

Fergal Dearle & Caroline Crowley  
Driseog,  
Baldwinstown,  
Co. Wexford  
Y35 XY00

Public Consultation  
Tax Appeals Commission  
Floor 8, Fitzwilton House,  
Wilton Terrace,  
Dublin 2  
D02 FX04

12<sup>th</sup> Nov 2017

Dear Sir/Madam,

We wish to make a submission to yourselves in response to your "Public Consultation Paper Rules & Procedures of the Tax Appeals Commission" of 4<sup>st</sup> September 2017. We understand that this is quite a late submission. As ordinary taxpayers we were only made aware of the consultation by an article in the Irish Times Business section last Wednesday.

We note the deadline from your paper and hope that the words "may not be considered" are used and that this may mean that you will accept this late submission in the interest of hearing directly from some ordinary taxpayers who are directly impacted by the issues addressed in the consultation.

We write to you both in a personal capacity as taxpayers and as directors of our company Dearle Technologies. Both parties have appeals outstanding and are awaiting a hearing.

We will address the issues in order of importance as they impact ourselves

"Class Action"

We have no objection in principle to the use of class actions in settling appeals even though we would ourselves not elect to become involved a class action. However we have grave concerns about class actions if they were to be of the type reported in the Irish Times.

Our understanding of a class action is one where a number of appellants engage the same representation at appeal because they consider their cases to be similar in nature. The type of class action reported in the Irish Times seem to suggest that it would be Revenue who decided who to lump together in a class action. In our opinion this flies against all of the principles of jurisprudence, human rights and administrative law you refer to in your paper.

Our experience has been that Revenue have refused to engage with us in a meaningful way to understand the specifics of our situation. Our appeal results

from Revenues ill judged National Contractors Project, where the approach was to place blanket assessments across a swathe of companies based on initial findings against a small cohort of transgressing companies. It would be a travesty of justice if Revenue were allowed to cherry pick a "Test Case" of their pleasing and lump all us other innocent parties in with that test case.

#### "Mediation"

We have asked Revenue on numerous cases to meet with us and our counsel and they have refused. We also requested a counsel to counsel meeting without which was also refused. We believe that mediation would be of great benefit and should be pursued at every opportunity.

#### "Time Scales"

We had a recent delay of almost 4 months in the process where Revenue were asked for comment on the case but they did not reply for almost four months and even then only when we demanded they do. Revenue should have to respond in a timely manner in the same way that they appellatant does.

With regard to timescales in general, at this point we are waiting over two years for our case to be heard. We got some indication of the progress of cases through the system from the commissions annual report and we can see some progress from the determinations published on your website. However the main issue is that lack of transparency with regard to when we can expect our own case to be heard. It could be next month or it could be in several years. There should be some way for us to monitor our progress through the system. *AS*

#### "Cost of the System"

The biggest cost to us so far has been the delays. We initially briefed our counsel in early 2015 at the point in time that we made our appeal. It was not until almost a year later that submissions were requested. By this time our counsel had taken a position at a large consultancy and was no longer independent. We had to brief him again via the consultation company and pay more fees to that consulting company. Another year has passed and our counsel has moved yet again and is now in a position where he has had to recuse himself for the process. If and when we get a hearing we will now have brief another counsel and pay yet more fees. Had our case been heard in a timely manner we would have had our preferred counsel and we would be free of this process instead of being in the limbo we are in.

Yours Sincerely

Fergal Dearle & Caroline Crowley

*Fergal Dearle*  
*Caroline Crowley*