



AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

25TACD2026

Between

[REDACTED]

Appellant

and

THE REVENUE COMMISSIONERS

Respondent

Determination

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Introduction

1. This matter comes before the Tax Appeal Commission (from here on referred to as "the Commission") as an appeal pursuant to the provisions of section 159A(5) of the Stamp Duties Consolidation Act 1999 (from here on referred to as the "SDCA 1999") against the refusal of the Revenue Commissioners (from here on referred to as "the Respondent") of a claim for the repayment of stamp duty.
2. The amount of tax at issue is €4,950.00.

Background

3. Mr [REDACTED] (from here on referred to as the "Appellant") is a taxpayer who submitted a claim for a repayment of stamp duty to the Respondent on 8 July 2025 which was refused by the Respondent on 15 July 2025.
4. On 19 November 2021, the Appellant received the transfer of a site at [REDACTED] [REDACTED] (from here on referred to as the "site") by way of a Deed of Transfer / Conveyance.
5. The open market consideration for the site was €90,000.
6. The site was non-residential and, at the time of the transfer, stamp duty of 7.5% was applicable to the transfer of non-residential lands.
7. On 1 December 2021, a stamp duty return relating to the transfer of the site was submitted to the Respondent and a payment of €6,750.00 was made, resulting in the Respondent issuing a stamp duty certificate Doc ID [REDACTED] on the same date.
8. Prior to the transfer of the site to the Appellant on 19 November 2021, on 10 May 2021, the Appellant was issued with a "*Notice of Entry on to Register – Commencement Notice*" pursuant to the provisions of Article 10(2) of the Building Control Regulations 1997 – 2015 (S.I No. 496 of 1997) by [REDACTED] Council relating to a Commencement Notice for the site dated 9 May 2021.
9. The Appellant and his wife subsequently built a house on the site.
10. On 8 July 2025, the Appellant submitted an application to the Respondent 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*".
11. On 11 July 2025, the Appellant submitted an amended application to the Respondent for the refund of stamp duty pursuant to the provisions of section 83D of the SDCA 1999.

12. On 15 July 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, his claim could not be accepted.
13. 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 15 July 2025.
14. On 9 September 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. The Respondent has consented, and the Appellant has not 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

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

Section 83D(10) of the SDCA 1999:

"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.”

Submissions

Appellant’s submissions

16. The Appellant submitted the following in his Notice of Appeal:

“I wish to formally appeal the decision made by Revenue in relation to my Stamp Duty Section 83D Repayment Claim, which was rejected on the basis that it was submitted outside the four-year statutory window. I respectfully request that the Tax Appeals Commission consider the circumstances outlined below and review the fairness of the decision in light of the intent and purpose of Section 83D Refund Scheme.

Background:

My Section 83D claim was submitted via eRepayments on 8th July 2025.

The commencement notice for the relevant residential property was acknowledged by the Building Control Management System (BCMS) on 10th May 2021.

The stamp duty liability was not actually paid until 19th November 2021, as part of the property conveyance process. This was handled by my solicitor at the time, and the amount was deducted from my mortgage.

Basis for Appeal:

While I understand that the legislation states a repayment claim must be submitted within four years of the date the BCMS acknowledged the commencement notice, I respectfully submit that:

- 1. The actual payment of stamp duty occurred on 19th November 2021, which is the more logical and justifiable date from which the four-year time limit should begin, particularly in cases where there is a material delay between submission of a commencement notice and actual payment of the duty.*
- 2. Construction did not commence on 10th May 2021, despite the BCMS acknowledgment being issued on that date. There was a delay before work began due to COVID19 restrictions. Therefore, tying the refund entitlement strictly to the BCMS acknowledgement date overlooks the practical realities of the development timeline and the actual financial outlay involved.*
- 3. I was genuinely unaware of the Section 83D repayment scheme. My solicitor did not advise me of the possibility of reclaiming a portion of the stamp duty at the time of payment. I only became aware of the scheme through a personal conversation in early July 2025, and I immediately submitted the claim upon learning of my eligibility.*
- 4. The purpose of Section 83D Residential Development Refund Scheme is to provide relief to those constructing new homes for owner occupation. I fully meet the substantive criteria of the scheme and had I been aware of the time restriction sooner, I would have filed well within the deadline measured from the date of stamp duty payment.*

Request:

I respectfully request that the Tax Appeals Commission consider:

The date of actual stamp duty payment (19th November 2021) as the more appropriate reference point for the four-year deadline, given that this was the date on which the financial obligation was discharged.

The unintentional delay in making the claim due to lack of awareness and advice from my solicitor.

The fact that the claim is only approximately two months outside the four-year window when measured from the BCMS date, and would still fall well within four years from the date the tax was paid.

Given these circumstances, I believe the rejection of my claim on a purely technical timing ground undermines the spirit of the relief scheme and causes undue financial prejudice.

I kindly ask that the Commission consider the circumstances outlined above and to allow the appeal on the basis that the intent of the Section 83D relief is fully met in my case . I believe a short delay in submission should not prevent an otherwise valid and reasonable claim from being granted.”

17. The Appellant submitted a Statement of Case which outlined the circumstances of his appeal as follows:

“I respectfully set out below the facts relevant to my appeal regarding the refusal of a Stamp Duty repayment claim made under Section 83D of the Stamp Duties Consolidation Act 1999:

1. Purchase of Site and Commencement Notice

I am the owner and self-builder of a residential property located at [REDACTED].

On 10th May 2021, a commencement notice was submitted to and acknowledged by the Building Control Management System (BCMS) for the construction of a new dwelling on the site.

While the BCMS acknowledgment was issued on this date, construction did not commence until September 2021.

This delay in starting the build was due to COVID-19 restrictions widespread around that time.

2. Stamp Duty Payment

The transfer of the site ownership and subsequent stamp duty liability on the purchase was not paid at the time of the commencement notice. The transfer of legal ownership and duty was eventually paid on 19th November 2021 as part of the conveyancing process and the mortgage drawdown. This payment was made by my solicitor, who deducted the amount from the mortgage funds and submitted the payment to Revenue on my behalf.

3. Lack of Awareness of Repayment Scheme

At no stage during the conveyancing process was I advised by my solicitor or any party of the existence of a Section 83D repayment scheme. I became aware of the scheme only in early July 2025, following a casual conversation with a friend who had made a successful claim. Upon learning this, I immediately submitted a repayment claim via the eRepayments system on 8th July 2025.

4. Basis for Revenue's Rejection

Revenue rejected my repayment claim on the grounds that it was made outside the 4-year limit from the date the BCMS acknowledged the commencement notice (10th May 2021).

While I acknowledge that the date of claim submission falls approximately two months beyond that 4-year deadline, I respectfully submit that the stamp duty was not paid until November 2021, which is still well within four years of the claim date. I further submit that the delay in submitting the claim was due entirely to lack of awareness, and not due to negligence or deliberate inaction.

5. Claimant Eligibility

I confirm that I meet all other eligibility criteria under Section 83D of the Act, including the use of the property as my principal private residence. This appeal relates solely to the timing of the claim, and not to any dispute over my eligibility under the terms of the relief.

I respectfully ask the Commission to consider the circumstances outlined above and to allow the appeal on the basis that the intent of the Section 83D relief is fully met in my case. I believe the short delay in submission should not prevent an otherwise valid and reasonable claim from being granted.”

18. The Appellant submitted the following supplementary information in his Statement of Case:

“Supplementary Information – Impact of COVID-19 Emergency Measures

I wish to draw the Commission’s attention to national circumstances that were in effect at the time my commencement notice was submitted.

On 10 May 2021, my commencement notice was acknowledged by the Building Control Management System. This date fell within the national COVID-19 emergency response period, during which the Department of Housing had introduced exceptional measures under S.I. No. 112/2020 and S.I. No. 113/2020 to ease building control burdens and accommodate delays. These measures were extended to 9 June 2021 and are detailed in the attached Department of Housing circular dated 22 December 2020.

While these measures formally applied to specific Schedule 1 buildings, they also reflect the broader disruption to the construction sector, which impacted timelines for private homebuilders like myself. In my case, construction was delayed and key information — including awareness of the Section 83D scheme — was not accessible to me until mid-2025.

I submit this supplementary information to demonstrate that the timing of my claim - while slightly outside the 4-year period when measured from the BCMS acknowledgment — is reasonable in light of the national emergency context, the actual timeline of tax payment, and my immediate action upon learning of the scheme.”

Respondent’s submissions

19. 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 relating to residential development shall not be allowed unless it is made within 4 years following 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 Building Control Regulations 1997 (S.I. No. 496 of 1997).

Material Facts

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

- 20.1. On 19 November 2021, the Appellant received the transfer of the site by way of a Deed of Transfer / Conveyance.
- 20.2. The open market consideration for the site was €90,000.

- 20.3. The site was non-residential and, at the time of the transfer, stamp duty of 7.5% was applicable to the transfer of non-residential lands.
- 20.4. On 1 December 2021, a stamp duty return relating to the transfer of the site was submitted to the Respondent and a payment of €6,750.00 was made, resulting in the Respondent issuing a stamp duty certificate Doc ID [REDACTED] on that date.
- 20.5. Prior to the transfer of the site to the Appellant on 19 November 2021, on 10 May 2021, the Appellant was issued with a “*Notice of Entry on to Register – Commencement Notice*” pursuant to the provisions of Article 10(2) of the Building Control Regulations 1997 – 2015 (S.I No. 496 of 1997) by [REDACTED] Council relating to a Commencement Notice for the site dated 9 May 2021.
- 20.6. The Appellant and his wife subsequently built a house on the site.
- 20.7. On 8 July 2025, the Appellant submitted an application to the Respondent 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*”.
- 20.8. On 11 July 2025, the Appellant submitted an amended application to the Respondent for the refund of stamp duty pursuant to the provisions of section 83D of the SDCA 1999.
- 20.9. On 15 July 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, his claim could not be accepted.

Analysis

21. 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 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.”

22. 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.

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

24. 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).”

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

26. Section 159A(2) of the SDCA 1999 (as in force from 18 December 2023 onwards) provides that

“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)

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

“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,

...”

28. A repayment of stamp duty was sought by the Appellant on 11 July 2025, following submission of his amended repayment claim. 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 relation to the Stamp Certificate dated 1 December 2021 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 11 July 2025 following the delivery of the relevant amended claim to repayment by the Appellant. This was in excess of 4 years from the date of acknowledgement by [REDACTED] Council, a building control authority, in accordance with Article 10(2) of the Building Control Regulations 1997 – 2015 which was issued on 10 May 2021 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. However, 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 words “*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.¹
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.
35. The Commissioner notes the information submitted by the Appellant in relation to the impact of COVID-19 on building and the existence of S.I. No. 112/2020 and S.I. No. 113/2020 which were introduced by the Government during 2020. However, as no amendment was made to the SDCA 1999 in relation to the time for submitting claims for the repayment of stamp duty, the Commissioner has no jurisdiction or discretion to amend the time limit for such claims.

Determination

36. 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 15 July 2025 disallowing the repayment of stamp duty paid in relation to the transfer of the site shall stand.
37. It is understandable the Appellant will be disappointed with the outcome of this appeal. This is an unfortunate 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.
38. 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

39. 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

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

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

40. 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
14 January 2026