



PHYSICAL HEARING GUIDELINES

1. INTRODUCTION

[1.1] The Tax Appeals Commission (TAC) are re-commencing physical hearings of tax appeals, (in relation to both preliminary and substantive matters) to facilitate the ongoing delivery of an appeal process in taxation matters during the Covid-19 restrictive measures. These guidelines are intended to apply during the continuance of any restrictive measures adopted by the government and will continue following the lifting of those measures, if it assists in the efficiency and effectiveness of the TAC.

[1.2] The number of physical hearings may be reduced, compared to pre-Covid-19, due to current social distancing guidelines and other health and safety issues. The TAC will hold remote hearings, where appropriate, as an alternative to physical hearings. Separate guidelines will issue to assist in relation to those remote hearings.

[1.3] The guidance and procedures prescribed in this document are intended to be applied flexibly. It is not intended to be exhaustive but rather to identify the minimum arrangements necessary to enable the TAC to continue to operate effectively during the Covid-19 restrictive measures. It may be necessary to revise this document from time to time, as circumstances change, and having regard to the experience of the TAC and the parties of how the arrangements operate in practice. The success of physical hearings during the Covid-19 restrictive measures will depend on the willingness of the parties to co-operate with the TAC.

2. OVERARCHING PRINCIPLES

[2.1] Every physical hearing will be planned and conducted in a manner designed to safeguard the right of a fair hearing.

[2.2] The overriding objective of section 6(4) of the Finance (Tax Appeals) Act, 2015 and section 949H of the Taxes Consolidation Act, 1997 applies to the planning and conduct of physical hearings.

3. PRE-HEARING

Selection of Appeal for Physical Hearing

[3.1] The TAC will undertake a review of appeals and evaluate the suitability of an appeal for a physical hearing. Where an appeal is considered suitable, the TAC will notify the parties and seek the consent of the parties to proceed by way of a physical hearing.

Limit on number of Participants attending a Physical Hearing

[3.2] The TAC has 3 hearing rooms to conduct physical hearings. However, due to the current COVID-19 guidelines on social distancing:

- 2 rooms can only accommodate a maximum of 6 participants from each party.
- 1 room can only accommodate a maximum of 3 participants from each party.

The TAC will decide the most appropriate available room and parties must adhere to the maximum number of participants able to attend. However, it is possible for a party to ask the Appeal Commissioner for one participant to leave the physical hearing and be replaced with another.

Notification to the Parties

[3.3] The parties will be required to provide the TAC with the names and contact particulars (e-mail addresses and telephone numbers) of every participant who will be attending the physical hearing. This information should be sent to the TAC by e-mail to scheduling@taxappeals.ie preferably by no later than **7 days** before the physical hearing. This information is essential because at the beginning of the

physical hearing, the Appeal Commissioner will confirm all present as the participants notified to the TAC and any participant who has not been notified to the TAC may be excluded or removed from the physical hearing.

[3.4] Notifications will issue by the TAC to the parties and nominated representative on record with instructions on how access the offices of the TAC on the day of the physical hearing at least **3 days** before the hearing. A participant should ensure that they have received an e-mail invite to attend the physical hearing from the TAC directly or from the parties or nominated representative so they are ready to attend the hearing in good time on the scheduled hearing date.

Documents for the Hearing

[3.5] In advance of the physical hearing, the parties will be directed to liaise with each other to provide documents and materials to the TAC no later than **7 days** before the hearing, which may include:

- an agreed Book of Documents (the documentary evidence that will be presented at the physical hearing);
- an agreed Book of Authorities (the statutory provisions, case law and commentary that will be relied upon at the physical hearing).

[3.6] All books must be indexed, tabbed and paginated in an agreed and consistent format between all parties. All documents in the books must be legible and complete. It is essential that the books are delivered in this format, otherwise it will become exceedingly difficult for an Appeal Commissioner and the other participants to reference and follow the documents during a physical hearing.

[3.7] TAC does not have the capacity or resources to make printed versions of documents sent electronically. The documents should continue to be delivered physically to the offices of the TAC and sent by e-mail to scheduling@taxappeals.ie

[3.8] The late submission of documents and materials to the TAC has a significant impact on the efficient and effective conduct of a physical hearing. A physical hearing will not proceed where all the required documents and materials

have not been provided to the TAC and exchanged between the parties in accordance with the directions from the TAC. The admissibility of any subsequent documents and materials will be a matter for the Appeal Commissioner.

Pre-Hearing Form for Completion

[3.9] The parties must complete the form set out in the appendix to these guidelines setting out the required information and send the form to the TAC by e-mail to scheduling@taxappeals.ie.

Recording of Hearing

[3.10] The recording or live streaming of physical hearings is strictly prohibited. No-one is permitted to make any video or audio or other recording or image whatsoever of any part of the hearing. Stenographers can attend the physical hearing at the offices of the TAC. Any arrangements for the attendance of a stenographer must be notified to the TAC in advance and authorised by the Appeal Commissioner.

Data Protection

[3.11] The parties must take all necessary steps to ensure the confidentiality and security of any communications, documents or materials of a confidential or sensitive nature being transmitted electronically and will be responsible at all times for compliance with all applicable requirements of GDPR.

Facilities within the TAC

[3.12] Due to the current Covid-19 restrictions, there will be no accessible water dispensers available within the offices of the TAC. The seating of the hearing room will be laid out so as to comply with current social distancing guidelines.

4. HEARING

Conduct of Hearing

[4.1] The conventional sequence of oral presentations to the Appeal Commissioner will continue to apply, unless otherwise directed by the Appeal

Commissioner. The Appeal Commissioner will invite the Appellant representative, or party, to deliver an opening to provide background on the appeal. This will be followed by the presentation and examination of evidence (if applicable). When the evidence has concluded, the Appellant representative, or party, will be invited to make submissions. The Respondent representative, or party, will then be invited to make submissions. The Appellant representative, or party, will be given the opportunity to reply to the submissions made by the respondent representative, or party.

[4.2] At the end of the physical hearing, the Appeal Commissioner will direct that the hearing is concluded and the Appeal Commissioner will be the first to leave the hearing room. The participants are requested to exit the hearing room as quickly as possible, while observing social distancing as they exit the building.

Witnesses

[4.3] The oath or affirmation of a witness will be administered, if required by the Appeal Commissioner. If the parties wish to swear an oath they should ensure they have the requisite religious texts in their possession. This is the responsibility of the parties and TAC has no responsibility in this regard.

[4.4] The witness should be familiar with the documents and materials that will be referred to during the evidence. Any documents and materials referred to by the witness should be in the same format as the books delivered to the Appeal Commissioner.

Communications between Parties and Representatives

[4.5] Permission to confer privately may be requested of the Appeal Commissioner by a representative at any stage. In such event, the Appeal Commissioner will make appropriate directions to facilitate the privacy of such communications in a separate room within the offices of the TAC.

5. POST-HEARING

Documents

[5.1] If a stenographer attended a hearing, the transcript should be delivered to the TAC by e-mail to scheduling@taxappeals.ie and physically delivered to the offices of the TAC.

[5.2] In exceptional circumstances, if the Appeal Commissioner accedes to a request or decides that further documents and materials should be submitted after the physical hearing, the Appeal Commissioner will give a direction orally at the hearing on the documents and materials to be delivered and specify the date by which the direction must be complied with by the parties. Failure to comply with the direction may result in a determination being delivered in any event.

Determination

[5.3] The determination of the Appeal Commissioner will be notified to the parties electronically. The determination will be published on the website of the TAC not later than 90 days after notifying the parties of the determination.

Appendix



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TAX APPEALS COMMISSION

Physical Hearing Form

(If consenting to proceed by way of a physical hearing)

Appellant / Revenue	
TAC Reference Number	
Appeal Name	

List of Participants – *preferably no later than 7 days before the physical hearing*

Name	Title	Email Address	Telephone Number

I/We also agree to the following:

Limit on number of Participants attending a Physical Hearing

[1] The TAC has 3 rooms to conduct physical hearings. However, due to the current COVID-19 guidelines on social distancing:

- 2 rooms can only accommodate a maximum of 6 participants from each party.
- 1 room can only accommodate a maximum of 3 participants from each party

The TAC will decide the most appropriate available room and parties must adhere to the maximum number of participants able to attend.

Documents for the Hearing

[1] Parties must liaise with each other to provide documents and materials to the TAC no later than 7 days before the hearing, which may include:

- an agreed Book of Documents (the documentary evidence that will be presented at the remote hearing);
- an agreed Book of Authorities (the statutory provisions, case law and commentary that will be relied upon at the remote hearing).

[2] All books must be indexed, tabbed and paginated in an agreed and consistent format between all parties.

[3] All documents in the books must be legible and complete.

[4] Documents must be delivered physically to the offices of the TAC or sent electronically to scheduling@taxappeals.ie

[5] A hearing will not proceed where all the required documents and materials have not been provided to the TAC and exchanged between the parties in advance of the scheduled date.

Preparations by the Parties

[1] Parties are responsible for sending a complete list of participants electronically to the TAC in advance of the hearing. Any participant who has not been notified to the TAC may be excluded or removed from the physical hearing.

[2] Participants must be familiar with the instructions issued in advance of the hearing on social distancing and other health and safety issues and comply with these when entering the offices of the TAC.

[3] Due to Covid-19 restrictions, there will be no accessible water dispensers available within the offices of the TAC.

[4] Any video or audio or other recording or image whatsoever of any part of the hearing is strictly prohibited.

[5] Stenographers can attend a hearing similar to any participant.

Conduct of Hearing

[1] All mobile phones or other electronic devices not being used for the purpose of the hearing should be turned off for the duration of the hearing.

[2] Participants should be ready to attend the hearing at least 15 minutes before it is scheduled to begin.

[3] Participants should comply with current social distancing guidelines at all times.

Procedure during Hearing

[1] If a party who has been notified of the time appointed for the hearing does not attend at the time appointed, the appeal shall be treated as if it had been withdrawn.

Witnesses

[1] If the parties wish to swear an oath they should ensure they have the requisite religious texts in their possession prior to the oath taking. This is the responsibility of the parties and TAC has no responsibility in this regard.

[2] The witness should be familiar with the documents and materials that will be referred to during the evidence.

[3] Any documents and materials referred to by the witness should be in the same format as the books delivered to the Appeal Commissioner.