



AC Ref: 23TACD2017

NAME REDACTED

Appellant

V

REVENUE COMMISSIONERS

Respondent

DETERMINATION

Introduction

1. This is an appeal, pursuant to section 997A(8) of the Taxes Consolidation Act 1997, against a decision of the Respondent to deny a credit for the income tax deducted from the Appellant's emoluments but not remitted to the Respondent by a company in which the Appellant held a material interest.
2. The Appellant requested an adjudication without a hearing, which was acceded to in accordance with the provisions of section 949U of the Taxes Consolidation Act 1997.

Background

3. The Appellant was a director of and held a 35% shareholding in REDACTED Limited (the Company) prior to it being wound up. During the years ended 31st December 2009 and 31st December 2010, the Appellant received emoluments from the Company amounting to €116,547 and €78,489 respectively.
4. Income tax returns were filed for those years claiming a credit for the full amount of tax deducted by the Company in respect of the emoluments paid to the Appellant.
5. Notwithstanding that the tax arising on the Appellant's emoluments for the year ended 31st December 2009 amounted to €38,272, only €17,074 was credited against the Appellant's tax liability, representing the amount actually remitted by the Company to the Respondent in respect of the Appellant's emoluments, leaving a balance due for that year in the sum of €21,198.
6. With regard to the year 2010, while the Company deducted income tax of €24,333 from the Appellant's emoluments, the Company failed to make any payment to the Respondent in respect of that tax for that year.



7. On 16th October 2013, the Respondent raised assessments on the Appellant for the years 2009 and 2010 limiting the credit for the income tax deducted from the Appellant's emolument with reference to the amount remitted to the Respondent by the Company on behalf of the Appellant pursuant to section 997A(3) of the Taxes Consolidation Act 1997 thereby imposing a personal liability on the Appellant in the amounts of €21,198 and €24,333 for the years 2009 and 2010 respectively.

Legislation

8. Finance Act 2005 inserted section 997A into the Taxes Consolidation Act 1997 to deny a credit for tax deducted from the emoluments paid to certain directors and employees in the absence of documentary evidence that confirms that the tax deducted from those emoluments was remitted to the Collector-General. The relevant provisions provide:

“(1) (a) In this section –

“control” has the same meaning as in section 432;

“ordinary share capital”, in relation to a company, means all the issued share capital (by whatever name called) of the company.

(b) For the purposes of this section

(i) a person shall have a material interest in a company if the person, either on the person's own or with any one or more connected persons, or if any person connected with the person with or without any such other connected persons, is the beneficial owner of, or is able, directly or through the medium of other companies or by any other indirect means, to control, more than 15 per cent of the ordinary share capital of the company, and

(ii) the question of whether a person is connected with another person shall be determined in accordance with section 10.

(2) This section applies to a person to who, in relation to a company (hereafter in this section referred to as “the company”), has a material interest in the company.

(3) Notwithstanding any other provision of the Income Tax Acts or the regulations made under this Chapter, no credit for tax deducted from the emoluments paid by the company to a person to whom this section applies shall be given against



the amount of tax chargeable in any assessment raised on the person or in any statement of liability sent to the person under Regulation 37 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001) unless there is documentary evidence to show that the tax deducted has been remitted by the company to the Collector-General in accordance with the provisions of those regulations.”

9. The appeal procedures are governed by subsection 8 which state:

“A person aggrieved by a decision of the Revenue Commissioners in relation to a claim by that person for credit for tax deducted from emoluments, in so far as the decision was made by reference to any provision of this section, may appeal that decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of that decision.”

Human Rights

10. The Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention) became enshrined into Irish law by the enactment of the European Convention Act 2003 on the 31st of December 2003 and has ramifications for Irish courts and every organ of the State.
11. The right to a fair and public hearing before an independent and impartial tribunal within reasonable time together with the presumption of innocence and other minimum rights is governed by Article 6 which provides:
1. *In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.*
 2. *Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.*
 3. *Everyone charged with a criminal offence has the following minimum rights:*
 - a) *to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;*
 - b) *to have adequate time and facilities for the preparation of his defence;*



- c) *to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;*
 - d) *to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;*
 - e) *to have the free assistance of an interpreter if he cannot understand or speak the language used in court."*
12. Furthermore, the Charter of Fundamental Rights of the European Union (the Charter) encompasses in a single document the fundamental rights protected under European law. Proclaimed in 2000, the Charter became legally binding with the entry into force by the Treaty of Lisbon in December 2009.
13. Article 47 addresses the rights to an effective remedy and to a fair trial and provides, *inter alia*:
- "Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article."*
14. Article 49 of the Charter deals with the principles of legality and proportionality of criminal offences and penalties and provides:
- 1 *No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national law or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed. If, subsequent to the commission of a criminal offence, the law provides for a lighter penalty, that penalty shall be applicable.*
 - 2 *This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles recognised by the community of nations.*
 - 3 *The severity of penalties must not be disproportionate to the criminal offence."*
15. The provisions of the Charter are addressed to the institutions, bodies, offices and agencies of the European Union but do not extend the field of application of European law or establish any new power or task as prescribed by the Treaties, as confirmed by Article 51 which states:
- 1. *The provisions of this Charter are addressed to the institutions, bodies, offices and agencies of the Union with due regard for the principle of subsidiarity and to the Member*



States only when they are implementing Union law. They shall therefore respect the rights, observe the principles and promote the application thereof in accordance with their respective powers and respecting the limits of the powers of the Union as conferred on it in the Treaties.

2. *The Charter does not extend the field of application of Union law beyond the powers of the Union or establish any new power or task for the Union, or modify powers and tasks as defined in the Treaties."*

16. Furthermore, Article 52(3) ensures the necessary consistency between the Charter and the Convention specifically in relation to corresponding rights and limitations and provides:

"In so far as this Charter contains rights which correspond to rights guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms, the meaning and scope of those rights shall be the same as those laid down by the said Convention. This provision shall not prevent Union law providing more extensive protection."

Submissions

Appellant

17. The Appellant submits that the application of section 997A of the Taxes Consolidation Act 1997, has the effect of taxing emoluments that the Appellant did not receive and to cause a balance of tax to arise that, although described as a tax liability, is in fact a substantial penalty moving the tax liability of an employer company to its directors and is as such a disproportionate penalty in the context of Human Rights.
18. Furthermore, as the Office of the Respondent is an organ of the State, it is bound by Human Rights legislation, and in particular Article 49(3) of Charter which lays down the principle of proportionality to ensure that the *"severity of penalties must not be disproportionate to the criminal offence."*
19. Therefore, the application section 997A of the Taxes Consolidation Act 1997 by the Respondent denies directors of a company a deduction for income tax taken at source and thereby penalises such persons where the employer company has failed to pay that tax to the Respondent.
20. As a consequence, the application of section 997A of the Taxes Consolidation Act 1997 punishes a director and acts as a deterrent to reoffend and is therefore characteristic of a criminal offence. In support of that assertion, the Appellant relies on a decision of the European Court of the Human Rights in *Engel v Netherlands* (No 1) (1976) I EHRR 647, the seminal authority which defined the nature of a *"criminal"* offence for the purposes of Article 6 of the Convention.



21. The Appellant also cites *Österlund v Finland* (Application No 53197/13) in which the European Court of Human Rights considered whether the purpose of tax surcharges imposed by a rule of law was a deterrent and punitive. Applying the "*Engel Criteria*", the Court considered that the deterrent and punitive sanctions established the criminal nature of the offence.
22. The Appellant argues that the *Engel criteria* can be applied to all penalties, both tax geared and fixed, in order to determine whether they are criminal for the purposes of Human Rights and cites a decision of the First-Tier Tribunal in the United Kingdom in the case of *Bluu Solutions Ltd* [2015] UKFTT 95 (TC).
23. The Appellant also asserts that the effect of section 997A of the Taxes Consolidation Act 1997 is to disregard the existence of the employer company as a separate legal personality and to cause those directors that hold a material interest in the company to be personally liable for the tax liability that would ordinarily be the liability of the employer company and contrary to principle of limited liability as laid down by *Salomon v Salomon & Co.* [1897] A.C. 22 where Lord Macnaghten said at page 51:

"The company is at law a different person altogether from the subscribers... and though...the same persons are the managers.... the company is not in law the agent of the subscribers nor are the subscribers, as members, liable in any shape or form (for the liabilities of the separate legal personality) "

Respondent

24. The Respondent asserts that Article 49 of the Charter is not applicable in this case. It is claimed that the emoluments were received by the Appellant on which tax falls due. Therefore, in accordance with section 997A of the Taxes Consolidation Act 1997, the tax remains unpaid.
25. The Respondent noted that the Charter does not excuse a taxpayer from their obligation to pay taxes lawfully due. Article 51(1) of the Charter applies to the Member States and institutions of the European Union when implementing European law. Therefore, as European law is not being implemented in this case, the Charter does not apply.
26. Finally, the Respondent claims that as section 997A of the Taxes Consolidation Act 1997 does not operate to hold a taxpayer guilty of any criminal offence or impose a penalty for committing a criminal offence, Article 49 of the Charter does not apply.



Analysis

Controlling mind

27. The Appellant asserts that notwithstanding that income tax was deducted from his emoluments by the Company, the failure by the Company to remit that tax to the Respondent should not compromise his entitlement to a credit for the tax deducted.
28. However, such an assertion fails to recognise that companies, as inanimate bodies, can only act through the actions of its directors and in accordance with their contractual and fiduciary obligations and powers vested in the board of directors in accordance with the Articles of Association. It is noteworthy that the Company adopted Regulation 80 of Part 1 of Table A to the Companies Act which provides the authority to the directors to manage the business of the Company.
29. Furthermore, while the Company deducted income tax from the Appellant's emoluments, a decision was made to employ those funds elsewhere as opposed to the intended purpose of discharging the taxes and therefore favoured another cause or creditor to the detriment of the Respondent.

European Convention on Human rights

30. Notwithstanding that in *Minister for Justice, Equality and Law Reform & Ors v The Workplace Relations Commission & Ors* [2017] IESC 43, it was confirmed that, as a matter of national law, tribunals, do not have jurisdiction to disapply a measure of national legislation, the Supreme Court decided to refer to the Court of Justice of the European Union (CJEU), under the provisions of Article 267 of the Treaty on the Functioning of the European Union, issues concerning the jurisdiction of a tribunal when applying the provisions of a European Directive.
31. As at the time of the making of this determination, the position in Irish law is that this Commission does not have the jurisdiction to disapply domestic legislation on the grounds of a perceived conflict with European law. Therefore, the analysis below of the Appellant's arguments should only be read in context of the possible change in the jurisdiction of tribunals in the event that the CJEU rules that a tribunal has jurisdiction to consider a complaint that national legislation is in breach of relevant Union law.
32. The Appellant asserts that the application of section 997A of the Taxes Consolidation Act 1997 has the effect of imposing an unlawful personal tax liability in contravention of his Human Rights. As such it is necessary to consider the application of the Convention and the Charter in this jurisdiction.
33. In *Fortune v The Revenue Commissioners* [2009] ITR 87, O'Neill J. considered the application of the Convention with regard to the imposition of tax when making the following determination at page 74:



"Article 6 of the European convention on Human Rights guarantees due process in civil and criminal cases. It provides, inter alia, that 'everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.' However, it has long been accepted by the European Court of Human Rights that Article 6 has no application whatsoever in respect of proceedings relating to the assessment or imposition of tax. Article 6(1) applies to determinations of 'civil rights and obligations or of any criminal charge'. Public law matters, such as tax matters, are excluded, as was confirmed by the European Court of Human Rights in Ferrazzini v Italy (2002) 34 EHRR 45. Accordingly, the applicant's argument under Article 6 must fail."

34. However, in *Jussila v Finland* (Application No 73053/01), the European Court of Human Rights considered the scope of Article 6 in the context of whether a penalty could be regarded as a 'criminal offence'. In distinguishing *Ferrazzini*, that Court stated at paragraph 29:

"The present case concerns proceedings in which the applicant was found, following errors in his tax returns, liable to pay VAT and an additional ten per cent surcharge. The assessment of tax and the imposition of surcharges fall outside the scope of art 6 under its civil head (see Ferrazzini v Italy [2001] ECHR 44759/98 at para 29). The issue therefore arises in this case whether the proceedings were "criminal" within the autonomous meaning of art 6 and thus attracted the guarantees of art 6 under that head."

35. The Court went on to confirm at paragraph 45:

While the Court has found that art 6(1) of the Convention extends to tax surcharge proceedings, that provision does not apply to a dispute over the tax itself (see Ferrazzini v Italy [2001] ECHR 44759/98).

36. The issue of proportionality is inextricably linked with the Convention in particular Article 1 of the First Protocol to the Convention which states:

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provision shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

37. Confirmation of the possible application of the Convention to domestic taxes was expressed in *NKM v Hungary* (App no 66529/11), where the European Court of Human Rights said, at paragraph 56, that:



“the levying of taxes constitutes in principle an interference with the right guaranteed by the first paragraph of art 1 of the First Protocol and that such interference may be justified under the second paragraph of that article, which expressly provides for an exception in respect of the payment of taxes or other contributions.”

38. In this context and contrary to the Appellant’s submission, section 997A of the Taxes Consolidation Act 1997 is a statutory mechanism to secure the payment of taxes and therefore the section falls into the exception as prescribed by the second paragraph of Article 1 of the First Protocol.
39. While all of the European case law cited by the Appellant relates to the Convention and not the Charter, further consideration of the Convention is not relevant as the Appellant appears to be relying solely on the provisions of the Charter, specifically Article 49(3) which ensures that the *“severity of penalties must not be disproportionate to the criminal offence”*.

Charter of Fundamental Rights of the European Union

40. In this regard, the Appellant asserts that the provisions of section 997A of the Taxes Consolidation Act 1997 imposes a penalty and relies on *Engel*, a decision of the European Court of Human Rights, which considered, *inter alia*, Article 6 of the Convention as opposed to any of the provisions in the Charter. However, as the seminal authority, the following characteristics of a *“criminal offence”* were set out at paragraph 82:

“In this connection, it is first necessary to know whether the provision(s) defining the offence charged belong, according to the legal system of the respondent State, to criminal law, disciplinary law or both concurrently. This however provides no more than a starting point. The indications so afforded have only a formal and relative value and must be examined in the light of the common denominator of the respective legislation of the various Contracting States.

The very nature of the offence is a factor of greater import. When a serviceman finds himself accused of an act or omission allegedly contravening a legal rule governing the operation of the armed forces, the State may in principle employ against him disciplinary law rather than criminal law. In this respect, the Court expresses its agreement with the Government.

However, supervision by the Court does not stop there. Such supervision would generally prove to be illusory if it did not also take into consideration the degree of severity of the penalty that the person concerned risks incurring. In a society subscribing to the rule of law, there belong to the “criminal” sphere deprivations of liberty liable to be imposed as a punishment, except those which by their nature, duration or manner of execution cannot be appreciably detrimental. The seriousness of what is at stake, the traditions of the Contracting States and the importance attached by the Convention to respect for the physical liberty of the person all require that this should be so (see, mutatis mutandis,



the De Wilde, Ooms and Versyp judgment of 18 June 1971, Series A no. 12, p. 36, last subparagraph, and p. 42 in fine).”

41. Therefore, the *Engel criteria* can be condensed into the following process:

- (a) the classification of the offence under national law,
- (b) the determination of the nature of the offence, and
- (c) a consideration of the severity of the penalty that the person concerned risked incurring.

42. The first criterion and starting point is the classification of an offence as criminal under national law.

43. As such the demonstrable effect of section 997A of the Taxes Consolidation Act 1997 is to deny persons in positions of control and influence over a company’s business activities from claiming a credit for unpaid taxes that ought to have been deducted and remitted by such companies to the Revenue Commissioners. The effect of the section is to secure the payment of taxes from the emoluments derived from such individuals. Therefore, and contrary to the Appellant’s assertions, the challenged provision does not depend upon some dishonest or criminal conduct on the part of a taxpayer, or even a belief or mere suspicion by the Respondent of any such dishonest or criminal conduct. The application of section 997A of the Taxes Consolidation Act 1997 is therefore wholly independent of any prosecution, or intended prosecution or enquiry into dishonest or criminal conduct.

44. The second criterion is the nature of the offence and whether the penalty imposed has a punitive or a deterrent purpose.

45. For the reasons outlined above, the provisions of section 997A of the Taxes Consolidation Act 1997 do not constitute an offence. Furthermore, its scope does not serve as a deterrent but a collection mechanism to secure tax arising on emoluments paid to prescribed individuals responsible for discharging the company’s liabilities. It ensures that such individuals cannot abdicate the responsibility to pay income tax on their emoluments to an inanimate entity.

46. The third criterion is the nature and degree of severity of the penalty that the person concerned risks incurring.

47. Again as section 997A of the Taxes Consolidation Act 1997 does not constitute an offence under national law, its application does not constitute a penalty.

Application of European Law

48. The Charter’s provisions only apply to Member States when implementing European law as confirmed by the Court of Justice of the European Union (CJEU) in *Pringle v Ireland* Case C-370/12 where at paragraph 179, CJEU held that:



“it must be observed that, under Article 51(1) of the Charter, its provisions are addressed to the Member States only when they are implementing Union law. Under Article 51(2), the Charter does not extend the field of application of Union law beyond the powers of the Union, or establish any new power or task for the Union or modify powers and tasks as defined in the Treaties. Accordingly, the Court is called upon to interpret, in the light of the Charter, the law of the European Union within the limits of the powers conferred on it (see Case C-400/10 PPU McB. [2010] ECR I-8965, paragraph 51, and Case C-256/11 Dereci and Others [2011] ECR I-11315, paragraph 71).”

49. In *Åklagaren v Åkerberg Fransson* (Case C-617/10), the CJEU had to consider, *inter alia*, whether a domestic provision contravened the Charter. In that case, the Swedish tax authorities pursued Mr. Fransson, a self-employed fisherman, for his failure to comply with his obligations to provide tax information for years the 2004 and 2005. VAT assessment were raised on Mr. Fransson for those years in 2007 and penalties were also imposed.
50. On 9 June 2009, the Swedish Public Prosecutor, commenced criminal proceedings against Mr. Fransson for tax evasion. The Prosecutor argued that the failure by Mr. Fransson to comply with the obligations to provide tax information including the obligations relating to VAT, entailed a considerable loss of revenue to the tax authorities, and justified the bringing of criminal proceedings.
51. The Swedish court later referred questions to the CJEU for a preliminary ruling concerning the interpretation of Article 50(1) of the Charter that prohibits a supplemental punishment for the same offence.
52. Before addressing the substantive issue, the CJEU had to consider the issues raised in submissions by the Swedish and other intervening governments that Article 51 of the Charter did not extend to a consideration of domestic laws where such laws are not concerned with the “*application of Union law*”. In dismissing those arguments, the CJEU made the following pronouncements:

“26. Furthermore, art 325 TFEU obliges the member states to counter illegal activities affecting the financial interests of the European Union through effective deterrent measures and, in particular, obliges them to take the same measures to counter fraud affecting the financial interests of the European Union as they take to counter fraud affecting their own interests (see, to this effect, *Belgisch Interventie - en Restitutiebureau v SGS Belgium NV* (Case C-367/09) [2010] ECR I-10761, paras 40 to 42). Given that the European Union's own resources include, as provided in art 2(1) of EC Council Decision 2007/436, Euratom of 7 June 2007 on the system of the European Communities' own resources (OJ 2007 L 163, p 17), revenue from application of a uniform rate to the harmonised VAT assessment bases determined according to European Union rules, there is thus a direct link between the collection of VAT revenue in compliance with the European Union law applicable and the availability to the European Union budget of the corresponding VAT resources, since any lacuna in the



collection of the first potentially causes a reduction in the second (see, to this effect, EC Commission v Germany (Case C-539/09) (2011) Transcript (opinion), 25 May, (2011) Transcript (judgment), 15 November, para 72).

27. *It follows that tax penalties and criminal proceedings for tax evasion, such as those to which the defendant in the main proceedings has been or is subject because the information concerning VAT that was provided was false, constitute implementation of arts 2, 250(1) and 273 of Directive 2006/112 (previously arts 2 and 22 of the Sixth Directive) and of art 325 TFEU and, therefore, of European Union law, for the purposes of art 51(1) of the Charter.”*
53. The decision in *Fransson* can be distinguished from this appeal as the CJEU determined that the penalties imposed on the taxpayer arose as a result of the VAT Directive and therefore, the Charter should apply to restrain a Member State from imposing a penalty for the same offence. However, in the Appellant’s case, the Charter cannot be invoked as the contested provisions do not involve the application of European Union law but direct tax provisions governed solely by the Taxes Consolidation Act 1997.

Corporate Veil

54. The Appellant asserts that the application of section 997A of the Taxes Consolidation Act 1997 disregards the existence of a company as a separate legal personality and to cause shareholders holding a material interest in the company to be personally liable for the tax liability that would ordinarily be the liability of the employer company and contrary to principle of limited liability as laid down by *Salomon v Salomon & Co.* [1897] A.C. 22.
55. However, this argument fails to consider that the contested section 997A of the Taxes Consolidation Act 1997 was introduced by an Act of the Oireachtas to give statutory authority to deny prescribed individuals from claiming a credit for the income tax deducted from their emoluments but not remitted to the Respondent by companies in which those individuals hold a material interest.

Conclusion

56. The assertion that there was an entitlement to claim a credit for the tax deducted from the Appellant’s emoluments by the Company notwithstanding that such taxes were not remitted to the Respondent fails to recognise that companies, as inanimate bodies, can only act through the actions of its directors and in accordance with their contractual and fiduciary obligations and powers vested in the board of directors in accordance with the Articles of Association. Furthermore, while tax was deducted from the Appellant’s emoluments, a decision was made to employ those funds elsewhere as opposed to the intended purpose of discharging those taxes and therefore favoured another cause or creditor to the detriment of the Respondent.



57. The rights afforded under the Convention are not appropriate in this appeal as the provisions of section 997A of the Taxes Consolidation Act 1997, as a statutory mechanism to secure the payment of taxes, falls into the exception as prescribed by the second paragraph of Article 1 of the First Protocol to the Convention.
58. Furthermore, the demonstrable effect of section 997A is to deny persons in positions of control and influence over a company's business activities from claiming a credit for unpaid taxes that ought to have been deducted and remitted by such companies to the Respondent and as a consequence does not constitute an offence under national law.
59. Notwithstanding the reference by the Supreme Court to the Court of Justice of the European Union for a preliminary ruling on the jurisdiction of a tribunal when applying the provisions of a European Directive, the entitlement to the rights prescribed under the Charter are not applicable as section 997A of the Taxes Consolidation Act 1997 does not involve the implementation of European Union law but direct tax provisions governed solely by that act.
60. Finally, section 997A of the Taxes Consolidation Act 1997 was introduced by an Act of the Oireachtas, the effect of which gives statutory authority to deny prescribed individuals from claiming a credit for the income tax deducted from their emoluments but not remitted to the Respondent by companies in which those individuals hold a material interest.
61. I have therefore determined that the assessments for the years 2009 and 2010 that deny the Appellant a credit for the tax deducted from his emoluments in the amounts of €21,198 and €24,333 for the years 2009 and 2010 respectively are correct and therefore those assessments shall stand. As such, this appeal is therefore determined in accordance with Taxes Consolidation Act 1997, section 949AK.

APPEAL COMMISSIONER
27th October 2017

No request was made to state and sign a case for the opinion of the High Court in respect of this determination, pursuant to the provisions of Chapter 6 of Part 40A of the Taxes Consolidation Act 1997 as amended.

