



**26TACD2021**

**BETWEEN/**

**[APPELLANT]**

**Appellant**

**-and-**

**THE REVENUE COMMISSIONERS**

**Respondent**

**DETERMINATION**

**Appeal**

[1] This is an appeal against a Balancing Statement (P21) for the year 2015 dated 15 August 2016. This appeal is adjudicated without a hearing in accordance with section 949U of the Taxes Consolidation Act, 1997.

**Background**

[2] On 29 September 2014, the Appellant attended the Revenue Commissioners to notify of the death of his former spouse on [redacted]. The Appellant had been making maintenance payments to his former spouse. Despite the notification of a change of circumstance by the Appellant, the Tax Credit Certificate that issued for the Appellant for the year 2015 on 17 December 2014 included a tax credit for 'maintenance paid' and an increased tax rate band for 'maintenance paid'.



[3] On 15 August 2016, a Balancing Statement for the year 2015 issued to the Appellant showing the PAYE result as an underpayment of €510.55. On 22 August 2016, the Appellant queried the statement. On 8 September 2016, the Revenue Commissioners replied in the following terms:

*“Thank you for your email received on 22 August 2016.*

*I reviewed your file and checked to see how the underpayment for 2015 occurred. Unfortunately, it was due to the maintenance payments tax deduction still showing in your 2015 tax record. I note from your letter to our office dated 29 September 2014, the maintenance payments tax deduction was to be reduced for 2015 and all years going forward due to the passing of your former wife. The instruction to reduce the maintenance payments tax deduction was updated for tax year 2014 on 7 October 2014. On the same date, the officer dealing with your case updated your 2015 tax credits but did not remove this tax deduction correctly and the maintenance payments tax deduction remained on your Tax Credit Certificate for 2015 which issued to your [redacted] in December 2014. This error came to light in August this year. Unfortunately, as this tax deduction was not due for 2015 this underpayment is still due. However, your tax credits for 2017 have been reduced to collect this underpayment so the repayment is spread out over the 2017 tax year.*

*Having checked your record for this year 2016, the maintenance payments tax deduction was still included in your tax credits. To update your record correctly for the current year and future years the maintenance payments tax deduction was removed correctly and permanently from your tax credits in August 2016 and a review/P21 Balancing Statement issued resulting in the underpayment. Unfortunately, you may have an underpayment when your 2016 tax year is reviewed. I can assure you that the record is updated correctly for 2017 and all years going forward.*

*On behalf of Revenue I would like to sincerely apologise for any inconvenience caused.*



*If you need any further clarification on this issue please do not hesitate to contact our PAYE Helpline (outside Ireland) – 003531 70232011.”*

[4] On 30 March 2020, the Revenue Commissioners were directed to provide a Statement of Case in accordance with section 949Q of the Taxes Consolidation Act, 1997. On 9 June 2020, the Revenue Commissioners provided a Statement of Case wherein it was stated that the Appellant’s tax record had not been updated correctly ‘*due to a combination of human and technical error*’. It was acknowledged by the Revenue Commissioners that the error was not the fault of the Appellant. The Revenue Commissioners stated that the appeal was under review. On 18 June 2020, the Tax Appeals Commission were notified that a Statement of Liability for the year 2015 dated 16 June 2020 issued to the Appellant showing an overpayment of €540. The Revenue Commissioners notified the Appellant that the Revenue Commissioners considered the matter settled. On 29 June 2020, the Appellant accepted the repayment of tax of €540 but did not consider that the events surrounding his notification of a change of circumstance had been resolved. On 21 August 2020, the Appellant was directed to provide information/material to show that his liability to tax for the year 2015 was not correctly represented in the Statement of Liability dated 16 June 2020. No information/material was provided by the Appellant. On 21 October 2020, the parties were notified that the Appeal Commissioners intended to proceed to adjudicate on the appeal without a hearing in accordance with section 949U of the Taxes Consolidation Act, 1997, in the absence of a withdrawal of the appeal by the Appellant or a settlement by agreement between the Appellant and the Revenue Commissioners.

### **Analysis and Findings**

[5] A Balancing Statement issued to the Appellant for the year 2015 on 15 August 2016. A Statement of Liability issued to the Appellant for the year 2015 on 16 June 2020. A comparison of the statements highlights the differences:



	Balancing Statement 15 August 2016	Statement of Liability 16 June 2020
<u>Income</u>		
-[redacted]	€18,466	€18,466
-[redacted]	€5,658.69	€5,658.69
-[redacted]	€11,911	€11,911
<b>TOTAL</b>	<b>€36,035.69</b>	<b>€36,035.69</b>
<u>Tax Deducted</u>		
-[redacted]	€1,335.25	€1,335.25
-[redacted]	€2,263.48	€2,263.48
-[redacted]	-	-
<b>TOTAL</b>	<b>€3,598.73</b>	<b>€3,598.73</b>
<u>Tax Credits</u>		
-Personal Tax Credit	€1,650	€2,190
-PAYE Tax Credit	€1,650	€1,650
-Age Tax Credit	€245	€245
<b>TOTAL</b>	<b>€3,545</b>	<b>€4,085</b>
-€33,800 @ 20%	€6,760	€6,760
-€2,235.69 @ 40%	€894.28	€894.28
<b>GROSS TAX PAYABLE</b>	<b>€7,654.28</b>	<b>€7,654.28</b>
<u>Less</u>		
-Tax Credits	€3,545	€4,085
-Taxes Deducted	€3,598.73	€3,598.73
-Adjustments	-	€453.97
<b>TOTAL</b>	<b>€7,143.73</b>	<b>€8,137.70</b>
<b>PAYE Result</b>	<b>€7,654.28 - €7,143.73 = €510.55 (Underpayment)</b>	<b>€7,654.28 - €8,137.70 = €483.42 (Overpayment)</b>
<b>USC Result</b>	<b>€56.58 (Overpayment)</b>	<b>€56.58 (Overpayment)</b>
<b>FINAL RESULT</b>	<b>€453.97 (Underpayment)</b>	<b>€540 (Overpayment)</b>



[6] Therefore, for the year 2015, the Appellant received taxable income of €36,035.69 from which tax of €3,598.73 was deducted. The Revenue Commissioners allocated tax credits of €4,085 to the Appellant representing the Personal Tax Credit, PAYE Tax Credit and Age Tax Credit. The Personal Tax Credit was revised from €1,650 to €2,190 as the category of ‘Widowed Person or Surviving Civil Partner without qualifying children’ applied to the circumstance of the Appellant. In the Statement of Liability dated 16 June 2020, the Revenue Commissioners applied further adjustments giving rise to a repayment of tax of €540.

[7] In accordance with the Finance (Tax Appeals) Act, 2015, the functions of the Appeal Commissioners are prescribed by statute and include the establishment of the correct liability to tax of appellants. The appeal process before the Appeal Commissioners was described by Charleton J. in the High Court judgment of *Menolly Homes Limited -v- Appeal Commissioners and Revenue Commissioners* [2010] IEHC 49 (at paragraph 22) as “*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*”. While the Tax Credit Certificate which issued for the Appellant for the year 2015 included a tax credit for ‘maintenance paid’ and an increased tax rate band for ‘maintenance paid’ despite the notification of a change of circumstance by the Appellant on 29 September 2014, a Tax Credit Certificate is not a computation of the liability to tax. In all the circumstances, I find that the Statement of Liability dated 16 June 2020 is the correct liability to tax of the Appellant for the year 2015.

### **Determination**

[8] Based on a review of the facts and a consideration of the evidence, materials and submissions of the parties, I determine that the Statement of Liability for the year 2015 dated 16 June 2020 is the correct liability to tax of the Appellant. This appeal is hereby determined in accordance with section 949AK of the Taxes Consolidation Act, 1997.



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**FIONA McLAFFERTY**  
**APPEAL COMMISSIONER**

**15 DECEMBER 2020**