customer service channels.

Comparison of Main Tax Types Under Appeal 2017 v 2016

The table and chart show the top five tax types which were referenced in appeals in 2016 and 2017. There was a significant increase in the number of appeals received under each of the five main tax types - for some, the number has more than doubled. A similar trend can also be found in almost all of the other tax types under appeal between 2016 and 2017.

Year	IT	PAYE	VAT	VRT	CT
No. of Appeals 2017	892	238	170	132	125
No. of Appeals 2016	341	121	112	104	54



Multiple Tax Types

The table below indicates the total number of appeals processed by the TAC across the four categories of appeal (pre-establishment, legacy, 2016 appeals and 2017 appeals) in which more than one tax type was being appealed.

No. of Tax Types	No. of Appeals	%
2	300	7.3
3	62	1.5
4	16	0.4
5	7	0.2
TOTAL	385	9.4

When compared with the position at year-end 2016, it is clear that there is an upward trend in relation to taxpayers disputing either more complex assessments or simply choosing to dispute all aspects of an assessment, where previously some aspects of Revenue decisions may have been accepted. If assessments are themselves more complex, it is possible that the 30-day time limit for making an appeal (from the date of assessment) also influences an appellant's decision to proceed directly to appeal.

In 2016, 8% of all appeals were in relation to multiple tax types. This increased to 11% in 2017. Income Tax and CGT have often been the subject of a single appeal – 59 instances in 2017, representing 20% of all appeals with dual tax types. Income tax coupled with VAT was the next most frequent type of appeal in this category, with 53 instances of same. The most frequent combination of three tax types under appeal, is Income Tax & PAYE & PRSI.

Income Tax & PAYE 2017 – Credits, Reliefs & Tax Related Matters

Disputes in relation to the application of personal tax credits, USC and PRSI repeatedly form the basis of appeals, as the application of these have significant impact on the quantum of tax chargeable. Therefore, while most income tax and PAYE appeals in 2017 had reference to those matters, the table below provides an outline of some more specific and, of those, the most frequently appealed, tax-related matters.

Tax-related matter under Appeal	% of tax-related matters in 2017
Late Filing Surcharge	28.6
Health Expenses	7.8
EII	6.5
Statutory Limit/4 year look back	5.2
Help to Buy Scheme	5.2
Artists' Exemption	4.3

If an assessment or decision of Revenue is appealed to the TAC, regardless of its nature, it enters the system to be processed. As can be seen in the table above, during 2017 a large number of appeals related to the application of a late filing surcharge, yet this is not an appealable matter as surcharges are applied on a statutory basis, under the provisions of section 1084 of the TCA 1997. Similarly, 5.2% of Income Tax/PAYE appeals in 2017 related to a refusal of refund by Revenue, following a taxpayer's claim relating to a period that was outside the statutory four year limit.

The following table outlines the credits, reliefs and tax-related matters (such as charges) – in respect of income tax and PAYE – that were the subject of appeal in 2017. The volume received is indicated, from matters where we received 1-5 appeals in each instance, to those where there were more than 20 appeals on the issue in 2017.

1 to 5		6 to 10	11 to 15	16 to 20	> 20
Seed Capital Relief	Maintenance Payments	Domicile Levy	Help to Buy	Health Expenses	Surcharge
Double Taxation-related income	Incapacitated Child Tax Credit	SPCCC	4 Year Look Back		
Single Farm Payments	HRI Scheme	Trading Loss	Rental Income		
Cross border Relief	Contract of/Contract for Service	EII			
Mortgage Interest Relief	SURE	Artist Exemption			
Top Slicing Relief	BIK	Deductible Expenses			
Rural Renewal Allowance	Compensation Payments				
AVC relief	Tuition Fees				
Capital Allowances	Subsistence Payments				
Tax Clearance Cert	Residence				

Appeals Listed for Hearing in 2017

During 2017, 65 hearings were scheduled, relating to 106 appeals. The duration of the hearings ranged from a half day to four days.

	Legacy	Pre Estab.'d	2016	2017	Total
Settled prior to hearing		1	1		2
Adjourned prior to hearing	2	5	4		11
Determined	5	3	9	2	19
Settled after hearing	1	2	1		4
Hearing commenced and adjourned	1	4			5
Hearing concluded and awaiting determination		15	8	1	24
Total	9	30	23	3	65

Adjudication has commenced or been completed, either with or without a hearing, in respect of 93 appeals in 2017. Determinations have issued in respect of 21 of those appeals. One of the determinations outstanding, on foot of a hearing in November 2017, will have direct impact on approximately 350 other appeals.

These figures do not reflect the complexity of the appeals, or the reasons for any delay in progressing or settling matters. Hearings can be adjourned for a number of reasons, e.g. to allow for submission of further evidence; for a subsequent hearing date; or to await the outcome of Court proceedings which have to be taken into account by a Commissioner. In certain circumstances, hearings and/or determinations can be effected in relation to aspects but not the whole of an appeal, and, as such, the appeal remains “open” and non-determined until all issues are concluded. Delay in progressing appeals is also often the result of inadequate resources in the TAC to deal with the significant number of appeals on hand.

Determinations

Part 40A, Chapter 5 of the TCA contains provisions for the notification and publication of determinations by the TAC. Section 949A0 requires the Appeal Commissioners to publish a report of each of their determinations on our website not later than 90 days after the parties have been notified of same. Details of all determinations made in 2017 and the relevant publication period, are set out below.

Number of determinations made in 2017						
	No. of Appeals Determined	Total No. of Appeals affected	Legacy	Pre Estab.'d	2016	2017
Determinations made in 2017 relating to appeals heard in 2017	19	21	5	3	9	2
Determinations made in 2017 but relate to appeals heard in 2016	15	19		12	3	
Total	34	40	5	15	12	2

Number of determinations published in 2017						
	No. of Appeals Determined	Total No. of Appeals affected	Legacy	Pre Estab.'d	2016	2017
Determinations published in 2017 relating to appeals heard in 2017	16	18	5	2	7	2
Determinations published in 2017 but relate to appeals heard in 2016	19	23		11	8	
Total	35	41	5	13	15	2

35 published determinations for 2017 are available on the TAC's website – www.taxappeals.ie. One of these disposed of three appeals and another disposed of two appeals. A further appeal determined in 2017 is expected to lead to 49 matters that can be adjudicated upon without the need for a hearing.

Case Management Conferences in 2017

During 2017, 142 CMCs, relating to 575 appeals, were scheduled by the TAC. Due to postponements or cancellations requested by some appellants or Revenue, we were able to proceed with 89 CMCs, concerning 479 appeals. The duration of a CMC ranged from less than an hour to four days, but most concluded within a day. Parties to an appeal are directed to attend these less formal hearings with a view to reaching settlement or agreement more expeditiously and without the need for a more formal setting.

As a result, during 2017, 71 appeals were closed. A “test case” was agreed in relation to approximately 350 appeals and a CMC held to address related matters. Fit for purpose premises and increased staff resources would allow for more of these hearings to take place.

An outline of the outcome in relation to the appeals, the subject of CMC in 2017, is as follows:

Closed	71
Deferred by Appellant/Respondent	100
Proceeding	51
Awaiting Adjudication*	353

*one of these has a direct impact upon approximately 350 individual appeals

Progress Made on Appeals in 2017

In addition to closing 693 appeals in 2017, the TAC:

- Listed 106 appeals for hearing
- Made 34 determinations in relation to 40 appeals
- Held 89 Case Management Conferences, relating to 479 appeals
- Granted 385 requests made by Revenue or appellants, for an extension of time to comply with a TAC direction, in relation to 285 appeals
- Sought additional information on 507 occasions, in relation to 407 appeals
- Granted a request for a stay in proceedings, on 356 occasions, regarding 272 appeals
- Issued 2,004 requests for a Statement of Case, relating to 1,641 appeals
- Issued 130 requests seeking an Outline of Arguments from both the Appellant and Revenue. These related to 140 appeals

The following outlines the position at year-end.

Category	No. of Appeals
Legacy	981
Pre-Establishment	248
2016	483
2017	1,492
Cases Stated	43
TOTAL	3,247

Some appeals can settle within a number of days of notification to the TAC, due in some part to the simplicity of the matter or, for example, due to errors that subsequently come to light in respect of a tax assessment and which Revenue moves to correct. However, more complex appeals, some of which can involve multiple appellants and/or multiple years of assessment and multiple tax types, can require a significant amount of preparatory and processing work.

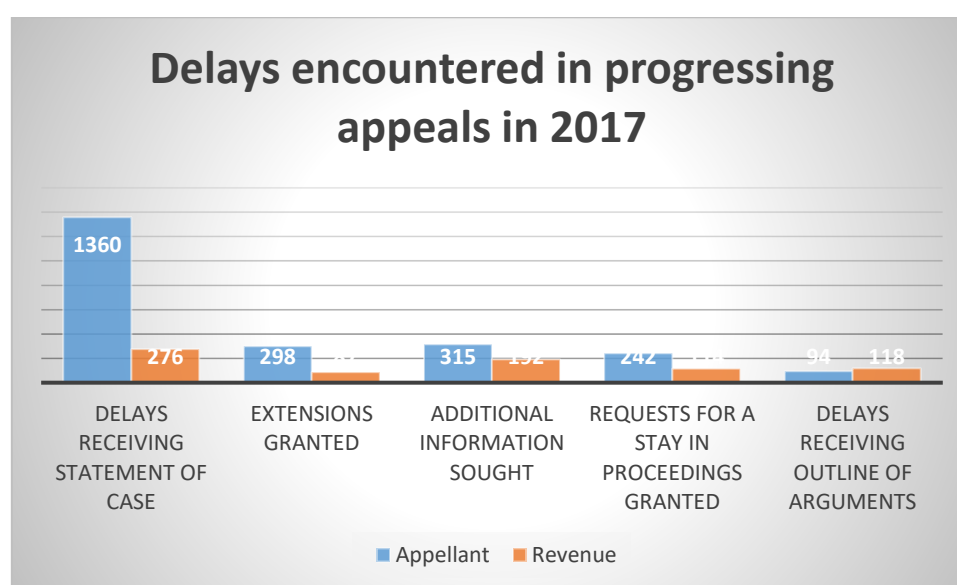
In relation to the legacy appeals, many of the 2,731 that transferred to the TAC, from Revenue, were consolidated where possible. This process, coupled with the closure of other legacy matters, reduced the number of open legacy appeals during 2017 to 1,163.

Hearings can be adjourned for any number of reasons, such as time allowed for submission of further evidence; the necessity for an agreed, subsequent hearing date; or to await the outcome of Court proceedings which requires consideration by the Appeal Commissioner, prior to determination of an appeal.

In some cases, progression of an appeal has been hindered due to delays in the response to a direction from the TAC. The table below gives an outline of this and figures indicate that in 2017, there was a 39% response rate from Revenue in relation to deadlines set by the TAC for submission of a Statement of Case. The equivalent figure for appellants, was just 12%. In relation to requests for Outline of Arguments, the relevant figures are 9% in respect of Revenue and 28% in respect of appellants. These delays have increased the time it has taken to settle, hear or determine appeals.

An outline of the timelines in relation to these delays, is set out below.

Delays experienced by TAC in progressing appeals in 2017			
	Appellant	Revenue	Total
Delays receiving a Statement of Case	1,360	276	1,636
Extensions Granted	298	87	385
Additional Information Required	315	192	507
Hold/stay requests granted	242	114	356
Delays receiving an Outline of Arguments	94	118	212



An outline of timelines in relation to these delays, is set out below

Duration of Delay	Delays in receiving a Statement of Case		Delays in receiving an Outline of Argument	
	No. of appeals delayed, following direction to Appellant	No. of appeals delayed, following direction to Revenue	No. of appeals delayed, following direction to Appellant	No. of appeals delayed, following direction to Revenue
Not Late	193	175	36	12
0-1 month	109	94	8	15
1-3 months	78	63	20	20
3-6 months	55	48	10	21
6-12 months	1,099	69	56	62
1 Year	19	2		
Total	1,553	451	130	130

During the last quarter of 2017, the TAC amended the Statement of Case form and developed guidance notes for appellants. We hope these measures will simplify the procedure for all parties by early 2018 and improve the response rate to directions in the future. Due to the high volume of appeals received and a shortage of staff, the TAC has historically been accommodating in allowing additional time to either/both parties, if a deferment of any nature was requested. However, the TAC has also increased the use of Case Management Conferences as a tool for expediting appeals if non-compliance with directions has been identified.

Governance and Administration

The role of Accounting Officer for the Commission is rotated between the two permanent Commissioners over their term of office. Commissioner O'Mahony is the current Accounting Officer. As such, although day to day administrative and governance matters are managed by the Head of Administration, the Commissioners must frequently engage on various strategic and operational issues, particularly those relating to expenditure, budgeting, accommodation, procurement and recruitment.

Under the Finance (Tax Appeals) Act 2015, the Appeal Commissioners hold office for a period of seven years and are accountable to the Minister for Finance and, through the Minister, to the Oireachtas in relation to the performance of their functions. In this regard, they must submit an annual report to the Minister on or before 31 March each year, in respect of the preceding year; this report is submitted in discharge of that duty. In addition, the Minister may direct the Commissioners to prepare and submit to him or her, a report in relation to any particular matter relating to the activities of the Commissioners. One such direction issued from the Minister in 2017. The TAC submitted a report in response to that direction and subsequently provided a further report.

The Commission is a Civil Service body, under the aegis of the Department of Finance and as such, in its management and operations, is guided by the Civil Service Code of Standards and Behaviour. The Code of Standards has provided the basis for the Commission's Code of Governance, the latest iteration of which was published by the Commission in August 2017.

The Commission has taken significant steps during 2017 to strengthen and supplement its systems of governance and administration. Our primary function is to hear and adjudicate tax appeals; however, as a Civil Service body and a body corporate, we also have more general obligations akin to that of a Government Department, given that the Commission has its own Vote and Accounting Officer.

The work in relation to governance and administration is conducted by staff who also progress appeals and as such, although a considerable amount has been achieved – 24 of the 28 objectives in relation to three main strategic priorities for 2017-2018 have already been realised or are in hand - for the Commission to perform at optimal levels, additional staff will be required to carry out the tasks.

Public Consultation

The Commission conducted a public consultation in late 2017 into “Rules and Procedures of the Tax Appeals Commission”. Submissions from interested parties were sought by end-September 2017.

The purpose of the Consultation was to advise of the Commission’s high level approach to a procedures review and in doing so, to seek the views of key stakeholders, giving them the opportunity to contribute to the enhancement of the Commission’s operations. The Commission’s focus has been on provision of a faster, less formal, less burdensome and more transparent appeals process.

At the end of the consultative period, the Commission had received 13 submissions from interested parties, all of which were considered when the Commission undertook the extensive task of overhauling our guidance notes and template documents for use by all parties to appeals. The submissions have been published on our website – www.taxappeals.ie – and have formed the basis for ongoing discussions with Revenue in relation to how we can collectively improve the system of engagement, by taxpayers, with all stages of the disputes we address in relation to tax matters.

Guidance for Appellants

The 2015 Act provides that the Commissioners may adopt rules of procedure with respect to any of their functions. Rules and procedures were prepared and adopted by the Appeal Commissioners and are available on our website.

Following a review of the public consultation submissions, as well as several thousand correspondences from appellants which indicated confusion in relation to the tax appeals process, the Commission conducted an extensive overhaul of its template documentation and completed new guidance notes for appellants during the latter part of 2017. The guidance notes for appellants will cover all aspects of the appeals process, from an individual deciding if he or she has an appealable matter, to submitting an appeal and the information needed by the Commission, through to completion of a statement of case and the individual’s rights in relation to the hearing of an appeal.

Case Management Database

During the second half of 2017, the Commission undertook the significant task of quality-checking, then uploading to its case management database, in excess of one hundred thousand data entries, relating to several thousand individual appeals. This work was carried out by the small cohort of staff in the Commission, while also managing current matters pertaining to appeals and striving to meet with other day to day obligations, such as those relating to its interaction with the Department of Finance, Department of Public Expenditure & Reform and the Oireachtas.

The work was necessary in order to provide a robust case management system, which informs on the status of current appeals, and also to form the source of the information that is highlighted in this report, as well as in reports to, for example, the Department of Finance, or to members of the Oireachtas. Given the constraints and competing priorities on the small number of staff as well as the complexity of the data, this is a work in progress and it has not, as yet, been possible to achieve optimal output from the system. Nevertheless, the Commission is confident that with additional resources, our database can provide a fit for purpose platform from which we can gather information that not only assists with the management of appeals but may also be invaluable to the Government in the development of evidence-based policy on tax matters.

Case Management and Scheduling

During 2017, the Commission identified the need to establish “case management” and “scheduling” divisions within its office. It conducted a recruitment programme, the purpose of which was to secure tax-qualified personnel to assist with the research, preparatory and processing tasks related to appeals. Further recruitment was conducted in order to appoint personnel who have been tasked with the scheduling of hearings – formal and informal – as well as the provision of schedules and updates to our website.

A small number of staff have commenced on these tasks since December 2017. Before that time, this work was undertaken by all staff of the Commission. With an element of re-structure, some staff who had already been undertaking much of this work now have a more defined role in a support and processing capacity and are the first points of contact for all new appeals, or correspondences in relation to current ones. The recruitment drive was ongoing at end-2017.

Code of Governance and Statement of Strategy

In August 2017, with the assistance of the Institute of Public Administration, the Commission produced and published its Code of Governance. It has been formulated with the principles of good governance, as articulated in the “Corporate Governance Standard for the Civil Service”, to the fore. The Framework therein provides a clear and comprehensive summary of the principal aspects and elements of corporate governance within the Commission and clarifies governance, legal and other requirements for the benefit of Commissioners, management, staff, key stakeholders and the wider public. The Framework also provides Commissioners, management and staff with information needed to understand their duties, roles and responsibilities. It is very much a “live” document and reference is made to it in the governance workshops conducted in the Commission. It highlights the Commission’s desire to provide a positive working environment for its staff, as well as the insistence on a culture of ethical behaviour and effective governance.

Following a period of review and reflection, the Commission also produced its three-year Statement of Strategy in 2017, covering the period 2017 to 2020. It provides a roadmap for the development of the Commission over the coming years, which will benefit taxpayers, our stakeholders and our staff. The Strategy encourages us to consider areas in which we might improve and to evaluate what steps need to be taken in order to deliver on our goal of providing a modern, independent, impartial and efficient tax appeals process.

Risk Management and Internal Audit

During 2017, the Commission appointed internal auditors to carry out that function, but also to assist and advise on our internal audit and risk management policies and plans. As an interim measure, pending establishment of an Audit & Risk Committee for the Commission with majority external membership, which is in line with the principals of good governance, we have established an Audit Group. The Group comprises the most senior members of the Commission’s staff, together with a member of internal audit. During the second half of 2017, the Group convened several times to consider the internal audit policy, issues arising from the C&AG audit in 2016-2017, risks associated with our staffing shortage and matters such as data protection.

Comptroller & Auditor General

The Commission was the subject of a chapter in the C&AG's Annual Report 2016. The Report examined the corporate governance arrangements introduced by the TAC since its establishment in 2016 and certain specific payments made by it during that year. The follow up to the C&AG's report and the reasonable concerns raised incurred significant but necessary work for the Commission. We have strengthened our core governance systems and in doing so sought expert advice in relation to our obligations and best practice. The internal audit function is in place to strengthen our control environment and control procedures. Internal audit has also conducted its own review of certain matters, the subject of the C&AG's report.

HR Function

The Commission's Service Level Agreement ("SLA") with Revenue provides that Revenue will give administrative support for Commission staff, carried out in conjunction with PeoplePoint, as required. The SLA has always been considered a temporary arrangement, the intention being that the Commission will move to full independence during 2018/2019. During 2017, Revenue was approached for assistance on several matters, such as assistance with recruitment of case managers. However, having identified its immediate need to recruit additional staff as well as effect appropriate support and advice systems for current staff, the Commission appointed a part-time HR Officer in the latter part of 2017. The official also undertakes the role of Training Officer. Individual learning and development plans have been prepared and the official oversees the compliance of the Commission with the PMDS system. The Commission was unable to access the Civil Service HR Shared Services Platform in 2017 but has established a communication link between both parties.

Recruitment

During 2017, the Commission recruited the following:

- a temporary Commissioner who can hear any appeal, but has a specific mandate to address legacy appeals;
- three additional support staff, to assist with the processing of appeals;
- an A.P., to assist with implementation of a robust system of governance and administration;
- a P.O., on secondment from the Department of Finance, to replace the previous P.O. as Head of Administration;
- an A.P., to establish and manage a scheduling system, in relation to hearings and the production of determinations;

- a part-time HEO, to implement an appropriate HR system for the Commission.

The Commission also put in place measures, assisted by the Public Administration Service, to recruit several “case managers” – tax qualified personnel, to assist Commissioners. At the end of 2017, the indications were that one case manager will begin work with the Commission in January 2018 and that an interview process for others would be conducted shortly thereafter.

Section 21 Reports to the Minister for Finance

During 2017, in accordance with sections 21(5) and 21(6) of the 2015 Act, two reports were submitted to the Minister for Finance.

Legal Advices Sought

The Commission sought legal advice from the Office of the Attorney General, the Chief State Solicitor’s Office and firms of solicitors, by way of tender or via the Department of Public Expenditure & Reform, on various matters throughout 2017. In outline, the advices sought were in relation to:

- employment law and disciplinary matters;
- the Commission’s entitlement to return, retain, or archive documents in relation to closed or settled appeals; and
- various procedural considerations in relation to appeals.

Engagement with 3rd Parties

As 2017 has been a year of considerable reflection and renewal for the Commission, it has elicited significant 3rd party interaction, largely with the parent Department – the Department of Finance – but also, inter alia:

- Department of Public Expenditure & Reform
- Office of the Revenue Commissioners
- Office of Public Works
- Office of the Attorney General
- Chief State Solicitor’s Office
- Office of Government Procurement
- Office of the Comptroller & Auditor General
- The UK Taxes Tribunal
- Institute of Public Administration

- Public Appointments Service
- Irish Tax Institute
- International Fiscal Association (Irish Branch)

The working relationships have been productive and utilised to give the Commission a stronger base from which to improve its operations in 2018. To a large extent, the work conducted with these and other organizations in 2017 has highlighted the historically low base from which the Commission has operated from a resources viewpoint, which has hindered our ability to progress appeals and to effect appropriate systems of governance in the Commission. We will continue to work with these bodies to seek mutually beneficial outcomes.

Procurement

The Commission conducted several procurement exercises during 2017:

- Production of Guidance Notes for Appellants
- Project Management
- ICT Support
- Legal advices
- Internal Audit services
- Governance Framework advices
- Printing Services
- Translation Services

All requests for tender were conducted via the Government's Procurement Framework, the e-tenders system, or in compliance with procurement guidelines, where the estimated value of the tender was below advised thresholds.

Office Move

There was considerable liaison with the Office of Public Works in relation to our pressing need to acquire fit-for-purpose accommodation as soon as possible. A large part of the preparatory work was conducted in 2017, involving many members of staff and the strategic planning for short, medium and long-term requirements. The primary focus was on acquiring additional hearing rooms, video-conferencing facilities to assist appellants and Revenue officials located outside of Dublin, room for current and extra staff, should we be given an additional allocation and an appropriate ICT system.

Funding and Expenditure

The TAC is funded through Vote 10 of the Estimates as approved by Dáil Éireann. The allocations to the Commission and its predecessor, the OAC, increased over recent years mainly to cater for increased expenditure on staff and IT systems, arising from the reform of the tax appeals system. However, further increases will be required if the Commission is to function efficiently and effectively. The allocations to the Commission in 2017 and 2018 were €1.605 million and €1.626 million respectively, representing a €21,000 increase which was included to provide for reversals in the Financial Emergency Measures in the Public Interest Act 2015. Notwithstanding that these recent allocations represent substantial increases over the funding allocated to the OAC in 2014 and 2015, €447,000 and €775,000 respectively, further staffing requirements and associated costs have been identified and submitted to the Department of Finance in order to ensure a modern and efficient appeals process in relation to the hearing and adjudication of tax disputes.

The below table sets out an analysis of the Commission's administration expenditure in 2017.

	2017 Estimate Provision	2017 Outturn	2016 Outturn
	€,000	€,000	€,000
Salaries, wages and allowances	1,284	753	661
Travel and subsistence	70	1	4
Training and development and incidental expenses	30	91	19
Postal and telecommunications services	30	9	8
Office equipment and external IT services	200	252	181
Office premises expenses	70	16	17
Total Expenditure	1,684	1,122	890

In accordance with the provisions of the Comptroller & Auditor General (Amendment) Act 1993, the Commission's Accounting Officer is responsible for the production and submission to the Comptroller and Auditor General of the Appropriation Account for Vote 10 by 31st March each year. This has been done in respect of 2017 and it is anticipated that the audited accounts of the Commission will be published by the Comptroller and Auditor General later in the year as part of his 2017 annual report on the accounts of the public services.

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Service Level Agreement with Revenue

A service level agreement is in place between the TAC and Revenue, which establishes both parties' responsibilities for all administrative and accounting procedures. The first of such agreements was put in place in February 2005 and variations of same have been rolled over ever since. The most recent signed agreement was effected in 2016. This agreement was informally rolled over to span 2017, given that no material issues or concerns were identified with the application of same.

Following the appointment of a new senior management team in the TAC, during the second half of 2017, a meeting was convened in Q4, between the TAC and Revenue, to discuss the continuance of the Service Level Agreement and amendments which would be required in future agreements. The amendments discussed included

- the future roll over of agreements
- deletion of references to the Office of the Appeals Commissioners and required updating to reflect the change over to the TAC
- clarification of the roles of the Payroll Shared Services Centre and PeoplePoint, within the terms of the agreement
- potential new protocols related to the purchase of goods and services

It is the intention of both the TAC and Revenue that we will define an updated Service Level Agreement during 2018, which will reflect the latest position on the administrative interaction of both offices.

Service Level Agreement between the Office of the Revenue Commissioners and the Office of the Appeal Commissioners (OAC)/Tax Appeals Commission (TAC)

Background

The original agreement was signed on 15 February 2005 following on from the recommendations of the Steering Group on the Office of the Revenue Commissioners and the Final Report of the Parliamentary Enquiry into DIRT, that the Office of the Appeal Commissioners should be provided with a separate independent Vote and Accounting Officer. The purpose of those recommendations was to make more transparent the independence and autonomy of the Office of the Appeal Commissioners from the Office of the Revenue Commissioners. There was provision in the original agreement that there would be a review in 2006. This was inserted to facilitate appropriate review of the operation of the Agreement. No problems or issues materialised and the agreement was rolled over until 2012. A further agreement was put in place from 2012 until 31 December 2015.

Under the provisions of the Finance (Tax Appeals) Act 2015, which is expected to be commenced during 2016, the role, functions and structure of the Office of the Appeal Commissioners are being reformed and enhanced. A key purpose behind these developments is to further emphasise the independence and impartiality of the tax appeals system. This Service Level Agreement is intended to help ensure that the transition to the new arrangements is completed in a smooth and efficient fashion.

Within the framework of the clear responsibilities of the Accounting Officer for the OAC/TAC (as set out in the Department of Finance memorandum of December 2003, “The Role and Responsibilities of Accounting Officers”), the service arrangements as set out below are agreed. These have regard to the recommendations of the draft Report of the Working Group on the resource requirements of the Tax Appeals Commission.

Accounts/Finance

General Payments

Revenue will provide a general payments service for OAC/TAC. The service will also include the operation of suspense accounts for the deduction and payover of withholding tax, etc.

Reports

Revenue will also provide, upon request, any available financial reports for OAC/TAC from Revenue’s financial management system.

Assets Register

OAC/TAC will continue to maintain its own Assets Register and forward details to Revenue for inclusion in the Appropriation Account.

Appropriation Account

Revenue will prepare and submit the Appropriation Account for signing by the Accounting Officer for the OAC/TAC before the 31st March. Revenue will also facilitate the C&AG auditors in their audit of the Appropriation Account and OAC/TAC will provide any information necessary in this regard.

Salaries

Financial Shared Services Killarney (FSS) will continue to provide a salaries service for staff of OAC/TAC until the migration of this service from FSS to the Payroll Shared Service Centre (PSSC). This service encompasses the payovers of tax and voluntary deductions and end-of-year payroll processing. Revenue will manage the migration process for the staff of OAC/TAC from FSS to PSSC. Revenue will continue to provide the quarterly billings for salary and T&S expenditure.

Personnel

All of the officers currently employed in OAC/TAC are civil servants. For the time being, Revenue's Human Resources Division will continue to provide administrative support on HR related matters in conjunction with PeoplePoint as required for staff of OAC/TAC. All transactional support will be provided by PeoplePoint.

Superannuation

Staff employed in the OAC/TAC should liaise with the Superannuation Team in PeoplePoint in relation to Superannuation matters, Revenue HR can provide advice in such matters if required. All transactional support will be provided by PeoplePoint.

Other Services

Revenue will continue to provide support and advice in relation to Health & Safety matters to OAC/TAC. Revenue will also provide support and advice in relation to drawdown of Government contracts that are in place, e.g. for supply of stationery. The OAC/TAC will continue to have access to Revenue's library facilities.

IT Services

Purchasing

Revenue will continue to advise and assist OAC/TAC in the sourcing, purchase of hardware and software supplies. All suppliers will be instructed to send invoices to OAC/TAC for approval prior to OAC/TAC forwarding them to Logistics Branch.

Maintenance/User Support

Revenue will host ICT equipment in the Revenue Data Centre for the OAC/TAC in line with hosting arrangements for other PSBs. Revenue will provide telephony services and will provide on-going IT helpdesk support and maintenance to OAC/TAC until new support and maintenance contracts with successful ICT suppliers are implemented by the OAC/TAC.

IT Development

Revenue will provide assistance and advice in relation to the further development and procurement of IT facilities and services, as appropriate.

Internal Audit

Advice on the Internal Audit function will continue to be available to the OAC/TAC from the Revenue Internal Audit Unit on request.

Review

This agreement extends an earlier agreement which was commenced on 1 January 2011 and will be reviewed again not later than the end of December 2016

Signed _____ Date _____
Principal, Tax Appeals Commission

Signed _____ Date _____
Finance Officer
Office of the Revenue Commissioners

Outline Guidance Notes for Appellants

During the latter part of 2017, the Commission reviewed the means by which it communicated with both appellants and Revenue.

As part of this review, we identified the need to update the correspondence which issues to parties at various stages in the appeal process. Furthermore, in order to assist parties in notifying and progressing appeals, the TAC has produced detailed guidance notes, which will advise on what is expected (documents, timelines, attendance, etc.) of parties to an appeal.

The improved correspondence templates are already in use and we anticipate that the guidance notes – which will also see the introduction of a new system of “simple” and “complex” appeals – will be available in early 2018.

The following guidance note on “What you cannot appeal to the Tax Appeals Commission”, gives an example of the outcome of the lengthy review process and it will be amongst the first documents to be made available for use in early 2018.

What you cannot appeal to the Tax Appeals Commission

There are certain matters that you cannot appeal to the Tax Appeals Commission.

Please review these carefully before submitting a Notice of Appeal to the Tax Appeals Commission.

Before making an appeal, you should know that the Tax Appeals Commission cannot:

- Decide on matters that do not relate to tax.
- Change the law. It has to apply the law as it stands, even if that leads to an outcome that you think is unfair.
- Deal with administrative complaints about the conduct of Revenue officials. If you are unhappy with the way Revenue has dealt with your tax affairs, please refer to its guidance and how to complain on www.revenue.ie/en/corporate/information-about-revenue/customer-service/how-to-complain/index.aspx
- Resolve a difference of opinion between you and Revenue where the Revenue opinion has not reached the stage where a notice of assessment has issued or a formal decision has been made. You can only appeal a final notice of assessment or a final decision letter.
- **Decide or vary the amount of interest on late payment of tax. The amount of interest arising on late payment of tax is imposed by legislation. The Tax Appeals Commission has no discretion to adjust interest charges.**
- In limited circumstances, you may be entitled to appeal against a Revenue decision in relation to the imposition of tax penalties. Where you appeal against an amount of tax in dispute, the Appeal Commissioners' determination will relate solely to the tax amount under dispute. It will not deal with penalties which may separately apply.

You cannot appeal:

- Tax overpaid for a tax period which is out of time.
- For example, in the case of tax collected by your employer through the PAYE system, the time limit for appealing against tax overpaid is 4 years after the tax year of the disputed tax liability. The 4 year time limit applies even where you consider that Revenue was at fault for failing to give you a tax credit or a relief to which you would be entitled if you made an appeal within the 4 year period.

- For example, if you wish to recover tax collected by your employer through PAYE which relates to 2013, your appeal may be out of date if it is made after the end of 2017.

Deciding whether to appeal

We cannot advise you whether you have an appeal or whether you are likely to win or lose your appeal. Nor can we tell you if you should appeal or not. In the notice of assessment or final decision letter, Revenue will have told you whether you have a right of appeal to the Tax Appeals Commission.

There is no requirement to have legal representation to appeal. You are fully entitled to represent yourself.

If you do decide to get advice, please do so at the earliest opportunity – when you are thinking about appealing. Please do not leave it until your appeal is well under way as we may not be able to put your appeal on hold while you are seeking representation. **If you face a delay in getting advice, please bear in mind the time limit for making an appeal.**

If you do consider obtaining tax advice prior to appealing, there are several options available to you if you do not already have access to a qualified tax advisor

For example, an organisation that provides free advice on tax related matters is **FLAC**, an independent human rights organisation dedicated to the realisation of equal access to justice for all. **FLAC** holds legal advice clinics where volunteer lawyers provide confidential, basic legal advice for free and in person across all areas of law including tax matters through its network of advice clinics around Ireland. Further details are available on its website www.flac.ie.

Customer Service Charter

The TAC is committed to providing all our clients with a high standard of service, in accordance with the principles, practices and procedures set out in the Corporate Governance Standard for the Civil Service and specifically, the Code of Practice for the Governance of State Bodies. The TAC operates in accordance with the principles of Quality Customer Service approved by Government.

This office provides an independent appeals process in relation to the hearing and adjudication of tax disputes, such that we hear and determine appeals against decisions and determinations of the Revenue Commissioners, concerning taxes and duties.

We have a wide range of clients, including individuals, corporate entities, voluntary or charity bodies and their representatives, as well as officials of the Revenue Commissioners.

This Charter sets out the standards we aim to provide to clients. We will measure and evaluate our performance against these standards and report on our findings in our Annual Report each year.

Contact by Telephone

If you contact the TAC by telephone, we will try to:

- answer your call as promptly as possible;
- give you our name and area of work when we answer the call;
- be courteous and helpful at all times;
- answer your query in full or, if we can't do so immediately, take your details and call back as soon as possible;
- respond to all voicemail messages, promptly.

Written Correspondence

If you send us a letter, fax or email, we will try to:

- ensure you receive a full reply, within 20 working days;
- if we cannot provide a full reply within this period, we will write within the 20 days, nevertheless, explaining why the reply is not fulsome and when you can expect a full reply;
- include a contact name, reference number (where appropriate) and other contact details (phone, fax, email);
- write to you in simple and clear language and avoid using technical terms, unless absolutely necessary.

Complaints to the TAC

If you complain to the TAC, about our actions, we will try to:

- acknowledge your complaint within 7 days;
- tell you how long it may take us to examine the complaint;
- keep you advised of progress with our examination;
- inform you as promptly as possible and as clearly as possible, of the outcome of our examination.

Visitors to the TAC

If you attend at the TAC in person, we will:

- treat you with courtesy, respect your privacy, so far as possible and be fair in our dealings with you;
- meet you at the agreed time, if you have an appointment;
- endeavor to provide appropriate facilities for a hearing, or meeting, as the case may be;
- keep our public offices clean and tidy, ensuring that they meet health and safety standards.

Equality/Diversity

- we are committed to providing a service to all clients, that upholds their rights to equal treatment, established by equality legislation;
- we will aim to ensure that our services and facilities are accessible to all our clients, including those with special needs.

Service through Irish

If requested by an individual who has interaction with the Tax Appeals Commission, we will endeavor to liaise with the person in Irish; or if we can't, to secure the services of an interpreter.

Review Procedure

The TAC's policy and procedures are kept under review internally, by management and are subject to external audit by the C&AG.

