



**188TACD2020**

**BETWEEN/**

**REDACTED**

**Appellant**

**V**

**REVENUE COMMISSIONERS**

**Respondent**

**DETERMINATION**

**Introduction**

1. This appeal relates to a liability to income tax for 2017.
2. This case is adjudicated without a hearing in accordance with the provisions of Section 949U Taxes Consolidation Act (TCA) 1997 by agreement with the parties.

**Background**

3. The Respondent by way of a notice in accordance with Chapter 5 of Part 41A of the Taxes Consolidation Act 1997 issued an amended assessment to income tax for 2017. This amended assessment sought additional tax from the Appellant of €800.
4. The Appellant appealed the notice of assessment to the Tax Appeals Commission on 11 March 2019.
5. The facts are not in dispute in this appeal.



## Submissions

6. The Appellant submitted that the notice of amended assessment failed to include income tax paid under PAYE as shown on her P60 in respect of her pension from the HSE.
7. The Appellant submitted that the system should have crosschecked her records to verify the actual payments made by her both directly and through the PAYE system.
8. The Appellant submitted that her liability for 2017 exceeds the average payments made by her in other years, even taking into account liabilities for earlier years.
9. The Appellant submitted that the final sentence of a letter from her to the Respondent dated 18 October 2017, requested that Revenue should check the figures submitted by her for 2016.
10. The Appellant submitted that she had not been advised of the outcome of that letter.
11. The Appellant submitted that she is a fiscal resident of Spain but did not supply any supporting documentation concerning her tax status in Ireland.
12. The Appellant sought in her Statement of Case to have her tax liability for the years 2016 – 2018 re-audited.
13. The Respondent submitted that the Appellant submitted her tax return for 2017 on 30 October 2017 that indicated a liability of €1,105.
14. The Respondent advised that the amended assessment for 2017 issued to correct errors included in the Appellant's self-assessed return of income for 2017 and to collect tax for earlier years as outlined below.
  - a. The PAYE tax paid in respect of her pension for 2017 P60 amounted to €2,335. However, the Respondent reduced this amount to collect tax due of €1,404 for the years 2013 and 2014.
  - b. This resulted in applying a PAYE tax paid credit in the assessment of €931 rather than the amount actually reflected on the P60.





- c. The USC paid in respect of her pension was reduced to the 2017 P60 amount of €348 (from €448).
- 15. The Net effect of these errors was to increase the tax liability of the Appellant by €800.

### **Analysis and findings**

- 16. There is no dispute between the parties in relation to the income quantum, in the assessment under appeal.
- 17. The Appellant has pointed to the differences between what she returned as tax paid per her P60 in her return for 2017 and what the Respondent has permitted in the amended assessment.
- 18. The Appellant also raised concerns about her tax position for 2016 and 2018 and advised that she is a fiscal resident in Spain, but provided no further information in respect of these matters. In any event, her appeal only concerns the year 2017.
- 19. It is a matter for the Respondent and the Appellant to consider her tax position in relation to the concerns raised by the Appellant.
- 20. The Respondent has correctly made an assessment for 2017, which includes an adjustment to collect the acknowledged tax due for earlier years (which assists the Appellant somewhat in relation to a possible interest charge) and to include the correct USC deducted for 2017.
- 21. The assessment corrects the self-assessed return made by the Appellant and seeks to collect the additional €800 due by the Appellant.
- 22. In appeals before the Tax Appeals Commission, the burden of proof rests on the Appellant who must prove on the balance of probabilities that the assessment to tax, raised by the Respondent is incorrect.





23. In the High Court case of *Menolly Homes Ltd v Appeal Commissioners and another*, [2010] IEHC 49, at para. 22, Charleton J. stated: '*The burden of proof in this appeal process is, as in all taxation appeals, on the taxpayer. This is not a plenary civil hearing. It is an enquiry by the Appeal Commissioners as to whether the taxpayer has shown that the relevant tax is not payable.*'
24. The question to be answered in this appeal is whether, the Respondent is correct in seeking an additional amount of €800 for the year 2017. I find that the Appellant has not furnished sufficient information and documentation, which would allow me to conclude, on the balance of probabilities, that the Respondent's view of the matter is incorrect. As a result, I determine that the Appellant has not succeeded in discharging the burden of proof and has not succeeded in showing that the assessment is incorrect.

### **Determination**

25. In the circumstances, and based on a review of the facts and a consideration of the submissions, material and evidence provided by both parties, I am satisfied that the Appellants' tax liability for 2017 is as assessed by Revenue.
26. The appeal is hereby determined in accordance with Section 949 AK TCA 1997.

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**CHARLIE PHELAN**  
**APPEAL COMMISSIONER**  
**23 OCTOBER 2020**

