



AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

176TACD2025

Between

[REDACTED]

Appellant

and

REVENUE COMMISSIONERS

Respondent

Determination

Introduction

1. This is an appeal pursuant to section 159A of the Stamp Duties Consolidation Act 1999 ("SDCA 1999") to the Tax Appeals Commission ("the Commission") against the refusal by the Revenue Commissioners ("the Respondent") to repay stamp duty in the amount of €96,250 to [REDACTED] ("the Appellant"). The application for repayment was refused on the basis that the application was made out of time.

Background

2. In 2020, the Appellant purchased a site for the purposes of residential development. The transfer was executed on [REDACTED] 2020, and the instrument was filed on [REDACTED] 2020. The Appellant paid stamp duty of €131,250. The stamp certificate bore the document ID [REDACTED]
3. The Appellant subsequently sought partial repayment of the stamp duty paid by it pursuant to section 83D of the SDCA 1999, on the ground that the land had been developed for residential purposes. The Appellant sought repayment in the amount of €96,250.

4. On 27 September 2024, the Respondent formally refused the Appellant's application for a refund. The application was refused on the basis that the building control authority had acknowledged that the commencement notice was valid on ■ January 2020. Section 83D(10) provides that an application for repayment must be made within four years of that date of acknowledgment. However, the Respondent stated that the application was not received by it until 18 April 2024. Therefore, the application was out of time and had to be refused.
5. The Appellant contended that it had made the application on 6 July 2022. Therefore, it believed that the application was within time. It appealed to the Commission on 25 October 2024.
6. The appeal proceeded by way of a remote hearing on 2 April 2025. The Appellant was represented by its tax agent. The Respondent was represented by its officers.

Legislation and Guidelines

7. Section 83D of the SDCA 1999 provides for a partial repayment of stamp duty paid in respect of a conveyance or transfer of land where the land is subsequently developed for residential purposes. Section 83D states *inter alia* that

“(8) 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...

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

(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).”

8. Section 159A of the SDCA 1999 states *inter alia* that

“(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...

(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...

9. The Respondent has issued guidance on its requirements for repayment claims under section 83D in its Tax and Duty Manual¹. Paragraph 7.2 of the manual states that

“A repayment claim is to be made online through the eRepayments facility on ROS or myAccount. A step-by-step guide to submitting a repayment claim through the eRepayments facility is set out in Appendix 2.”

10. Appendix 2 shows the steps required to complete and submit a repayment claim. Step 9 is the submission of bank details. Step 11 is the “sign and submit” screen. Step 12 is the acknowledgment that a claim has been submitted. Step 13 shows how to view and edit a claim already filed.

Evidence

██████████ – Operations director for the Appellant

11. The witness was not present at the start of the hearing but joined after the parties had made submissions. The Commissioner allowed the witness to give evidence and stated that if there was anything further arising it could be dealt with subsequently.
12. The witness had originally submitted the repayment claim on behalf of the Appellant. He stated that he assumed he had submitted everything online on 6 July 2022. In response to a question from the Commissioner, who stated that the position of the Respondent was that the Appellant commenced its application in July 2022 but did not submit it until April 2024, he stated that

“Apologies, I thought I had submitted everything I needed to submit. When I had done it previously, I think the system changed around that time period so I was, I think it was my first one doing it through the eRepayments.”

¹ <https://www.revenue.ie/en/tax-professionals/tdm/stamp-duty/stamp-duty-manual/part-07-exemptions-and-reliefs-from-stamp-duty/section-83d-residential-development-refund-scheme.pdf>

Submissions

Appellant

13. In written submissions, the Appellant's agent stated that

"The facts are as follows:

The initial claim was made by the client in approximately 2022. We then took over as the agent on the claim in April 2024. At that time the claim was on ROS and there was a notification that bank details needed to be input. We inputted the bank details in April 2024.

The stamp duty section of Revenue have now come back to advise that the claim was made outside the 4 year time limit and they have rejected the claim. The date of stamping was in [REDACTED] 2020. We have sent several emails to stamp duty advising that the claim was already on the system in April 2024 and all we did was input bank details.

It is impossible to submit a claim outside the 4 year time limit on ROS as an error message appears if you try to do so. Therefore the claim had to have been made within the 4 years as no error message was received.

In light of this we would be grateful if the decision of the Revenue Commissioners could be overturned and the refund claim approved."

14. In submissions at the hearing, the Appellant's agent stated that the Appellant was [REDACTED]
[REDACTED] . [REDACTED]
[REDACTED] The repayment claim was made by [REDACTED] in July 2022 through the Respondent's eRepayments portal. The agents did not submit the claim but could see it by using their tax adviser identity number ("TAIN"). It was not possible for the agent to submit a claim, and it was not possible to enter a claim outside of the four year period.

15. In response to a query from the Commissioner, the agent stated that the Appellant did not have any screenshots to show that the claim had been submitted in time. Nothing was done to progress the claim for two years because the Appellant was very under-resourced.

Respondent

16. In written submissions, the Respondent stated that the Appellant's claim was first received by the Respondent on 18 April 2024. The claim was refused because it was made more than four years after the date of acknowledgement by the building control authority that the commencement notice was valid.
17. In oral submissions at the hearing, the Respondent's representative stated that the date of acknowledgement that the commencement notice was valid was [REDACTED] January 2020. Therefore, the four years ran from that date. The Appellant submitted its claim on 18 April 2024, so therefore was out of time. The Respondent had no discretion to allow a late claim.
18. The Respondent's IT team had confirmed that the Appellant commenced its claim on 6 July 2022 at 16:05. It had saved its partially completed claim at that stage, but it was not submitted until 18 April 2024. It was possible when applying for a repayment to pause the application by hitting "save and close". When doing so, the system displays a message to the user that this would not submit the claim. The Respondent's representative stated that this must be what the Appellant had done in July 2022.
19. The fact that the Appellant was able to submit the claim outside the four-year period was because it was commenced within the timeframe. In any event, irrespective of whether or not the online system allowed a claim to be made, each claim was reviewed by the Respondent to ensure it was valid before a repayment was made.

Material Facts

20. Having read the documentation submitted, and having listened to the evidence and submissions of the parties at the hearing, the Commissioner makes the following findings of material fact:
 - 20.1. The Appellant purchased land (Folio number [REDACTED]) in 2020 for the purposes of residential development. The instrument was executed on [REDACTED] 2020 and it was filed on [REDACTED] 2020.
 - 20.2. The Appellant paid stamp duty of €131,250 on the transfer. The stamp certificate bore the document [REDACTED].
 - 20.3. The building control authority acknowledged that the commencement notice was valid on [REDACTED] January 2020.

- 20.4. The Appellant subsequently sought a partial repayment (€96,250) of the stamp duty paid by it. The Respondent refused the claim on the basis that it was made out of time.
- 20.5. The Appellant commenced its application for repayment on 6 July 2022 but did not submit it at that time. It was not submitted to the Respondent until 18 April 2024.

Analysis

21. The burden of proof in this appeal rests on the Appellant, which must show that Respondent wrongly refused its application for a repayment of stamp duty. In the High Court case of *Menolly Homes Ltd v. Appeal Commissioners* [2010] IEHC 49 (*Menolly Homes*), 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.”*
22. Section 83D of the SDCA 1999 provides for a partial repayment of stamp duty paid in respect of a conveyance or transfer of land where the land is subsequently developed for residential purposes. Section 83D(10)(c) provides that a repayment shall not be made after the expiry of four years following the date of acknowledgement by the relevant building control authority that the commencement notice is valid. This deadline for claiming repayment is reiterated in section 159A(2)(c)(v) of the SDCA 1999.
23. The sole issue for determination in this appeal is when the Appellant submitted its repayment claim to the Respondent. The Appellant contended that the claim was submitted in July 2022, within the statutory timeframe. The Respondent stated that the claim was first submitted on 18 April 2024, outside the statutory timeframe. Consequently, the Respondent refused the claim for repayment.
24. Having considered the entirety of the evidence before him, including the documentary evidence and the oral evidence of the Appellant’s witness, as well as the submissions of the parties, the Commissioner is satisfied that the Appellant did not submit its claim within time, and that consequently the Respondent was correct to refuse repayment.
25. The Commissioner notes that there is no documentary evidence, such as screenshots or an acknowledgment email, from the Appellant to show that it submitted its claim in July 2022. Against this, the Respondent submitted screenshots from its online systems which stated that the Appellant’s claim was created on 18 April 2024.

26. The Commissioner heard evidence from [REDACTED], who originally created the Appellant's claim on ROS in July 2022. The witness stated that he had understood that he had submitted the claim at that time, but he did not contradict the Respondent's submission that, while the claim was created at that stage, it was not submitted until April 2024: *"Apologies, I thought I had submitted everything I needed to submit. When I had done it previously, I think the system changed around that time period so I was, I think it was my first one doing it through the eRepayments."*
27. The Appellant's agent stated that she had not submitted the claim on behalf of the Appellant in 2022, but after she was retained to act on its behalf in 2024, she could see the claim on ROS. She stated that ROS provided a notification that bank details had to be provided, which she did. The Commissioner notes that appendix 2 to the Respondent's guidance note on section 83D repayment claims provides that step 9 of the process is the inputting of bank details, and step 11 is the submission of the claim.
28. Therefore, having regard to:
- (1) the lack of any documentary evidence supporting the Appellant's contention that its claim was submitted in July 2022, whereas the Respondent provided documentary evidence that it was not submitted until April 2024;
 - (2) the oral evidence of the Appellant's witness, who did not contradict the Respondent's contention that the claim was created in July 2022 but not submitted until April 2024; and
 - (3) the submission of the Appellant's agent that she was requested to input bank details in April 2024 for the Appellant's claim, where the Respondent's guidance provides that the inputting of bank details is done prior to the submission of the claim;
- the Commissioner is satisfied on the balance of probabilities that the Appellant created its claim in July 2022, but did not submit its claim to the Respondent until April 2024.
29. While the Appellant's agent claimed that it was not possible to submit a claim after the four years had elapsed, the Respondent's representative explained that the Appellant was able to do so because it created its claim within time. In any event, given the burden of proof as set out in *Menolly Homes*, the Commissioner is satisfied that a taxpayer needs to be able to positively demonstrate actual compliance with the statutory timeframe.
30. Furthermore, the Commissioner notes that section 83D(8)(b) of the SDCA 1999 provides that a repayment claim shall *"be made in a form and manner specified by [the Respondent]"*. The Respondent has specified the form and manner in which a claim is to

be made in its Tax and Duty Manual. Appendix 2 of the guidance sets out a step by step guide to submitting a repayment claim. Step 11 is as follows:

If using ROS enter your ROS password and click the Sign & Submit button to complete the transaction.

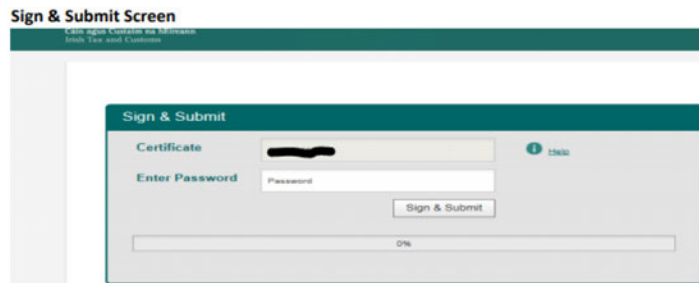


Figure 13: ROS Sign & Submit Screen

31. The Commissioner is satisfied that the above guidance makes clear that it is necessary to “sign and submit” in order to submit a repayment claim to the Respondent.
32. Therefore, the Commissioner is satisfied that the Appellant failed to submit the claim, in the manner required by the Respondent, within the four year time frame prescribed by section 83D. The four years commenced on [REDACTED] January 2020, as that was the date that the building control authority acknowledged that the commencement notice was valid. The claim was submitted on 18 April 2024, which was more than four years later. Therefore, the claim was out of time.
33. The Commissioner is satisfied that the four year timeframe for making a claim is mandatory, and no discretion is allowed to the Respondent, or to the Commission on appeal, to extend it. Having heard the evidence of the Appellant’s witness, the Commissioner is satisfied that the Appellant made an honest mistake, as it genuinely believed at the time that it submitted its claim in July 2022. However, as it did not submit the claim in the manner required by the Respondent until 18 April 2024, it was out of time, and the Respondent correctly refused repayment. Therefore, the appeal is unsuccessful.

Determination

34. In the circumstances, and based on a review of the facts and a consideration of the submissions, material and evidence provided by both parties, the Commissioner determines that the Respondent correctly refused the Appellant’s claim for repayment of stamp duty in the amount of €96,250.

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.



Simon Noone
Appeal Commissioner
30 April 2025