



128TACD2022

Between/



Appellant

-v-

THE REVENUE COMMISSIONERS

Respondent

DETERMINATION

A. Introduction

1. This appeal comes before the Tax Appeals Commission by way of an appeal against PAYE/USC Balancing Statements (P21s) for the tax years 2012, 2013 and 2016 issued by the Respondent to the Appellant on the 21st of June 2016.
2. The said P21 Balancing Statements recorded overpayments by the Appellant of €31.08 in 2012, of €564.48 in 2013 and €979.46 in 2014.
3. The Appellant appealed against the Balancing Statements by Notice of Appeal submitted to the Commission on the 4th of July 2017.

4. In essence, the Appellant submits that that the Respondent has incorrectly calculated his tax liabilities, and that he has overpaid more tax in the years in question than is recorded in the Balancing Statements.

B. Grounds of Appeal

5. The grounds of appeal advanced by the Appellant in respect of the three years were stated to be as follows:-

"Year 2012

For the reason I appealing against this assessment I am disagreeing for the following reason there are a number of times tax office contacted and several times amendment done and according to the recent amendment date 21st of June 2016, no full explanation.

The health expenses originally claimed for the amount resent under audit enquiry the new amount evidence with receipt €1570, therefore the health expenses would be permitted but health expenses not included.

There is a dispute offset in amount €1289.83 coming nowhere part of the assessment and offset out amount €1122.24, no explanation given by the revenue official.

According to this assessment refund amount received €254 and further refund was issued €31.08

Year 2013





For the reason I appealing for their decision I am disagree with their decision because There were several tax assessments were amended but fail to provide a explanation raised with the tax inspector.

My last crosspondance indicated on 17/05/16 and 07/06/16 and still the tax office refused to refund the money. I have also noticed the tax office holding the amount €1000 in their assessments for unknown reason

I have co-operated all their assessments and in particular on the inquiry conducted date 27/05/16, so far there is 2013 was amended recently on 21/06/16

There is a €1000 was on hold which is not explained, and this amount was used under the assessment again for the purpose of increase the liability. Offset out amount €1194.58

There is an amount came nowhere amount €1195.83 which is used in their assessment offset in

*According to 21/06/16 I still on dispute applicable in this assessment **there is no health expenses allowed** for the reason on my behalf the private pension scheme friends first has paid monthly of €313.86 for 12 months. There is a wrong calculation **IN-continuance allowance permitted** while in account premium paid as per same in the previous year. The premium paid for year 2013 in total paid = $€304.72 \times 9 - 2742.48 + 313.86 \times 3 = 941.58 = \mathbf{€3,684.06}$, **but allowance permitted €3604.14***

There is a refund amount €194.58 and €564.18 issued per their assessment.



Year 2014

There is a final assessment 21/06/16 still I am dispute for the reason fail to pay out the correct refund and the explanation.

I am appealing against this assessment for the reason on this assessment there was a refund issued amount €888.03 and also unexplained amount of €1282.24 indicated offset, these amounts in total €2170.27 used in the tax assessment to increase the tax due, I would like the explanation, which are failed in their proper response under numerous inquiries.

In this assessment refund was received amount €888.03 and €979.46.

There is further more refund due on this year, but revenue fail to respond after number of inquiries.” [emphasis per original]

C. Subsequent Correspondence between the parties

6. With a view to offering the explanations the Appellant claimed in his grounds of appeal not to have received, the Respondent wrote to the Appellant on the 8th of September 2016, setting out the Respondent’s position in relation to each of the three years as follows:-

“2012

In 2012 I note that no tax was deducted from the income received by you from Friends First in that year. As no tax was deducted from your income in 2012 no





refund of tax was due to you. However €198.67 was deducted from you in Universal Social Charge (USC) in that year.

In respect of 2012 you have received the following refunds by electronic fund transfer to your bank account:

20/05/16 - €254.00

24/06/16 - €31.40

In 2012 you were exempt from Universal Social Charge (USC), however you paid €198.67 during that year, therefore €198.67 of the refund that you received was this amount and the balance repaid of €86.73 refers to a credit transferred or offset from 2014 to 2012.

As confirmed in the course of our telephone conversation today and previously, if no tax is deducted in a particular year no refund is due.

2013

A PAYE Balancing Statement issued to you for 2011 on 30/07/2012 with a resulting underpayment of €1,812.91, of which €1,000 was due to be collected by means of a tax credit reduction in 2013.

In order that the full €1,000.00 due for collection in 2013 was actually collected, €160 in tax was transferred from 2014 to 2013. A further €1,035.83 was transferred from 2014 to 2012 and then subsequently re-transferred to 2013. The total transferred in to 2013 from the other two tax years amounted to €1,195.83.





In respect of 2013 you received two [sic] refunds of tax by electronic fund transfer on the following dates:

19/05/16 - €148.58

16/06/16 - €46.00

24/06/16 - €564.48

Total: €759.06

This refund is comprised as follows:

€563.24 – actual amount of tax paid in 2013.

€195.82 – The amount transferred in to 2013 from 2012 and 2014 was €1,195.83. €1,000.00 of this was to cover the 2011 underpayment leaving a balance to be refunded of €195.83.

2014

An offset or credit out of €1,282.24 was made from 2014 as follows:

2012 - €1,122.24

2013 - €160.00

Of the €1,122.24 initially offset to 2012, €1,035.83 was ultimately offset or credited to 2013.

In 2014 you were allowed additional claims as follows:

Health Expenses €525 @ 20% = €105.00.*

** The amount claimed was for €775.00 however in your correspondence you confirmed that €250.00 of this amount in fact referred to 2012. As it was paid in 2012 it had to be included with the claim for that year and as advised above as no tax was deducted in that year no refund is due.*

*Income Continuance €2,510.88 @ 41%** = €1,029.46*





*** Relief for income continuance is allowed at your marginal or higher rate of tax which in 2014 was 41% for you.*

In respect of 2014 you received two refunds by electronic fund transfer as follows:

06/04/2016 - €888.03

24/06/16 - €979.46”

7. The Appellant remained dissatisfied with the explanations proffered by the Respondent and wrote to the Tax Appeals Commission on the 21st of November 2016, stating as follows:-

“...I confirm that I have received the tax refunds from revenue, but I am still not happy about the explanations and further that unexplained holding back of my tax refund amount for certain years ie 2012-2014, I believe that the tax refund dispute, the tax office going back to the Barred year 2011.

If the tax revenue was allowed to deal with the barred year 2011 and the appellant should be allowed to deal with barred years 2008-2011, there were tax refunds due for those years.”

8. On the 23rd of February 2017, the Respondent furnished the Commission with a note further clarifying their position in relation to the assertions made by the Appellant. The note stated that in relation to 2008 to 2011, the Appellant contended that if Revenue can collect liabilities arising in 2011, then he should be permitted to submit additional claims for the years 2008 to 2011. The Respondent’s position in this regard was that Revenue are authorised to offset a repayment of tax against any outstanding tax liability of the person before making a repayment pursuant to section 960H of the Taxes Consolidation Act 1997 as amended (hereinafter “**TCA 1997**”).





Additional claims which the Appellant now sought to make in respect of the years 2008 and 2011 were statute barred pursuant to the provisions of section 865(4)(b) of TCA 1997.

9. In relation to 2012 to 2014, the note stated that the Appellant disputed the amounts of the refunds versus offsets contained in the three P21 Balancing Statements the subject of this appeal. In response, the Respondent stated:-

“Revenue outlined the position regarding refunds and offsets for 2012 to 2014 as per the P21s that issued on 21/6/16 for each of the years.

Revenue accept that the taxpayer may have some trouble in understanding the outcome of these P21s. In order to fully comprehend the result of the P21s which are being contested they should not be considered in isolation. As 17 reviews were conducted for 2012-2014 some or all of these reviews may need to be explained to the taxpayer as offsets occurred. The 11 reviews carried out in 2011 may have to be considered as repayments due were offset against liabilities for 2011.

Revenue are confident that this matter can be settled through further engagement with the taxpayer.”

10. Unfortunately, the confidence expressed by the Respondent proved to be misplaced and the Appellant responded to the Commission on the 4th of June 2017 stating as follows:-

“As I have already used all of the venue to communicate with the revenue I do not have a satisfactory Explanation of Balancing statements p21 items as follows for the year 2008-2014,



In-continuance allowance Revenue calculation in particular years 2009-2014.

What is off set in and what is offset out for all those 2008-2014 tax refund which is hold back by way of restricting refund to the applicant.

In the case of refund is not in complete will the hold back amount carried forward to the next year? For eg YEAR 2008

For the Barred years

Please do note: Year 2008 Refund due: €2230

Revenue paid out : €400

Short fall of payment : €1830 or Offset out Where is that offset amount gone???

It could be more refund if the amount of IN-CONTINUANCE allowance on miscalculated of those years

I also concern In-continuance allowance year 2009 and 2010 revenue calculation.

4. According to the Year 2011 Balancing statement dated 9th of November 2012 there was a refund was made amount of €1017

My explanation at this point for the Barred years 2008-2011 total refund in break-down as fallows:

(a) Year 2008 refund due: €2230 received : €400

(b) Year 2009 refund due: €437.87 received: €437.87

(c) Year 2010 Refund due : €1671.20 Received €1671.20

(d) Year 2011 Tax due €1812.51 Received €1017.61





I did make an application for all year 2007-2011 in the year 2012.

My total refund due: €4339.07 Amount received: 3526.68

Balance outstanding refund due 2008-2011 : €812.39

Lets Now Moving on to TAX YEARS 2012---2014

(e) Tax year 2012 tax due USC: €31.08 received: €285.08

(Please note I have understood from previous crosspondance that because no tax paid in 2012 and no refund due)

(f) Tax year 2013 refund due €665.75 received €759.06

(g) Tax year 2014 Refund due €3087.97 Received €1867.48

I did apply tax refund application for all 2012-2014 in the year 2016

My Total tax refund due: €3753.72 Received: €2911.63

Balance outstanding refund due 2012-2014 : €842.09

Clarafication needed medical ex+rent Releif

Year 2012 need explanation of error on My medical expenses in year 2012

Total paid €1890 releif allowed : €254

On my rent payment 2012 = $120 \times 52 = €6240$ rent relief allowed = €240

Year 2013 Error on my medical expenses total paid:€270 medical relief allowed

: €54 Rent payments total $120 \times 52 = €6240$ Rent relief allowed = €200

Year 2014 Error medical expenses total paid = €805 Releif allowed: €155

Year 2014 rent = $120 \times 52 = €6240$ Rent relief allowed = €160





(Please note 2012 medical expense €250 removed and add it together with 2012 year expenses)

*Please forward your answers inclusive all year 2012, 2013 and 2014 In-contuance how was it calculated and also explained what happen to the offset amount year 2008 **€1830***

I do not understand where and how your calculation come up with under pay in 2011, Please look carefully what I have explained above and, please explain without complexity, Which I can see at present there is further refund due.

Please note revenue has now taken 2011 barred year in to account and, it is important for the tax payer should be allowed for the purpose of equal foot and fair treatment When dealing with tax assessments.”

D. Relevant Legislation

11.Section 458 of TCA 1997 provides for deductions allowed in ascertaining taxable income and reductions in tax, and provides as follows:-

“(1) An individual who, in the manner prescribed by the Income Tax Acts, makes a claim in that behalf and, subject to subsection (1B), makes a return in the prescribed form of the individual’s total income shall be entitled –

(a) For the purpose of ascertaining the amount of the income on which he or she is to be charged to income tax (in the Income Tax Acts referred to as “the taxable income”) to have such deductions as are specified in the provisions



referred to in Part 1 of the Table to this section, but subject to those provisions, made from the individual's total income, and

(b) To have the income tax to be charged on the individual reduced by such tax credits and other reductions as are specified in the provisions referred to in Part 2 of that Table, but subject to subsection (1A) and those provisions.

(1A) Where an individual is entitled to a tax credit specified in a provision referred to in Part 2 of the Table to this section, the income tax to be charged on the individual for the year of assessment, other than in accordance with section 16(2), shall be reduced by the lesser of –

(a) the amount of the tax credit, or

(b) the amount which reduced that income tax to nil..."

12. The provisions listed in Part 1 of the Table include section 469, which refers to health expenses, and Part 2 includes section 472, which deals with the Employee Tax Credit, and section 473, which deals with the allowance paid for rent by certain individuals.

13. Section 865(4) of TCA 1997 provides that:-

"Subject to subsection (5), a claim for repayment of tax under the Acts for any chargeable period shall not be allowed unless it is made –

(a) in the case of claims made on or before 31 December 2004, under any provision of the Acts other than subsection (2) in relation to any chargeable period ending on or before 31 December 2002, within 10 years,

(b) in the case of claims made on or after 1 January 2005 in relation to any chargeable period referred to in paragraph (a), within 4 years, and

(c) in the case of claims made –

(i) under subsection (2) and not under any other provision of the Acts, or



*(ii) in relation to any chargeable period beginning on or after 1 January 2003,
after the end of the chargeable period to which the claim relates.”*

14. Section 960H(2) of TCA 1997 provides that:-

“Where the Collector-General is satisfied that a person has not complied with the obligations imposed on the person in relation to either or both –

(a) the payment of tax that is due and payable, and

(b) the delivery of returns required to be made,

then the Collector-General may, in a case where a repayment is due to the person in respect of a claim or overpayment –

(i) where paragraph (a) applies, or where paragraphs (a) and (b) apply, instead of making the repayment, set the amount of the repayment against any liability, and

(ii) where paragraph (b) only applies, withhold making the repayment until such time as the returns required to be delivered have been delivered.”

E. Submissions of the Appellant

15. The Appellant submitted a Statement of Case to the Commission on the 29th of June 2018 which summarised the arguments he wished to make in relation to his appeal as follows:-

“Revenue Notice indicated for the year 2011 assessment s noted which is barred interfered with the year 2013 Assessments, Therefore equal rights should have been granted to the Appellant to explain on this matter.





It is appellant confused whenever there is a refund on the majority of assessments, the Amount then set back by the revenue "Off Set out". There was no good explanation given by the Revenue officials, when if there is a underpayment of an tax assessment identified then why the revenue The tax refund issued, then these need to be recovered by alternative way.

Revenue assessments for the year 2014 received in total 3, According to my own calculation revenue assessments still refund amount due €381.41, there were revenue refund received on 01st of April 2016 €888.03 on and on 21st of June 16 €979.46 Please refer pages of appellant's calculation. Refund still due €1092.77

Revenue assessments for the year 2013 received in total 5, refunds received 21st of June 16 €564.48, 13th of June 16 €46 and 16th May 16 €148.58, Please refer pages of appellant's calculation refund excessively paid by the Revenue €239.47 due to over payment of refund by revenue.

Revenue assessments for the year 2012 received in total 6, refunds 21st of June 16 €31.08 and on 17th of May 16 €254 received per assessments notifications Please refer pages of appellant's calculation. Refund still due €144.19

***In total tax refund due to appellant claim years from 2012 --- 2014-----
---€997.49***

Revenue assessments for the year 2011 received in total 10, refund received per assessments notifications €577.40 on 22nd of July 2012, €73.39 on 18th of July 12 and on 30th of May 12 Please refer pages of appellant's calculation under paid tax €2913.72 due to over paid refunds by the revenue.





Revenue assessments for the year 2010 received in total 6, there were revenue refund received per assessment notifications €80.40 in 27th of July 2012, €400 on 22st of June 2012 and on 30th of May 2012 €1190.80 balance €0 owes to revenue Please refer pages of appellant's calculation.

Revenue assessments for the year 2009 received in total 2, there were revenue refund received per assessments notifications €400 on 22nd of June 2012 and €37.72 on 18th of July 2012 Please refer pages of appellant's calculation. Tax balance €0 owes to revenue

Revenue assessments for the year 2008 received in total 1 refund received As per Revenue Assessment date 18th of July 2012 €400 Tax refund still due €1830

Total tax appellant owes Revenue years from 2008-----2011 -----
€1083.72

Appellant believe the tax under paid for the years 2008-2011 above amount €1083.72, then there is a refund due on 2011----2014 amount €997.49, which led to under payment tax

As fallow €1083.72 - €997.49==€86.23. *(If this is the case of the amount appellant happy with the revenue they are entitle to recover this amount)*

I have jet need an explanation of reducing the credit from year 2012---Onwards it is unnecessary and if that on-going reduction still on-going I need an explanation from revenue why and what was the loss suffered by the Appellant.



I understood from revenue's previous correspondence that 2012 there is no tax paid and no refund, then the revenue have issued refunds of €31.08 and €254 and that left with short fall €144.19."

- 16.**In support of these submissions, the Appellant furnished the Commission with calculations and his tax liabilities, and the refunds due in accordance with same, for the years 2008 to 2014 inclusive.
- 17.**In the course of the hearing, the Appellant submitted that an off-set amount had been brought in from 2014 into the calculation of his 2012 liabilities. He submitted that this meant that technically he was paying tax in respect of 2012 and therefore the Respondent was obliged to prepare a full assessment but he submitted that it had failed to do so, and failed to give him a refund.
- 18.**The Appellant brought me through the 6 P21 Balancing Statements issued to him in respect of 2012 between the 24th of March 2016 and the 21st of June 2016, and explained why he still had a number of queries in relation to same. These included the fact that the P21 Balancing Statement issued on the 10th of May 2016 reduced the amount recorded as the Appellant's income from €24,374 to €20,396. He also queried why he had not been allowed medical insurance relief, when this had been allowed in 2010. He also queried why he was not allowed a deduction in respect of his medical expenses.
- 19.**The Appellant submitted that the total refund due to him for 2012 was €628.93 and, as he had already received €285.08 from the Respondent, he was still owed a refund of €343.85. He therefore requested that I direct the Respondent to issue him with a fresh assessment in respect of 2012 and issue him whatever refund that fresh assessment disclosed.



- 20.** In relation to 2013, the Appellant brought me through the 5 P21 Balancing Statements issued to him in respect of that year and explained his queries in relation to same. He submitted that these again showed a variance in income. He queried why the figure of €968.57 had been offset to 2017. He submitted that the Respondent was not entitled to collect €1,000 in 2013 in respect of an underpayment in 2011. He also queried whether he had been afforded sufficient relief in respect of medical expenses.
- 21.** He further submitted in this regard that his employer, one [REDACTED], had paid €386 and later a further €1,000 in respect of his 2011 income tax. He submitted copies of a P45 and a P60 subsequent to the hearing in support of this argument.
- 22.** The Appellant again submitted that the Respondent should carry out a fresh assessment in respect of 2013, as this year had a major impact on his overall tax position.
- 23.** In relation to 2014, the Appellant took me through the 3 Balancing Statements issued to him by the Respondent and again explained his queries in relation to same. He submitted that the main issue was whether or not he had paid tax in respect of this year. He submitted that he believed that he might have overpaid tax. In relation to the Balancing Statement issued on the 29th of May 2016, he queried the income continuance figure of €2,510.88 in the Panel 3 deductions. He further queried why there was no offset in relation to Panel 7A in the final Balancing Statement issued to him on the 21st of June 2016. He submitted that his calculations showed a refund of €3,149.73 was due to him from the Respondent. He had received only €1,867.43 from the Respondent and so he submitted that a further refund of €1,282 was missing from the Respondent's calculation of his liabilities. He submitted that the offsets in and out were unnecessary, and that the Respondent should be directed to provide a new, clear assessment.



- 24.** The Appellant furnished further written submissions subsequent to the hearing of the appeal. In these, he said that he had queried the offset of €1,000.37 in respect of 2013, and that the Respondent's representative had explained that this was the offset for the 2011 underpayment of taxes. The Appellant submitted that he was requesting fresh assessments in order to have a simple explanation of his liabilities, rather than their being calculated on an offset in/offset out basis. He said that if the Respondent's system did not permit this, the Respondent should draft a manual assessment or, if it was satisfied with his calculations, they should modify the existing calculations and allow him the remaining missed tax credits.
- 25.** He further submitted that part of the refund of €1830 was offset out from 2008 and then offset in in the 2011 assessment. He further queried why, when the Balancing Statement issued for 2011 on the 9th of November 2011 resulted in a refund of €1,017.61, the Respondent now contended that there was an underpayment in 2011 which required an offset from 2013.
- 26.** The Appellant submitted that the effect of the various errors in the Respondent's calculations was that he was owed a net refund of €1,586.09 in respect of the three years under appeal, after making allowance for an overpayment of refund by the Respondent in 2011. He submitted that there might be further refunds due as the final assessments furnished by the Respondent were very confusing because of the inclusion of offsets. He submitted that the Balancing Statements were misleading and did not give full effect to the tax credits to which he was entitled. He further submitted that the Respondent had not made allowance for income continuance tax relief in respect of 2012 and 2013.



F. Submissions of the Respondent

- 27.** It was submitted on behalf of the Respondent that the provisions of section 865(4)(b) of TCA 1997 operated to bar the Appellant from seeking to make additional claims in respect of the years 2008 to 2011. While the Appellant argued that this was unjust, because the Respondent was entitled to collect liabilities arising in 2011, the Respondent submitted that it was expressly empowered and required to do so by section 960H(2).
- 28.** In relation to the Appellant's dissatisfaction with the amount of refunds against offsets in respect of the years 2012 to 2014, the Respondent submitted that it had fully explained the position in relation to refunds and offsets in respect of each year.
- 29.** In relation to the Appellant's query in relation to where €1,830 of the €2,230 refund due to him in respect of 2008 had been allocated, the Respondent submitted that the Appellant had received a payment of €400 on the 23rd of July 2012 and the balance of €1,830 was offset to 2011.
- 30.** In relation to the Appellant's querying of the amount allowed for income continuance in 2009, the Respondent submitted that the Appellant had furnished it in 2012 with documentation relating to an Income Continuance Plan that he had taken out with Friends First on the 1st of October 2009. The amount paid between that date and the 1st of June 2010 was €276.09 and the amount allowed for 2009 was €92.03. The Appellant had been allowed tax relief at the marginal rate in a Balancing Statement issued on the 18th of July 2012, which resulted in an additional refund to the Appellant of €37.72, on top of the refund of €400.15 which the Appellant had previously received.



- 31.**The Appellant had also queried the calculation of the amount allowed for income continuance in 2010. The Respondent submitted that it had calculated that relief was allowed in respect of €402 paid by the Appellant in 2010.
- 32.**In relation to the calculation of the amount allowed for income continuance in 2011, the Respondent submitted that the Appellant had paid €179.51 in respect of the Friends First plan in 2011, and relief for this contribution was included in the 2011 Balancing Statement that issued to the Appellant on the 18th of July 2012.
- 33.**In relation to the Appellant's query regarding the transfer in to 2011 of €1,830 from 2008, the Respondent submitted that the transfer in was accounted for and included in the Balancing Statements that issued for 2011. It was included in the figure for "Offset In" in the Panel 7A Adjustments, and the Appellant had received refunds for 2011 amounting to €1,017.61.
- 34.**In relation to the Appellant's query as to how his USC overpayment could have generated a refund of €285.08 in 2012, the Respondent submitted that an offset was made from 2014 to 2012. This offset had then been re-credited to 2013 in two tranches of €240 and €795.83, giving a total of €1,035.83. The balance of the offset from 2014 was therefore €86.41. This figure, together with the USC deducted from the Appellant of €198.67, had resulted in the refund of €285.08.
- 35.**The Appellant had also queried the health expenses, rent relief and income continuance relief allowed to him in 2012. In relation to health expenses, the Appellant had paid €1,820 in 2012, including the €250 he had claimed for in 2014. However, as the Appellant had paid no tax in 2012, no refund was due.
- 36.**While the Appellant had paid €6,240 in rent in 2012, the maximum allowable to a single person aged less than 55 in 2012 was €1,200, and so the maximum credit,



calculated at the standard rate, was €240. However, as the Appellant paid no tax in 2012, no refund was due.

- 37.** The income continuance premiums paid by the Appellant in 2012 amounted in total to €3,567.72. This amount was included in the Appellant's 2012 Balancing Statement but again, as no tax was paid by the Appellant that year, no refund was due.
- 38.** The Appellant had further queried the Respondent's calculation of the rent, health expenses and income continuance reliefs allowed to him in 2013.
- 39.** The Respondent submitted that the maximum allowed a single person aged under 55 for rent in 2013 was €1,000, allowable at the standard rate. Therefore, the maximum relief allowable was €200, irrespective of the amount of rent actually paid. Similarly, the Appellant had paid medical expenses of €270, and so was only entitled to relief of €54. The Appellant had paid an income continuance premium of €3,684.06 in 2013. While the amount included in the Balancing Statement was only €3,604.14, which understated the amount paid by €79.92, all of the PAYE paid by the Appellant in 2013 had been refunded previously, and so this understatement did not result in any deficit to the Appellant.
- 40.** The Appellant had further queried the Respondent's calculation of the rent, health expenses and income continuance reliefs allowed to him in 2014.
- 41.** The Respondent submitted that, irrespective of the amount of rent actually paid, the maximum sum allowable for calculation of rent relief in 2014 for a single person aged under 55 was €800. Relief was allowed at the standard rate of 20%, giving a maximum relief of €160. This amount of relief had been allowed to the Appellant in the 2014 Balancing Statement.



- 42.** The Appellant had claimed €775 in medical expenses through the PAYE Online Services system but a verification check disclosed that €250 of this had been paid in 2012. The Appellant had therefore paid €525, on which relief was allowable at 20%, giving rise to relief of €105. This amount had been allowed to the Appellant in the Balancing Statement.
- 43.** The Appellant had paid a monthly income continuance premium of €313.86 during 2014. The policy had lapsed with effect from the 1st of September 2014, so the total amount paid was €2,510.88. This was the amount allowed to the Appellant as a Panel 3 deduction in the 2014 Balancing Statement, and his taxable income was reduced accordingly.
- 44.** In relation to the underpayment of €1,000 collected in respect of the 2011 tax year, which had been collected through the reduction of the Appellant's tax credits, the Respondent submitted that an email sent from the Appellant's email account on the 2nd of March 2012, which appeared to be from a Mr [REDACTED], had requested that a PRSI overpayment of €1,000.37 arising in 2011 be offset against the Appellant's underpayment of €1,590 for that year. This instruction had been given effect on the 5th of March 2012. However, it was reversed on the 4th of December 2012 when the Respondent became aware that the Appellant was not an employee of Mr [REDACTED] when the email was sent on the 2nd of March 2012; he had ceased his employment with him on the 31st of March 2011. Furthermore, the Appellant was not acting in the capacity of Mr [REDACTED]'s agent. Accordingly, the credit of €1,000.37 was reversed in December 2012, and the resulting underpayment of €1,000 was collected through tax credit reduction in 2013.



G. Analysis and Findings

45. It is appropriate to begin my analysis by recording that the Appellant was courteous and helpful at all stages of this appeal. He has a genuine belief that he has been overcharged to tax during the years under appeal by reason of the Respondent having made errors in offsetting refunds against liabilities, and he believes that he has not been allowed the full benefit of the deductions, credits and reliefs to which he is entitled under the legislation. He also believes that it is unjust that the Respondent is entitled to go beyond the 4-year statutory limit in collecting taxes from him, while he in contrast is not permitted to look further back than 2012 when claiming reliefs. The Appellant has been assiduous and tenacious in seeking to vindicate his rights.

46. In relation to the issue of the four year time limits, I accept as correct the arguments advanced by the Respondent. Section 865(4) of TCA 1997 does prevent the Appellant from making claims for repayment of tax more than four years after the end of the chargeable period to which the claim relates. While the Appellant did submit that he had made repayment claims in 2012 in respect of earlier years, he did not produce any evidence to support this assertion. It is also relevant to point out that, as numerous decisions of the Commission have stated, the Respondent does not enjoy any element of discretion in relation to the statutory time limit – the legislation provides that a late claim “*shall not be allowed*”, and so the Respondent could not act upon a late claim even if it was minded to do so.

47. In relation to the Respondent’s power to look beyond the four-year limit, I accept as correct their submission that they are not only permitted but required to do so by virtue of the provisions of section 960H.



- 48.** While I understand why the Appellant feels that this seeming imbalance is unfair, it is what the legislation provides, and I am satisfied on the evidence that the Respondent has interpreted and applied the legislation correctly.
- 49.** In relation to the years under appeal, it is not difficult to see why the Appellant has found the calculation of his tax position in relation to each year confusing and difficult to understand. The multiplicity of Balancing Statements issued in respect of each year has made it significantly more difficult than usual to understand how figures were reached, and the Appellant has understandably raised questions about differences between the various iterations of the Balancing Statements.
- 50.** However, the Respondent has submitted that the number of Balancing Statements issued is explained at least in part by the requirement to issue new Statements when it received new and additional information, generally from the Appellant. While the Appellant has requested that the Respondent generate fresh assessments of his liability to income tax and USC in respect of each of the years under appeal, I accept the Respondent's submission that its system does not permit this to be done. More fundamentally, for the reasons given below, I am not persuaded that a new assessment is necessary in any of the years under appeal.
- 51.** While the Appellant has advanced a great many queries and assertions in relation to the Balancing Statements under appeal, I am satisfied that those queries have been answered, and answered accurately and correctly, by the Respondent. I accept as correct the explanations and answers given by the Respondent and set forth in paragraphs 28 to 45 above.
- 52.** In general terms, one of the Appellant's main concerns was that offsets in and out made by the Respondent were incorrect. Having reviewed all of the Balancing



Statements for the three years under appeal, as well as those generated for 2008 to 2011 inclusive and 2016, I am satisfied that the offsets in and out were correctly calculated and applied by the Respondent.

53. A further part of the Appellant's grievance arose from his belief that he had not been allowed the full extent of the deductions and credits to which he was entitled. His belief may have arisen from the fact that tax credits were restricted to tax due; I accept as correct the Respondent's submission that this limitation is mandated by section 458(1A) of TCA 1997.
54. The Respondent accepted that the 2013 Balancing Statement contained an understatement, in the amount of €79.92, of the income continuance premiums paid by the Appellant in that year. However, the Appellant has been refunded all of the PAYE paid by him in that year, and so this error has not resulted in the Appellant being overcharged to tax.
55. The Appellant further submitted that the offset of €1,035.83 from 2014 to 2012 and then onwards to 2013 meant that technically, he was paying tax in 2012 and was therefore entitled to reliefs in respect of that year. However, I believe this submission to be incorrect in law and in fact, and accept the Respondent's submission that the Appellant paid no tax in 2012.
56. Accordingly, having carefully considered all of the evidence, documentation and the submissions of the parties, I am not satisfied that the Appellant has established that his liability to tax has been incorrectly calculated in any of the years under appeal. In this appeal, as in almost all tax appeals, the burden of proof is on the Appellant (see *Menolly Homes -v- Appeal Commissioners [2010] IEHC 49*) and on the evidence before me, the Appellant has not succeeded in discharging that burden.





57. The Appellant has therefore not succeeded in this appeal.

H. Conclusion

58. By reason of the foregoing findings, I find that the Appellant has been neither overcharged nor undercharged to income tax and USC by reason of the three P21 Balancing Statements issued by the Respondent on the 21st of June 2016 and determine pursuant to section 949AK(1)(c) that the said Balancing Statements stand.

Dated the 20th of July 2022

A handwritten signature in blue ink, appearing to read "Mark O'Mahony", with a long horizontal line extending to the right.

**MARK O'MAHONY
APPEAL COMMISSIONER**

