

TAX AND DUTY APPEALS MANUAL

Appeals made after 21 March 2016

This Tax and Duty Appeals Manual will replace the Manual contained in the Part 40 (Appeals) section of the 'IncomeTaxCapitalGainsTaxCorporationTax' TDM. It applies in relation to appeals made on or after 21 March 2016, the date on which the Finance (Tax Appeals) Act 2015 (Appeals Act) came into operation and the new Tax Appeals Commission (TAC) was established.

This new manual will be populated incrementally as the new appeals process settles down. Initial material will cover what is currently known about the new process, the treatment of appeals that are already in train and the immediate implications for Revenue staff. Further material will be included following the establishment of the TAC and its publication of its 'Rules of Procedure'.

Relevant material from the existing Tax and Duty Appeals Manual (Part 40 TCA 1997) that has not been made redundant by the changes made to the appeals process will be incorporated into the new manual. This existing manual will continue to be relevant in relation to some appeals that were at various stages of the appeal process on 21 March 2016.

1. Reform of tax and duty appeals process

1.1 Background to reform

The Minister for Finance announced a public consultation on the reform of the tax appeals process in his 2013 Budget Speech. Submissions to the consultation were made in January 2014 by various stakeholders such as the ITI, CCABI, Law Society and Revenue. These consultations were not published by the Department of Finance but Revenue published its submission on its website.

1.2 Finance (Tax Appeals) Act 2015

The outcome of the consultation process was the enactment of the Finance (Tax Appeals) Act 2015 (Appeals Act) which came into operation on 21 March 2016. The first part of the Appeals Act establishes the new Tax Appeals Commission (TAC) and deals with such matters as the appointment of Appeal Commissioners and their functions and independence. The Act inserts a new Part 40A into the Taxes Consolidation Act 1997 that deals with the appeals process itself. The Act also makes a significant number of amendments to the various tax and duty Acts to standardise the appeal provisions across the various Acts and to correct any anomalies that were identified.

1.3 Main changes to the appeals process

A fundamental change to the appeals process is the requirement that all appeals (other than customs duties and VRT 'first-stage' appeals) are to be made directly to the TAC and not to Revenue in the first instance. The Appeal Commissioners will have sole responsibility for accepting or refusing appeals. This change strengthens the independence of the TAC from Revenue. Another significant change is the ending of an appellant's right to a rehearing before a Circuit Court Judge. The procedure for appealing to the High Court on a point of law has been revised; the statement of the case for the High Court ('case stated') must now be prepared by the Appeal Commissioners themselves (instead of by agreement between the parties to the appeal) within a strict time limit of three months. To improve the transparency of the appeals process, the Appeal Commissioners are required to publish anonymised versions of all of their determinations. A transparency measure that was considered but not introduced was to have all hearings in public; instead, the new legislation provides for a default of public hearings but allows the appellant a private hearing on request.

1.4 Revised statutory basis for appeals

A new Part 40A in the TCA 1997 contains all of the provisions relating to the appeals process itself and includes such matters as the making of an appeal, documentation to be submitted to the TAC, adjudication and hearing procedures, determination of appeals, publication of determinations and appeals to the High Court.

The right of appeal is now contained in the provisions dealing with the particular matter that can be appealed and is no longer linked to an appeal against an income tax assessment. Wording along the lines of “*as if the appeal were an appeal against an assessment to income tax and the provisions of the Income Tax Acts relating toshall with the necessary modifications apply accordingly*” has been removed and each right of appeal now operates on a standalone basis. Once there is a right of appeal, the provisions of Part 40A TCA 1997 automatically apply in a generic way to appeals for all taxes and duties.

The wording of the right of appeal has been standardised across all of the taxes and duties and is now “*A person aggrieved by an assessment (determination/decision/action etc.) may appeal the assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that assessment.*”. Section 949I TCA 1997 provides for the submission of a ‘Notice of Appeal’, containing specified information, to the TAC. With a very small number of exceptions, the time allowed for making an appeal has been standardised at 30 days after the notification of the assessment (determination/decision/action etc.)

2. Short-term implications for Revenue

On 21 March 2016 the Finance (Tax Appeals) Act 2015 came into operation and the new Tax Appeals Commission (TAC) was established. This section of the Appeals Manual provides a brief overview, insofar as this is known at this stage, of the short-term implications for Revenue.

2.1 TAC ‘rules of procedure’

Following its establishment on 21 March 2016, the TAC published its ‘rules of procedure’ on its website www.taxappeals.ie. This covers such matters as how appeals are to be made, what documentation will have to be submitted to the TAC, how the TAC will adjudicate on disputed matters, the time limits that will be allowed for various steps in the process etc. The Appeals Manual will be updated as the new process becomes established and as the implications for Revenue’s management of its appeals are considered. In the meantime, a flowchart in Appendix 1 summarises how the new appeals process is broadly expected to operate based on the provisions in the Appeals Act.

2.2 Appeals made from 21 March 2016

Appeals made from 21 March 2016 should be made directly to the TAC and not through Revenue. Section 3 below contains details of how this new procedure will operate in practice.

2.3 Transitional arrangements for existing appeals

On 21 March 2016 when the Appeals Act came into operation Revenue was still dealing with appeals that were made before this date but that had not yet been referred to the Appeal Commissioners with a request for a hearing date. Section 5 below contains details of how these appeals are to be treated. In addition, section 4 below contains details of the treatment that will apply to those appeals that were already being dealt with by the Appeal Commissioners on 21 March 2016 but that may be subject to revised procedures after this date.

2.4 Settlement by agreement with Revenue

The fact that appeals are to be made directly to the TAC in the first instance and that the TAC will have full control over the listing of appeals does not preclude the continuation of settlement discussions between Revenue and appellants after an appeal has been made. Where such discussions result in an agreement the case worker is to notify the TAC immediately.

2.5 Issuing of AH1's

The form 'AH1' that has been used to refer an appeal to the Appeal Commissioners to list the appeal for a hearing, having been agreed with the appellant, will no longer be used. It is expected that the TAC will require the submission of its own specified documentation when preparing an appeal for a hearing.

2.6 Appeals wording on existing Revenue notices, leaflets, manuals etc.

Notices of assessment and notifications of appealable decisions/determinations made by Revenue will have to advise taxpayers of their rights of appeal and the new procedures for appealing. Existing references to a taxpayer's right of appeal or to appeals being made through Revenue will have to be changed to reflect the new requirement, which is that appeals should be made directly to the TAC from 21 March 2016. These changes should be made as soon as is practicable.

Wording along the following lines should be used, depending on the particular circumstances of the case:

"If you wish to appeal against [.....], you must do so within the period of [x] days after the date of this/the [notice, notification, decision, determination, opinion, refusal....whatever is appropriate] by completing and submitting a ' Notice of Appeal' form to the Tax Appeals Commission (TAC). The 'Notice of Appeal' form, which is available on the TAC's website www.taxappeals.ie, contains the address to which an appeal is to be sent. You will be required to submit a copy of this/the [notice, notification, decision, determination, opinion, refusal....whatever is appropriate] with your 'Notice of Appeal'. The TAC can be contacted by email at info@taxappeals.ie."

Any system-generated notifications (such as Notices of Assessment) will be updated centrally by Planning Division and the Collector-General's Office. Notifications and letters that are produced by individual case workers on a case by case basis will have to incorporate similar wording to that used in system-generated notifications. However, there may be scope in non system-generated notifications to provide more detail on the new appeal process.

Staff who are responsible for the publication and updating of leaflets, guides, manuals, website material etc. should review their material to see if it needs updating as a result of the changes made to the appeals process. The updating process depends on the form of the material, for example:

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

- **Printed leaflets/guides and PDF versions of guides:** The Divisional owners (business owners) are to update all such leaflets and guides in line with normal procedures.

- **Manuals in the TDM system:** Any changes to the Tax and Duty Manuals will have to go through the normal TDM process.

Some general comments:

- The Tax Appeals Commission (TAC) has replaced the Office of the Appeal Commissioners. However, there is no change in the name of the Appeal Commissioners themselves. Therefore, references to the generic “Appeal Commissioners” in existing documentation do not need to be changed.
- The address of the TAC is unchanged – Fitzwilton House, Wilton Place, Dublin 2 D02FX04. However, the TAC will have a new email address info@taxappeals.ie and website www.taxappeals.ie. It is preferable if documentation that requires programming changes refers to the website and email addresses and not to the postal address and telephone number.
- In relation to timeframes and dates, use the form of words “within the period of [x] days after the date of the notice etc.” to ensure clarity and Revenue-wide consistency.
- Appeal Commissioners are now appointed under section 2 of the Finance (Tax Appeals) Act 2015 instead of under section 850 Taxes Consolidation Act 1997.
- The appeals provisions are now contained in Part 40A of the Taxes Consolidation Act 1997 and not Part 40 of this Act.

2.7 Appeals Dashboards

The appeals dashboards have been further developed to facilitate the recording of relevant information in relation to Revenue’s management of its appeals, particularly in relation to the imminent issuing of ‘settlement’ letters and the transfer of existing unsettled appeals to the TAC. Section 6 below contains a note on the dashboards. A detailed operational manual on the use of the dashboards will be published in the near future.

3. New Appeals received from 21 March 2016

3.1 Appeals submitted to TAC from 21 March 2016

From 21 March 2016, appellants should submit their appeals directly to the TAC and not to Revenue. The TAC will then refer a copy of the 'Notice of Appeal' (available at www.taxappeals.ie) together with whatever Revenue notification (containing the appealable matter) was issued to the appellant, to Revenue for confirmation that the particular appeal is a valid appeal.

3.2 Channels of communication between TAC and Revenue

Pending the development of case management systems for appeals in both Revenue and the TAC, an interim channel of communication is required for the notification of appeals to Revenue by the TAC and the Revenue validation of such appeals back to the TAC. 'MyEnquiries', a structured online contact facility that allows customers to securely send and receive correspondence to and from Revenue, is to be used for this purpose.

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[...]

The TAC is to submit a notification of a new appeal to Revenue by adding a new enquiry through 'MyEnquiries'. The drop down category 'official use only' and the sub-category 'TAC' are to be used (i.e. the fields 'My Enquiry Relates To' and 'And More Specifically'). The TAC is to send the 'Notice of Appeal' and the notification of the appealable matter that was issued to the appellant by Revenue as attachments to the enquiry. The TAC is also to use these enquiry categories to notify Revenue that it has refused to accept an appeal.

TAC enquiries are directed to the appellant's local Revenue office based on the tax reference number provided by the TAC. Case workers will then work these enquiries in 'iC' and reply to the TAC using 'MyEnquiries'. The relevant drop down item for case workers is 'Appeal Notification'. Case workers/appeals teams are to look for 'Audit' and their district as the 'location' to find 'Appeal Notification'. The existing 'Audit' location is being reused rather than creating a new dedicated TAC location. **Replying to the TAC requires some different steps than replying to other enquiries and it's important that case workers use the correct procedure.** This procedure is set out in Appendix 2.

Because an email notification will only issue to case workers when the TAC uses the 'FAO' option when submitting a new enquiry, case workers/appeal teams should check for new appeal notifications on a regular basis. It's up to Regions/Districts to put arrangements in place to ensure that all new appeal notifications are identified and dealt with as quickly as possible in accordance with section 3.4 below.

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[...]

‘MyEnquiries’ is also to be used for communications with the TAC other than new appeal notifications, the Revenue validation of such appeals and the notification of refusals of appeals by the TAC.. It is important that Revenue is in a position to distinguish new appeal notifications from other types of TAC communications. For this reason, some additional sub-categories have been developed; the sub-category ‘TAC – Other’ (external users) and ‘Appeal – Other’ (Revenue users). These sub-categories should be used in relation to, for example, the submission of material in preparation for an appeal hearing, notification of dates for appeal hearings, issuing of Appeal Commissioners’ determinations and drafts of a ‘case stated’ for the High Court.

A new systems development means that case workers can now initiate communications in ‘MyEnquiries’. The email address to be used for the TAC when doing this is info@taxappeals.ie.

3.3 What is a valid appeal?

An appeal is a valid appeal¹ if-

- It is made in relation to an ‘appealable matter’, i.e. a matter in respect of which an appellant has a statutory right of appeal. This will usually be apparent from the notification containing the appealable matter (such as a notice of assessment) that Revenue issued to the appellant,
- Any statutory conditions that are required to be met before an appeal can be made have been met:
 - where the appeal is against an assessment made by Revenue, a return must have been made in respect of the particular year of assessment and the self-assessed liability must have been paid together with any interest due on that amount,
 - in the case of a ‘late’ appeal,² any enforcement action that has been commenced must be completed, and
 - in the case of an appeal that is more than 12 months late, a return must have been made in respect of the particular year of assessment and the tax chargeable on foot of the disputed assessment must have been paid together with any interest due on that amount.

3.4 Steps to be taken by a case worker

¹ Section 949J TCA 1997

² Section 949O TCA 1997

This section should be read in conjunction with section 3.2 above (channels of communication between Revenue and the TAC) and Appendix 2.

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[...]

The case worker should establish if the appeal is a valid appeal and should notify the TAC whether the appeal is considered to be valid or not. In the case of an appeal that is considered not to be valid, the TAC should be advised of Revenue's objection to the acceptance of the appeal and the reason for this objection.³ The TAC is then required to notify the appellant of any Revenue objection. The case worker should confirm the validity of an appeal to the TAC no later than 30 days after receiving notification of the appeal from the TAC.⁴

Case workers should send all appeals relating to customs duties to the Customs Branch of CACD in Nenagh.

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New appeals should be entered on the appropriate appeals dashboard and all the relevant details recorded.

3.5 Appeals submitted to Revenue on or after 21 March 2016

Appeals that are submitted to Revenue by appellants on or after 21 March 2016 should be treated in the same way as the notification of an appeal received from the TAC. The case worker should carry out the steps described in section 3.4 and refer whatever documentation was submitted by the appellant to the TAC. The case worker should advise the appellant that the appeal has been referred to the TAC and the reason for this and should also refer the appellant to the TAC's website www.taxappeals.ie.

The case worker should not be concerned with whether or not the appellant has submitted the required 'Notice of Appeal' form or whether it has been correctly completed or not; this is entirely a matter for the TAC. Whatever notification of appeal is submitted by the appellant should be date stamped on the day of receipt by

³ Section 949L TCA 1997

⁴ Section 949L(2) TCA 1997

Revenue. This date will be required by the TAC to establish if the appeal is a late appeal. Whether or not an appeal is a late appeal is entirely a matter for the TAC.

A more recent version of this manual is available.

4. Transition of existing appeals to the new appeals process

The transitional provisions are contained in Part 3 of the Appeals Act and cover such matters as appeals refused by Revenue, appellants who will retain the right to a Circuit Court rehearing and how appeals that were being dealt with by the retired Appeal Commissioners are to be progressed by the new Appeal Commissioners. The issue of ‘settlement’ letters to existing appellants whose appeal is still with Revenue on 21 March 2016 is dealt with separately in section 5.

4.1 Corresponding stage in new process

The general rule for the transition of existing appeals (made before 21 March 2016) to the new appeals process is that such appeals are to move to the stage in the new process that corresponds most closely to the stage that the appeal had reached in the old process⁵. For example, appeals that have been accepted by Revenue will not have to go through the process (described in section 3.4) of being confirmed as valid appeals. An appeal that has been referred to the TAC but that has not yet been listed for a hearing will be subject to the TAC’s new Rules of Procedure.

4.2 Circuit Court

Under the old appeals process, an appellant who was dissatisfied with a determination of the Appeal Commissioners could request a full rehearing of the appeal by a Circuit Court Judge (CCJ). This CCJ rehearing will not be available under the new appeals process. However, the right to such a rehearing will be retained by those appellants whose hearing before the Appeal Commissioners had begun or had been completed before 21 March 2016. Where such a hearing has not begun, an appellant will be restricted to an appeal to the High Court on a point of law⁶.

4.2.1 Examples

4.2.1.1 The Appeal Commissioners listed an appeal for a hearing on 24 March 2016, having notified the parties of this on 6 January 2016. If the appellant loses the appeal, he or she will not have a right to a CCJ rehearing as the hearing does not actually begin until after 21 March 2016.

4.2.1.2 A hearing before the Appeal Commissioners began on 18 March 2016. The hearing continues for 5 working days and a determination is given against the appellant on 24 March 2016. The appellant retains the right to a CCJ rehearing as the hearing before the Appeal Commissioners began before 21 March 2016.

4.2.1.3 A hearing before the Appeal Commissioners began on 10 February 2016 but was then adjourned and listed for resumption on 20 April 2016. If the appellant loses the appeal, he or she will retain the right to a CCJ rehearing.

⁵ Section 27(2) Appeals Act

⁶ Section 27(4) Appeals Act

4.2.1.4 The Appeal Commissioners made a determination against an appellant on 23 June 2015. The appellant appealed against this determination and is waiting for the appeal to be reheard by a CCJ. This rehearing will proceed as usual under the old appeals process.

4.3 Retirement of Appeal Commissioners

4.3.1 Uncompleted appeals

The Appeals Act provides for the situation where a previous Appeal Commissioner has retired without completing the hearing of an appeal or without making a determination in an appeal that was heard by him. In this situation, a new Appeal Commissioner is to either rehear the appeal, disregarding the previous hearing or part-hearing, or proceed to adjudicate and determine the appeal without a rehearing.⁷

4.3.1.1 Example

A hearing that began on 10 December 2015 was adjourned and is set to resume in April 2016. As the hearing began before 21 March 2016 and the Appeal Commissioner who began hearing the appeal has since retired, a new Appeal Commissioner may decide to rehear the case in full or to adjudicate and determine the disputed matter, possibly based on submissions received from both parties (Revenue and appellant) and a transcript of the uncompleted hearing.

4.3.2 Appeals to the High Court

Appeals to the High Court against a determination of the Appeal Commissioners are made by stating a case for the opinion of the High Court on a point of law (known as a 'case stated'). Under the old appeals process, the 'case stated' was drafted by both parties and agreed between them before being submitted to the Appeal Commissioners for sign off. On 21 March 2016, there will have been 'cases stated' that won't have been agreed between the parties and that can't be signed off by the now retired Appeal Commissioner who determined the appeal.

In this situation, the parties to the appeal will be asked to indicate to the TAC, within a specified time period, whether they wish to have the appeal reheard by a new Appeal Commissioner or to have the case stated completed. Both of the parties must opt for a rehearing for this to happen. For example, if only Revenue opts for a rehearing, the case stated is to be completed by a new Appeal Commissioner.⁸

Where the parties are still attempting to agree the terms of the 'case stated' between them, as soon as practicable after 21 March 2016, the TAC may give them some additional time to do this. If the parties do not comply with this direction, a new Appeal Commissioner is to complete the 'case stated'. A new Appeal Commissioner also has the discretion to amend a 'case stated' that has been submitted by the parties.⁹

⁷ Section 28 Appeals Act

⁸ Section 29 Appeals Act

⁹ Section 30 Appeals Act

Following the completion of a 'case stated' by a new Appeal Commissioner in these circumstances, the High Court has discretion to order the appeal to be reheard where it forms the view that justice would not be served by its dealing with the 'case stated'.¹⁰

4.3.2.1 Example

An appeal was determined by a now retired Appeal Commissioner in favour of Revenue on 1 October 2015. The appellant appealed the determination to the High Court by way of a 'case stated' but this was not completed by 21 March 2016. In response to a request from the TAC, the appellant indicates that she wants a new Appeal Commissioner to rehear the appeal while Revenue indicates that it wants to proceed with the 'case stated'. As both parties do not opt for a rehearing, a new Appeal Commissioner will complete the 'case stated'. The TAC gives the parties an additional six weeks to agree the terms of the 'case stated' with each other. At the end of the six weeks the parties do not manage to reach agreement. The new Appeal Commissioner completes the 'case stated' and the High Court then makes its decision on the point of law submitted to it.

4.4. Appeals refused by Revenue before 21 March 2016

Up to 21 March 2016, Revenue could refuse to accept an appeal where it considered that the appellant was not entitled to make the appeal or where the appeal was late for reasons other than absence, sickness or other reasonable cause. Revenue also had to be satisfied that, in the case of a late appeal, the appellant made the appeal as soon as practicable after the reason for the delay had ceased. In the case of appeals that were more than 12 months late, Revenue could also refuse to accept an appeal where not enough information was provided by the appellant to enable the appeal to be settled and where the tax assessed by Revenue had not been paid.

Appellants could appeal to the Appeal Commissioners against Revenue's refusal to accept their appeal within 15 days of the date of the notice of refusal. This will not be a feature of the new appeals process because appeals will be made directly to the TAC who will make all decisions about whether or not to accept an appeal. However, Revenue may have refused to accept an appeal at some point during the 15 days preceding 21 March 2016. In this situation, an appellant may appeal such a refusal to the TAC.¹¹

Any appeal that is not refused by Revenue before 21 March 2016 is deemed to be accepted by the TAC. The TAC may decide to refuse to accept the appeal at a later date.

4.4.1 Examples

4.4.1.1 Revenue refuses to accept an appeal on 18 March 2016. As this is before 21 March 2016, the appellant may appeal the refusal to the TAC up to 1 April 2016.

4.4.1.2 Revenue received a late appeal on 15 March 2016 but intends to refuse it as the appellant does not satisfy the conditions for a late appeal. However, the notice of refusal does not issue by 21 March 2016. The appeal is deemed to be accepted but this is subject to the TAC deciding at a later stage that the appeal is not a valid appeal and should not be accepted.

5. Issue of ‘settlement letters’ to appellants

5.1 Settlement of open appeals by agreement with appellants

On 21 March 2016 when the Appeals Act came into operation Revenue was still dealing with appeals that were made before this date but that had not yet been referred to the Appeal Commissioners with a request for a hearing date (referred to as unsettled appeals). The Appeals Act (section 31) provides for this situation. Revenue has a statutory obligation under Section 31 of the Appeals Act to refer such appeals to the TAC as soon as practicable after 21 March 2016. However, before doing so, Revenue is required to notify the appellant of this statutory requirement and to request that the appellant indicates whether he or she wishes to settle the appeal by agreement with Revenue or to have the appeal referred to the TAC for hearing. Where the appellant indicates a wish to settle the appeal by agreement but agreement is not then reached, Revenue is also required to refer the appeal to the TAC.

5.2 Summary of key points

- In order to ensure that Revenue complies with its statutory obligations, a template letter, to be sent to each appellant, has been designed for the purpose of ascertaining the appellant’s wishes. The black text in the letter is to be treated as ‘fixed’ text. **This text is not to be amended or deleted by case workers.** See section 5.5 below for further details.
- A settlement letter must **not** be issued to an appellant whose appeal was referred to the Appeal Commissioners before 21 March 2016. See section 5.3.1 below for further details.
- All settlement letters are to be issued by 29 April 2016. See section 5.6 below for further details.
- Case workers are instructed not to send any appeals to the TAC on or after 21 March 2016. Following the issue of settlement letters, and any subsequent discussions, Revenue’s Appeals Project Working Group will oversee the referral of all such appeals to the TAC, including those where appellants indicate that they do not wish to enter into settlement discussions. See section 5.7 below for further details.
- The appeals dashboards must be updated to reflect the most up to date position with each unsettled appeal. See section 5.8 below for further details.

5.3 Preparation for issue of settlement letters

5.3.1 Check that appeal still with Revenue

Before issuing a settlement letter to an appellant, case workers should ensure that the relevant appeals dashboard (either Stop 16 or Non Stop 16) accurately reflects the most up to date position with each appeal. Above all, case workers must be certain

¹⁰ Section 29(9) Appeals Act

¹¹ Sections 25 and 26 Appeals Act

that the AH1 form has not already been sent to the Appeal Commissioners with a request for a hearing. A settlement letter must not be issued to an appellant whose appeal was referred to the Appeal Commissioners before 21 March 2016.

5.3.2 Check address

Case workers should make every effort to ensure that the address that Revenue has for an appellant is the most up-to-date address. The address information on the Stop 16 dashboard is imported from CRS. However, the address on the Non Stop 16 dashboard is not system-generated. Therefore, it is imperative that case workers take the necessary care and attention to ensure the most up-to-date address is used.

There is a statutory requirement to issue the letter to the appellant. However, where the particular appellant has an agent, the letter should also be sent to the agent. It is important to consider the possibility that the agent acting for the appellant for the purpose of the appeal may not be the agent acting for the appellant in other tax matters as recorded on CRS. Again, it is imperative that caseworkers take the necessary care and attention to ensure they copy the letter to the appropriate tax agent.

5.3.3 Check for stops other than stop 16's

It is important to consider the possibility that it might not be appropriate to send a settlement letter to a particular appellant, for example, the appellant has died since the most recent communication with Revenue. Case workers should check for the presence on the appellant's record of stops such as:

- Unknown address/DLO
- Deceased:
- Insolvency: bankruptcy, liquidation, receivership.

In the case of DLO and insolvency stops, there will be appeals for which it will be appropriate to send settlement letters, but the situation needs to be investigated before doing so.

5.3.4 IPD/LCD cases

Districts should ensure that where appeals are allocated to IPD or LCD on the appeals dashboards that responsibility for dealing with the settlement letter is clearly allocated to either the district case worker or a case worker in IPD/LCD, as appropriate. This caveat also applies in relation to taxpayers belonging to large groups/syndicates who are dealt with by districts other than the district to which the taxpayer 'belongs'.

5.3.5 Irish language cases

Case workers should check for the presence of an 'Irish' marker on the case. Where an appellant has indicated a wish to conduct his or her tax business through Irish, the Irish version of the settlement letter must be issued.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

5.4 Revenue assessment/decision not to be upheld

There is an exception to the requirement to issue a settlement letter in the case of an appeal where, following a review of the particular assessment, decision, determination or action that gave rise to the appeal, Revenue forms the view that the assessment etc. should not be upheld. Case workers should consider this when preparing to issue a settlement letter. Where a case worker considers that an assessment etc. should not be upheld, he or she should seek the approval of the relevant District Manager to withdraw the assessment etc. and notify the appellant accordingly. The reason for the withdrawal of the assessment etc. should be explained to the appellant.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

5.5 Template settlement letter

The template settlement letter is set out in the box below. The letter is to be issued together with a separate sheet containing the notification that an appellant is to return to Revenue indicating his or her preferred option for progressing the appeal. A template is also provided for this notification. A pre-paid return envelope should be issued with each settlement letter to facilitate the appellant returning the notification to Revenue.

Where the letter is to be issued to both the appellant and his or her agent, the version of the letter that is issued to the agent should state that the letter has also been issued to the appellant

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

The black text in the template letter is to be treated as ‘fixed’ text. This text is not to be deleted or amended in any way. However, it is recognised that some consideration will have to be given to the particular circumstances of each appeal and some additional text may be inserted where this is warranted. This additional text should be kept to a minimum. **All blue text should be amended to information specific to the appeal. Any blue text irrelevant to the appeal should be deleted. The colour of all finalised adjustable text should be changed to black.**

SETTLEMENT LETTER TEMPLATE

Re: *Insert Customer Name – Insert Customer Tax Reference Number*

Dear *Customer or Agent Name*

I refer to your appeal against *The adjustable text that should be inserted here is a reference to the particular matter being appealed, for example,*

- *the income tax notice of assessment for the year 2014,*
- *the refusal of a VAT repayment for the chargeable period March-April 2015,*
- *the valuation of a particular vehicle for VRT purposes, or*
- *the determination that a person is a liable person for the purposes of LPT.*

The case worker should insert sufficient text to clarify what the appeal relates to but this should be kept to a minimum. To avoid confusion, the specific matter being appealed should be inserted rather than the date of the appeal as a particular appellant may have made more than one appeal over a number of years.

I wish to inform you that the tax and duty appeals process is undergoing wide ranging reform following the commencement of the Finance (Tax Appeals) Act 2015 on 21st March 2016. Part of that reform includes–

- (a) the establishment on 21st March 2016 of a new Tax Appeals Commission (the Commission) whose functions in relation to adjudicating on, hearing, determining and disposing of appeals are performed by the Appeal Commissioners; and
- (b) a requirement that, after 21st March 2016, appellants (or their agents) must submit their appeals in relation to tax and duty matters directly to the Appeal Commissioners instead of (as before) through the Office of the Revenue Commissioners.

As your appeal was lodged with Revenue before 21st March 2016, Revenue has an obligation, under Section 31 of the Finance (Tax Appeals) Act 2015, to–

- send that appeal to the Appeal Commissioners as soon as is practicable; and
- ascertain if you wish to explore a potential settlement of your appeal by agreement before it is sent to those Commissioners.

In view of the statutory obligations set out above, it is appreciated if you will indicate if you wish to–

- (i) enter into immediate discussions for a period of no longer than three months with a view to exploring whether your appeal can be settled by agreement; or
- (ii) have your appeal referred to the Appeal Commissioners (which will take place after 1st June 2016).

Please note that–

- as regards (i) above, if you indicate that you wish to enter into such discussions and your appeal is not settled by agreement by 1st September 2016, then it will be referred to the Appeal Commissioners;
- if I do not hear from you within 30 days of the date of this letter, I will assume that you do not wish to enter into discussions with a view to settling your appeal by agreement and I will refer your appeal to the Appeal Commissioners after 1st June 2016; and
- notwithstanding that an appeal is referred to the Appeal Commissioners, there is nothing to prevent discussions with a view to settling that appeal by agreement prior to the hearing of that appeal by an Appeal Commissioner.

Some other additional text may be warranted here where an appeal is under current and active discussion between Revenue and the appellant or there has been very recent communication. In these circumstances, to avoid causing confusion for the appellant the case worker might insert some additional text at the end of the letter. For example, "I appreciate that you are currently in discussions with Revenue in an effort to settle the disputed matter but I am, nevertheless, required by law to issue this letter." Or "Notwithstanding your letter/email/phone call etc. of DD/MM/YYYY, I am required by law to issue this letter." This additional text should be kept to a minimum.

Please complete and return the enclosed notification. A freepost addressed envelope has been included with this letter to enable you to do this.

I have also sent this letter to (name of appellant). Insert this text where the letter is being sent to both the appellant and his or her agent.

Yours Sincerely,

District Inspector or Case Worker Name to whom notification is to be returned

NOTIFICATION TO REVENUE OF APPELLANT'S PREFERRED OPTION

Re: *Insert Customer Name – Insert Customer Tax Reference Number*

Notification to be returned to: *District Inspector or Case Worker Name to whom notification is to be returned*
Revenue Address Line 1
Revenue Address Line 2
Revenue Address Line 3
Revenue Address Line 4

Further to your letter dated (Insert date of letter on page 1) please note I wish to:

(Please mark A **or** B with an X as appropriate)

☐

A: enter into discussions with Revenue to explore whether my appeal can be settled by agreement.

☐

B: have my appeal referred to the Appeal Commissioners.

Customer Signature: _____

Customer Name (Block Capitals): _____

5.6 Timeframe allowed for settlement

Settlement letters should be issued during the month of April but are to be issued by 29 April 2016 at the very latest. The appellant is being given a period of 30 days from the date of the settlement letter to respond to the letter. A non-response is to be taken as an indication that the appellant does not wish to enter into settlement discussions with Revenue. This timeframe and assumption are clearly stated in the letter.

Revenue has a statutory obligation to refer unsettled appeals to the TAC as soon as is practicable. For this reason, settlement discussions are not to be continued for a protracted period. The settlement letter contains a reference to “entering into immediate discussions for a period of no longer than three months”.

5.7 Referral of unsettled appeals to TAC

Unsettled appeals are to be referred to the TAC for determination where an appellant:

- doesn't respond to the settlement letter,
- in response to a settlement letter, indicates that he or she doesn't wish to enter into settlement discussions, or

- enters into settlement discussions with Revenue, but these discussions don't result in the settlement of the appeal within a reasonable period.

Case workers/districts are not to send unsettled appeals directly to the TAC. Revenue's Appeals Project Working Group¹² is to oversee the referral of all such appeals to the TAC.

5.8 Appeals dashboards

The two appeals dashboards have been updated to include additional fields to enable case workers to record the various stages in the process of issuing a settlement letter and settling the appeal or referring the 'unsettled' appeal to the TAC. Case workers must ensure that the dashboards reflect the most up to date position of an appeal. The dashboard will be used to ensure that Revenue is complying with its statutory obligations in relation to the settlement of appeals. It will also be used to compile a report of relevant information in relation to an appeal for the purpose of referring 'unsettled' appeals to the TAC.

Specifically, the following six new fields have been added to the dashboards:

- AH1 sent to Appeal Commissioners: Enter 'Yes/No' as appropriate. 'Yes' if the case was referred to the Appeal Commissioners before 21 March 2016 to arrange a hearing. If 'Yes', a settlement letter should not be issued. If 'No', the case worker needs to consider if the appeal should be withdrawn or if a settlement letter should be issued.
- Settlement Letter Issued: Enter 'Yes/No' as appropriate depending on whether the case worker issues the settlement letter or not.
- Settlement Letter Issued Date: Enter the date on which the settlement letter was issued.
- Settlement Discussions Requested: Enter 'Yes/No' as appropriate depending on whether appellant indicates that he or she wishes to try and settle the appeal by agreement with Revenue.
- Case sent to TAC: Enter 'Yes/No' as appropriate. Enter 'No' at the beginning of the settlement process and only change to 'Yes' when the case is referred to the TAC. A 'Yes' entry is not appropriate for cases that were referred to the Appeal Commissioners before 21 March.
- Date Sent to TAC: Enter the date on which the case was referred to the TAC.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

¹² This group is chaired by the Revenue Solicitor, Marie-Claire Maney and comprises a representative from each of the Regions and LCD, Planning Division, ICT&LD, RLS, RSO, CACD and C.G's

5.9 Summary of District responsibilities

- The case worker dealing with the particular appeal is to review the case and either issue a settlement letter or withdraw the appeal. The settlement or withdrawal letter should be issued by 29 April 2016.
- Where the appellant indicates that he or she wishes to enter into settlement discussions, the case worker is to try and conclude these discussions within a period of three months from commencing the discussions.
- The case worker is to update the appeals dashboard following each stage in the process to reflect the most up-to-date position with the appeal.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

- District managers are responsible for monitoring progress in issuing settlement letters and settlement discussions.
- No action is to be taken in districts in relation to the referral of unsettled appeals to the TAC. This is to be overseen by Revenue's Appeals Project Working Group which includes representatives from the Regions and LCD.

6. Appeals Dashboard

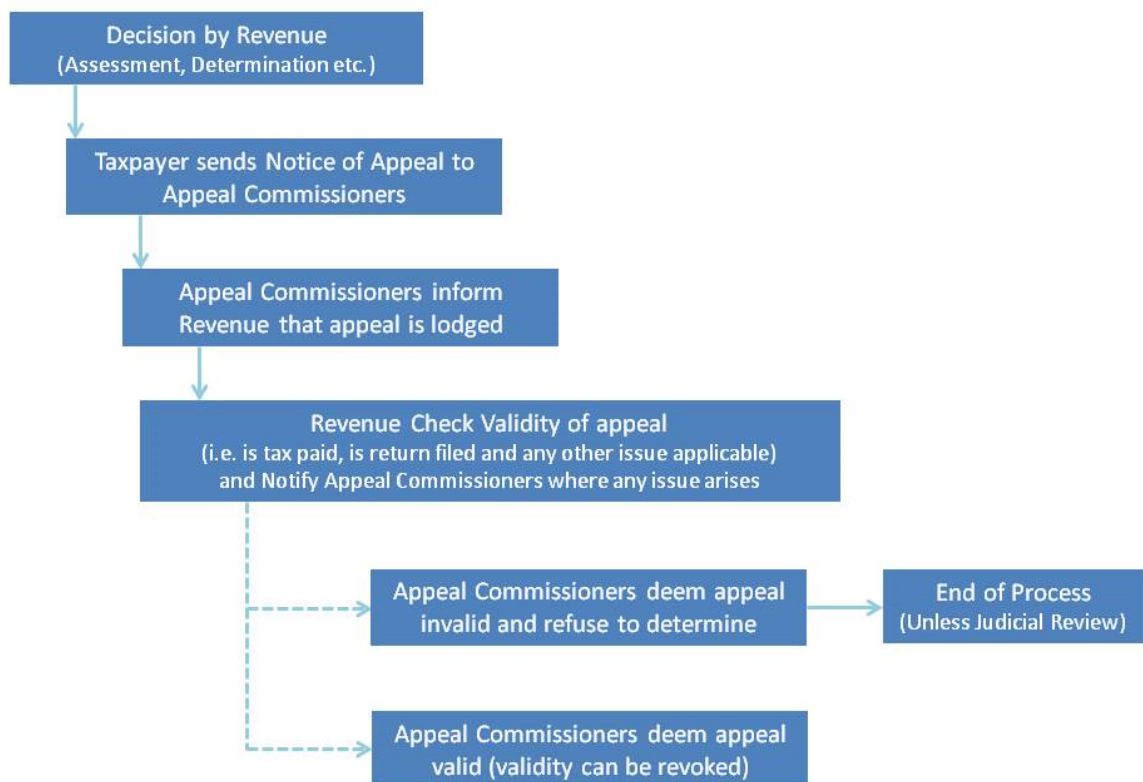
The appeals dashboards are used to record appeals and to track their progress. They are a useful tool for district managers in monitoring and managing the appeals dealt with by case workers in their district. It is important that case workers ensure that the information on the dashboards is regularly updated as an appeal progresses through the appeals process.

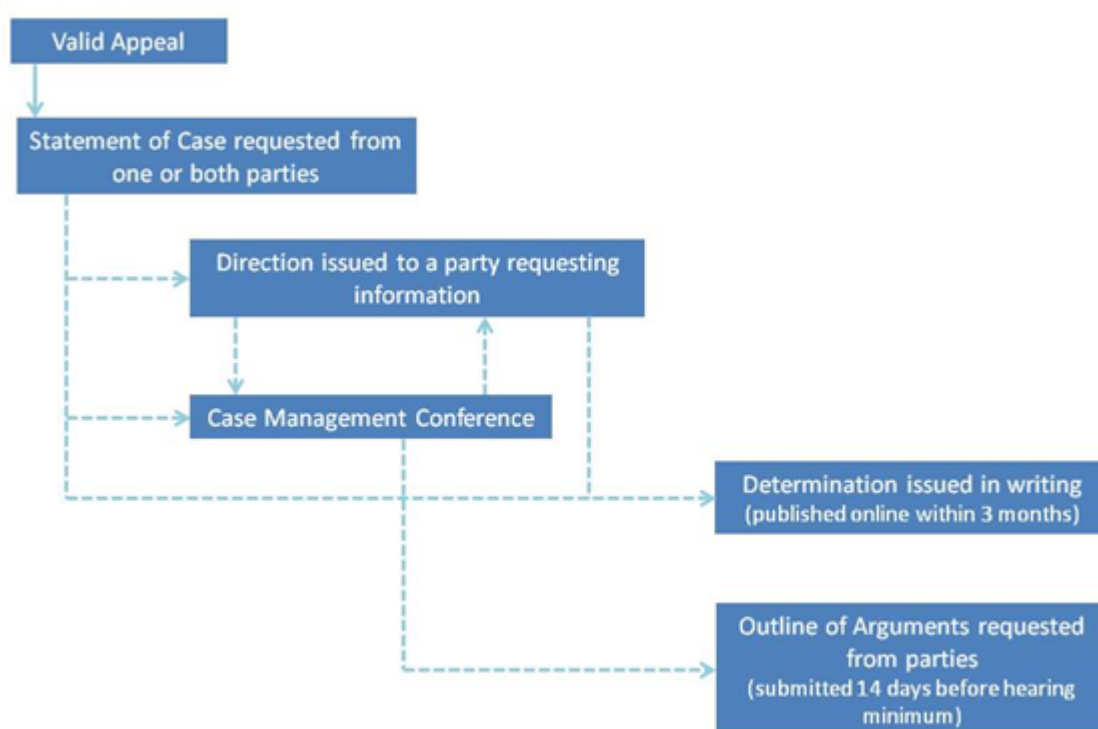
The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

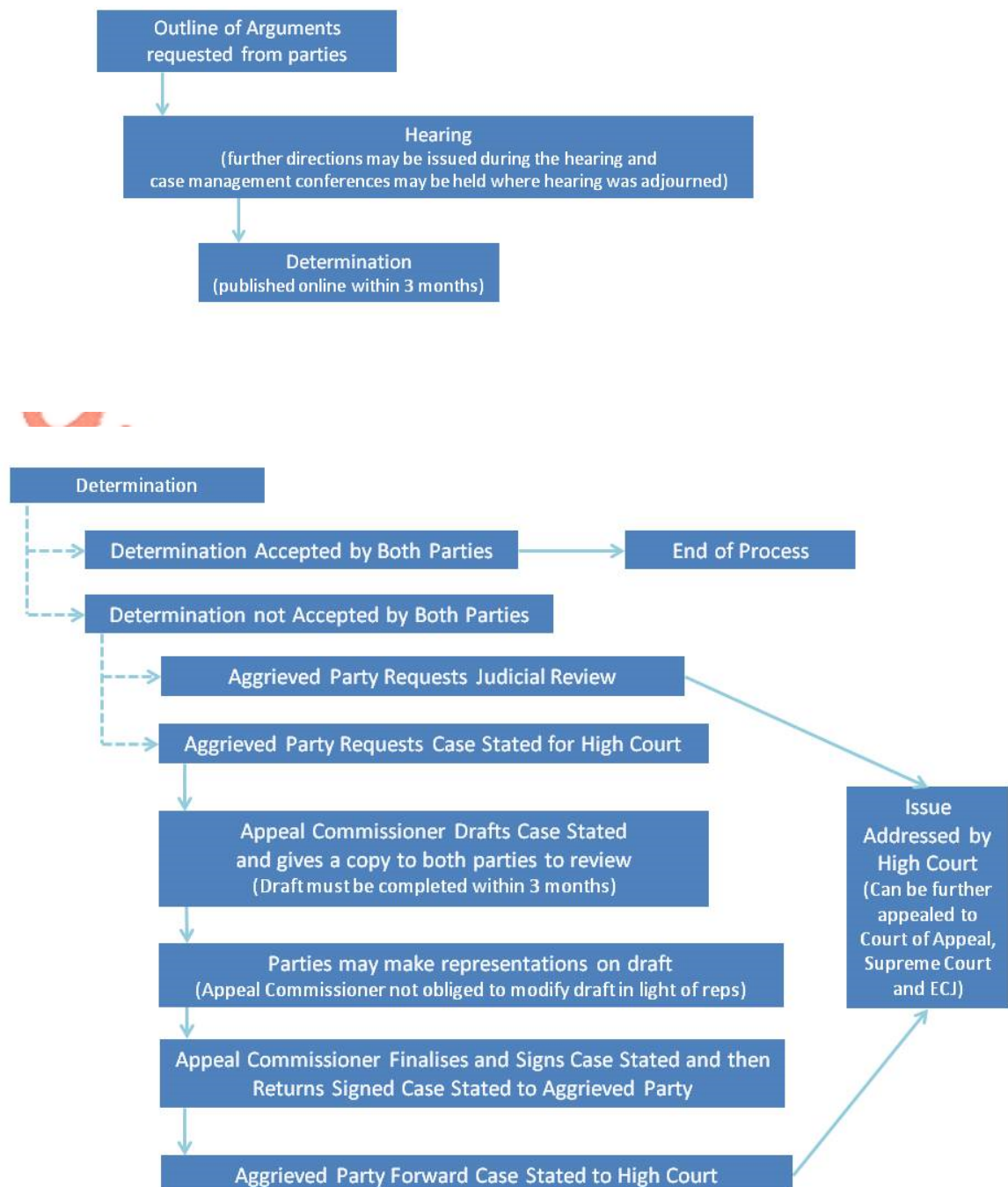
[...]

In the longer term RCM will be developed to incorporate the recording and management of appeals. However, this facility will not be available for several months. In the meantime, the appeals dashboards should continue to be used for this purpose.

APPENDIX 1







APPENDIX 2**Instructions on use of ‘MyEnquiries’**

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]