

FOI - Information on decision-making procedures

Published: 28 February 2020

From: [Tax Appeals Commission](#)

How we make decisions

The Tax Appeals Commission is an independent statutory body, tasked with providing a modern and efficient appeals process in relation to the hearing and adjudication of tax disputes and therefore does not make public policy.

A determination made by an Appeal Commissioner is considered final and conclusive, unless the determination is appealed, on a point of law only, by either the Appellant or the Revenue Commissioners to the High Court.

The Tax Appeals Commission does not have unlimited powers. It can only do what the law gives it the power to do.

Sometimes, if it accepts that your appeal is valid, it can determine that the tax assessment that you are appealing should be replaced with the assessment it thinks should have been made. In other appeals, it can direct Revenue to adjust its assessment. This adjustment could be upwards as well as downwards.

If the Tax Appeals Commission does not accept that your appeal is valid, it will uphold the assessment that you are appealing against.

Burden of proof

The burden of proof generally falls on the Appellant to demonstrate to the satisfaction of the Appeal Commissioners that the assessment issued by Revenue or the final decision letter issued by Revenue is incorrect.

Does every appeal result in a hearing?

No. There are occasions where appeals can be decided upon without the need for a hearing, such as:

- An Appellant can withdraw their appeal anytime and instruct the TAC to close it accordingly.
- An Appellant can settle with the Revenue Commissioners anytime and instruct the TAC to close it accordingly.
- While the appeal is proceeding, both parties are given the option to agree to the Appeal Commissioner adjudicating on the matter without a hearing. This will only occur if both parties consent and the Appeal Commissioner agrees that a fair adjudication is possible. If any party objects to this, then the appeal will proceed to a hearing (s.949U).
- An Appeal Commissioner may, having regards to a previous determination that raised common or related issues and, if they consider it appropriate, determine an appeal without a hearing. Advance notice of intention will issue and parties have 21 days to respond. If no response is received within 21 days or if the Appeal Commissioner is not persuaded by the arguments, then the Commissioner may make a determination without holding a hearing (s.949AN).

Deciding your appeal without a hearing

The Appeal Commissioners may decide to adjudicate (i.e. to decide upon) your appeal without holding an appeal hearing. When you submit your Statement of Case, you will be asked to indicate if you are willing to have your appeal decided without a hearing.

If the Appeal Commissioners decide to **adjudicate an appeal without a hearing**, they will **notify** you and any other parties to the appeal in writing of their intention to adjudicate the appeal without a hearing.

If you decide that you would prefer to have your appeal heard at an appeal hearing, you can still make this choice.

When the Appeal Commissioners adjudicate an appeal without a hearing, they will make their decision based on the information they have received from you and any other party to the appeal. This includes information provided by you in the Notice of Appeal, in a Statement of Case and, if applicable, the outlines of legal arguments being put forward on the matter under dispute in the appeal.

Directions from the Tax Appeals Commission

The Tax Appeals Commission is charged with running an efficient tax appeals process which is as accessible and as fair as possible. As part of the efficient running of the appeal process, the Appeal Commissioners have a wide range of powers which enable them to issue binding instructions, known as **Directions**, to the parties to the appeal. These are binding instructions and must be complied with in order for your appeal to proceed.

During the appeal process, the Appeal Commissioners may direct you to do a number of things. Examples of the type of directions that the Appeal Commissioners can make include:

- Staying or delaying the appeal proceeding for a fixed period.
- Asking the parties to attend a case management conference.
- Asking the parties to submit a statement of agreed facts (evidence).
- Asking the parties to submit a book of documents which includes the written evidence to be presented at the hearing.
- Asking the parties to submit a book of authority containing legislation, case law and other materials which are being relied upon during the hearing.

- Asking for a statement of evidence intended to be given by any witness who is being called upon at the appeal hearing.
- Where expert evidence of a technological or scientific nature is likely to be relied upon by the parties, directing that the experts meet in advance of the hearing and prepare an agreed statement detailing those areas in which the experts are in agreement and those areas in which the experts differ.
- Directing that additional parties join the appeal.

Directions from the Appeal Commissioners will be communicated to all parties to the appeal in writing (whether by email or by post). The correspondence will generally be headed **Direction** and will describe the instruction contained in the correspondence. For example, a Direction letter requesting you to attend a case management conference will be titled **Direction to attend a Case Management Conference**.

The Direction will set out the deadline which the Tax Appeals Commission has set for you to meet the instruction. Failure to comply with a Direction may result in your appeal being dismissed. If the appeal is dismissed, the assessment or decision issued by Revenue will stand.

[Dismissal of Appeal](#)

The Appeal Commissioners may dismiss your appeal where you fail to comply with a direction of the Appeal Commissioners, e.g. to provide information which they consider relevant to the adjudication of the matter under appeal. The Tax Appeals Commission will issue a notice of its' intention to dismiss your appeal and you will be given the opportunity provide an explanation as to why you believe the appeal should not be dismissed. The Appeal Commissioner will then adjudicate on this and make a decision which will be final and conclusive.

Alternatively, the Appeal Commissioners may decide on the matters under dispute in your appeal based on the information they have received and according to their best judgment.

Types of determinations

- **Oral determination** - An Appeal Commissioner may decide, after hearing the appeal, to give an oral determination at the end of the appeal hearing. This determination will subsequently be made in writing and will be sent to both parties to the appeal.
- **Written determination** - Where an oral determination is not made at the conclusion of the hearing, you will have to wait until the Appeal Commissioners issue a written determination once they have considered all the facts and evidence.

The Appeal Commissioners will issue a determination in your appeal as soon as practicably possible. Once the Appeal Commissioners have made a decision in your appeal, the written determination will be sent to both you and the other party to the appeal e.g. the Revenue Commissioners, within 21 days of the decision being formed.

Publication of determinations

The Tax Appeals Commission will publish your determination on its website, www.taxappeals.ie within 90 days of both parties to the appeal being notified of the determination. Before we do this, we will remove your name and other personal details related to your appeal to protect your identity.

Appealing a Determination

If you do not agree with the decision contained in the determination issued by the Appeal Commissioners, you may be entitled to appeal the determination to the High Court. However, this can only be on a point of law. There is likely to be limited scope for the High Court to overturn or set aside a finding of fact by the Appeal Commissioners.
