

***Written Submission on behalf of the Tax Appeals Commission***

**1. Establishment of the TAC**

The right of taxpayers to an independent, objective and expert review of decisions made by Revenue authorities is an essential component of any tax system. The Tax Appeals Commission (“TAC”) was established by the Finance (Tax Appeals) Act 2015 on the 21<sup>st</sup> of March 2016. It replaced the Office of the Appeal Commissioners and is a new, independent, transparent statutory body charged with deciding disputes between taxpayers and the Revenue Commissioners. The TAC is a public service body under the aegis of the Department of Finance, but is wholly independent of that Department and of the Revenue Commissioners in deciding appeals.

**2. Functions of the TAC**

The primary service provided by the TAC to its stakeholders is determining appeals brought by taxpayers against assessments and decisions of the Revenue Commissioners. It manages these appeals from their initial notification to the TAC through to their conclusion. For appeals that proceed to hearing, written determinations are published on the TAC’s website, in the interests of transparency and for the purposes of providing guidance to taxpayers, their advisors and the Revenue Commissioners. Determinations are published in anonymised form where the hearing has taken place in private. If either party believes the Appeal Commissioner’s determination is wrong in law, they may request the Appeal Commissioner to state and sign a case for the opinion of the High Court. The TAC also has a role in approving the exercise by the Revenue Commissioners of certain statutory powers.

The TAC has been given the statutory powers necessary to enable it to adopt a flexible and pro-active system of case management and public hearings are the default position, although an appellant can still request that all or part of a hearing be conducted in private. The TAC deals with the parties to appeals on a strictly confidential basis unless the taxpayer has requested a public hearing.

**3. Workload of the TAC**

Since the establishment of the TAC, all taxpayer appeals are notified to the TAC in the first instance, rather than to the Revenue Commissioners as was formerly the case. This has greatly increased the number of appeals received by the TAC, growing from 901 in 2016 to 1,751 in 2017 and 1,689 in 2018. In addition, the Revenue Commissioners transferred 2,731 legacy appeals (appeals which had been notified to the Revenue Commissioners but not transmitted to the Office of the Appeal Commissioners) to the TAC during the second half of 2016.

The TAC can hear appeals in relation to all tax heads and the value of appeals determined by the TAC varies significantly, ranging from cases where the amount at issue is less than €1,000 to cases where sums in excess of €1 billion are in dispute. The TAC is conscious of the fact that the statutory appeal mechanism is available to all taxpayers irrespective of the amounts in dispute and that appeals must be processed accordingly.

As of 20 May 2019, the TAC had 3,652 appeals on hand with a quantum value of approximately €3.7 billion. The 10 appeals with the highest quantum in dispute amounted to some €2.5 billion.

**4. Work of the TAC since establishment**

From the date of its establishment to 20 May 2019, the TAC has:-

- Closed 2,690 appeals

- Scheduled 385 hearings, ranging in length from less than a day to 10 days
- Scheduled 308 Case Management Conferences affecting 1,200 appeals
- Issued 115 Determinations

In addition to this core work, the TAC has also:-

- Formulated and published Rules and Procedures for the management and hearing of appeals
- Formulated and published standardised forms and guidance notes for appellants
- Formulated and published a Code of Governance and Statement of Strategy, which are reviewed and updated on an ongoing basis
- Worked to introduce the governance arrangements and supports required for the proper operation of a public sector body
- Conducted a public consultation exercise with stakeholders on the TAC's operations and procedures
- Increased staff numbers and assigned them to appropriate divisions
- Moved to larger and more suitable premises
- Reported to the Minister for Finance and engaged extensively with the Department of Finance on management and administration issues
- Engaged extensively with the Revenue Commissioners, the Institute of Taxation, other stakeholders and other third parties in relation to the TAC's operations.

## **5. The O'Donoghue Report**

Following requests for increased resources from the TAC, in June 2018 the Minister for Finance appointed Ms. Niamh O'Donoghue to conduct a review of the staffing resources and structure, governance and operation structure of the TAC. The O'Donoghue Report was issued to the Minister in August 2018 and on 9 October 2018 the Minister published the Report and announced that he supported its recommendations and would make available to the TAC the resources necessary to implement those recommendations.

The TAC has welcomed the O'Donoghue Report and is in the process of implementing its recommendations. The primary focus of the TAC since publication has been addressing appeals which have been heard but which await determination. The appointment of a Commissioner as Chairperson of the TAC is a key recommendation and requires the enactment of the proposed legislation now being scrutinised by this Committee.

## **6. Staffing of the TAC**

There are currently two Appeal Commissioners (appointed in March 2016 for a renewable 7-year term) and a Temporary Appeal Commissioner (appointed in June 2017 for a renewable 2-year term). The appointment of a further Appeal Commissioner will bring the number of Appeal Commissioners to three. If the proposed legislation now being considered is enacted, one of the three Appeal Commissioners will be appointed as Chair by the Minister for Finance in accordance with the O'Donoghue Report recommendation.

The Public Appointments Service has recently completed a competition for additional Temporary Appeal Commissioners and the TAC expects that the appointment of at least two new Temporary Appeal Commissioners will shortly be announced by the Minister for Finance.

The three Appeal Commissioners are supported by a staff of 14.5, which has increased from a staff of 4 when the TAC was established. The TAC's staff are headed up by the Chief Operations Officer, and work in three divisions, namely the Appeals Support Unit, the Case Management Unit and the Scheduling Unit.

The O'Donoghue Report recommended that the staff of the TAC be increased to 26. The TAC is in the process of implementing this recommendation and, while the need to engage staff with particular training and expertise means it will take some time, hopes to have a full complement of staff by the end of 2019.