

Irish Tax Appeals Commission Annual Report 2022

The Irish Tax Appeals Commission (the "TAC") published its annual report for 2022 on 2 May 2023. The report details, in the words of its chairperson, Marie-Clare Maney, a "record-breaking year", and lists an impressive set of key metrics that demonstrate the TAC's operational success. Our Tax Disputes team see a clear trend of more appeals being closed than are opened, measured both by number and by value, and believe the report provides statistical weight to the TAC's existing reputation for determining tax disputes effectively and efficiently.

In her opening statement, the Chairperson notes that appeals increasingly relate to the provisions of European Directives and their application to Irish law, pointing to the increased complexity of tax appeals.

Notably, the report records that taxpayers were only successful in 18% of appeals determined by the TAC (down from 27% in 2021, and resulting in a three-year average of 23% success rate).

About the TAC

The TAC is an independent statutory quasi-judicial body tasked since 1 January 2016 with determining first instance tax appeals. It consists of a chairperson, two full-time appeal commissioners and, since 2022, five part-time appeal commissioners, all supported by 25 administrative staff. The TAC sits at Fitzwilliam Court on Leeson Close in Dublin 2.

Key Statistics

- Appeals Closed: the TAC closed 2,661 appeals in 2022, an increase of 49% on 2021, with a total value of €605 million. Of these closures, 1,652 (62%) were settled, 545 (20%) were withdrawn, 237 (9%) were determined by the TAC and 131 (5%) were dismissed.
- Appeals Received: 1,454 fresh appeals were received in 2022 with a total value of €208 million. Of these new appeals, 45% related to income tax, followed by VAT (18%). Corporation tax continued to be the largest tax head by quantum with a total value of €90.6 million appealed last year.
- Appeals on Hand: 2022 saw a continuation of the downward trend in appeals on hand, now at 1,502 and €1.3 billion in quantum at year-end 2022 compared with an opening balance of 2,709 appeals and €1.7 billion in value (i.e. 45% and 24% reductions respectively).
- Hearings: the TAC scheduled 553 hearings (relating to 798 appeals) in 2022, an increase of 194% on 2021. Of these hearings, 270 were scheduled for remote hearing.
- Determinations: 2022 saw the TAC issue its highest number of determinations at 190 (affecting 237 appeals) and valued at €292 million. This is an increase of 46% on 2021's figures. More than half the appeals determined related to income tax.
- Cases Stated: parties may appeal a TAC determination on a point of law to the High Court. In 2022, the TAC's Appeal Commissioners signed 16 'cases stated' seeking the opinion of the High Court (down from 22 in 2021).
- Backlog: the TAC inherited 1,458 cases at its creation in 2016. 2022 saw the TAC continue to eat into its legacy appeals, closing 66 cases and leaving 251

outstanding with a total value of €176 million.

Technology

The annual report records the TAC's efforts to leverage technology to improve their systems and processes and reduce costs.

- **Remote Hearings:** previously introduced in response to the Covid-19 pandemic, just under 50% hearings were heard remotely (rather than in-person) in 2022. This is broadly consistent with the experience in 2021. Case Management Conferences ("CMCs") are typically held in complex appeals to assist the appeal preparations. In 2022, the TAC scheduled 91 CMCs affecting 187 appeals with a total value of €560 million. The vast majority (95%) of these CMCs were held remotely.
- **Case Management System:** following a competitive tender, the TAC awarded the contract for the design and development of a new case management system. This new system should further improve the administration and progress of tax appeals. The project is expected to complete in Q4 2023.
- **Determination database:** the TAC prepared, and now curates on an ongoing basis, a spreadsheet catalogue of its past determinations with breakdowns by tax head, topic summary and key legislation, as well as hyperlinks to the underlying determinations themselves. Though previous determinations are not binding (save for a special process for strikingly similar appeals) and so do not have the same effect as case law in the traditional legal system, they do indicate the TAC's approach and thinking. Therefore, the catalogue should enhance the accessibility and predictability of the tax appeals process and possibly lead to an even greater proportion of appeals concluding in a settlement.

Comment

The TAC maintained its impressive track-record in 2022, processing an impressive

volume of tax appeals. Our experience is of an organisation determined to get through its workload and this impacts appeal strategy and preparation. A taxpayer cannot lodge an appeal and expect to let it sit there, to be progressed whenever they wish; the TAC will push an appeal towards hearing and requests for an adjournment, excluding exceptional circumstances, are unlikely to succeed. Taxpayers therefore need to invest time, energy and resources into appeals from an early stage.

Though each appeal will depend on its own facts, the taxpayer's low success rate (particularly if 2022 is the start of a further downward trend) is a material consideration for possible appellants. The noted increased EU law dimension to tax appeals and inevitable complexity is noteworthy, too. Therefore, early engagement by taxpayers with their tax dispute advisors may save time, effort and cost.

The TAC's 2022 annual report can be found [here](#).

Further Information

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