



# Revised General Scheme of Finance (Tax Appeals and Fiscal Responsibility) Bill 2024

Response to the public consultation

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## **1. About the Irish Tax Institute**

The Irish Tax Institute is the leading representative and educational body for Ireland's Chartered Tax Advisers (CTA) and is the country's only professional body exclusively dedicated to tax.

The Chartered Tax Adviser (CTA) qualification is the gold standard in tax and the international mark of excellence in tax advice. We benchmark our education programme against the very best in the world. The continued development of our syllabus, delivery model and assessment methods ensure that our CTAs have the skills and knowledge they need to meet the ever-changing needs of their workplaces.

Our membership of over 6,000 is part of the international CTA network which has more than 33,000 members. It includes the Chartered Institute of Taxation UK, the Tax Institute of Australia, the Taxation Institute of Hong Kong and the South African Institute of Taxation. The Institute is also a member of the CFE Tax Advisers Europe (CFE), the European umbrella body for tax professionals.

Our members provide tax services and business expertise to thousands of Irish owned and multinational businesses as well as to individuals in Ireland and internationally. Many also hold senior roles in professional service firms, global companies, Government, Revenue, state bodies and in the European Commission.

The Institute is, first and foremost, an educational body but since its foundation in 1967, it has played an active role in the development of tax administration and tax policy in Ireland. We are deeply committed to playing our part in building an efficient and innovative tax system that serves a successful economy and a fair society. We are also committed to the future of the tax profession, our members, and our role in serving the best interests of Ireland's taxpayers in a new international world order.

**Irish Tax Institute - Leading through tax education**

## 2. Executive Summary

The Institute welcomes the opportunity to contribute to the public consultation by the Joint Committee on Finance, Public Expenditure, Public Service Reform and Digitalisation as part of the Pre-Legislative Scrutiny process of the Revised General Scheme of the Finance (Tax Appeals and Fiscal Responsibility) Bill 2024 (Tax Appeals Bill).

Appealing a tax assessment to the Tax Appeals Commission (TAC) is a critical component of the Irish tax system. Currently, where a taxpayer disagrees with a tax assessment issued by the Revenue Commissioners (Revenue), they can lodge an appeal to have it independently reviewed in confidence by an Appeal Commissioner.

On average, of the determinations issued by the TAC over the past four years, approximately 20%<sup>1</sup> were in favour of the taxpayer. This clearly demonstrates that in a significant number of cases, where a taxpayer genuinely disagrees with an assessment, pursuing an appeal leads to a different and fairer outcome.

Under the existing rules governing the TAC, the default position is that tax appeal hearings are in public. Essentially, this means any taxpayer who desires a public hearing can have one. However, importantly, if a taxpayer wants to have their tax appeal heard in private, they must apply to the TAC, and the Appeal Commissioners must accede to this request.

Once a tax appeal hearing is held in private, the Appeal Commissioner's determination of that appeal is anonymised to ensure the identity of the taxpayer is not disclosed. The publication of these detailed anonymised determinations strikes a careful balance between transparency and privacy, allowing non-binding precedents to develop and scrutiny to occur. It ensures that the wider public can understand how decisions are made, how the law is applied, and what reasoning underpins those decisions. We strongly believe the current provision already achieves a satisfactory position without sacrificing fairness or privacy.

Head 5 of the Tax Appeals Bill proposes to make fundamental changes to the tax appeals process because of the 2021 Supreme Court judgment in the case of *Zalewski v. Adjudication Officer & Ors*<sup>2</sup>. A crucial issue in the *Zalewski* case was the fact that there was blanket prohibition on public hearings at the Workplace Relations Commission (WRC), with all WRC hearings required to be held in private.

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<sup>1</sup> If cases regarding the application of time limits are excluded, where the Appeal Commissioner has no right under the law to set them aside, the real percentage of cases found in favour of taxpayers was much higher.

<sup>2</sup> [2021] IESC 24

The amendments proposed by the Tax Appeals Bill would grant the Appeal Commissioners with the discretion to decide if a tax appeal hearing should be held 'in camera' (private) and limit the redaction of TAC determinations to cases where there are "special and limited circumstances". Our members have profound concerns about fairness, privacy, and the effective functioning of the tax system should the proposed amendments proceed.

The Institute believes the Supreme Court judgment in *Zalewski* does not necessitate the removal of the right for a taxpayer to select to have their tax affairs independently reviewed in confidence by the Appeal Commissioners. In fact, the remarks by the Chief Justice of the Supreme Court in the case provide significant judicial support for maintaining private hearings in tax disputes. The Chief Justice in his judgment states: "*There is a justification for calm, quiet, and private resolution of many disputes which may be of particular sensitivity for the participants, and it may even be permissible to have a presumption in favour of private hearings at first instance....*"

We consider that the review of a tax assessment by the TAC falls squarely within the type of dispute which the Chief Justice envisaged as justifying a private hearing at first instance. Tax matters are inherently private, involving sensitive personal and commercial information that is not ordinarily subject to public scrutiny. Public release of this information could cause significant harm to individuals and businesses.

Tax disputes often arise from differing interpretations of complex legislation, genuine errors, or legitimate disagreements about tax treatment. Privacy in tax matters is not a shield for wrongdoing; it is an acknowledgment that tax affairs, by their nature, contain intimate details that citizens reasonably expect the State to treat with discretion.

We also believe that a 'calm' and 'quiet' resolution as envisaged by Chief Justice O'Donnell would be impossible given the media attention which will inevitably result from public hearings. Discourse around taxation tends to be emotive and complex disputes about the technical application of rules could end up being inaccurately portrayed as aggressive tax avoidance or moral failing, thus negatively impacting on an individual or a company's reputation.

The possibility of public hearings before the TAC was considered by the Oireachtas ten years ago, with policymakers at the time favouring a system where the taxpayer has the option to have a private hearing.

Interestingly, in explaining the decision that the default position in the legislation would be for public hearings with a private hearing being granted on an application by the taxpayer, the then Minister of State at the Department of Finance Simon

Harris T.D. said *“This is a small country. We do not want to have an appeals system that would in any way discourage persons from their right of appealing a decision of the Revenue Commissioners.”*<sup>3</sup> He also stated: *“For example, small shopkeepers could find themselves in a public hearing with their customers in attendance, with material from the hearing being reported locally, and such publicity could undermine their business even if the appeal was upheld. It is a balance we are trying to achieve here. The publication of determinations will be valid and important in terms of increased transparency.”*

While the population may have increased over the last decade, Ireland remains a small country and the same concerns which existed for taxpayers ten years ago regarding a public hearing of their tax appeal continue to exist today.

The ability to appeal tax assessments is fundamental to the integrity and effectiveness of the Irish self-assessment tax system. Self-assessment relies on taxpayers accurately reporting their liabilities, but it also presumes that errors or disputes can be resolved fairly. An effective appeals process provides a critical safeguard, ensuring that taxpayers have recourse when they believe an assessment is incorrect. This mechanism not only protects individual rights but also reinforces confidence in the system as a whole. If taxpayers feel unable to access the appeals process because of privacy concerns, trust in the fairness of tax administration will be undermined, weakening voluntary compliance, the cornerstone of self-assessment.

It should be recognised that the possibility for a taxpayer to have a private hearing of their tax appeal is in line with the position which exists in other EU Member States that have similar populations to Ireland, such as Denmark and Finland. Similarly, in the Netherlands, tax appeal hearings are mainly held in private. In Australia and New Zealand, which like Ireland are common law jurisdictions, tax appeal hearings are also generally held in private.

Other jurisdictions with significantly larger populations than Ireland, such as Canada, France and the UK, have public hearings of tax appeals. However, those jurisdictions also have alternative avenues available to taxpayers to resolve tax disputes in private before resorting to a public hearing of their appeal.

This contrasts with the position in Ireland where the TAC is the sole avenue available for a taxpayer to resolve disputes regarding tax assessments with Revenue.<sup>4</sup> Therefore, if the changes proposed in the Tax Appeals Bill are

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<sup>3</sup> Finance (Tax Appeals) Bill 2015: Second Stage, Seanad Éireann debate -Wednesday, 16 Dec 2015  
<https://www.oireachtas.ie/en/debates/debate/seanad/2015-12-16/18/>

<sup>4</sup> Revenue’s guidance on its Complaint and Review Procedure (CS4) confirms that once a Revenue assessment has issued, the quantum of that assessment cannot be considered under the CS4 procedure.  
<https://www.revenue.ie/en/corporate/documents/customer-service/cs4.pdf>

implemented, it would make Ireland an outlier compared with the procedures that exist for the resolution of tax disputes in other jurisdictions.

To help us provide feedback on the proposed changes to the tax appeals process, the Institute surveyed its members in December 2025.<sup>5</sup> The findings of our survey indicate that the removal of the option to elect for a private hearing would have a detrimental impact on the number of cases being taken to appeal. It will effectively remove the TAC as an avenue of appeal for very many taxpayers who are unwilling to have a public hearing.

An overwhelming majority of our members who regularly advise on tax appeals (87%) believe that if the decision regarding whether an appeal hearing should be held 'in camera' or in public is at the discretion of the Appeal Commissioner rather than the taxpayer, more taxpayers will decide to pay a liability that they consider to have been incorrectly assessed, rather than proceed with a public hearing.<sup>6</sup>

Genuine appellants paying Revenue's assessment prematurely, not because Revenue have the stronger legal argument, but because the reputational risk of public exposure is too high, fundamentally undermines the basis of a case being taken on merit. It also means the balance of power shifts further away from the taxpayer, who may be punished in the court of public opinion for daring to contest an assessment, and towards the State.

The Institute and its members would strongly advise against the proposed move to public hearings of tax appeals cases. The sanction of having one's name published by Revenue, which currently applies to certain tax defaulters, should not become the penalty for simply disagreeing with a Revenue assessment.

If policymakers decide to proceed with the changes to the tax appeals process, then at a very minimum, it is imperative that the following matters are addressed both in the legislation and prior to its commencement:

- An independent form of Alternative Dispute Resolution (ADR), such as independent binding arbitration, must be established in legislation in tandem with the move to public hearings so that an alternative avenue to resolve tax disputes in private is available to taxpayers where they disagree with Revenue.
- The grounds for an 'in camera' hearing should be expanded. Consideration should be given to including the right to privacy in respect of a taxpayer's

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<sup>5</sup> Irish Tax Institute Survey on Proposed Changes to Tax Appeal Hearings, December 2025, based on 223 respondents – 190 were tax advisers working in practice and 33 were tax advisers working in the corporate sector.

<sup>6</sup>

financial affairs and personal reputation as additional factors the Appeal Commissioner must take into account when considering whether a private hearing is necessitated.

- The taxpayer should have the flexibility to make an application to the Appeal Commissioner for an 'in camera' hearing after they have received Revenue's Outline of Arguments, as it is only at this point that they can understand the full extent of the evidence they will be required to produce at the hearing to prove their case.
- In cases where the Appeal Commissioner decides a private hearing is warranted, the determination issued following that hearing should also be redacted, as is currently the case.
- To remove ambiguity and to ensure there is consistency between the Appeal Commissioners regarding when an 'in camera' hearing will be granted, the TAC should publish guidelines on the factors to be considered in determining whether the grounds for a private hearing apply. These guidelines must be kept under consistent review and updated regularly.

In summary, the proposed amendments risk fundamentally undermining taxpayer rights and the integrity of the appeals system. Removing the entitlement to have a TAC hearing in private and limiting the redaction of determinations would not only discourage genuine appeals but also expose taxpayers to unnecessary reputational risks and erode the essential balance between individual and State interests. It is imperative that policymakers recognise the unique nature of tax disputes and ensure that any legislative changes preserve the right to privacy.

The Institute looks forward to further engagement on this matter as the review process continues. Please contact Anne Gunnell of this office at [agunnell@taxinstitute.ie](mailto:agunnell@taxinstitute.ie) if you require any further information in relation to this submission.

### 3. Proposal for public tax appeal hearings and limiting the redaction of determinations

Head 5 of the Tax Appeals Bill proposes significant amendments to the Taxes Consolidation Act (TCA) 1997 arising from the 2021 Supreme Court judgment of *Zalewski v. Adjudication Officer & Ors*<sup>7</sup>. Our members have very serious concerns with the proposed amendment to section 949Y TCA 1997, which would grant discretion to the Appeal Commissioners to decide whether a tax appeal hearing should be held 'in camera' (i.e. a private hearing).

The Institute is also very concerned with the proposed amendment to section 949AO(4) TCA1997 which would allow the Appeal Commissioners to determine if there are special and limited circumstances to justify redaction of determinations.

The overwhelming feedback we have received from our members is that the erosion of the right to a private tax appeal hearing and the publication of unredacted determinations would be extremely detrimental to the rights of taxpayers and would operate as an actual barrier to taxpayers in appealing a tax assessment issued by Revenue.

#### 3.1. *Zalewski* does not require tax appeals to be heard in public

The proposed changes to the hearing of tax appeals stem from the judgment in *Zalewski* which considered the operation of the legislation underpinning the WRC. In considering any potential implications of the judgment in *Zalewski* for the TAC, at the outset it is important to understand that there are fundamental differences between the WRC and the TAC regarding the parties involved and how both organisations function.

Firstly, disputes at the WRC generally involve an employee making a complaint against their employer about alleged contraventions of employment legislation. In many of these cases, the employee wants a public hearing of their complaint to raise awareness that they have been wronged by their employer.

In contrast, an appeal at the TAC involves a taxpayer challenging the State, which in this case is the Office of Revenue Commissioners, as the arm of the State responsible for tax collection. The taxpayer is appealing Revenue's assessment of a tax liability which they do not agree reflects the correct amount of tax due. The tax appeal hearing is a confidential process where the tax assessment which has been issued by Revenue can be independently reviewed by an Appeal Commissioner. In effect, the TAC is an extension of the Irish tax assessment system.

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<sup>7</sup> [2021] IESC 24

In many cases a taxpayer will be required to give evidence and be cross examined by Revenue's counsel at the tax appeal hearing, sometimes for several hours about their confidential financial affairs and their motivations for entering particular transactions. This can involve giving evidence about their personal family affairs where the case relates to an individual taxpayer, and for businesses it can involve the disclosure of commercially sensitive information.

Secondly, the WRC and the TAC fundamentally differ regarding the right to a public hearing. Prior to changes in the legislation following the judgement in the *Zalewski* case, it was not possible for an employee to have a public hearing at the WRC. All WRC hearings were required to be held in private.

In contrast, the default position under existing tax legislation is that all tax appeal hearings before the TAC are in public. This means any taxpayer who desires a hearing in public can have one. As is evident from the published determinations of the TAC, some taxpayers have chosen to have their tax appeal hearing in public. If a taxpayer wants to have their hearing in private, they must apply to the TAC, and the Appeal Commissioners must accede to this request.

Thirdly, the WRC and the TAC differ regarding the options available to settle a dispute. The parties to an employment dispute can avail of the WRC Mediation Service up to the point at which the hearing date is scheduled. Apart from obviating the need for a WRC hearing, mediation can lead to a resolution of the dispute between the employer and employee in a confidential and mutually agreed manner. In contrast, the TAC is the only avenue available to taxpayers to resolve a dispute over a Revenue assessment.

According to the Explanatory Note to the Tax Appeals Bill, the Department of Finance considers the hearing and determination of tax appeals by the TAC to constitute the administration of justice for the purposes of Article 34 of the Constitution, but its operation is legitimate based on Article 37. It points to a statement by Chief Justice O'Donnell in his judgment in *Zalewski* where he said, '*the standard of justice administered under Article 37 cannot be lower or less demanding than the justice administered in courts under Article 34*'.

The Explanatory Note states that as each adjudication by the TAC constitutes the administration of justice for the purposes of Article 34 of the Constitution, appeal hearings must be, by default, in public. As a result, the Tax Appeals Bill proposes to amend section 949Y TCA 1997 to afford the Appeal Commissioners with discretion to decide whether it is necessary to allow for a hearing to be held 'in camera'. The Institute firmly believes that the Supreme Court judgment in *Zalewski* does not require the removal of the option for a taxpayer to elect to have their tax affairs

independently reviewed in confidence by the Appeal Commissioners. This is clear from the following statement by Chief Justice O'Donnell in his judgment:

*“There is a justification for calm, quiet, and private resolution of many disputes which may be of particular sensitivity for the participants, and it may even be permissible to have a presumption in favour of private hearings at first instance, but it is not, in my view, possible to justify the absolute ban ....”*

We consider the review of a tax assessment by the TAC falls squarely within the type of dispute which Chief Justice O'Donnell envisaged as justifying a private hearing at first instance.

Of necessity, a tax appeal hearing involves detailed consideration of the confidential financial affairs of a taxpayer. It is appropriate that there should be an opportunity for a taxpayer to resolve any dispute concerning a tax assessment issued by Revenue in private at the TAC if they so wish, given the inherent sensitivity of such issues. Equally, a taxpayer should continue to have the option to have a public hearing of their tax appeal if that is their preference.

The Constitution provides for an unenumerated right to privacy<sup>8</sup> which must be balanced with the rights outlined in the *Zalewski* case. It is important to note that as privacy was not an issue in the *Zalewski* case, the Supreme Court did not consider that balance.

### **Recognition of the right to privacy under EU law**

Detailed consideration must be given as to whether the proposed changes to tax appeal hearings are in line with the rights vested in individuals under EU law, such as the General Data Protection Regulation (GDPR), the Convention for the Protection of Human Rights and Fundamental Freedoms and the Charter of Fundamental Rights of the European Union.

The recent European Court of Human Rights case in *L.B. v Hungary*<sup>9</sup> found the Hungarian legislative policy of publishing a list of major tax debtors on the tax authority's website, which included the personal data of taxpayers, infringed the Convention for the Protection of Human Rights and Fundamental Freedoms. The Court observed that the state enjoyed a wide margin of appreciation when assessing the need to establish a publication scheme such as the one in question. However, the Court noted that to remain within this margin, the competent domestic authorities must have conducted a proper balancing exercise between the competing interests, having regard to:

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<sup>8</sup> *Kennedy v Ireland*, High Court, [1984 No. 5011P]

<sup>9</sup> ECtHR 9 March 2023, No. 36345/14, *L.B. v Hungary* (GC).

- the public interest in the dissemination of the information in question,
- the nature of the disclosed information,
- the repercussions on and risk of harm to the enjoyment of the private life of the persons concerned,
- the potential reach of the medium used for the dissemination of the information, and
- basic data protection principles.

The Court of Justice of the European Union (CJEU) has also reinforced the right to privacy of individuals at the expense of transparency. A recent judgment from CJEU<sup>10</sup> held that amendments to the Fifth Anti-Money Laundering Directive, which resulted in the general public having unfettered access to beneficial ownership registers, breached certain freedoms under the EU Charter of Fundamental Rights, specifically the right to privacy and the right to protection from processing of personal data.

### **3.2. Public hearing of tax appeals is not ‘in the interests of justice’**

It would appear from the Explanatory Note that the move towards public hearings is proposed on the basis that this is required ‘in the interests of justice’. But the ability for a taxpayer to opt to have their tax appeal heard in private provides a fundamental safeguard for taxpayers wishing to appeal a Revenue assessment.

The removal of the option to elect for a private hearing will have a significant impact on the number of cases appealed. It will effectively remove the TAC as an avenue of appeal for very many taxpayers who are unwilling to have their tax affairs made public. This means that these taxpayers will be deprived of the possibility to seek justice even where they believe the quantum of the tax assessment is without foundation.

As it stands, taxpayers are often reluctant to even proceed with an appeal at the TAC because of the prospect that Revenue can subsequently appeal the TAC’s determination to the High Court. Even in cases where taxpayers have been successful at the TAC and Revenue have appealed the TAC determination on a point of law to the High Court, taxpayers have chosen to pay a Revenue assessment rather than incur the costs and publicity of a hearing of their case in open court.

Our members are concerned with a move towards public hearings that taxpayers will be even more reluctant to contest a position asserted by Revenue, even where they believe it to be unfounded. The Institute believes there is no public benefit to

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<sup>10</sup> *WM (C-37/20) and Sovim SA (C-601-20) v Luxembourg Business Registrars*

be served if as result of the proposed changes less taxpayers are willing to challenge Revenue. In fact, it could undermine public trust in the self-assessment tax system which would run contrary to the public interest.

When the Heads of Finance (Tax Appeals Commission) Bill 2015 was published in 2015 it included a proposal that tax appeal hearings would be held in public. The report of the Oireachtas Joint Committee on Finance, Public Expenditure and Reform<sup>11</sup> raised concerns during the pre-legislative scrutiny process at the time that taxpayers may be unwilling to pursue an appeal if their finances are placed in the public domain and that there may be unintended consequences as low and middle income taxpayers could be reluctant to enter an appeals process that is public.

The Report concluded that *“while the default position may be for public hearings, it is preferable, on balance, that if the appellant requests it, the hearing be held in private. Transparency can be enhanced and clarity be provided to other taxpayers and the general public, if all hearings are accompanied by written determinations as is proposed.”*

Ultimately, when the Finance (Tax Appeals Commission) Bill 2015 was published following the pre-legislative scrutiny process, it provided that the default position would be for public hearings with a private hearing being granted on an application by the taxpayer.

Explaining this decision, the then Minister of State at the Department of Finance, Simon Harris T.D. said *“This is a small country. We do not want to have an appeals system that would in any way discourage persons from their right of appealing a decision of the Revenue Commissioners.”*<sup>12</sup> He also stated: *“The publication of determinations will be valid and important in terms of increased transparency.”*

While the Irish population may have increased over the last decade, Ireland remains a small country and the same concerns which existed for taxpayers ten years ago about public hearings of their tax appeals remain today.

We fully agree with the conclusion of both the Oireachtas Joint Committee on Finance, Public Expenditure and Reform and the Tánaiste in 2015 that the publication of determinations provides transparency and clarity over the tax appeals process.

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<sup>11</sup>Report on hearings in relation to The Draft General Scheme of the Finance (Tax Appeals Commission) Bill, Houses of the Oireachtas Joint Committee on Finance Public Expenditure and Reform, April 2015. [https://data.oireachtas.ie/ie/oireachtas/committee/dail/31/joint\\_committee\\_on\\_education\\_and\\_social\\_protection/reports/2015/2015-04-13\\_report-on-hearings-in-relation-to-the-draft-general-scheme-of-the-finance\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/31/joint_committee_on_education_and_social_protection/reports/2015/2015-04-13_report-on-hearings-in-relation-to-the-draft-general-scheme-of-the-finance_en.pdf)

<sup>12</sup> Finance (Tax Appeals) Bill 2015: Second Stage, Seanad Éireann debate -Wednesday, 16 Dec 2015 <https://www.oireachtas.ie/en/debates/debate/seanad/2015-12-16/18/>

Since its establishment in 2016, the TAC has published over 1,000 written determinations on its website. It is obvious from a review of these determinations that a very significant proportion of appeals involve individual taxpayers appealing issues concerning Vehicle Registration Tax (VRT), artists' exemption, capital acquisitions tax (CAT) and Revenue's refusal of credits or refunds due to the application of time limits. It is not apparent to us how the publication of the identity of the taxpayers in these types of cases would be in the interests of justice.

### **Application for an 'in camera' hearing**

When applying for an 'in camera' hearing in the future under the proposed legislation, we understand a taxpayer will have to satisfy the Appeal Commissioner that a private hearing is necessary due to one of the five reasons outlined in section 949Y(2) TCA 1997.

These are:

- (a) in the interests of public order or national security,
- (b) to avoid serious harm to the public interest,
- (c) to maintain the confidentiality of sensitive information,
- (d) to protect an individual's right to respect for his or her private and family life, or
- (e) in the interests of justice.

We understand that the Appeal Commissioners will also have the power to direct a tax appeal to be heard in public if they believe it is in the interests of justice to do so.

From our engagement with the TAC on these proposals, we understand that the fact that financial affairs are private is very unlikely to be considered a sufficient reason for an appeal to be heard in private. The rationale for this approach is unclear and suggests that the general policy of the TAC will be to hold hearings in public. If this is the case, taxpayers will be deterred from appealing tax assessments due to concerns about the public nature of the hearing.

Where an Appeal Commissioner refuses to grant a taxpayer an 'in camera' hearing, there is no feasible avenue of appeal open to them. The taxpayer could potentially take a judicial review in the High Court, but as a judicial review would take place in open court it would be counterproductive.

Given the option to have an 'in camera' appeal hearing will influence whether a taxpayer will proceed with their appeal, we would assert that granting individual Appeal Commissioners such unfettered power over that decision is not in the interests of justice.

## International comparisons

We have included in the **Appendix** to this submission a table outlining the options available to taxpayers in other countries for the resolution of tax disputes.

The possibility for a taxpayer to have a private hearing of their tax appeal is in line with the position which exists in other EU Member States that have similar populations to Ireland, such as Denmark and Finland. Similarly, in the Netherlands, tax appeal hearings are mainly held in private. In Australia and New Zealand, which like Ireland are common law jurisdictions, tax appeal hearings are also generally held in private. These comparisons demonstrate that private hearings are not only appropriate but are the established norm amongst our peer jurisdictions

While jurisdictions such as Canada, France and the UK have public hearings of tax appeals, they also provide robust alternative avenues to taxpayers to resolve their dispute in private before resorting to a public hearing of their appeal.

For example, in the UK, where a taxpayer disagrees with a tax assessment issued by the HMRC they can avail of a statutory review process and/or alternative dispute resolution. If the taxpayer is dissatisfied with the outcome of either or both processes, it is at that stage that they decide whether to proceed with a public hearing of their appeal at the First Tier Tribunal.

In contrast, in Ireland the TAC is the sole avenue available for a taxpayer to resolve disputes regarding tax assessments with Revenue. This means if the changes proposed in the Tax Appeals Bill are implemented, as proposed, the only option available for a taxpayer who disagrees with Revenue's interpretation of the law which has resulted in the tax assessment, may be a public hearing at the TAC. This is not a desirable outcome as it removes a critical safeguard for taxpayers and tips the balance of power further in favour of Revenue. In fact, it would make Ireland an outlier compared with the privacy protections which exist in the procedures for resolving tax disputes in other jurisdictions.

If policymakers decide to proceed with the move towards public hearings, it is vital that a form of Alternative Dispute Resolution (ADR), such as independent binding arbitration, is established in legislation in tandem with the changes to tax appeal hearings so that an alternative avenue to a public hearing is available to taxpayers where they disagree with Revenue.

This would align with the position that exists in other countries where considerable emphasis is placed on creating opportunities for dispute resolution at an early stage. It would also be in keeping with the 2018 report of Niamh O'Donoghue, *Review of the Workload and Operations of the Tax Appeals Commission*, which

recommended that there should be an exploration of how ADR might be accommodated at different stages of the tax appeals process in Ireland.

### **Removing the option for a private hearing will deter taxpayers from appealing**

It is evident from the feedback we received from our members that removing the option for taxpayers to choose to have their appeal hearing in private would deter taxpayers from exercising their right to appeal Revenue assessments that are excessive.

*“Tax cases often involve personal financial details and income sources. In a country with a relatively small population such as Ireland, the risk of such details becoming public would be a matter of significant concern for the taxpayer concerned as there is a very high likelihood that those details would become known to their family, friends, neighbours etc.”* Comment by Tax Adviser working in practice in response to the Irish Tax Institute Survey on Proposed Changes to Tax Appeal Hearings, December 2025.

*“Taxpayer does not have control of publication and given significant reputational risks, will likely settle.”* Comment from Tax Adviser working in the corporate sector in response to the Irish Tax Institute Survey on Proposed Changes to Tax Appeal Hearings, December 2025.

*“This tilts more power towards the State - difference with other tribunals is that one party in a TAC appeal is always the State - in a WRC case it is an employee employer dispute with a state instituting adjudicating. The power imbalance is clear.”* Comment from Tax Adviser working in the corporate sector in response to the Irish Tax Institute Survey on Proposed Changes to Tax Appeal Hearings, December 2025.

*“I recently advised a client on a successful appeal before the TAC, but if a summary of that case was going to be made public then I’m confident that the client would not have wanted to submit the appeal in the first place.”* Comment from Tax Adviser working in practice in response to the Irish Tax Institute Survey on Proposed Changes to Tax Appeal Hearings, December 2025.

*“Taxpayer will feel balance of power has shifted further to the Revenue with the deeper pockets and any risk of adverse publicity on what are in most instances very nuanced technical matters can be lost.”* Comment from Tax Adviser working in practice in response to the Irish Tax Institute Survey on Proposed Changes to Tax Appeal Hearings, December 2025.

*“Individuals don’t want to be seen to be challenging Revenue even when they have a strong case. Having details of their case publicly available will be an extremely significant impediment from taxpayers asserting their rights for an independent review of their case. Tax appeals cases, by their nature, involve extremely sensitive information and having this available to the public would cause both privacy issues for the taxpayer and potential commercial issues by having sensitive*

*financial or operational issues made public. Virtually every tax case involves personal information of either the taxpayer or individual shareholders in the case of companies.”* Comment from Tax Adviser working in practice in response to the Irish Tax Institute Survey on Proposed Changes to Tax Appeal Hearings, December 2025.

Taxpayers are likely to feel pressured to accept tax assessments issued by Revenue even where there are genuine disputes regarding the interpretation of tax law rather than face public disclosure of their financial affairs.

Our survey indicates that private individuals, sole traders and small and medium sized businesses are the taxpayers most likely to decide to pay a Revenue assessment that they consider to be incorrect rather than proceed with a hearing, if the decision to have a private hearing is at the discretion of the Appeal Commissioner.

### **Examples of cases where the option for a private tax appeal hearing was an important factor in proceeding with an appeal**

We asked members to provide examples of the type of cases they have encountered where the option to hold the tax appeal hearing ‘in camera’ was an important factor for the taxpayer in deciding whether to proceed with the appeal. We include below a selection of examples submitted.

*“Elderly widow dealing with deceased husband’s historic tax affairs where any publicity would have embarrassed and shamed her (in her view) due to her public standing in the community and particularly with her Church in which she was heavily involved.”* Comment from Tax Adviser working in practice in response to the Irish Tax Institute Survey on Proposed Changes to Tax Appeal Hearings, December 2025.

*“Domestic clients in particular are very sensitive to private family or business information being discussed in public. This is from a safety, commercial perspective but also in the context of family, friends and neighbours.”* Comment from Tax Adviser working in practice in response to the Irish Tax Institute Survey on Proposed Changes to Tax Appeal Hearings, December 2025.

*“This is a critical factor in almost all cases, in particular for domestic taxpayers. All of my clients want to maintain their privacy, and the risk that an appeal would be heard in public, due to a difference in interpretation on tax matters, would seriously prejudice taxpayers’ desire to defend their position rather than capitulating to Revenue’s view.”* Comment from Tax Adviser working in practice in response to the Irish Tax Institute Survey on Proposed Changes to Tax Appeal Hearings, December 2025.

*“The ‘in camera’ nature of current proceedings before TAC (if requested by the taxpayer) is always a central part of the discussion regarding the taxpayer’s*

*appetite to appeal a Revenue determination or assessment. Regardless of the issue of disclosing potentially sensitive taxpayer information if hearings before TAC are to be held in public, such a development would have a chilling effect on taxpayers' willingness to bring proceedings before TAC because another key consideration for many taxpayers is that they do not want to be publicly seen to be in a dispute with Revenue over their tax affairs. Such a change to the current procedures brings with it a likelihood that taxpayers with good arguable cases will not bring them before TAC due to reputation or other concerns. It also potentially imbalances the playing field in Revenue's favour in audit settlement negotiations."*

Comment from Tax Adviser working in practice in response to the Irish Tax Institute Survey on Proposed Changes to Tax Appeal Hearings, December 2025.

*"Large corporate taxpayers are often concerned that publicity around a tax dispute might impact their share price particularly if the amount of tax under dispute is significant."*

Comment from Tax Adviser working in practice in response to the Irish Tax Institute Survey on Proposed Changes to Tax Appeal Hearings, December 2025.

*This is of paramount importance. Often the reasons that taxpayers do not appeal to the High Court is due to the public nature of those hearings."*

Comment from Tax Adviser working in practice in response to the Irish Tax Institute Survey on Proposed Changes to Tax Appeal Hearings, December 2025.

*"R&D Tax Credit dispute where very sensitive R&D related technical information was at the heart of the dispute. Related and also very important was the company spend and level of spend on R&D was commercially very sensitive."*

Comment from Tax Adviser working in practice in response to the Irish Tax Institute Survey on Proposed Changes to Tax Appeal Hearings, December 2025.

## **Publication is used as a tool to penalise non-compliant taxpayers**

The publication of the quarterly List of Tax Defaulters is used to penalise errant taxpayers. Non-publication on the List of Tax Defaulters is used by Revenue as a tool to encourage taxpayers to regularise tax defaults by way of a qualifying disclosure.

The public will not be able to distinguish between a taxpayer who has a technical dispute with Revenue before the TAC and a taxpayer which has been published on the List of Tax Defaulters for a serious failure to comply with their tax obligations.

Our members cite examples of Revenue issuing 'protective' assessments without detailed discussion of the underlying issue with the taxpayer in cases where the 4-year time limit for issuing an assessment is due to expire. In these cases, a taxpayer's only avenue to query the assessment is the TAC. But querying such an assessment may now come at the cost of a public hearing which for many

taxpayers will be too high a price to pay. Even where a taxpayer is successful at the TAC, the penalty of publicity cannot be undone.

The List of Tax Defaulters, which includes the name and address of the taxpayer and the amount of tax, interest and penalties applied, is deleted by Revenue from their website after two years. In contrast, TAC determinations, which may now in the future contain extensive details regarding the financial affairs of a taxpayer, will remain on the TAC website indefinitely.

At a meeting of the Tax Administration Liaison Committee (TALC) in 2017, Revenue confirmed they decided to remove the List of Tax Defaulters from their website after a period of time because it is the “*right thing to do*”.<sup>13</sup>

### **3.3. The publication of sensitive information may be harmful for taxpayers**

Where a tax appeal hearing is held in public this will mean that all aspects of a taxpayer’s sensitive, commercial and financial affairs will be in the public domain, accessible to their competitors, suppliers, creditors and customers. Without a doubt this could have serious implications for a person’s business and their professional reputation. In some cases, taxpayers may be contractually restricted from sharing relevant evidence in public. Experts and witnesses may also be less willing to participate in a public forum.

As we outlined above, we understand the taxpayer would need to satisfy the Appeal Commissioner that a private hearing is necessary due to one of the five reasons currently outlined in section 949Y(2) TCA 1997. These reasons include that a private hearing is necessary to maintain the confidentiality of sensitive information or to protect an individual’s right to respect for his or her private and family life.

Most personal taxpayers consider their financial affairs to be sensitive information that should be kept confidential. However, we understand from our discussions with the TAC, the fact that financial affairs are private is very unlikely to be considered a sufficient reason for an appeal to be heard in private.

A public hearing could also pose a risk to the private or family life of the taxpayer, or an employee of the taxpayer, as they may become the target of criminal activity due to a perception of wealth emanating from the published details of a tax appeal. The Company Law Review Group (CLRG) recently considered issues arising from the requirement that a company director’s usual residential address be included in information which is publicly available from the Companies Registration Office (CRO).<sup>14</sup> The CLRG considered the personal safety and security concerns for

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<sup>13</sup> [Minutes of Main TALC Meeting, 4 April 2017](#)

<sup>14</sup> Report on the Review of the provisions pertaining to the disclosure of an officer’s residential addresses having regard to company transparency requirements and GDPR, Company Law review Group, September 2025.

company directors and those unconnected to the company but who may reside at the residential address such as partners, elderly persons, vulnerable persons and children. Arising from recommendations made by the CLRG, the Department of Enterprise, Tourism and Employment is currently undertaking a public consultation on proposed changes to the legislation which would include restricting public access to a director's usual residential address.<sup>15</sup>

Where the taxpayer is a business, the disclosure of commercially sensitive information may detrimentally impact the prospects of the business. Therefore, the basis on which they are most likely to make an application for a private hearing would be that it is necessary "*to maintain the confidentiality of sensitive information*" relating to their business.

The test of what an Appeal Commissioner may consider to be sensitive information is subjective. The taxpayer will have to invest significant resources to convince the Appeal Commissioner that the hearing would involve the disclosure of commercially sensitive information (a person deeply involved in their business will have a much greater understanding of the nuances of what is or is not commercially sensitive information than an Appeal Commissioner, who is not as deeply involved in that business). The application for an 'in camera' hearing may itself require a detailed hearing where the taxpayer gives evidence regarding the operation of their business to demonstrate to the Appeal Commissioner that a public hearing of the appeal could have an adverse impact on their business. Such an application will inevitably involve the taxpayer incurring additional costs and resources.

Ultimately, there is a risk that an Appeal Commissioner may err on the side of caution and refuse an application for a private hearing if they are not sufficiently familiar with the nuances of a business to understand the sensitivity of certain commercial information.

The Institute firmly believes it is a taxpayer who would be best placed to decide whether information relating to their business is commercially sensitive. This is recognised elsewhere in legislation, such as the regulations implementing the EU Public Country-by-Country Reporting (CbCR) rules<sup>16</sup> which require certain multinational companies to publicly disclose corporate tax information. The CbCR regulations allow a deferral of publication for up to five years where the company is of the view that its disclosure would "*seriously prejudice the undertaking's competitive position*". Notably, it is a matter for the company, rather than the tax

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<sup>15</sup> Department of Enterprise, Tourism and Employment, Public consultation on proposed changes to the Companies Act 2014 and related legislation  
<https://enterprise.gov.ie/en/consultations/public-consultation-on-proposed-changes-to-the-companies-act-2014-and-related-legislation.html>

<sup>16</sup> European Union (Disclosure of income tax information by certain undertakings and branches) Regulations 2023.

authority or other third party, to decide whether the information is commercially sensitive.

Even if a taxpayer is successful in securing a direction that their hearing or part of their hearing may be held in private, this may not be enough to protect their business. The mere naming of a taxpayer on a list of tax appeals scheduled for hearing on the TAC website could have serious implications for a taxpayer's business and/or their professional reputation. For example, a key supplier or creditor could have concerns regarding the cashflow of the business and withhold credit if they become aware that a customer has an ongoing tax appeal.

If appeal hearings are held in public, this will also raise questions about who may be entitled to access documents which are filed by the taxpayer and Revenue with the TAC, as part of the appeal. In the UK, it has been clarified that the corollary of a public hearing in the First Tier Tribunal is that the pleadings in such cases may also be made public. The First Tier Tribunal has confirmed that third parties interested in the outcome of appeal proceedings before the Tribunal are entitled to obtain a copy of pleadings filed by the parties, including a copy of the parties' skeleton arguments.<sup>17</sup>

Given the fundamental lack of certainty for the taxpayer regarding the potential public disclosure of their financial affairs, most taxpayers will choose to yield to Revenue's demands even where there is a sound basis for an appeal, rather than face a public hearing. This will lead to an imbalance in the Irish tax system and risk creating a perception that Revenue may issue assessments without due consideration to the technical grounds because the taxpayer is more likely to agree to a settlement than face a public appeal process.

### **3.4. Determinations should be redacted where an appeal hearing is held in private**

Currently, where the hearing of an appeal is held in private, the Appeal Commissioner's determination is anonymised to ensure that the identity of the taxpayer is not revealed. In our survey, 90% of members working in the corporate sector who have experience of tax appeals, and 79% of tax advisers who regularly advise on tax appeals, said that the option to have the determination redacted where the appeal was heard 'in camera' was an important factor for taxpayers when deciding whether to pay a Revenue assessment that they consider to be incorrect or to proceed with an appeal hearing.

TAC determinations, which are freely accessible to the public, outline in detail the background to the appeal; the evidence and submissions provided by the taxpayer

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<sup>17</sup> Hastings Insurance Services Ltd and HMRC v KPMG LLP (Third Party), [2018] UKFTT 478 (15 August 2018)

and Revenue at the appeal hearing; the Commissioner’s findings of material fact; the Commissioner’s analysis of the issues; and the Commissioner’s determination.

TAC determinations already provide sufficient detail for the public to understand the tax technical issues which were the subject of the appeal. It is not clear to us how the public interest would be better served by also revealing the identity of the taxpayer in such determinations.

The Explanatory Note to the Tax Appeals Bill acknowledges many tax appeals require confidentiality due to commercial sensitivity and the sensitivity of taxpayer information. However, it states that the fact nearly all determinations are redacted is not “*in the spirit of the Zalewski judgement*”.

The Tax Appeals Bill proposes that TAC determinations will only be redacted in “*special and limited circumstances*”, which will be determined by the Appeal Commissioners. The Appeal Commissioner’s decision to redact a determination of a particular appeal will be distinct from his/her earlier decision for the hearing of that appeal to be held ‘in camera’.

Our members expressed grave concerns with the proposal to limit the redaction of TAC determinations to “*special and limited circumstances*”, as determined by the Appeal Commissioners.

*“That a taxpayer’s personal and confidential information (including their identity) could be found via a simple internet search will have a chilling effect on a taxpayer’s ability to disagree with a position adopted by the Revenue. It is difficult to see how any taxpayer would put themselves in this position.”* Comment from Tax Adviser working in practice in response to the Irish Tax Institute Survey on Proposed Changes to Tax Appeal Hearings, December 2025.

*“Taxpayers are supremely concerned with the maintenance of their privacy and a risk that the determination could lead to their identification would prevent many taxpayers from going to appeal.”* Comment from Tax Adviser working in practice in response to the Irish Tax Institute Survey on Proposed Changes to Tax Appeal Hearings, December 2025.

*“Cases have hinged on large customer contracts which set out the terms - taxpayers want to protect this information from competitors.”* Comment from Tax Adviser working in practice in response to the Irish Tax Institute Survey on Proposed Changes to Tax Appeal Hearings, December 2025.

*“It affords the Revenue Commissioners too much power on their interpretation of the tax code as it is likely to go unchallenged.”* Comment from Tax Adviser working in practice in response to the Irish Tax Institute Survey on Proposed Changes to Tax Appeal Hearings, December 2025.

It appears from the proposal that there will be no linkage between the Appeal Commissioner's decision to grant a private hearing and the potential redaction of a determination of that appeal. It would seem incongruous that a taxpayer may proceed with their appeal hearing on the basis that the Appeal Commissioner has ruled that it can be held in private, only to be told after the appeal hearing that the Appeal Commissioner has decided the determination will not be redacted.

As we have set out above, the TAC determinations provide a comprehensive analysis of the evidence and submissions provided by the taxpayer and Revenue at the appeal hearing. Consequently, failure to redact a determination would effectively render a private hearing meaningless.

If policymakers decide that it is necessary to move towards public hearings, it would be essential that where the Appeal Commissioner decides a private hearing is warranted, it should also mean the determination issued following that hearing would be redacted. If this is not possible, at a minimum, there should be flexibility for a taxpayer to obtain certainty regarding the redaction of the determination before the appeal hearing takes place. This would ensure the taxpayer can make an informed decision about whether they wish to proceed with the appeal knowing their confidential financial affairs will be published in the determination if they proceed.

The legislation refers to the redaction of the identity of the taxpayer. If policymakers are of the view that it is necessary to publish the taxpayer's identity, consideration should be given to allowing the redaction of the amounts at issue in the appeal. In most cases, the amount involved is irrelevant to the analysis and determination of the issue at dispute and is of purely prurient interest to the public. However, redaction of the amount involved would partly protect the privacy of a taxpayer's financial affairs.

### **3.5. Matters to be addressed in tandem with any changes to the current legislation**

As we have outlined above, it is our strong view that the proposed move towards public hearings and limiting the circumstances in which determinations may be redacted would be detrimental for taxpayers seeking an independent review of their tax assessment by the TAC. However, if policymakers decide to proceed with these changes, then it is imperative that the following matters are addressed.

#### **3.5.1. Introduce Alternative Dispute Resolution in tandem with public hearings**

As outlined above, a form of Alternative Dispute Resolution (ADR) such as independent binding arbitration must be established in legislation in tandem with any move to public hearings to ensure an alternate avenue to resolve the dispute in

private is available to taxpayers where they disagree with Revenue. This would reflect the position that exists in other countries where considerable emphasis has been placed on providing opportunities for dispute resolution at an early stage.

### **3.5.2. Procedures for the listing of tax appeals scheduled for hearing**

Tax appeals may be settled in the lead up to a hearing when both the taxpayer and Revenue have received legal advice regarding the strengths and weaknesses of their respective positions. Therefore, it is important the procedures and timelines around the listing of tax appeals are carefully considered.

As we previously mentioned, the simple inclusion of a taxpayer's name on a list of tax appeals scheduled for hearing on the TAC website could have serious implications for a taxpayer's business and/or their professional reputation. Where the publication of the taxpayer's name on a list of upcoming hearings attracts media attention, this could potentially impact the willingness of Revenue to enter a settlement in advance of the hearing of the appeal.

It is worth noting that the WRC schedule of hearings does not identify the parties to the appeal and simply contains the date, time, location and hearing reference number. Adopting a similar approach at the TAC would at least ensure that a taxpayer's details remain confidential up to the start of the hearing and it would also facilitate the settlement of tax appeals in the lead up to hearings.

### **3.5.3. Expanding the circumstances where an 'in camera' hearing is necessitated**

When applying for an 'in camera' hearing, we understand a taxpayer will have to satisfy the Appeal Commissioner that a private hearing is necessary due to one of the five reasons outlined in section 949Y(2) TCA 1997 which include, maintaining the confidentiality of sensitive information and protecting an individual's right to respect for his or her private and family life. The Appeal Commissioners will also have the power to direct a tax appeal to be heard in public if they believe it is in the interests of justice to do so.

We understand the fact that financial affairs are private will not be considered a sufficient reason for an appeal to be heard in private like the position which exists for tax appeals to the First Tier Tribunal in the UK.

In our view, the proposal to adopt the approach taken in the UK is not appropriate. Ireland has a very small population compared to the UK. It also has a very different social view of disputes with the tax authority. For example, TAC determinations and the List of Tax Defaulters are both regularly the subject of news articles in Ireland,

which contrasts with the position in the UK where we understand that tax cases generally attract very little media attention.

Consideration should be given to including the right to privacy in respect of an individual's financial affairs as an additional factor the Appeal Commissioner must take into account as necessitating a private hearing. Other factors which should be considered include potential harm to reputation or business and the physical safety of a taxpayer. It is possible that a taxpayer may be the target of criminal activity due to a perception of wealth arising from the publication of financial details from their tax appeal.

#### **3.5.4. Ensuring transparency regarding the granting of 'in camera' hearings**

We understand that the Appeal Commissioner's decision regarding an application for an 'in camera' hearing will not be published. This means it will be difficult for taxpayers and their advisers to understand how the reasons in section 949Y(2) TCA 1997 are interpreted by the Appeal Commissioners. This lack of transparency will lead to a perception of inconsistency between the Appeal Commissioners regarding the granting of 'in camera' hearings.

As a result, it is probable that most taxpayers will make an application for an 'in camera' hearing. Such applications are likely to necessitate an in-person hearing so the taxpayer can explain the particular circumstances of their case which warrant a private hearing. This will place a significant strain on the resources of the TAC.

To remove ambiguity and to ensure there is consistency between the individual Appeal Commissioners about when an 'in camera' hearing will be granted, it would be important that the TAC publishes guidelines regarding the factors which are considered in determining if the grounds for a private hearing outlined in section 949Y(2) TCA 1997 apply.

In this regard, it may be helpful to consider the parameters adopted by the courts to 'in camera' hearings for family law proceedings and proceedings involving IP and trade secrets. Including statistics on the number of 'in camera' hearings granted each year and the grounds on which they were granted would also increase transparency over the granting of 'in camera' hearings.

The publication of guidelines by the TAC and the inclusion of statistics in the TAC Annual Report may in turn reduce the number of applications for 'in camera' hearing as taxpayers will be able to make an informed decision regarding the likelihood of their application being successful.

### **3.5.5. Timing of the application for an ‘in camera’ hearing**

The taxpayer should be given the flexibility to make an application for an ‘in camera’ hearing after the filing of the Statement of Case. In many cases the basis for Revenue’s assessment will not be clear from their Statement of Case and it is only when the taxpayer receives Revenue’s Outline of Arguments that they can understand the full extent of the evidence they will be required to produce at the hearing to prove their case.

Therefore, it would be important that the taxpayer can make an application to the Appeal Commissioner at this juncture in the appeal process so that they can demonstrate, in light of the evidence that will be produced at the hearing, why a private hearing is necessary to maintain the confidentiality of sensitive information or to protect their private and family life.

### **3.5.6. Considerations relating to the redaction of determinations**

The Tax Appeals Bill proposes that TAC determinations will only be redacted in “*special and limited circumstances*”, as determined by the Appeal Commissioners. It is important that guidance is provided on how the Appeal Commissioners intend to interpret the term “*special and limited circumstances*” so that taxpayers can understand the circumstances in which a TAC determination will be redacted.

Where an Appeal Commissioner decides a private hearing is warranted, it should also mean that the determination issued following that hearing is redacted. If policymakers decided this is not possible, at a minimum, there should be flexibility for a taxpayer to obtain certainty regarding the redaction of the determination before the appeal hearing takes place so that the taxpayer can make an informed decision on whether they wish to proceed with the appeal.

If policymakers decide it is necessary to publish the taxpayer’s identity, consideration should be given to allowing the redaction of the amounts at issue in the appeal. In most cases, the amount involved is irrelevant to the analysis and determination of the issue at dispute, but the redaction of the amount involved would partly help to protect the privacy of a taxpayer’s financial affairs.

### **3.5.7. Extending the remit of TAC to include disputes regarding interest and penalties**

Currently, where a taxpayer disagrees with a penalty levied by Revenue the only avenue of appeal is to the courts. Also, disputes regarding statutory interest on the late payment of tax cannot be considered by Revenue. If the Department of Finance believes the TAC is administering justice for the purposes of Article 34 of the Constitution, then policymakers should also consider if it would be appropriate

for disputes over interest and penalties levied by Revenue to come within the remit of the TAC.

### **3.5.8. Understanding the basis for a Revenue assessment**

Feedback from our members indicates that often a taxpayer may not have full information on the basis for an assessment which has been issued by Revenue. In some cases, Revenue may provide new reasons for an assessment in the lead up to an appeal hearing. Also, an assessment may be based on estimated figures without an explanation from Revenue as to how these figures were derived.

In contrast, a taxpayer must outline all of the grounds for appeal which they intend to rely on in their Notice of Appeal (which must be filed with 30 days of the assessment issuing). The taxpayer is prevented from introducing a new ground for appeal at a later stage unless the Appeal Commissioners are satisfied that the ground could not have been reasonably stated in the Notice of Appeal.<sup>18</sup>

In the interests of fairness, we consider that Revenue should be required to clearly state their reasons for the assessment on the date they issue their assessment.

## **4. Other proposed amendments to the tax appeal process**

In addition to the proposals regarding the public hearing of tax appeals and limiting the redaction of determinations, the Tax Appeals Bill also puts forward a number of other changes to the tax appeals process. We outline below the findings of our survey in respect of these proposals.

### **4.1. Case Management Conferences and the Dismissal of an Appeal**

An Appeal Commissioner may hold a meeting with the parties to an appeal, known as a Case Management Conference, to help progress a case. Currently, an Appeal Commissioner may determine an appeal at, or following, such a Case Management Conference without holding a hearing.

The Tax Appeals Bill proposes to remove the possibility for an appeal to be determined at, or following, a Case Management Conference. It also proposes to remove the Appeal Commissioner's ability to dismiss an appeal where a party has failed to comply with a direction given at a Case Management Conference under section 949T(1) TCA 1997.

Less than 15% of the respondents to our survey have been involved in an appeal where the Appeal Commissioner exercised their power to determine a matter under

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<sup>18</sup> Section 949I TCA 1997

appeal at, or following, a Case Management Conference without holding a hearing of the appeal. 42% of those respondents stated they would have concerns with the proposal to remove the possibility for an appeal to be determined at, or following, a Case Management Conference (i.e., without holding a hearing of the appeal).

#### **4.2. Administration of an Oath or Affirmation**

Currently, an Appeal Commissioner may require any person who gives evidence to swear an oath in relation to the evidence. The Tax Appeals Bill proposes to amend section 949AD TCA 1997 to expressly provide that Appeal Commissioners may administer an oath or an affirmation.

87% of respondents to our survey did not have any concerns with the proposed amendment to section 949AD TCA 1997 to expressly provide that Appeal Commissioners may administer an oath or an affirmation with some respondents noting that this is the procedure currently followed by the TAC.

#### **4.3. Summoning and Examination of Witnesses**

In *Zalewski*, the Supreme Court stressed that cross-examination of witnesses is fundamental to the concept of fair procedures. Currently, there is no explicit provision in the TCA 1997 which allows parties to a tax appeal to cross-examine witnesses. The Tax Appeals Bill proposes to amend section 949AE TCA 1997 to expressly grant the relevant parties with the power to cross-examine witnesses on oath or affirmation.

Almost 85% of respondents to our survey did not have any concerns with the proposal to grant the relevant parties the power to cross-examine witnesses on oath or affirmation.

Some respondents expressed concern that the proposal could add complexity to the appeal hearing; make appeals more time consuming; and increase the costs of the appeal for the taxpayer as they may need to engage professional advisers. It was noted that while there is no express provision allowing for cross-examination at present, the rules of evidence/fair procedure effectively ensure a right of cross-examination in proceedings before the TAC as matters stand, and this is routinely invoked in practice.

#### **4.4. Transitional Provisions**

The Tax Appeals Bill does not specify whether there will be any transitional provisions to address tax appeals which are ongoing when the Bill is enacted.

Currently, the law provides that the taxpayer must indicate in their Statement of Case if they wish for the hearing of their appeal to be held 'in camera'. Almost 95% of the respondents to our survey indicated that taxpayers should continue to be entitled to have their hearing held 'in camera' where they have indicated in their Statement of Case that they wish for the hearing of their case to be held 'in camera' prior to the enactment of the Tax Appeals Bill.

Taxpayers have a legitimate expectation to know the rules governing their appeal on the date their right to appeal arises, this being the date Revenue issues the assessment or decision. Changing the rules part way through the tax assessment process could be considered retrospective legislation. Therefore, it would be important that any new rules for the appeal of assessments apply only to assessments issued after the Bill is passed into law.

## Appendix

### Review tax dispute resolution process in selected jurisdictions<sup>19</sup>

Country	Population	Is there an option for a review before appeal to Independent Tribunal/Body	Alternative Dispute Resolution (ADR)	Appeal to Independent Tribunal/Court	Public v Private hearings	Publication of decisions	Can the matter be appealed further?
Australia <sup>20</sup>	27 million	Yes  Where a taxpayer disputes a tax assessment (called an “objection”), the case may be reviewed by an Australian Taxation Office (ATO) officer who has not been involved in the work leading up to the assessment.	Various ADR options are available at any stage of an appeal. The primary method is mediation between the parties.	Yes  If an ATO objection has been unsuccessful, taxpayers can appeal to the Administrative Review Tribunal (ART). But taxpayers must have lodged an ATO objection first before they can appeal to the ART.	ART appeals are heard in public by default, but the taxpayer can generally opt for a private hearing in tax matters with some exceptions.	Selected decisions which satisfy public interest criteria are published by the ART.  Published decisions do not include identifying or personal information where the hearing was held in private.	Yes  Appeal can be made to the Federal Court if taxpayer disagrees with an objection decision or a decision of the ART on the basis of a question of law.

<sup>19</sup> The information in this Appendix sets out our understanding of the tax dispute resolution processes in selected jurisdictions and is based research carried out by the Institute within the short timeframe provided for responding to the public consultation. We have included hyperlinks to supporting material throughout this document.

<sup>20</sup> Information regarding the tax dispute resolution process in Australia provided by The Tax Institute, Australia.

Country	Population	Is there an option for a review before appeal to Independent Tribunal/Body	Alternative Dispute Resolution (ADR)	Appeal to Independent Tribunal/Court	Public v Private hearings	Publication of decisions	Can the matter be appealed further?
Canada	40 million	Yes  Internal administrative appeal process with the Canada Revenue Agency under an objection process where a review is carried out by a different appeals officer within the Canada Revenue Agency.		Yes  Taxpayer can appeal to the Tax Court of Canada	Public	Decisions are published.	Yes  There are further rights of appeal to the Federal Court of Appeal and the Supreme Court of Canada.
Denmark	6 million			Yes  Taxpayers can submit an appeal to the Tax Appeals Agency. When the Tax Appeals Agency has prepared the case, it will be passed on to a regional appeals board or the National Tax Tribunal which is an	Private  Appeal hearings are held in private by default.	Yes  The decisions are published in an anonymised form. Identifying information, such as names or financial information, is redacted, but the facts and legal reasoning of the case will be made publicly available. <sup>22</sup>	Yes  All Danish legal courts have the jurisdiction to hear tax disputes.

<sup>22</sup> <https://www.lexology.com/library/detail.aspx?g=c175ab35-4da0-4343-86e8-654065626221#:~:text=Identifying%20information%2C%20such%20as%20names,a%20tax%20liability%20to%20Denmark.>

Country	Population	Is there an option for a review before appeal to Independent Tribunal/Body	Alternative Dispute Resolution (ADR)	Appeal to Independent Tribunal/Court	Public v Private hearings	Publication of decisions	Can the matter be appealed further?
				administrative appeals body that hears complaints in taxation matters. <sup>21</sup>			
Finland <sup>23</sup>	5.6 million	No.		Yes  Taxpayer can appeal to the Assessment Adjustment Board.	Private  An appeal before the Assessment Adjustment Board is typically carried out by written procedure. Oral hearings are seldom held, but at the request of the taxpayer, the Assessment Adjustment Board must provide an opportunity to present a claim or explanation	No  Decisions of the Assessment Adjustment Board are not publicly available, since all documentation and information related to taxpayers' taxes is primarily confidential because the documents have to do with personal financial affairs, current financial standing, taxpayers' private lives.	Yes  Decision of Assessment Adjustment Board may be appealed to the Supreme Administrative Court.  If the taxpayer decides to appeal the Assessment Adjustment Board's decision, the subsequent court decision can be made

<sup>21</sup> <https://skatteankestyrelsen.dk/en-us>

<sup>23</sup> Information regarding the tax dispute resolution process in Finland provided by the Taxpayers Association of Finland.

Country	Population	Is there an option for a review before appeal to Independent Tribunal/Body	Alternative Dispute Resolution (ADR)	Appeal to Independent Tribunal/Court	Public v Private hearings	Publication of decisions	Can the matter be appealed further?
					orally if it is necessary for clarifying the matter and if the written procedure would cause the taxpayer unreasonable difficulty. This hearing is not open to the public.		publicly available (at the discretion of the court), but these are redacted / anonymised so they don't disclose confidential tax information.
France	68 million	Yes  Administrative process to resolve tax disputes before the dispute moves into the judicial system. The administrative process takes place directly with tax inspectors who work in the a specialist branch within the Ministry of Finance and Economy.	Yes	Yes  Tax appeals are brought before the courts.	Procedures before the administrative and judicial courts are mostly in writing but decisions are handed down in open court. <sup>24</sup>	The decision is public and published online, but no personal data can appear relating to natural persons in order to protect the right to privacy.	Appeal before the upper court (Court of Appeal); and, if necessary, to the Supreme Court.

<sup>24</sup> <https://www.legal500.com/guides/chapter/france-tax-disputes/>

Country	Population	Is there an option for a review before appeal to Independent Tribunal/Body	Alternative Dispute Resolution (ADR)	Appeal to Independent Tribunal/Court	Public v Private hearings	Publication of decisions	Can the matter be appealed further?
Ireland	5.5 million	No	No	Yes  Tax assessments can be appealed to the Tax Appeals Commission	Public by default, but the taxpayer can opt for a private hearing.	Determinations are published online and are anonymised where the appeal hearing was held in private.	Yes  Determination of TAC may be appealed to the High Court on a point of law.
Netherlands	18 million	Yes.  Administrative process to resolve tax disputes before the dispute moves into the judicial system where there is a reconsideration of the tax assessment by tax inspectors that are new to the case. <sup>25</sup> The taxpayer may request a hearing during the administrative appeal phase. That hearing is not open to the public. The decision on	Yes	Yes  Tax appeals are brought before the Lower Court in the first instance. <sup>26</sup>	Private  Tax appeals are in private but proceedings relating to tax penalties are held in public. <sup>27</sup>	Yes  In general, the court's decision is published on a website in pseudonymized form, subject to criteria being met. <sup>28</sup>	Yes  Appeal to the Court of Appeal and the Supreme Court.

<sup>25</sup> <https://practiceguides.chambers.com/practice-guides/tax-controversy-2025/netherlands>

<sup>26</sup> <https://practiceguides.chambers.com/practice-guides/tax-controversy-2025/netherlands>

<sup>27</sup> <https://www.rechtspraak.nl/English/Dutch-legal-proceedings/Taxes#50d47429-156c-485f-a992-2cead82f41780fe197f3-003b-4432-944a-5ac1fb7fabbd13>

<sup>28</sup> <https://www.stibbe.com/sites/default/files/2022-10/Legal500%20Tax%20Disputes%202022%2827201959.1%29%20%28002%29.pdf>

Country	Population	Is there an option for a review before appeal to Independent Tribunal/Body	Alternative Dispute Resolution (ADR)	Appeal to Independent Tribunal/Court	Public v Private hearings	Publication of decisions	Can the matter be appealed further?
		administrative appeal is not published either.					
New Zealand	5.3 million	<p>Yes<sup>29</sup></p> <p>There are two administrative phases in the dispute process before a case goes to court: the conference and adjudication phases.</p> <p>The conference phase involves meeting(s) between the tax authority and the taxpayer which aims resolve the issues. If the dispute remains unresolved after the conference phase, the dispute is referred to Inland Revenue's Tax Counsel Office (TCO) for adjudication.</p> <p>The taxpayer may appeal outcome of the adjudication</p>		<p>Yes</p> <p>Appeal to the Taxation and Charities Review Authority.</p>	Private <sup>30</sup>	<p>Published decisions do not contain any information which identifies the taxpayer.<sup>31</sup></p>	Yes

<sup>29</sup> <https://www.taxtechnical.ird.govt.nz/-/media/project/ir/tt/pdfs/standard-practice-statements/general/2023/sps-23-01.pdf?modified=20230512021122>

<sup>30</sup> <https://www.ird.govt.nz/-/media/project/ir/home/documents/forms-and-guides/ir700---ir799/ir776/ir776-2023.pdf?modified=20250814225605>

<sup>31</sup> <https://practiceguides.chambers.com/practice-guides/tax-controversy-2025/new-zealand>

Country	Population	Is there an option for a review before appeal to Independent Tribunal/Body	Alternative Dispute Resolution (ADR)	Appeal to Independent Tribunal/Court	Public v Private hearings	Publication of decisions	Can the matter be appealed further?
		phase to the Taxation and Charities Review Authority or the court.					
UK	69 million	Yes.  Taxpayers are entitled to a statutory review if they disagree with an appealable HMRC decision. The review is conducted by a HMRC officer who was not involved in the original decision. <sup>32</sup>	Yes.	Yes  Taxpayer can appeal to the First-tier Tribunal (Tax Chamber).	Public  Hearings are generally open to the public, but a taxpayer can ask for a hearing, or part of a hearing, to be held in private in certain limited circumstances.	Yes	Yes  Subsequent appeals are to the Upper Tribunal (Tax and Chancery Chamber), on to the Court of Appeal, then to the Supreme Court.
USA	342 million	Yes  The Internal Revenue Service (IRS) Independent Office of Appeals is a separate and independent organisation within the Internal Revenue Service which aims to resolve tax disputes between taxpayers and the IRS	The IRS Independent Office of Appeals offer mediation programmes to resolve disputes via (i) an IRS Fast Track Settlement (FTS),	Yes  Taxpayer can appeal to appropriate court; district court, U.S. Tax Court, U.S. Court of Federal Claims.	Proceedings in federal court are public unless the judge institutes a protective order.		Yes.  Taxpayer can appeal to Courts of Appeals.

<sup>32</sup> <https://www.gov.uk/tax-appeals/review-of-a-tax-or-penalty-decision>

Country	Population	Is there an option for a review before appeal to Independent Tribunal/Body	Alternative Dispute Resolution (ADR)	Appeal to Independent Tribunal/Court	Public v Private hearings	Publication of decisions	Can the matter be appealed further?
		through an informal, administrative process without the need for litigation.	(ii) Early Referral mechanism and (iii) Rapid Appeals Process (RAP).				