



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

Between

225TACD2025



Appellant

and

The Revenue Commissioners

Respondent

Determination

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Introduction

1. This is an appeal to the Tax Appeals Commission ("the Commission") pursuant to and in accordance with the provisions of section 949I of the Taxes Consolidation Act 1997 ("TCA 1997") brought on behalf of [REDACTED] ("the Appellant") in relation to a decision of the Revenue Commissioners ("the Respondent") dated 24 March 2025, to refuse to allow the Appellant's claim for a repayment of Stamp Duty, pursuant to section 159A of the Stamp Duty Consolidation Act 1999 ("the SDCA 1999"), in the amount €5,408.
2. On 16 April 2025, the Appellant duly appealed the assessments to the Commission by submitting a Notice of Appeal and accompanying documentation. In accordance with section 949Q of the TCA 1997, on 6 June 2025, the Appellant submitted a Statement of Case which built on the Appellant's Notice of Appeal and on 5 June 2025, the Respondent submitted its Statement of Case. The Commissioner has considered all of the documentation submitted by the parties in support of their respective positions in this appeal.
3. In accordance with the provisions of section 949U TCA 1997 and by agreement with the parties, this appeal is determined without a hearing.

Background

4. On 11 March 2020, a return was filed on behalf of the Appellant by the Appellant's Solicitor, on the Revenue Online Service (ROS), on a self-assessment basis. The return was in relation to the conveyance of the land, but specifically, non-residential agricultural land.
5. The date of execution of the instrument, namely the Deed of Transfer, in relation to the conveyance of the land, was 11 February 2020.
6. The consideration paid for the land was in the amount of €83,190.00 and Stamp Duty in the amount of €6,239.00 was calculated by the Respondent, based on the chargeable amount of €83,190.00, at the non-residential rate of 7.5%.
7. The Appellant paid the Stamp Duty in the full amount and the Stamp Certificate issued to the Appellant by the Respondent on the same day, namely 11 March 2020. Therefore, the original Stamp Certificate was dated 11 March 2020.
8. On 30 September 2020, the return was amended by the Appellant to include an additional vendor and an amended Stamp Certificate issued from the Respondent reflecting the change, dated 30 September 2020.

9. On 16 December 2020, the return was amended again by the Appellant to include folio numbers for the land transferred and an amended Stamp Certificate issued from the Respondent, reflecting the change, dated 16 December 2020.
10. On 4 September 2024, the Appellant's return was amended to include a claim for consanguinity relief. As a result of the claim, the Stamp Duty payable was recalculated to the amount of €831.00, at a rate of 1%. An amended Stamp Certificate was issued from the Respondent reflecting the change, dated 4 September 2024.
11. The Appellant's claim dated 4 September 2024, for consanguinity relief made on the return resulted in an overpayment of Stamp Duty by the Appellant in the amount of €5,408.00. The claim generated a Statement of Liability, dated 4 September 2024, that issued to the Appellant's Solicitor, showing the overpayment and stating that an application for a repayment of the tax paid, together with supporting documentation, must be submitted in writing to the National Stamp Duty Office.
12. On **25 September 2024**, the Respondent's caseworker sent a request to the Appellant's Solicitor, via the Respondent's MyEnquiries system, to submit information and supporting documentation in relation to the claim for consanguinity relief. The Respondent submitted that between 25 September 2024 and 14 March 2025, correspondence and phone calls were carried out, between the Respondent and the Appellant's Solicitor, regarding the claim for consanguinity relief and the associated repayment. This included a notification to the Appellant's Solicitor on 12 March 2025 (re-sent on 24 March 2025) that the claim for repayment had been disapproved, as the claim was made out of time and not in accordance with section 159A SDCA 1999.
13. The Appellant submitted that the Stamp Duty repayment claim must be made within a period of four years from the date the Respondent stamped the instrument, that was the date on the Stamp Certificate which herein the Appellant submitted was 30 September 2020, and not the execution date of the transfer of the land.
14. The Respondent submitted that the legislation at the time the claim was made (applicable since 18 December 2023) provides that the four-year period runs from "*the latest date the instrument was required to be stamped under section 2*" and that an instrument is required to be stamped "*before the expiration of 30 days after it is first executed*" [section 2(3) SDCA 1999]. Prior to 18 December 2023 (applicable from 31 October 2003), the legislation stated that the four-year limit ran from "*the date the instrument was stamped by the Commissioners*" [section 159A(1) SDCA, 1999]. The Respondent contended that the relevant dates are:

- date of execution: 11.02.2020;

- date stamped: 11.03.2020;
- date required to be stamped: 13.03.2020;
- date relief claimed on return: 04.09.2024.

Legislation and Guidelines

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

16. Section 2 SDCA 1999, Charging of, liability for, and recovery of stamp duty, *inter alia* provides that:

(1) *Any instrument which -*

(a) *is specified in Schedule 1, and*

(b) *is executed in the State or, wherever executed, relates to any property situated in the State or any matter or thing done or to be done in the State,*

shall be chargeable with stamp duty.

.....

(3) *Any instrument chargeable with stamp duty shall, unless it is written on duty stamped material, be duly stamped with the proper stamp duty before the expiration of 30 days after it is first executed.*

.....

17. Section 159A SDCA 1999, General provisions on claims for repayment of stamp duty, *inter alia* 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 -*

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

-
- (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.*

Submissions

Appellant's submissions

18. The Commissioner sets out hereunder a summary of the submissions made by the Appellant, as set out in the Appellant's Notice of Appeal and Statement of Case:-

"Under s195A SDCA 1999 the deadline of request for refund of Stamp Duty is 4 years from the date of execution of the transfer deed (in this case the 11/02/2020) and as such the request was outside that time.

I have checked the Revenue website and they indicate in refunds of Stamp Duty, You must make your Stamp Duty refund claim within a period of four years from the date Revenue stamped the instrument (written document), that is, the date on the Stamp Certificate. In this case the 30th of September 2020 and not the execution date of the transfer,

You must make your Stamp Duty refund claim within a period of four years from: A. the date Revenue stamped the instrument (written document), that is, the date on the Stamp Certificate B. the date the young trained farmer achieves the required educational standard, if you are claiming Young Trained Farmer Relief.

They admit themselves that the claim was submitted on the 5th of September 2024 (the amended Stamp Certificate) as such this is inside the 4-year period, and I believe they were wrong to take the date 4 years from the transfer deed as a cutoff point.

There also is the factor that the error originally was due to the automatic Revenue's Stamp Duty calculator, not factoring in the calculation the Consanguinity Relief that was claimed on the initial Stamp Duty calculation. The print off of full details shows

this. It was the second re-lodging on the 5th of September that calculated, the Consanguinity relief correctly, without any amendments being needed or made.

In either case, in the Revenue Tax and Duty Manual it indicated the section 959AA (2) TCA has exceptions to the 4-year rule and that amendments can be made outside this time where

- Calculation error (totting error) in this case the error being on the part of the Revenue Stamp Duty calculator*
- Amendment does not reflect the return/ facts disclosed*

Both of these are not factored into their decision

I attach herewith the following documents

- 1. Original Stamp Duty Certificate w Full details - Date Issued 30th September 2020*
[REDACTED]
- 2. Amended Stamp Duty Certificate w Full Details - Date Issued 5th September 2024*
[REDACTED]
- 3. Revenue Decision dated the 21st March 2025.”*

Respondent's submissions

19. The Commissioner sets out hereunder a summary of the submissions as set out in the Respondent's Statement of Case:-

“2.1 The refund claim for repayment of Stamp Duty in relation to Schedule 1 SDCA, 1999 Consanguinity Relief, and this appeal, are the subject of the Stamp Duty return with [REDACTED]

2.2 11.03.2020: The return was filed on the Revenue Online Service (ROS), on a self-assessment basis, by [REDACTED] (solicitors). It was filed on behalf of the Accountable Person, [REDACTED] is the Appellant in this case.

Relevant details submitted on the return are:

<i>Category of Instrument:</i>	<i>Conveyance / Transfer of Property</i>
<i>Date of Execution of Instrument:</i>	<i>11.02.2020</i>
<i>Type of Property:</i>	<i>Non-Residential – Agricultural Land</i>
<i>Relationship between the parties:</i>	<i>Lineal Relation</i>

Consideration:

€83,190.00

Stamp Duty of €6,239.00 was calculated, based on the chargeable amount of €83,190.00, at the non-residential rate of 7.5%.

The duty was paid in full. The stamp certificate issued the same day, indicating that the instrument had been stamped. The Appellant's Notice of Appeal quoted 30.09.2020 as the date stamped. This is an incorrect date. To confirm, the original stamp certificate for [REDACTED] is dated 11.03.2020.

2.3 30.09.2020: The return was amended to include an additional vendor. An amended stamp certificate issued, reflecting the change, and is dated 30.09.2020.

2.4 16.12.2020: The return was amended to include folio numbers (5) for the land transferred. An amended stamp certificate issued, reflecting the change, and is dated 16.12.2020.

2.5 04.09.2024: The return was amended to include a claim for Consanguinity Relief. Claiming the relief on the return resulted in the duty being recalculated as €831.00, at a rate of 1%. An amended stamp certificate issued, reflecting the change, and is dated 04.09.2024.

The claim for Consanguinity Relief made on the return resulted in an overpayment of €5,408.00.

The above action generated a refund 'Work Item' on Revenue systems, which was assigned to a caseworker on 05.09.2024.

It also generated a Statement of Liability, dated 04.09.2024, that issued to the filer [REDACTED], showing the overpayment, and stating that an "application for refund, together with supporting documentation must be submitted, in writing to the [National Stamp Duty Office]".

2.6 25.09.2024: The caseworker sent a request to the filer, via Revenue's MyEnquiries system, to submit information and supporting documentation in relation to the claim for Consanguinity Relief.

2.7 25.09.2024 – 24.03.2025: Correspondence and phone calls were carried out, between Revenue and the filer, regarding the claim for Consanguinity Relief and associated refund. This included notification to the filer on 12.03.2025 (re-sent on 24.03.2025) that the refund had been disapproved for being claimed out of time, as per s.159A SDCA, 1999.

2.8 Revenue acknowledges that there has been some conflicting information about the date the four-year limit applied from. However, the legislation is clear.

The legislation at the time the claim was made (applicable since 18.12.2023) states that the four-year period runs from “the latest date the instrument was required to be stamped under section 2” [s.159A(2)(c)(i) SDCA, 1999]. An instrument is required to be stamped “before the expiration of 30 days after it is first executed” [s.2(3) SDCA, 1999]. Prior to 18.12.2023 (applicable from 31.10.2003), the legislation stated that the four-year limit ran from “the date the instrument was stamped by the Commissioners” [s.159A(1) SDCA, 1999]. 2.9 The relevant dates in this case are:

- date of execution: 11.02.2020*
- date stamped: 11.03.2020*
- date required to be stamped: 13.03.2020*
- date relief claimed on return: 04.09.2024*

The four years set out in legislation for making a refund claim (s.159A, SDCA 1999) has been exceeded.”

Material Facts

20. Having read the documentation submitted in the appeal, the Commissioner makes the following findings of material fact:-

- 20.1. On 11 March 2020, a return was filed on behalf of the Appellant, by the Appellant's Solicitors, on the Revenue Online Service (ROS), on a self-assessment basis in relation to the conveyance of land, specifically non-residential agricultural land.
- 20.2. The date of execution of the instrument in relation to the conveyance of the land, was 11 February 2020.
- 20.3. The consideration paid for the land was in the amount of €83,190.00 and Stamp Duty in the amount of €6,239.00 was calculated, based on the chargeable amount of €83,190.00, at the non-residential rate of 7.5%.
- 20.4. The Appellant paid the Stamp Duty in the full amount and the Stamp Certificate issued on the same day, namely 11 March 2020, indicating that the instrument had been stamped.
- 20.5. The original Stamp Certificate was dated, 11 March 2020 and within 30 days of the date of execution of the instrument.

- 20.6. On 30 September 2020, the return was amended by the Appellant to include an additional vendor and an amended Stamp Certificate issued from the Respondent reflecting the change, dated 30 September 2020.
- 20.7. On 16 December 2020, the return was amended again by the Appellant to include folio numbers for the land transferred and an amended Stamp Certificate issued from the Respondent reflecting the change, dated 16 December 2020.
- 20.8. On 4 September 2024, the Appellant's return was amended to include a claim for consanguinity relief.
- 20.9. As a result of the claim, the Stamp Duty payable was recalculated to the amount of €831.00, at a rate of 1%. An amended Stamp Certificate issued from the Respondent to the Appellant reflecting the change, dated 4 September 2024.
- 20.10. The Appellant's claim dated 4 September 2024, for consanguinity relief resulted in an overpayment of Stamp Duty by the Appellant, in the amount of €5,408.00.
- 20.11. The claim generated a Statement of Liability, dated 4 September 2024, that issued to the Appellant's Solicitor, showing the overpayment, and stating that an application for a repayment of the tax paid, together with supporting documentation, must be submitted in writing to the National Stamp Duty Office.
- 20.12. On 25 September 2024, the Respondent's caseworker sent a request to the Appellant's Solicitor, via the MyEnquiries system, to submit information and supporting documentation in relation to the claim for consanguinity relief.
- 20.13. The Appellant submitted that the Stamp Duty repayment claim must be made within a period of four years from the date the Respondent stamped the instrument, that was the date on the Stamp Certificate, which was in this case 30 of September 2020, and not the execution date of the transfer.

Analysis

- 21. The Appellant's appeal relates to a decision of the Respondent dated 24 March 2025, to refuse to allow the Appellant's claim for a repayment of Stamp Duty, pursuant to section 159A SDCA 1999.
- 22. The appropriate starting point for the analysis of the issues is to confirm that in an appeal before the Commission, the burden of proof rests on the Appellant, who must prove on the balance of probabilities that an assessment to tax is incorrect. This proposition is now well established by case law, for example in the High Court case of *Menolly Homes Ltd*

v Appeal Commissioners and another [2010] IEHC 49, at paragraph 22, Charleton J. stated 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".

23. The Commissioner also considers it useful herein to set out paragraph 12 of the judgment of Charleton J. in *Menolly Homes*, wherein he stated that:

"Revenue law has no equity. Taxation does not arise by virtue of civic responsibility but through legislation. Tax is not payable unless the circumstances of liability are defined, and the rate measured, by statute..."

Section 159A SDCA 1999

24. The Commissioner has considered the submissions made and documentation submitted on behalf of both parties in this appeal. The Commissioner notes that it is the Appellant's contention that the applicable date for the purposes of section 159A SDCA 1999 was not 11 March 2020 as contended for by the Respondent, but rather 30 September 2020. The Commissioner observes that there were further amendments to the Appellant's return thereafter, and that on 5 September 2024, the Appellant's Solicitor made a claim for a repayment of the Stamp Duty paid by the Appellant.
25. The Commissioner notes that on 25 September 2024, the Respondent submitted that it engaged with the Appellant's Solicitor, wherein it requested the Appellant's Solicitor to submit information and supporting documentation in relation to the claim for consanguinity relief. In addition, the Respondent submitted that between 25 September 2024 and 24 March 2025, correspondence and phone calls were carried out, between the Respondent and the Appellant's Solicitor, regarding the Appellant's claim for consanguinity relief and the associated repayment. This included a notification to the Appellant's Solicitor on 12 March 2025 that the repayment had been disapproved as it was claimed out of time, pursuant to section 159A SDCA, 1999.
26. Section 159A SDCA 1999, provides for a time limit in relation to a claim for a repayment of Stamp Duty. As of 18 December 2023, section 159A SDCA 1999 prohibits the repayment of stamp duty where the claim for repayment has not been made within four years from, *inter alia*, *"the latest date the instrument was required to be stamped under section 2."* Section 2 of the SDCA 1999 requires the instrument to be stamped *"before the expiration of 30 days after it is first executed."*

27. The Commissioner has found as a material fact in this appeal that the date of execution of the instrument was 11 February 2020 and the date the instrument was stamped was on 11 March 2020. This was before the expiration of 30 days after it was first executed, in accordance with section 2 SDCA 1999. Consequently, pursuant to section 159A, the claim for repayment had to be within four years of that date, i.e. by no later than 13 March 2024. However, the claim for repayment was not made until 5 September 2024. Therefore, the claim was not made within the prescribed timeframe, and the Respondent was correct to refuse it.
28. The Commissioner is satisfied that the requirement under section 159A (1) SDCA 1999 that a claim for repayment of Stamp Duty be made within a specified timeframe is mandatory and that no discretion is allowed to the Respondent, or to the Commission on appeal, to disapply it. In accordance with the documents submitted in this appeal, the stamped certificate was dated 11 March 2020. Therefore, the Appellant was obliged to make any claim for a repayment of Stamp Duty within 4 years from that date.
29. The use of the word “shall” as set out in section 159A (1) 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. The Commissioner has no authority or discretion to direct that repayment be made to the Appellant where the claim for repayment falls outside the 4-year period specified in section 159A (1) SDCA1999.
30. 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.¹
31. For completeness, the Commissioner notes the Appellant’s references to procedural errors of the Respondent and the Appellant’s submission that *“there also is the factor that the error originally was due to the automatic Revenue’s Stamp Duty calculator, not factoring in the calculation the Consanguinity Relief that was claimed on the initial Stamp Duty calculation. The print off of full details shows this. It was the second re-lodging on the 5th of September that calculated, the Consanguinity relief correctly, without any amendments being needed or made”*.
32. The Commissioner has no supervisory jurisdiction over the Respondent and does not have any jurisdiction in Irish law to consider allegations of unfairness or errors in procedure on the part of the Respondent. The Commissioner’s jurisdiction was set out

¹ www.taxappeals.ie

clearly in the decision of *Lee v The Revenue Commissioners* [2021] IECA 18, where in the Court of Appeal, Mr Justice Murray stated that:

“The Appeal Commissioners are a creature of statute, their functions are limited to those conferred by the TCA, and they enjoy neither an inherent power of any kind, nor a general jurisdiction to enquire into the legal validity of any particular assessment... That means that the Commissioners are restricted to inquiring into, and making findings as to, those issues of fact and law that are relevant to the statutory charge to tax. Their essential function is to look at the facts and statutes and see if the assessment has been properly prepared in accordance with those statutes. They may make findings of fact and law that are incidental to that inquiry.

.....”

Conclusion

33. Consequently, the Commissioner is satisfied that the Respondent was correct to refuse the claim for a repayment of Stamp Duty, as section 159A (1) TCA 1997 does not allow the Respondent, or the Commission on appeal, to take into account any mitigating circumstances, for the failure to comply with the mandated timeframe. The Commissioner appreciates that this is frustrating and disappointing for the Appellant.

34. In the circumstances and based on a review of the facts and a consideration of the submissions and material provided by both parties, the Commissioner is satisfied that the Respondent was correct to refuse the Appellant’s claim for a repayment of Stamp Duty in the amount of €5,408.

Conclusion

35. As set out above, in an appeal before the Commission, the burden of proof rests on the Appellant, who must prove on the balance of probabilities that an assessment to tax is incorrect.

36. The Commissioner is satisfied that the Appellant has not discharged the burden of proof to satisfy the Commissioner that the Respondent was incorrect in its decision to refuse the Appellant’s claim for the repayment of Stamp Duty in accordance with section 159A SDCA 1999 for the reasons set out in this Determination.

Determination

37. As such and for the reasons set out above, the Commissioner determines that the decision of the Respondent dated 12 December 2024, to refuse to allow the Appellant’s

claim for a repayment of Stamp Duty, pursuant to section 159A SDCA 1999, in the amount €5,408, shall stand.

38. The Commissioner appreciates this decision will be disappointing for the Appellant. However, the Commissioner is charged with ensuring that the Appellant pays the correct tax and duties. The Appellant was correct to appeal to have clarity on the position.
39. This Appeal is determined in accordance with Part 40A TCA 1997 and in particular section 949U thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ (6) TCA 1997.

Notification

40. This determination complies with the notification requirements set out in section 949AJ TCA 1997, in particular section 949AJ(5) and section 949AJ(6) TCA 1997. For the avoidance of doubt, the parties are hereby notified of the determination under section 949AJ TCA 1997 and in particular the matters as required in section 949AJ(6) TCA 1997. This notification under section 949AJ 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

41. 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 TCA 1997. The Commission has no discretion to accept any request to appeal the determination outside the statutory time limit.



Claire Millrine
Appeal Commissioner
15 August 2025