

WILL PROPOSED TAX APPEAL LAW CHANGES MAKE TAXPAYERS WORSE OFF?

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Each taxpayer has the right to appeal a tax assessment. A good tax system has a safety valve for the taxpayer to have a dispute with the Tax Authorities settled by the courts in a cost effective manner.

The present tax appeal system in Ireland

Under the present tax appeal system, a taxpayer who is unhappy with an assessment by Revenue may appeal the assessment to the Office of the Appeal Commissioners (Appeal Commissioners) who then adjudicates on the case. If, after the decision of the Appeal Commissioners, the taxpayer is still dissatisfied, the taxpayer may either appeal to the Circuit Court for a full rehearing, or appeal to the High Court on a point or points of law only. If the appeal is to the Circuit Court, the taxpayer will only bear the taxpayer's own costs. This means that every taxpayer has the right to have his/her tax case dealt with by a court rather than a quasi-judicial tribunal, such as the Appeal Commissioners, where the process is within reasonable limits as regards costs. As with the appeal before the Appeal Commissioners, the hearing in the Circuit Court is in camera.

Proposal under the Bill

Under the Bill, if enacted, the right of a taxpayer to appeal to the Circuit Court will be removed and all tax appeals from the Appeal Commissioners will go directly to the High Court alone.

What removal of the Circuit Court from the appeal system will mean

If an individual taxpayer is dissatisfied with an assessment to Income Tax, Capital Gains Tax, Capital Acquisitions Tax or any other tax, the amount of tax at stake would require to be in excess of €150,000 to be worth considering an appeal to the High Court. Accordingly, the removal of the Circuit Court from the tax appeal process will effectively mean that for the ordinary taxpayer, the legal costs of appealing the Appeal Commissioners' decision to the High Court will for the most part be prohibitive.

Example

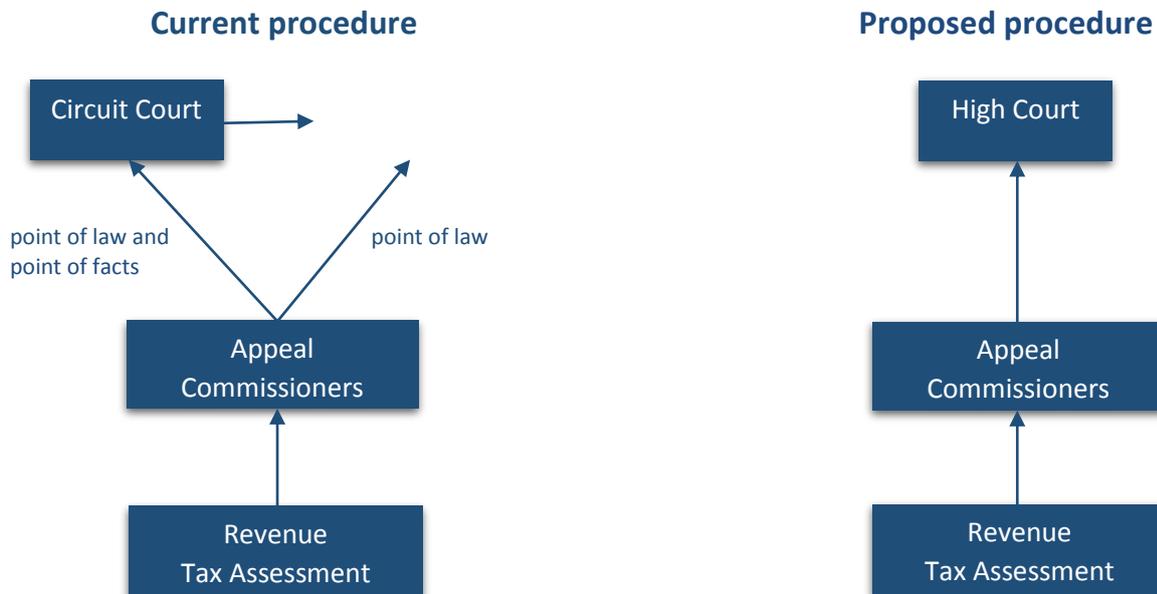
In 2015, Alex O'Brien receives a tax assessment on an inheritance valued at €120,000. Revenue assess him to tax at 33% (€ 39,600) on the entire inheritance. Alex obtains reliable legal advice that he should be entitled to a tax relief on part of the inheritance. Revenue disagree so Alex appeals the matter to the Appeal Commissioners (AC). If the AC decide against Alex, he can appeal further to the Circuit Court and be granted a rehearing. The total costs for Alex of such an appeal will be in the region of €10,000-25,000.

After the Bill's implementation the costs of an appeal to the High Court for Alex are likely to be in the region of €50,000-€150,000, if he is successful and up to double that amount should he lose (as he may be obliged to pay Revenue's legal costs).

The result is that whereas today it would be economically feasible for Alex to appeal the AC decision, after the bill becomes law it will not.

Conclusion

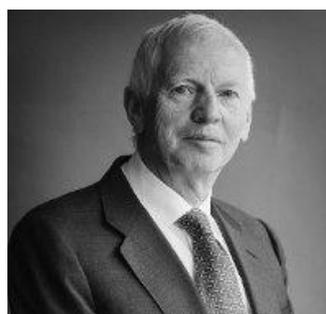
The proposed removal of the Circuit Court from the appeal system envisaged in the Bill will reduce significantly the potential for an ordinary taxpayer to vindicate taxpayer’s rights under the tax code. The Minister for Finance should take steps to retain the Circuit Court as an option for an appeal against a decision of the Appeal Commissioners.



For further information please do not hesitate to contact us.



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DISCLAIMER

The above is intended as a general guide to the law only. It is not intended as a full statement of the law on any point. Before taking action in relation to any matter, full professional advice should be obtained.