

Stamp Duties Consolidation Act 1999

Part 4 –Assessments and Appeals

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4.1 Part 4: Assessments and Appeals	

This Part contains the provisions relating to the making of stamp duty assessments and appeals against stamp duty assessments. .

4.2 Section 20 of the SDCA

Self Assessment by Accountable Persons

Under self assessment, introduced in relation to instruments executed on or after 7 July 2012, accountable persons are obliged to:

- (a) File an electronic Stamp Duty Return through the Revenue on-line system (“ROS”)
- (b) Include in the return an assessment of the stamp duty due on the instrument
- (c) Pay the stamp duty by the due date (and any interest, where applicable).

Assessment of duty by the Commissioners

If an accountable person fails to file a return the Revenue Commissioners are empowered to assess an accountable person on the amount of duty which, to the best of their knowledge, is chargeable on an instrument.

The Revenue Commissioners may make another assessment to be substituted for any assessment in order to ensure the correct duty and interest is charged .

Instruments

Under self assessment and eStamping, instruments are no longer submitted to the Revenue Commissioners for stamping. A Stamp Duty Return is filed instead.

However, the Revenue Commissioners are empowered to require a copy of an instrument and any additional evidence they deem necessary to satisfy themselves that the instrument has been correctly stamped.

4.3 Section 21 of the SDCA

Appeals under Self Assessment

A self assessment made by an accountable person cannot be appealed.

However, if the accountable person has made an error in filing a Stamp Duty Return, or in a self assessment, an amended return (with any necessary amended self assessment) may be filed.

Where the Revenue Commissioners make an assessment or an additional assessment, an accountable person can only appeal against that assessment or additional assessment if the following conditions are satisfied:

Conditions:

- (i) A Stamp Duty Return has been filed
- (ii) The duty (including any late filing surcharge under Section 14A(3) and any interest calculated in accordance with Section 159D) payable in accordance with the Stamp Duty Return, is paid.
- (iii) The appeal is made within 30 days of conditions (i) and (ii) above being satisfied.
- (iv) The notice of appeal must specify:
 - (a) each amount or matter in the assessment with which the accountable person is aggrieved, and
 - (b) detailed grounds of appeal in relation to each amount or matter

Where an appeal is not resolved by agreement, the appeal is heard before the Appeal Commissioners - an independent tribunal statutorily established to hear tax and duty appeals. The process is reasonably informal. A taxpayer may appear on his/her own

behalf or be represented at his/her own expense – for example by a solicitor or an accountant. The Appeal Commissioners hear appeals in Dublin and in various provincial locations. Appeals are listed for hearing at the most convenient location for the appellant.

If a taxpayer is dissatisfied with the Appeal Commissioners' decision, he/she may have the appeal re-heard by the Circuit Court or he/she may, where a point of law is involved, appeal directly to the High Court by way of a procedure known as a "case stated".

Expression of Doubt and Appeals

An accountable person may appeal a decision of the Revenue Commissioners that an expression of doubt, made by the accountable person under Section 8C (5) SDCA, is not genuine. Notice of appeal must be given to the Revenue Commissioners within 30 days of being so notified by the Revenue Commissioners.

The stamp duty appeals procedures are, subject to any necessary modifications, based on the appeals procedures that apply for the purposes of income tax. Please refer to the Income Tax, CGT and Corporation Tax Manual for further details.

Appeals in relation to Land or Building values - Land Values Reference Committee

If the matter under appeal relates specifically to the value of land or buildings, the independent appeal hearing in relation to that matter will be carried out by a property arbitrator appointed by the Land Values Reference Committee.

A taxpayer should give notice of appeal on form ADJN37, within 30 days of the determination of value. The form is in duplicate. One part of the form should be sent to the relevant stamp duty office and the other part to:

The Secretary,

Land Values Reference Committee,

The Supreme Court Office,

The Four Courts,

Dublin 7.

If a taxpayer is dissatisfied with the decision of the property arbitrator, he/she may, depending on the value of the property, appeal further to either the Circuit Court or to the High Court.