

Stamp Duties Consolidation Act 1999

Part 2: Section 8C – Expression of Doubt

This document should be read in conjunction with section 8C of the Stamp Duties Consolidation Act (SDCA) 1999.

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1 Introduction

Section 8C SDCA 1999 makes provision for an accountable person who has a genuine doubt about the Stamp Duty treatment of an instrument to submit an expression of doubt to Revenue.

The main benefit of submitting an expression of doubt is that where it subsequently transpires that Stamp Duty was underpaid in relation to the matter to which the expression of doubt relates, interest will not be charged on the amount underpaid. This treatment will apply only where a **valid** expression of doubt was submitted, that is, that the expression of doubt was submitted to Revenue in accordance with the procedure set out in the legislation and in this document. In addition, this treatment will not apply in circumstances where Revenue does not accept that an expression of doubt was **genuine**.

This Tax and Duty Manual (TDM) sets out general guidance on how to submit an expression of doubt to Revenue.¹

Expressions of doubt should not be used for general comments and should only be used as outlined in this TDM.

2 What is an expression of doubt?

Section 8C(2)(a) provides that where an accountable person has a doubt about the correct application of Stamp Duty law² to an instrument which could:

- give rise to a Stamp Duty liability,
- affect a Stamp Duty liability, or
- affect an entitlement to an exemption or relief from Stamp Duty,

they may submit a letter of expression of doubt to Revenue.

3 How to submit an expression of doubt

As noted, the expression of doubt must be **valid**. For an expression of doubt to be considered valid, the accountable person must comply with the two steps set out below.

¹ Information on how the expression of doubt facility interacts with Revenue's Compliance Intervention Framework is available in [Revenue Code of Practice for Compliance Interventions](#).

² For the purposes of section 8C, the term "the law" means any enactment relating to Stamp Duty. This would include the SDCA 1999.

3.1 Step 1 - File a Stamp Duty return

Section 8C(2)(b)(i) provides that, no more than 30 days after the date of execution³ of the instrument, a Stamp Duty return must be filed. In practice, Revenue extends this to **44 days**. The “Expression of Doubt” box in the return must be ticked. The accountable person must pay the amount of Stamp Duty they believe to be correct.

3.2 Step 2 – Submit letter of expression of doubt

Section 8C(2)(b)(ii) provides that, no more than 30 days after the date of execution of the instrument, a **letter of expression of doubt** must be submitted to Revenue. In practice, Revenue extends this to **44 days**.

In accordance with section 8C(1), a **letter of expression of doubt** is a communication received in legible form which:

- sets out full details of the facts and circumstances affecting the liability of an instrument to Stamp Duty,
- refers to the provisions of the law giving rise to the doubt,
- identifies the amount of Stamp Duty in doubt in respect of the instrument to which the expression of doubt relates,
- is accompanied by relevant supporting documentation, and
- is clearly identified as a letter of expression of doubt for the purposes of section 8C.

The letter of expression of doubt along with all supporting documentation must be submitted to Revenue via Revenue’s secure online facility [MyEnquiries](#).

Where a submission is made to Revenue, but the above-mentioned procedure is not followed, Revenue will notify the accountable person that it has been rejected and the reason for the rejection. For example, if a submission does not refer to the law giving rise to the doubt, it will not be considered a valid expression of doubt and will be rejected by Revenue.

It is important to be aware that a Stamp Duty certificate will not issue until such time as the matter is reviewed by Revenue and considered to be a valid expression of doubt.

³ Section 1 SDCA 1999 provides that an instrument that is not under seal is executed when it is **signed**. In relation to instruments that are under seal, the general law rule is that an instrument is executed when the formalities required to make it a legally effective document are completed.

4 No interest on late payment where expression of doubt submitted

Where an expression of doubt is made in relation to an instrument and Revenue subsequently notifies the accountable person of the correct application of the law to that instrument, section 8C(3) provides that interest will not be charged on any additional Stamp Duty that is due as a result of the correct application of the law.

This treatment will apply only if, within **30 days** of the notification by Revenue, an amended Stamp Duty return, which includes an amended self-assessment to reflect the correct amount of Stamp Duty due, is filed, and the additional Stamp Duty is paid. However, this treatment will not apply to an expression of doubt where Revenue does not accept as genuine the expression of doubt.

5 Where Revenue does not accept as genuine an expression of doubt

Section 8C(4) provides that the treatment set out in section 8C(3) will not apply where an expression of doubt is made which is not considered by Revenue to be genuine.

For these purposes an expression of doubt will not be considered by Revenue to be genuine where, in particular, Revenue:

- has issued general guidelines concerning the application of the law relating to Stamp Duty in similar circumstances,
- is of the opinion that the matter is sufficiently free from doubt and does not reasonably warrant doubt, or
- is of the opinion that the accountable person is acting with a view to evade or avoid Stamp Duty.

There may be other circumstances in which Revenue does not accept as genuine an expression of doubt.

Section 8C(5) provides that where Revenue does not accept as genuine an expression of doubt, Revenue will notify the accountable person that the expression of doubt is being rejected and the reason for the rejection. On receipt of the notification an accountable person must deliver an amended Stamp Duty return and pay any additional Stamp Duty due, as well as interest calculated in accordance with section 159D SDCA from the date it was originally due.

Section 8C(6) provides that an accountable person may appeal a Revenue decision made under section 8C(5) that an expression of doubt, made by the accountable person, is not genuine. In accordance with section 21 SDCA **an appeal can only be made where the Stamp Duty assessed has been paid in full**. The Notice of Appeal must be sent to the Tax Appeals Commission (TAC) within **30 days** of being notified of the Revenue decision, in accordance with 949I of the Taxes Consolidation Act 1997.

Details of how to send a Notice of Appeal to the TAC are available on the [TAC website](http://www.taxappeals.ie) - www.taxappeals.ie.