



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH  
TAX APPEALS COMMISSION

237TACD2025

Between

[REDACTED]

**Appellant**

and

**The Revenue Commissioners**

**Respondent**

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**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 159A of the SDCA 1999 in the amount of €40,950.00, on the ground that the Appellant’s claim was made outside the statutory timeframe.
2. The appeal proceeded by way of a hearing on 14 May 2025. The Appellant was represented by his solicitor (“the Appellant’s representative”), and the Appellant’s daughter. The Respondent was represented by two of its officers.

## Background

3. [REDACTED] 2007, a deed was executed for the transfer of land to the Appellant by a third party in exchange for the transfer of land by the third party to the Appellant (“the Instrument”). [REDACTED] 2007, the Appellant paid stamp duty in relation to the Instrument. [REDACTED] 2024, the Appellant claimed a repayment of the stamp duty paid by the Appellant in relation to the Instrument. [REDACTED] 2024, the Respondent refused the Appellant’s claim for a repayment of stamp duty in relation to the Instrument on the ground that the Appellant’s claim was made outside the statutory timeframe.
4. On 27 September 2024, the Appellant submitted a Notice of Appeal to the Commission, with supporting documentation. On 15 November 2024, the Appellant submitted a Statement of Case and on 26 November 2024, the Respondent submitted a Statement of Case. On 23 January 2025, the Respondent submitted pre-hearing documentation and on 27 January 2025 and 18 April 2025, the Appellant submitted pre-hearing documentation. The Commissioner has considered all of the documentation submitted by the parties in this appeal.

## Legislation and Guidelines

5. The legislation relevant to this appeal is as follows:
6. Section 2 of the SDCA 1999 provides (among other things):

“(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."*

7. 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*

8. In his Notice of Appeal and Statement of Case, the Appellant submitted the following (among other things):

*“The decision related to a request by me to seek a review of Stamp Duty (SD) that had been previously paid by me with the hope of a refund of same. The decision as noted by Revenue in response to my request was that the timeframe for refunds of SD was outside the statutory period of four years.*

*I understand the rules of this timeframe however, I believe that my situation is particularly unique in so far as the SD that was paid was done so as a prepayment on account for a conditional contract that was never actually completed and will not be completed at any point in the future. Therefore, in my opinion this is not a typical straight forward SD transaction. [...]*

*To summarise: (1) SD was paid by me prudently, for a land swap that might take place subject to a conditional contract being completed in the not too distant future (all parties involved were very confident of a successful outcome within a short period of time at that point); (2) there was never any change on the ground in relation to this land and I retained full ownership and use of my land throughout the entire intervening period (as did the other neighbouring land owner on his land); (3) the conditional contract for the land swap was never finalised but remained “live” thereby providing an option to complete all conditions up until the point at which the contract became null and void, which was in 2021; (4) I parted company with my agent in 2021 and took on a new agent at that time and consequently the land swap agreement became null and void at that time; (5) the conditional contract for the land swap has therefore never been completed (all conditions have never been met) and will never be completed in the future as it is no longer relevant; (6) in my opinion a SD liability could only have arisen on the actual completion of the land swap to which it related; (7) as all the conditions of the contract for that land swap have never been completed, it is reasonable to argue that no SD liability has ever technically arisen on this land swap; (8) as such the SD that was paid was in fact a pre-payment on account that has never been due for payment; (9) in the interest of fairness, I therefore respectfully request that due consideration be given to my request for either a refund of this SD amount or*

*alternatively that it be credited against my personal tax account (I am fully tax compliant [REDACTED]), for any future tax liabilities that I may have ([REDACTED]); and (10) as the conditional contract became null and void only in 2021, this would be within the four year timeframe required for any refunds of SD paid.”*

9. At the hearing, the Appellant’s daughter made the following submissions (in summary).

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

[REDACTED] In 2021, the agreement for the land swap was no longer relevant and in their opinion became null and void. Therefore the Appellant submitted that the four year time limit ran from 2021. The Appellant felt that he had made a payment of stamp duty on account and was trying to be prudent. The Appellant appreciated that there was a time limit within the legislation but asked that the overall context be looked at. In response to a request for clarification from the Commissioner, the Appellant’s daughter stated that the Appellant did not say that section 31, section 31A, or section 33 of the SDCA 1999, or a deed in escrow, related specifically to this appeal but that they were “*within context*”, and the legislation did not seem to provide for a situation in which a transaction was not completed. The Appellant requested fairness in the application of tax law and consideration for this different type of situation.

10. At the hearing, the Appellant’s representative made the following submissions (in summary). The exchange of lands was to facilitate a development for the benefit of both parties. The original contract provided for contingencies and that if the contingencies were not met, each party would return the land to the other. In response to the Respondent’s statement that the deed was stamped in 2014, the Appellant’s representative submitted that the Appellant would have operated under the assumption that the deed was stamped in 2007 and did not know that he could seek a refund until 2018. The Appellant’s representative submitted that this should be considered, while also referring to case-law which stated that there was no equity in tax law.

#### *Respondent*

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

*“It is the Respondent’s position that a Stamp Duty refund cannot be made when the refund submission was made by the Appellant outside of the four-year time limit under the provisions of Section 159A SDCA 1999.*





Respondent. The details in the paper return were inputted onto ROS and a stamp certificate issued [REDACTED] 2014. This represented the stamping of the 2007 deed of exchange. On [REDACTED] 2024, the Respondent received a request for a refund from the Appellant in the amount of €40,950.00. The request related to the transfer of land to the Appellant. [REDACTED] 2024, the Respondent refused the Appellant's request due to section 159A of the SDCA 1999. The Respondent has no discretion in the four-year time limit. No refund request was received from the other accountable person in the exchange of land.

### **Material Facts**

13. At the hearing, the Appellant and the Respondent agreed on the following facts, which the Commissioner accepts as material facts:

13.1. The Instrument was executed [REDACTED] 2007.

13.2. The Appellant paid stamp duty in relation to the Instrument [REDACTED] 2007.

13.3. The Instrument was stamped [REDACTED] 2014.

13.4. The Appellant claimed a repayment of stamp duty in relation to the Instrument [REDACTED] 2024.

14. In addition, the following fact is not disputed, which the Commissioner finds to be a material fact:

14.1. The Respondent refused the claim for repayment of stamp duty in relation to the Instrument [REDACTED] 2024.

### **Analysis**

15. This appeal relates to the Respondent's refusal of the Appellant's claim for a repayment of stamp duty under section 159A of the SDCA 1999. In an appeal before the Commission, the burden of proof rests on the Appellant. 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".*

16. The Court of Appeal has confirmed this position in *JSS & Ors v A Tax Appeal Commissioner* [2025] IECA 96, in which McDonald J. stated at paragraph 34 that:

*“the taxpayer bears the burden of demonstrating that a tax assessment is wrong.”*

17. It is also necessary to observe that in the Court of Appeal case of *Hanrahan v The Revenue Commissioners* [2024] IECA 113, the Court of Appeal clarified the approach to the burden of proof where an appeal relates to the interpretation of law. The court stated (among other things) that:

*“Where the onus of proof lies can be highly relevant in those cases in which evidential matters are at stake ... In the present case however, the issue is not one of ascertaining the facts; the facts themselves are as found in the case stated. The issue here is one of law;...Ultimately when an Appeal Commissioner is asked to apply the law to the agreed facts, the Appeal Commissioner’s correct application of the law requires an objective assessment of what the law is and cannot be swayed by a consideration of who bears the burden. If the interpretation of the law is at issue, the Appeal Commissioner must apply any judicial precedent interpreting that provision and in the absence of precedent, apply the appropriate canons of construction, when seeking to achieve the correct interpretation”.*

18. This appeal involves consideration of the application of the SDCA 1999 to the facts of the Appellant’s case. The Commissioner therefore considers it appropriate to set out well-settled principles of statutory interpretation. The Commissioner adopts the summary of the relevant principles to be applied to statutory interpretation, as helpfully set out by McDonald J. in *Perrigo Pharma International Designated Activity Company v McNamara, the Revenue Commissioners, the Minister for Finance, Ireland and the Attorney General* [2020] IEHC 552 at paragraph 74:

*“The principles to be applied in interpreting any statutory provision are well settled. They were described in some detail by McKechnie J. in the Supreme Court in *Dunnes Stores v. The Revenue Commissioners* [2019] IESC 50 at paras. 63 to 72 and were reaffirmed recently in *Bookfinders Ltd v. The Revenue Commissioner* [2020] IESC 60. Based on the judgment of McKechnie J., the relevant principles can be summarised as follows:*

*(a) If the words of the statutory provision are plain and their meaning is self-evident, then, save for compelling reasons to be found within the Act as a whole, the ordinary, basic and natural meaning of the words should prevail;*

(b) *Nonetheless, even with this approach, the meaning of the words used in the statutory provision must be seen in context. McKechnie J. (at para. 63) said that: "... context is critical: both immediate and proximate, certainly within the Act as a whole, but in some circumstances perhaps even further than that";*

(c) *Where the meaning is not clear but is imprecise or ambiguous, further rules of construction come into play. In such circumstances, a purposive interpretation is permissible;*

(d) *Whatever approach is taken, each word or phrase used in the statute should be given a meaning as it is presumed that the Oireachtas did not intend to use surplusage or to use words or phrases without meaning.*

(e) *In the case of taxation statutes, if there is ambiguity in a statutory provision, the word should be construed strictly so as to prevent a fresh imposition of liability from being created unfairly by the use of oblique or slack language;*

(f) *Nonetheless, even in the case of a taxation statute, if a literal interpretation of the provision would lead to an absurdity (in the sense of failing to reflect what otherwise is the true intention of the legislature apparent from the Act as a whole) then a literal interpretation will be rejected.*

(g) *Although the issue did not arise in Dunnes Stores v. The Revenue Commissioners, there is one further principle which must be borne in mind in the context of taxation statute. That relates to provisions which provide for relief or exemption from taxation. This was addressed by the Supreme Court in Revenue Commissioners v. Doorley [1933] I.R. 750 where Kennedy C.J. said at p. 766:*

*"Now the exemption from tax, with which we are immediately concerned, is governed by the same considerations. If it is clear that a tax is imposed by the Act under consideration, then exemption from that tax must be given expressly and in clear and unambiguous terms, within the letter of the statute as interpreted with the assistance of the ordinary canons for the interpretation of statutes. This arises from the nature of the subject-matter under consideration and is complementary to what I have already said in its regard. The Court is not, by greater indulgence in delimiting the area of exemptions, to enlarge their operation beyond what the statute, clearly and without doubt and in express terms, except for some good reason, from the burden of a tax thereby imposed generally on that description of subject-matter. As the imposition of, so the*

*exemption from, the tax must be brought within the letter of the taxing Act as interpreted by the established canons of construction so far as possible”.*

#### *Section 159A of the SDCA 1999*

19. Section 159A(2) of the SDCA 1999 provides that a repayment of stamp duty shall not be made unless the following conditions are met. Section 159(2)(a) of the SDCA 1999 provides that repayment must be provided for in the SDCA 1999. 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 (among other things) 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. Section 159A(2)(c) of the SDCA 1999 sets out time limits for repayment of stamp duty.
20. In this appeal, the parties agreed on the following facts. The Instrument was executed [REDACTED] 2007. The Appellant paid stamp duty in relation to the Instrument [REDACTED] 2007. The Instrument was stamped [REDACTED] 2014. The Appellant claimed a repayment of stamp duty in relation to the Instrument on [REDACTED] 2024. The Commissioner notes that these facts are consistent with the correspondence contained in the documents provided to the Commission and the Commissioner accepts them as material facts.

#### *Four Year Time Limit*

21. Turning then 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... (i) in respect of an instrument stamped by the Commissioners, the latest date the instrument was required to be stamped under section 2”* (emphasis added).
22. In this case, the Instrument was executed [REDACTED] 2007. In accordance with section 2 of the SDCA 1999, the deed was to be stamped within 30 days. Therefore, in accordance with section 159A of the SDCA 1999, the four year time limit ran from 30 days after [REDACTED] 2007.
23. 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 30 days after the date of execution in 2007, by 2011. In this appeal, the Appellant did not dispute that its claim for a repayment of stamp duty was made [REDACTED] 2024 and the Commissioner has found it to be

a material fact that [REDACTED] 2024, the Appellant claimed a repayment of stamp duty. Having regard to this fact, the Commissioner is satisfied that the Appellant's claim fell outside the four year time limit prescribed in section 159A of the SDCA 1999.

24. For completeness, the Commissioner notes that in this case, the Instrument was not stamped until [REDACTED] 2014. Section 159A of the SDCA 1999 previously provided that the four year time limit ran from the date on which the instrument was stamped. However, section 159A of the SDCA 1999 as it applied when the Appellant sought a repayment of stamp duty [REDACTED] 2024 (and which still applies), provides that the four year time limit runs from the latest date the instrument was required to be stamped. For the avoidance of doubt, the Commissioner finds that nothing turns on this point on the facts of this appeal. Even had the four year time limit run from [REDACTED] 2014, that time limit would have ended [REDACTED] 2018, which was six years before the Appellant applied for a repayment of stamp duty [REDACTED] 2024.
25. In this appeal, the Appellant made a number of submissions as to why the four year time limit which is provided for under section 159A of the SDCA 1999 should not apply to the facts of his case. The Commissioner will now address those submissions in turn.

*“Unique Case”*

26. The Commissioner has considered the documentation provided by the Appellant and has heard from the Appellant. Having done so, the Commissioner appreciates that the Appellant considers that the circumstances of his case are unique, on the basis that the Instrument formed part of a transaction which was conditional and which did not complete. In that respect, the Appellant submitted that he felt that he paid stamp duty in relation to the Instrument as a “payment on account”. The Commissioner understands that the Appellant may view the payment of the stamp duty in this manner, in circumstances where the Appellant submits that the transfer of land to which the Instrument related did not ultimately occur.
27. Nonetheless, the use of the word “shall” in section 159A(2) of the SDCA 1999 indicates an absence of discretion in the application of this provision. The Commissioner is mindful of the principles summarised by the High Court in *Perrigo*, as referenced above. The Commissioner is satisfied that the meaning of section 159A(2) of the SDCA 1999 is plain and self-evident. The wording of this provision 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. Previous determinations of

the Commission have addressed the matter of repayment in the context of the four year statutory limitation period and may be found on the Commission's website.<sup>1</sup>

2021

28. The Commissioner also acknowledges the Appellant's submission that the four year time limit should in fact run from 2021, on the ground that this was when the Appellant's agreement to transfer land was no longer relevant and in the Appellant's opinion became null and void. The Commissioner appreciates that the year of 2021 may have a particular significance for the Appellant in the context of the transfer of land to which the Instrument relates. Nonetheless, having regard to the provisions of section 159A of the SDCA 1999, the Commissioner is satisfied that there is no statutory basis on which to find that the time limit for repayment of stamp duty commenced in 2021. It therefore follows that the Commissioner cannot accept this submission.

#### *Other Provisions of the SDCA 1999*

29. In addition, the Appellant made submissions in relation to other matters and provisions of the SDCA 1999 which the Appellant suggested might pertain to his case. First, the Appellant submitted that it could be argued that this case involved the delivery of a deed in escrow. Secondly, the Appellant submitted in relation to section 31(4) of the SDCA: *"while this section does not specifically relate to my case as my case involves land, I feel that it could potentially be relevant....both sections 31 and 31A provide for a situation where an agreement can be rescinded or revoked"*. Thirdly, the Appellant submitted in relation to section 33 of the SDCA 1999: *"I appreciate that again there is timeframe for repayment claims noted in such cases, however as detailed above, I do believe that my case is not necessarily a straightforward case as my case involved a land swap which was subject to a conditional contract for the sale of land to a third party."* At the hearing, the Commissioner requested clarification from the Appellant on whether it was the Appellant's case that the above matters applied to this appeal. In response, the Appellant stated that the Appellant did not say that those matters specifically related to this appeal but rather that they were *"in context"*. The Appellant added that the legislation did not seem to address the situation which arose in this appeal.
30. In this appeal, no evidence was presented in support of the Appellant's suggestion that the Instrument was a deed delivered in escrow and the Commissioner is satisfied that there is no basis on which to find that this was the case. Furthermore, no evidence was presented in support of the suggestion that either section 31(4) or section 33 of the SDCA

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<sup>1</sup> [www.taxappeals.ie](http://www.taxappeals.ie)

1999 applied to the facts of this appeal. Even had evidence been provided to establish that either section 31 or section 33 of the SDCA 1999 applied to this case, both of those provisions are also subject to the four year time limit which is provided for under section 159A of the SDCA 1999; sections 31(4) and 33(2) of the SDCA 1999 refer. Finally, the Commissioner notes that section 31A of the SDCA 1999 came into force on 12 November 2024, which post-dated the date of the execution of the Instrument and which in any event is also subject to section 159A; section 31A(4) of the SDCA 1999 refers.

31. Consequently, the Commissioner finds no basis on which to conclude that the matters outlined above apply to, or would in any event assist in, the facts of this appeal.

### *Fairness*

32. In this case, the Appellant requested fairness in the application of tax legislation and consideration for his particular situation. Additionally, at the hearing the Appellant's representative submitted that the Appellant would not have been aware that the Instrument was not stamped until 2014 and might have taken a different course of action had he been so aware. The Commissioner considers that this argument would appear to be inconsistent with the Appellant's account, which is that it was not until 2021 that it transpired that the transfer of lands would not occur, in which case he would not have sought repayment of stamp duty until 2021. More fundamentally, however, the submissions above relate to fairness and to the conduct of the Respondent.
33. The Commission's jurisdiction was considered by the Court of Appeal in the case of *Lee v Revenue Commissioners* [2021] IECA 18, in which Murray J. 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. Insofar as they are said to enjoy any identified function, it must be either rooted in the express language of the TCA or must arise by necessary implication from the terms of that legislation".*

The Commissioner also notes the High Court judgment of *Menolly Homes*, in which Charleton J. 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."*

34. Accordingly, the Commissioner has no equitable jurisdiction or broader power to consider the wider circumstances surrounding the Appellant's failure to seek repayment of stamp duty within the prescribed four year time limit. Furthermore, the Commission does not

have a supervisory jurisdiction over the Respondent or the conduct of the Respondent's officials, or to consider allegations of unfairness. As stated above, the wording of section 159A of the SDCA 1999 does not provide for extenuating circumstances in which the four year rule might be mitigated. It follows from the above that the Commissioner is satisfied that she must make her determination in accordance with the applicable legislation.

*Section 152 of the SDCA 1999*

35. Finally, the Commissioner wishes to note the following. At the outset of the hearing, the Appellant's representative asked whether the Respondent agreed that the provisions of sections 159A(2)(a) and (b) of the SDCA 1999 had been met in this case. In reply, the Respondent outlined its position that the Appellant had made a claim for repayment of stamp duty [REDACTED] 2024.
36. As noted above, section 159A(2)(a) of the SDCA 1999 provides that repayment of stamp duty shall not be made unless such repayment is provided for in the SDCA 1999. With that in mind, at the hearing the Commissioner asked the Respondent to specify the statutory provision under which the Respondent understood the Appellant's claim for a repayment of stamp duty to have been made, and whether it was section 152 of the SDCA 1999. In response, the Respondent provided a summary of section 152 of the SDCA 1999 and stated that it did not apply. The Respondent did not state which provision applied.
37. The Commissioner observes that the version of section 152 of the SDCA 1999 which the Respondent summarised at the hearing was in force until 17 December 2023. Yet in this case, the Appellant sought a repayment of stamp duty [REDACTED] 2024. Section 152 of the SDCA 1999 as it applied [REDACTED] 2024 (and which still applies), provides for a general right of repayment where a person pays stamp duty in relation to an instrument, which was not due. It therefore seems to the Commissioner that the statutory provision under which repayment of stamp duty was contended to have been provided for was section 152 of the SDCA 1999.
38. In that regard, the Commissioner notes that in written submissions, the Appellant contended that it was reasonable to argue that no stamp duty liability "*has ever technically arisen*" in circumstances where the agreement to transfer lands was not completed. However, the Commissioner does not accept this submission. The Commissioner observes that section 2 of the SDCA 1999 provides that: "*[A]ny instrument which is specified in Schedule 1, and 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*" (emphasis added). Given this, the Commissioner



considers that the liability to stamp duty arose when the Instrument was executed, which in this case was agreed to have occurred [REDACTED] 2007.

39. For the avoidance of doubt, the Commissioner considers that even if she had accepted an argument that stamp duty was not due, this appeal could not succeed. The reason for this is that a claim for repayment of stamp duty must satisfy all of the conditions stipulated in section 159A of the SDCA 1999. Section 159A of the SDCA 1999 mandates through the use of the words “shall not” that no repayment of stamp duty shall be made unless the conditions set out are met. Those conditions include the four year time limit, which was the focus of this appeal and which the Commissioner has addressed above.
40. The Commissioner appreciates that this decision will be disappointing for the Appellant. The Commissioner acknowledges and has sympathy for the particular circumstances outlined on appeal. The Appellant was entitled to check whether the Respondent’s refusal of his 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**

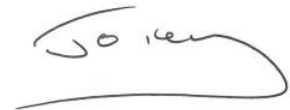
41. For the reasons set out above, the Commissioner determines that the Appellant has not succeeded in showing that the Respondent was incorrect to refuse the Appellant’s claim for a repayment of stamp duty in the amount of €40,950.00 under the SDCA 1999, and the Respondent’s decision stands.
42. This 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**

43. 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**

44. 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.

A handwritten signature in dark ink, appearing to read 'Jo Kenny', with a long horizontal flourish extending to the right.

Jo Kenny  
Appeal Commissioner  
25/09/2025