



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH  
TAX APPEALS COMMISSION

206TACD2025

Between

[REDACTED]

**Appellant**

and

**THE REVENUE COMMISSIONERS**

**Respondent**

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**Determination**

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## Introduction

1. This matter comes before the Tax Appeal Commission (hereinafter "the Commission") as an appeal pursuant to the provisions of section 159A(5) of the Stamp Duties Consolidation Act 1999 (hereinafter the "SDCA 1999") against the refusal of the Revenue Commissioners (hereinafter "the Respondent") of a claim for the repayment of stamp duty.
2. The amount of tax at issue is €1,650.00.

## Background

3. Ms [REDACTED] (hereinafter the "Appellant") received lands from her father consisting of 0.308 hectares at [REDACTED] comprised in Folio [REDACTED] (hereinafter the "lands"). A transfer of the lands to the Appellant was executed on 20 November 2019 for a consideration of €30,000. Subsequent to the purchase of the lands by the Appellant the lands were registered under Folio [REDACTED] on [REDACTED] 2021.
4. The lands were non-residential and, at the time of the transfer, stamp duty of 7.5% was applicable to the transfer of non-residential lands.
5. On [REDACTED] 2019, a stamp duty return relating to the transfer of the lands was submitted to the Respondent and a payment of €2,250.00 was made, resulting in the Respondent issuing a stamp duty certificate Doc ID [REDACTED] on [REDACTED] 2019 .
6. On [REDACTED] 2019, the Appellant was issued with a "*Notice of Commencement of Entry on to Register*" pursuant to the provisions of Article 10(2) of the Building Control Regulations 1997 – 2015 (S.I No 496 of 1997) by [REDACTED] County Council relating to a Commencement Notice for the lands dated [REDACTED] 2019.
7. On [REDACTED] 2019, the Appellant was issued with a "*Form of Commencement Notice for Development*" relating to the lands by [REDACTED] County Council.
8. On [REDACTED] 2021, as a result of the registration of the lands under Folio [REDACTED], an amended stamp duty certificate Doc ID [REDACTED] was issued reflecting the Folio change.
9. On 19 February 2025, the Appellant submitted an application for the refund of stamp duty pursuant to the provisions of section 83D of the SDCA 1999 which is entitled "*Repayment of stamp duty where land used for residential development*".

10. On 24 February 2025, the Respondent wrote to the Appellant stating that, as the claim for the repayment of stamp duty had been made outside of the 4-year time limit imposed by section 83D(10)(c) of the SDCA 1999, her claim could not be accepted.
11. The Appellant has appealed the disallowance of the repayment of stamp duty by the Respondent by way of a Notice of Appeal which was received by the Commission on 05 March 2025.
12. On 16 May 2025, the Commission wrote to the parties indicating the Commissioner's intention to determine this appeal without the holding of an oral hearing pursuant to the provisions of section 949U of the Taxes Consolidation Act 1997 (hereinafter the "TCA 1997") and allowed the parties 21 days to indicate their disagreement with same. Neither party has objected to this course of action. As a result this appeal has been determined pursuant to the provisions of section 949U of the TCA 1997.

### **Legislation and Guidelines**

13. The legislation relevant to this appeal is as follows:

#### Section 83D(10) of the SDCA 1999:

*"(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)."*

#### Section 159A of the SDCA 1999 "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.”*

Section 159B of the SDCA 1999 (as in force from 27 March 2013 to 31 December 2022)

*“(4) A claim for repayment under this section shall only be treated as a valid claim when—*

*(a) it has been made in accordance with the provisions of the law (if any) relating to stamp duty under which such claim is made, and*

*(b) all information which the Commissioners may reasonably require to enable them determine if and to what extent a repayment is due, has been furnished to them.”*

**Submissions**

*Appellant's submissions*

14. The Appellant submitted the following Grounds of Appeal in her Notice of Appeal:

*“I am writing to you to appeal a recent decision by Revenue for a refund of 11/15ths of stamp duty paid by me, under the residential development stamp duty refund scheme*

*– that I only recently became aware of. It concerns a site that my father (non-farmer) transferred to me to allow myself and my family build a family home.*

*The site itself was given a consideration of €30,000 for transfer purposes. The rate of stamp duty charged on the instrument amounted to €2,250 (7.5%) which was paid by my solicitor. Please see attached supporting documentation including amended stamp certificate dated 12/01/2021.*

*Revenue recently refused my request for a repayment in the sum of €1,650 (11/15) on the grounds that it was made outside a four year time limit, of which I was genuinely not aware.*

*Myself and my late husband (██████████) constructed this house ourselves, and vis direct labour, during COVID. This caused us immense personal stress, culminating in personal health issues, resulting in the death of my husband. ██████ was aged just ██████, and we have ██████ young dependents age ██████. Please see attached copy of ██████ interim death certificate. ██████ passed away tragically in our new home on ██████ ██████. (I am awaiting the outcome of an inquest before I will be issued with a “full death certificate”).*

*I hope you will please consider my appeal under the above extenuating and perhaps compassionate grounds and circumstances...”*

15. The Appellant submitted a Statement of Case which outlined the circumstances of her appeal, the details of which are captured in the Notice of Appeal and which the Commissioner does not consider necessary to reproduce in this determination.
16. The Appellant submitted the following documentation in support of her appeal:
  - 16.1. Correspondence from the Respondent dated 24 February 2025 refusing the repayment claim made by the Appellant;
  - 16.2. A Coroner’s interim certificate of fact of death relating to the Appellant’s late husband;
  - 16.3. A letter dated 5 February 2025 from the Appellant’s solicitor to the Appellant’s brother;
  - 16.4. A copy of the stamp duty return filed on ██████████ 2019;
  - 16.5. A copy of an amended stamp duty certificate Doc ID ██████████ dated ██████████ 2021;

16.6. A copy of a “Notice of Commencement of Entry on to Register” relating to a Commencement Notice for the lands dated [REDACTED] 2019;

16.7. A copy of a Commencement Notice relating to the lands dated [REDACTED] 2019.

#### *Respondent’s submissions*

17. The Respondent submitted that the provisions of section 83D(10) of the SDCA 1999 mean that a valid claim for the repayment of stamp duty shall not be allowed unless it is made within 4 years after the end of the chargeable period to which the claim relates.

18. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

#### **Material Facts**

19. The material facts are not at issue in this appeal and the Commissioner accepts the following as a material fact:

19.1. On [REDACTED] 2019, a stamp duty return relating to the transfer of the lands was submitted to the Respondent and a payment of €2,250.00 was made, resulting in the Respondent issuing a stamp duty certificate on [REDACTED] 2019 titled Doc ID 1 [REDACTED].

19.2. On [REDACTED] 2019, the Appellant was issued with a “Notice of Commencement of Entry on to Register” pursuant to the provisions of Article 10(2) of the Building Control Regulations 1997 – 2015 by [REDACTED] County Council relating to a Commencement Notice relating to the lands dated [REDACTED] 2019.

19.3. On [REDACTED] 2019, the Appellant was issued with a “Form of Commencement Notice for Development” relating to the lands by [REDACTED] County Council.

19.4. On [REDACTED] 2021, as a result of the registration of the lands under Folio [REDACTED], an amended stamp duty certificate Doc ID [REDACTED] was issued reflecting the Folio change.



- 19.5. On 19 February 2025, the Appellant submitted an application for the refund of stamp duty pursuant to the provisions of section 83D of the SDCA 1999.

### **Analysis**

20. As with all appeals before the Commission the burden of proof lies with the Appellant. As confirmed in *Menolly Homes v Appeal Commissioners* [2010] IEHC 49 (hereinafter “*Menolly Homes*”), the burden of proof is, as in all taxation appeals, on the taxpayer. As confirmed in that case by Charleton J at paragraph 22:-

*“This is not a plenary civil hearing. It is an enquiry by the Appeal Commissioner as to whether the taxpayer has shown that the tax is not payable.”*

21. The jurisdiction of an Appeal Commissioner is set out at section 6 of the Finance (Tax Appeals) Act 2015. As a result, in considering this appeal, the Commissioner is restricted to considering and interpreting the relevant provisions of the SDCA 1999 as they apply to the facts of the Appellant’s appeal.

22. The Commissioner has considered the submissions made and documentation submitted on behalf of both parties in this appeal.

23. Section 83D(10) of the SDCA 1999 provides that:

*“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).”*

24. Section 83D(1) of the SDCA 1999 defines “*Regulations of 1997*” as meaning the Building Control Regulations 1997 (S.I. No. 496 of 1997).

25. Section 159A(2) of the SDCA 1999 provides 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,*

*...” (emphasis added)*

26. Section 159A(3) of the SDCA 1999 defines a valid claim as being:

*“(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,*

*...”*

27. Section 159B(4) of the SDCA 1999 as in force from 27 March 2013 to 31 December 2022, provides that a claim for repayment shall only be treated as a valid claim when—

*“(a) it has been made in accordance with the provisions of the law (if any) relating to stamp duty under which such claim is made, and*

*(b) all information which the Respondent may reasonably require to enable them determine if and to what extent a repayment is due, has been furnished to them.”*

28. A repayment of stamp duty was sought by the Appellant on 19 February 2025. Section 159A(1) of the SDCA 1999 means the repayment of tax sought is not due unless a valid claim has been made to the Respondent. Therefore, in order for the repayment of stamp duty in the amount of €1,650.00 in relation to the Stamp Certificate dated [REDACTED] 2019 to be made, the Respondent must have received a valid claim.

29. The Respondent had all the information which they required to enable them to determine if and to what extent a repayment of stamp duty was due on 19 February 2025 following

the delivery of the relevant claim to repayment by the Appellant. This was in excess of 4 years from the date of acknowledgement by ██████ County Council, a building control authority, in accordance with Article 10(2) of the Building Control Regulations 1997 – 2015 which was issued on ██████ 2019 and as referred to in section 83D(10)(c) of the SDCA 1999.

30. Having established that there is a valid claim, the provisions of section 159A(2) of the SDCA 1999 must be applied. As the claim for repayment of tax was made outside the 4-year period specified in section 83D(10) of the SDCA 1999, no valid claim for repayment of tax had been submitted by the Appellant.
31. The use of the word “*shall not*” as set out in section 159A(2) of the SDCA 1999, indicates an absence of discretion in the application of this provision. The wording of the provision does not provide for extenuating circumstances in which the 4-year rule might be mitigated.
32. The Commissioner has no authority or discretion to direct that repayment be made or credits allocated to the Appellant where the claim for repayment falls outside the 4-year period specified in sections 83D(10) and 159A(2) of the SDCA 1999.
33. Previous determinations of the Tax Appeals Commission have addressed the matter of repayment in the context of a 4-year statutory limitation period. These determinations may be found on the Commission website.<sup>1</sup>
34. As a result of the above, the Commissioner finds that the burden of proof has not been discharged to satisfy the Commissioner that the refund was payable by the Respondent.

### **Determination**

35. For the reasons set out above, the Commissioner determines that this appeal has failed and that it has not been shown that the relevant refund was payable. Therefore, the decision of the Respondent of 24 February 2025 disallowing the repayment of stamp duty paid in relation to the transfer of the lands shall stand.
36. It is understandable the Appellant will be disappointed with the outcome of this appeal. This is an unfortunate and upsetting situation, and the Commissioner has every sympathy with the Appellant’s position. However, the Commissioner has no discretion in these cases due to the application of the 4-year rule, set out above.

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<sup>1</sup> <https://www.taxappeals.ie/en/determinations>

37. This appeal is determined in accordance with Part 40A of the Taxes Consolidation Act 1997 and in particular, sections 949AL and 949U thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

### **Notification**

38. 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**

39. 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.



Clare O'Driscoll  
Appeal Commissioner  
17 June 2025