

NOTES FOR GUIDANCE

CAPITAL ACQUISITIONS TAX CONSOLIDATION ACT 2003

**(as amended by subsequent Acts up to and including the
Finance (No.2) Act 2023)**

Part 8: Appeals



These notes are for guidance only and do not purport to be a definitive legal interpretation of the provisions of the Capital Acquisitions Tax Consolidation Act 2003 (No. 1 of 2003) as amended by subsequent Acts up to and including the Finance (No.2) Act 2023.

Part 8: Appeals

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PART 8 APPEALS

Overview

This Part contains provisions relating to appeals regarding the value of real property, appeals in other cases and conditions which must be complied with before an appeal can be made.

In addition to a statutory right of appeal, taxpayers can avail of an internal review procedure under which anyone who is dissatisfied with a decision, or an assessment made by the Revenue Commissioners may arrange to have that decision or assessment reviewed by a senior Revenue officer.

Section 66 Appeals regarding value of real property

Summary

Where the question in dispute is the market value of real and leasehold property, the taxpayer may appeal to the property arbitrator appointed by the Land Value Reference Committee under the Property Values (Arbitration and Appeals) Act 1960. Both the taxpayer and the Revenue Commissioners may appeal a decision of the property arbitrator to the Courts. Appeals in all other cases are dealt with in **section 67**.

The information contained in the particulars delivered form, which has to be furnished under the Stamp Duties Consolidation Act 1999 whenever a transfer or a lease takes place, will be received as *prima facie* evidence of all matters and things stated in such particulars for the purpose of any appeal under this section.

Details

This section refers to real property which is defined in **section 2** as, in effect, all immovable property – land and buildings. Where agreement cannot be reached between the taxpayer and the Revenue Commissioners, the taxpayer can appeal a decision of the Revenue Commissioners in the manner prescribed by section 33 of the Finance (1909-10) Act 1910. Section 33 of that Act provides for a property arbitrator to be appointed by the Land Values Reference Committee. That Committee consists of the Chief Justice, the President of the High Court and the President of the Society of Chartered Surveyors Ireland. The appeal must be in the manner prescribed by section 33 of the Finance (1909-10) Act 1910. That section states that any person may appeal in the manner to be provided by rules made under that section. Amended rules entitled “Property Values (Arbitration and Appeals) Rules 1961” were drawn up in 1961 governing appeals to the property arbitrator. The property arbitrator was appointed by the Property Values (Arbitrations and Appeals) Act 1960, as the person to hear appeals under the 1910 Act. That Act allowed an appeal from the property arbitrator to be made to the Circuit Court or the High Court, as appropriate. (1)

The particulars to be delivered to the Revenue Commissioners under section 12(2) of the Stamp Duties Consolidation Act 1999 when property is sold or transferred will be received as *prima facie* evidence of all matters and things stated in such particulars for the purpose of any appeal under this section. (2)

67 Appeals in other cases

Summary

This section allows for appeals in any case (other than the case of the value of real property to which the provisions of section 66 apply) in which a person is aggrieved by the assessment of tax. The appeal lies to the Appeal Commissioners and, broadly speaking, the machinery adopted is the same as that applying to an appeal against an assessment of income tax.

Decisions of the Revenue Commissioners notified by them to the parties in a particular form may also be appealed to the Courts.

Details

This subsection was deleted by Finance (Tax Appeals) Act 2015 with effect from 21 March 2016. (1)

Any person who is requested by the Revenue Commissioners to pay an assessment of tax and who is aggrieved(2)(a) by the assessment may appeal against the assessment to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the notice of assessment.

Where no appeal is made in accordance with paragraph (a) by a person to whom a notice of assessment has been given, that assessment shall be final and conclusive. (2)(b)

An assessment that is otherwise final and conclusive shall not, for any purpose of the Act be regarded as not final and conclusive by reason only of the fact that a Revenue officer has amended, or may amend, the assessment. (2)(c)

No appeal will lie under this section in relation to the market value of real property (to which *section 66* (3) applies).

This subsection was deleted by Finance (Tax Appeals) Act 2015 with effect from 21 March 2016. (4)

This subsection was deleted by Finance (Tax Appeals) Act 2015 with effect from 21 March 2016. (5)

This subsection was deleted by Finance (Tax Appeals) Act 2015 with effect from 21 March 2016. (6)

This subsection was deleted by Finance (Tax Appeals) Act 2015, paragraph (e)(ii) with effect from 21 March 2016. (7)

Decisions of the Revenue Commissioners issued under the section to a person who is accountable for payment (8) of the tax may be appealed against under this section and the appeal can be heard and determined as if the appeal were an appeal against an assessment of tax.

67A Payment of tax following determination of an appeal

This section provides for the payment of outstanding capital acquisitions tax following the determination of an appeal by the Appeal Commissioners. Such tax is due and payable on the original due date for the appealed assessment unless the tax paid before the appeal was made is at least 90% of the tax determined to be due, in which case the outstanding tax is due and payable one month after the date of the determination.

68 Conditions before appeal may be made

Summary

This section ensures that individuals must first lodge an appropriate self-assessed return, and pay tax in accordance with that return, before being allowed to appeal against any gift/inheritance tax assessment made by Revenue.

Details

No appeal will lie under section 66 or 67 until such time as the person aggrieved by the decision or assessment of the Revenue Commissioners (as the case may be) delivers to the Revenue Commissioners a full and true return of—

- the gift or inheritance in question;
- all the property comprised in such gift or inheritance on the valuation date;
- an estimate of the market value of such property on the valuation date; and
- such particulars as may be relevant to the assessment of tax in respect of such gift or inheritance.

The appellant must make on that return an assessment of such amount of tax as, to the best of that person's knowledge, information and belief, ought to be charged, levied and paid on the valuation date and pay the tax and interest in accordance with that assessment.