

Stamp Duties Consolidation Act 1999

**(as amended by subsequent Acts up to and including
the Finance (No. 1) Act 2013)**

Notes for Guidance

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PART 4 ADJUDICATION AND APPEALS

Overview

Adjudication has been abolished for instruments executed on or after 7 July 2012 and self assessment has been introduced in relation to such instruments.

This Part contains provisions relating to stamp duty assessments and appeals against stamp duty assessments. An instrument which has been stamped in conformity with an assessment may be produced in evidence notwithstanding the fact that doubts may be expressed later as to whether the correct amount of stamp duty was in fact paid in relation to the instrument - see *section 20(5)*.

A person has the right to appeal against a stamp duty assessment made by the Revenue Commissioners. In addition to this statutory right the Commissioners also operate an internal/external review procedure under which a person who is dissatisfied with a decision or an assessment made by a Revenue officer may arrange to have that decision or assessment reviewed. Details of the review procedures are contained in Revenue Complaint and Review Procedures Leaflet – CS4 (December 2012).

Section 20 Assessment of duty by the Commissioners

Summary

This section provides for the accountable person to include an assessment of the duty in the return filed in relation to an instrument under the e-stamping system and also enables the Revenue Commissioners, in certain circumstances, to assess the amount of duty chargeable on an instrument.

Details

Assessment of duty

The accountable person is required to include an assessment of the stamp duty chargeable in relation to an instrument on the return which is required to be filed under the e-stamping system and to pay the duty and interest, calculated in accordance with *section 159D*, unless the Revenue Commissioners make another assessment to be substituted for the assessment. (1)

Where an accountable person fails to file a return in relation to an instrument under the e-stamping system, the Revenue Commissioners are entitled to make an assessment of the duty chargeable, to the best of their knowledge, information and belief, and the accountable person is liable for payment of the duty so assessed together with interest, calculated in accordance with *section 159D*, unless the Commissioners make another assessment to be substituted for the assessment. (2)

Where an assessment is incorrect, the Revenue Commissioners are entitled to make another assessment which is to be substituted for the incorrect assessment. (2A)

Where the Revenue Commissioners make an assessment to be substituted for another assessment, the accountable person is liable for payment of the duty so assessed together with interest calculated in accordance with *section 159D*. (3)

Production of evidence

The Revenue Commissioners may call for a copy of the instrument and any evidence they deem necessary in order to verify that the instrument has been correctly stamped. (4)

Admission in evidence

An instrument stamped in conformity with an assessment made under this section is admissible in evidence and available for all purposes even though the assessment may subsequently prove to be incorrect. (5)

An instrument which is chargeable with duty may only be stamped in accordance with an assessment. (6)

Instruments which may not be stamped

The Revenue Commissioners may not stamp an instrument which by law may not be stamped after execution. (7)

Making of enquiries

The Revenue Commissioners may make enquiries or take any necessary action to satisfy themselves as to accuracy of a return filed in relation to an instrument under the e-stamping system. (8)

Substituted assessment

Where an amended return is filed in relation to an instrument under the e-stamping system, a substituted assessment of the stamp duty chargeable must be included on the amended return. (9)

Section 21 Right of appeal of persons dissatisfied with assessment

Summary

This section gives a right of appeal to the Appeal Commissioners against a stamp duty assessment made by the Revenue Commissioners (see *section 20*).

The stamp duty appeals procedure is based on the appeals procedure which applies for the purposes of income tax.

Details

Definitions

"Appeal Commissioners" takes its meaning from section 850 of the Taxes Consolidation Act 1997 and "time for bringing an appeal" means 30 days after the date of the assessment. (1)

Accountable person may appeal

An accountable person, who is dissatisfied with an assessment made by the Revenue Commissioners, may appeal against the assessment to the Appeal Commissioners on giving notice in writing of the appeal to the Revenue Commissioners within 30 days after the date of the assessment. The decision of the Appeal Commissioners is final unless the appeal is required to be reheard by the Circuit Court or is submitted to the (2)

High Court on a point of law.

No appeal where duty is self assessed or duty agreed

An appeal cannot be made against (3)

- an assessment made by an accountable person, or
- an assessment made by the Revenue Commissioners where the duty had been agreed between the Commissioners and the accountable person, or any person authorised by the accountable person, before the assessment was made.

No appeal unless return is filed and duty paid

An appeal cannot be made against an assessment made by the Commissioners unless, (4)
within 30 days after the date of the assessment,

- a return is filed in relation to the instrument under the e-stamping system, and
- the accountable person pays the duty based on the return filed.

For the purposes of subsection (4), the amount of the duty to be paid includes any surcharge under *section 14A(3)*, interest calculated in accordance with *section 159D* and any costs incurred or amounts charged in pursuing the collection of the duty.

Notice of appeal

The notice of appeal against an assessment must specify (5)

- each amount or matter in the assessment with which the accountable person is aggrieved, and
- details of the grounds of the appeal as respects each amount or matter.

Where a notice of appeal does not comply with subsection (5), the notice is invalid (6)
and the appeal is deemed not to have been brought.

The accountable person is not entitled to rely on any ground of appeal that is not (7)
specified in the notice of appeal unless the Appeal Commissioners, or the Circuit Court, is satisfied that the ground could not reasonably have been stated in the notice.

Appeals against value of land

Appeals against the value of land are not heard by the Appeal Commissioners: rather (8)
they must be made to the Land Values Reference Committee.

Appeals relating to expression of doubt

An accountable person may appeal against a decision of the Revenue Commissioners (9)
under *section 8(C)(5)* that an expression of doubt is not genuine by giving notice in writing within 30 days after the notification of the decision.

On hearing the appeal the Appeal Commissioners must have regard only to whether
the expression of doubt was genuine.

Income Tax appeal provisions to apply

The provisions relating to appeals under income tax legislation apply to stamp duty (10) appeals.