



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

172TACD2025

Between



Appellant

and

The Revenue Commissioners

Respondent

Determination

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Introduction

1. This is an appeal to the Tax Appeals Commission (“the Commission”) brought by [REDACTED] (“the Appellant”) under section 159A of the Stamp Duties Consolidation Act 1999 (“the SDCA 1999”) and section 949I of the Taxes Consolidation Act 1997 (“the TCA 1997”), against a refusal by the Revenue Commissioners (“the Respondent”) of a claim made by the Appellant for a repayment of stamp duty under section 83D of the SDCA 1999 in the amount of €188,000.00, on the ground that the Appellant’s claim was made outside the statutory timeframe.
2. The appeal proceeded by way of a remote hearing on 1 April 2024. The Appellant was represented by its agent and its finance director, who appeared with two colleagues. The Respondent was represented by three of its officers.

Background

3. On 9 June 2020, the Appellant submitted documentation in connection with a claim for a repayment of stamp duty through the Respondent’s MyEnquiries online facility (“MyEnquiries”). On the same date, the Respondent replied to the Appellant that repayments of stamp duty must be claimed electronically through the Respondent’s eRepayments system (“eRepayments”) and provided details of how to claim.
4. On 28 May 2024, an application for a repayment of stamp duty was received from the Appellant through eRepayments, in the amount of €188,000.00.
5. On 1 August 2024, the Respondent informed the Appellant that the Appellant’s claim had been rejected as it was made outside the four year limit under section 159A of the SDCA 1999.
6. On 2 September 2024, the Appellant (acting through its agent) submitted a Notice of Appeal to the Commission, with which it enclosed correspondence from the Respondent. On 13 September 2024, the Appellant submitted additional documentation to the Commission. On 12 November 2024, the Respondent submitted a Statement of Case. On 13 November 2024, the Appellant submitted a Statement of Case. On 13 March 2025, the Respondent submitted a book of documents. The Commissioner has considered all of the documentation submitted by the parties in this appeal.

Legislation and Guidelines

7. The legislation relevant to this appeal is as follows:
8. Section 83D of the SDCA 1999 provides (among other things):

“(3) (a) Subject to subsection (18) and the other provisions of this section, stamp duty paid on an instrument may be repaid in accordance with this section in relation to the land if construction operations on the land commence pursuant to a commencement notice within the period of 30 months following the date of execution of the instrument.

[...]

(8) A claim for a repayment under this section shall -

(a) be made by an accountable person,

(b) without prejudice to paragraph (d), be made in a form and manner specified by the Commissioners,

(c) include a declaration, in such form as the Commissioners specify, stating -

(i) that the condition specified in subsection (3)(a) has been satisfied, and

(ii) where a claim relates to a part of the stamp duty paid on the stamping of an instrument, the proportion of the area of the land represented by the appropriate part, or as the case may be, the proportion of the land occupied by the single dwelling unit,

(d) be made by electronic means and through such electronic systems as the Commissioners may make available for the time being for any such purpose, and the relevant provisions of Chapter 6 of Part 38 of the Taxes Consolidation Act 1997 shall apply,

(e) not be made until such time as construction operations have commenced pursuant to a commencement notice.

[...]

(10) Subject to the requirements of this section and section 159A, a repayment of stamp duty under this section shall -

(a) be made by the Commissioners pursuant to a claim made in accordance with subsection (8),

(b) not carry interest, and

(c) not be made after the expiry of 4 years following, in relation to the relevant residential development, the date of acknowledgement by a building control authority in accordance with article 10(2) or 20A(3)(b), as the case may be, of

the Regulations of 1997 and this paragraph applies notwithstanding anything in subsection (7)(b)."

9. Section 159A of the SDCA 1999 provides:

"159A. General provisions on claims for repayment of stamp duty.

(1) In this section -

'relevant statement' and 'return' have the same meaning, respectively, as in section 152;

'repayment' means a repayment of stamp duty including any -

(a) interest charged,

(b) surcharge imposed, or

(c) penalty incurred,

in relation to stamp duty under any provision of this Act;

'valid claim' shall be construed in accordance with subsection (3).

(2) The Commissioners shall not make a repayment to a person unless -

(a) such repayment is provided for by this Act,

(b) a valid claim has been made to them for that purpose, and

(c) without prejudice to any other provision of this Act containing a shorter time limit for the making of a claim for repayment, the valid claim concerned has been made within the period of 4 years from, as the case may be -

(i) in respect of an instrument stamped by the Commissioners, the latest date the instrument was required to be stamped under section 2,

(ii) in respect of a relevant statement delivered to the Commissioners -

(I) in the case of an account delivered to the Commissioners under section 5, the latest date the account was required to be delivered to the Commissioners in accordance with the agreement entered into under that section, or

(II) in the case of a statement delivered to the Commissioners under Part 9, the latest date the statement was required to be delivered to the Commissioners under that Part,

- (iii) the date the transfer order referred to in section 78B was executed,*
- (iv) the date the person achieved the standard within the meaning of section 81AA(11)(a),*
- (v) the date of acknowledgement referred to in section 83D(10)(c) in relation to a relevant residential development within the meaning of that section,*
- (vi) the date the condition specified in section 83DA(2)(b) is satisfied, or*
- (vii) the qualifying date within the meaning of section 83DB.*

(3) For the purposes of this section, a claim for repayment shall be treated as a valid claim where -

- (a) it is made in the form and manner specified (if any) by the provision, or provisions, of this Act under which such claim is made,*
- (b) all information which the Commissioners may reasonably require to enable them to determine if, and to what extent, a repayment is due, has been furnished to them, and*
- (c) if the claim relates to a repayment under section 152, the return or, as the case may be, the relevant statement, has been amended to reflect the correct amount of stamp duty payable, if any.*

(4) Where the Commissioners determine that any of the requirements specified in subsection (2) or (3), as the case may be, have not been met in relation to a claim for repayment, they shall decide to refuse the claim for repayment and shall notify the claimant in writing of the decision and the reason or reasons for that decision.

(5) Any person aggrieved by a decision of the Commissioners under subsection (4) to refuse a claim for repayment may appeal to the Appeal Commissioners against the decision in accordance with section 949I of the Taxes Consolidation Act 1997 within the period of 30 days after the date of the notification of the decision."

Submissions

Appellant

10. In its Notice of Appeal and Statement of Case, the Appellant submitted (among other things):

"The claim has been refused as it is outside the 4 year period. However we would be grateful if you could review this decision in light of the below circumstances.

Our client originally submitted paperwork for a stamp duty refund through MyEnquiries in June 2020. This was in the early days of Covid and as such the follow up on the claim was overlooked. [REDACTED]

A new financial controller was appointed early this year and that's when the claim was followed up on. As soon as the oversight was noticed it was handed over to us to file the paperwork.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Given the extenuating circumstances and the fact that there was an attempt to start the application in 2020, we would appreciate it if the case could be reviewed."

11. At the hearing, the Appellant's agent made the following submissions (in summary). [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] claim for stamp duty in June 2020 through MyEnquiries and the Respondent stated that the Appellant should go through eRepayments. The matter was overlooked. [REDACTED]

[REDACTED] They subsequently discovered that the claim had not been processed through eRepayments. The Appellant's ground of appeal is that this was a once-in-a-lifetime circumstance. The Appellant would like the disruptive circumstances to be considered, and the fact that information was submitted in June 2020, albeit not through eRepayments. [REDACTED]

[REDACTED]
[REDACTED] The Appellant is a significant contributor to the economy, [REDACTED]
[REDACTED].

12. At the hearing, the Appellant's finance director made the following submissions (in summary). The colleague who submitted the claim through MyEnquiries also contacted the Respondent in August 2023, when he was asked to provide a document ID and the Respondent then received no reply from him. The Appellant has been fully tax compliant

[REDACTED]
[REDACTED]
[REDACTED].

Respondent

13. In its Statement of Case, the Respondent submitted (among other things):

"This appeal relates to the denial by Revenue to grant a Section 83D SDCA 1999 stamp duty refund. The reason for the denial was because the claim was made outside of the 4-year limit as provided for in Section 159A SDCA 1999.

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

09/06/20 – National Stamp Duty Office replied that S83D refunds must be applied for through the eRepayments system and provided details of how to apply. [c.f. Section 83D(8) SDCA 1999]

18/04/24 – Next correspondence on the matter, from the Appellant's agent [REDACTED] [REDACTED] Request to change filer of the return in order to make S83D refund claim. Actioned by Revenue and confirmed on 22/04/2024.

20/05/24–17/07/24 – Miscellaneous correspondence, through MyEnquiries and eRepayments, between Revenue caseworker and Appellant's agent in regard to the claim.

28/05/24 – Application for S83D refund on [REDACTED] received through eRepayments – for the sum of €188,000.

01/08/24 – Appellant's agent advised via MyEnquiries that the claim had been rejected as made outside the 4-year limit (Section 159A SDCA 1999)."

14. At the hearing, the Respondent made the following submissions (in summary). The Respondent refused to grant the section 83D claim because it was outside the four year time limit under section 83D and section 159A of the SDCA 1999. The claim was made on 28 May 2024. The first correspondence from the Appellant was received through MyEnquiries on 9 June 2020. On the same day, the Respondent replied that the claims must be applied for through eRepayments. The next correspondence from the agent was received on 18 April 2024. There was ongoing correspondence between 18 April 2024 and 17 July 2024 about the stamp duty return. The Respondent has no discretion regarding the Appellant's circumstances.
15. At the hearing, in answer to a request for clarification from the Commissioner, the Respondent stated that the dates on which the local authority acknowledged the relevant commencement notices as valid were as follows: [REDACTED] [REDACTED], and the Appellant confirmed that it had the same dates of acknowledgement.

Material Facts

16. At the hearing, the Appellant and the Respondent agreed on the following dates:
 - 16.1. The Appellant paid stamp duty on **28 May 2019**.
 - 16.2. The dates on which the local building authority acknowledged the relevant commencement notices as valid were [REDACTED] [REDACTED]

- 16.3. The Appellant submitted certain documentation in connection with a claim for a repayment of stamp duty through MyEnquiries on **9 June 2020** and on the same date, the Respondent replied to the Appellant that repayments of stamp duty must be claimed through eRepayments.
- 16.4. On **18 April 2024**, the Appellant contacted the Respondent.
- 16.5. On **28 May 2024**, the Appellant claimed a repayment of stamp duty.
17. Having read the documentation submitted and having heard from both parties at the hearing, the Commissioner makes the following findings of material fact:
- 17.1. On **28 May 2019**, the Appellant filed a stamp duty return relating to the transfer of a non-residential site.
- 17.2. On **28 May 2019**, the Appellant paid stamp duty charged in respect of the transfer and a stamp certificate issued.
- 17.3. The local building authority acknowledged the relevant commencement notices as valid in **June 2019**.
- 17.4. On **9 June 2020**, the Appellant submitted certain documentation in connection with a claim for repayment of stamp duty through MyEnquiries and on the same date, the Respondent replied to the Appellant that repayments of stamp duty must be claimed electronically through eRepayments.
- 17.5. On **28 May 2024**, the Appellant claimed a repayment of stamp duty under section 83D of the SDCA 1999.
- 17.6. On **1 August 2024**, the Respondent refused a repayment of stamp duty on the ground that the Appellant had made a claim outside the four year statutory time limit.

Analysis

18. This appeal relates to the Respondent's refusal of the Appellant's claim for a repayment of stamp duty under section 83D of the SDCA 1999. In an appeal before the Commission, the burden of proof rests on the Appellant, who in this appeal must show that the Respondent was incorrect to refuse the Appellant's claim for a repayment of stamp duty in the amount of €188,000.00 under the SDCA 1999. In the High Court case of *Menolly Homes Ltd v Appeal Commissioners and another* [2010] IEHC 49, Charleton J. stated at paragraph 22 that:

“The burden of proof in this appeal process is, as in all taxation appeals, on the taxpayer. This is not a plenary civil hearing. It is an enquiry by the Appeal Commissioners as to whether the taxpayer has shown that the relevant tax is not payable”.

Sections 83D & 159A SDCA 1999

19. Section 83D of the SDCA 1999 provides that a person is entitled to a repayment of stamp duty where land is subsequently developed for residential purposes, subject to statutory conditions.

Valid Claim

20. Section 159A(2)(b) of the SDCA 1999 provides that the Respondent shall not make a repayment of stamp duty unless a valid claim has been made. Section 159A(3) of the SDCA 1999 provides that a claim shall be treated as valid where it is made in the form and manner specified by the provision of the SDCA 1999 under which it is made and all information which the Respondent may reasonably require has been furnished to the Respondent.
21. Section 83D(10)(a) of the SDCA 1999 provides that a repayment of stamp duty shall be made pursuant to a claim made in accordance with section 83D(8). Section 83D(8) of the SDCA 1999 provides that: *“A claim for a repayment under this section shall - ...(b) without prejudice to paragraph (d), be made in a form and manner specified by the Commissioners...(d) be made by electronic means and through such electronic systems as the Commissioners may make available for the time being for any such purpose, and the relevant provisions of Chapter 6 of Part 38 of the Taxes Consolidation Act 1997 shall apply”* (emphasis added).
22. In this appeal, the parties agreed that on 9 June 2020, the Appellant submitted certain documentation in connection with a claim for repayment of stamp duty through MyEnquiries and on the same date, the Respondent replied to the Appellant that repayments of stamp duty must be claimed electronically through eRepayments. The Commissioner notes that this agreed fact is consistent with the correspondence contained in the book of documents provided by the Respondent. The Commissioner has found it to be a material fact.
23. The Commissioner is satisfied that the submission of documentation by the Appellant to the Respondent through MyEnquiries on 9 June 2020 was not a valid claim made in accordance with section 83D(8) of the SDCA 1999. Moreover the Commissioner does

not understand the Appellant's submissions to contend that it was a valid claim, but rather that extenuating circumstances apply, which the Commissioner addresses below.

Four Year Time Limit

24. Turning now to the applicable time limit, section 159A(2)(c) of the SDCA 1999 provides that: *"The Commissioners shall not make a repayment to a person unless....without prejudice to any other provision of this Act containing a shorter time limit for the making of a claim for repayment, the valid claim concerned has been made within the period of 4 years from, as the case may be... (v) the date of acknowledgement referred to in section 83D(10)(c) in relation to a relevant residential development within the meaning of that section"* (emphasis added).
25. Section 83D(10)(c) of the SDCA 1999 provides that: *"a repayment of stamp duty under this section shall...not be made after the expiry of 4 years following, in relation to the relevant residential development, the date of acknowledgement by a building control authority in accordance with article 10(2) or 20A(3)(b), as the case may be, of the Regulations of 1997 and this paragraph applies notwithstanding anything in subsection (7)(b)"* (emphasis added). Section 83D(10) is stated to be subject to the requirements of sections 83D and 159A of the SDCA 1999.
26. In this case, the Appellant claimed a repayment of stamp duty under section 83D of the SDCA 1999. Therefore, in accordance with section 159A of the SDCA 1999, the four year time limit ran from the date of acknowledgement referred to in section 83D(10)(c).
27. [REDACTED]

28. Having regard to the parties' submissions and the documentation provided, the Commissioner has found it to be a material fact that the local building authority acknowledged the relevant commencement notices as valid in June 2019.
29. It follows from the above that in this case, the Appellant's claim for a repayment of stamp duty must have been made within four years from the dates of acknowledgement in June 2019, by June 2023. In this appeal, the Appellant referred to the fact that it had submitted certain documentation for the claim on 9 June 2020, through MyEnquiries. However, the Appellant did not dispute that its claim for a repayment of stamp duty was made on 28 May 2024. The Commissioner has found it to be a material fact that on 28 May 2024, the Appellant claimed a repayment of stamp duty under section 83D of the SDCA 1999. Having regard to this fact, the Commissioner is satisfied that the Appellant's claim fell outside the four year time limit prescribed in section 159D of the SDCA 1999.
30. The Commissioner observes that the Appellant did not contend that its claim for repayment of stamp duty was made within the four year time limit. Instead, the Appellant itself referred to the claim having been "overlooked" and to an "oversight" on its part. The Appellant's submission was that extenuating circumstances applied and that it had attempted to start the application in 2020. At the hearing, the Appellant stated that its ground of appeal was that this was a once-in-a-lifetime circumstance.
31. The Commissioner has considered the documentation provided by the Appellant and has heard directly from the Appellant. Having done so, the Commissioner appreciates that a particular confluence of events resulted in the claim for repayment of stamp duty being made outside of the four year time limit. Additionally, the Commissioner acknowledges the Appellant's submission on its history of tax compliance and the contribution which the Appellant makes to the economy. Nonetheless, the use of the word "shall" in both section 83D(10) and section 159A(2) of the SDCA 1999 indicates an absence of discretion in the application of these provisions. The wording of these provisions does not provide for extenuating circumstances in which the four year rule might be mitigated. The legislation does not afford the Commissioner any discretion to disapply the rule.
32. Previous determinations of the Commission have addressed the matter of repayment in the context of the four year statutory limitation period. These determinations may be found on the Commission website¹.
33. The Commissioner appreciates that this decision will be disappointing for the Appellant. The Commissioner acknowledges and has sympathy for the circumstances outlined on

¹ www.taxappeals.ie

appeal. The Appellant was entitled to check whether the Respondent's refusal of its claim for a repayment of stamp duty was correct. However as noted above, the legislation does not afford the Commissioner any discretion on this matter.

Determination

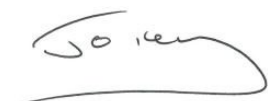
34. For the reasons set out above, the Commissioner determines that the Appellant has not succeeded in showing that the Respondent was incorrect to refuse the Appellant's claim for a repayment of stamp duty in the amount of €188,000.000 under the SDCA 1999 and the Respondent's decision stands.
35. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular section 949AL thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

Notification

36. This determination complies with the notification requirements set out in section 949AJ of the TCA 1997, in particular section 949AJ(5) and section 949AJ(6) of the TCA 1997. For the avoidance of doubt, the parties are hereby notified of the determination under section 949AJ of the TCA 1997 and in particular the matters as required in section 949AJ(6) of the TCA 1997. This notification under section 949AJ of the TCA 1997 is being sent via digital email communication **only** (unless the Appellant opted for postal communication and communicated that option to the Commission). The parties will not receive any other notification of this determination by any other methods of communication.

Appeal

37. Any party dissatisfied with the determination has a right of appeal on a point or points of law only within 42 days after the date of the notification of this determination in accordance with the provisions set out in section 949AP of the TCA 1997. The Commission has no discretion to accept any request to appeal the determination outside the statutory time limit.



Jo Kenny
Appeal Commissioner
23 April 2025