



Between

[REDACTED]

Appellant

and

THE REVENUE COMMISSIONERS

Respondent

Determination

Introduction

1. This matter comes before the Tax Appeals Commission (hereinafter “the Commission”) as an appeal against an assessment to income tax raised by the Revenue Commissioners (“the Respondent”) on 13th November 2019.
2. The assessment covers the year 2014 and the income tax on the assessment amounts to €34,606.36. The Appellant makes her appeal in accordance with the provisions of section 933 (1) of the Taxes Consolidation Act 1997, (“the TCA”).

Background

3. The Appellant’s agent filed her 2014 income tax return on 9th November 2015. An amended return to correct an error was subsequently filed on 16^h November 2015.
4. Both of the 2014 income tax returns filed on behalf of the Appellant did not apply the provisions of section 485C and section 485D TCA 1997 which are referred to as the “High Income Earners Restriction” (“HIER”). The Finance Act 2006 introduced the HIER and the effect of this provision is that it restricts the amount of certain “specified

reliefs” that an individual can claim against their assessable income. These specified reliefs are set out at Schedule 25B TCA 1997 and are annexed at **Appendix 1** to this determination.

5. The Respondent sent an audit notification letter to the Appellant on 20th November 2015, advising, amongst other things, that she provide a HIER computation for 2014 stating the reason for this request was that the “*restriction appears to apply*”.
6. The Appellant replied to this correspondence on 20th April 2016 stating that the “*ROS offline system suggests that High Earner restriction does not apply. See attached screen-print*” [provided].
7. Subsequent correspondence issued between the Appellant and the Respondent. In the absence of the HIER computation being provided, the Respondent issued an amended notice of assessment in the sum of €34,606.36 on 13th November 2019. This calculation was derived by applying the HIER restriction to the Appellant’s assessable income for 2014.
8. A Notice of Appeal dated 13th December 2019 against the Respondent’s assessment was filed with the Commission.
9. The oral hearing took place before the Commissioner on 26th October 2022. The Appellant was represented by her agent and the Respondent was represented by two staff officials. The Commissioner had the benefit of written submissions from both parties in advance of the hearing date.

Legislation

10. The legislation relevant to this appeal is as follows:

Section 485C TCA 1997 Interpretation (Chapter 2)

(1) In this Chapter and in Schedules 25B and 25C, except where the context otherwise requires—

“adjusted income”, in relation to a tax year and an individual, means the amount determined by the formula—

$$(T + S) - R$$

where—

T is the amount of the individual’s taxable income for the tax year determined on the basis that—

(a) this Chapter, other than section 485F, does not apply to the individual for the tax year, and

(b) (i) if the individual, being a married person, is assessable to tax for the tax year otherwise than under section 1016, the provisions under which the individual is assessable are modified in accordance with paragraphs (i) to (vi), but excluding paragraph (iia) of section 485FA,

(ii) if the individual, being a civil partner, is assessable to tax for the tax year otherwise than under section 1031B, the provisions under which the individual is assessable are modified in accordance with paragraphs (i), (iia) and (vi) of section 485FA,

S is the aggregate of the specified reliefs for the tax year, and

R is the amount of the individual's ring-fenced income, if any, for the tax year;

“aggregate of the specified reliefs”, in relation to a tax year and an individual, means the aggregate of the amounts of specified reliefs used by the individual in respect of the tax year;

“amount of specified relief”, in relation to a specified relief used by an individual in respect of a tax year, but subject to subsection (1A), means the amount of the specified relief used by the individual in respect of the tax year determined by reference to the entry in column (3) of Schedule 25B opposite the reference to the specified relief concerned in column (2) of that Schedule;

“excess relief”, in relation to a tax year and an individual, means the amount by which the individual's taxable income for the tax year determined in accordance with section 485E exceeds the amount that the individual's taxable income for the tax year would have been had this Chapter, other than section 485F, not applied to that individual for that year;

“income threshold amount”, in relation to a tax year and an individual, means—

(a) €125,000, or

(b) in a case where the individual's income for the tax year includes ring-fenced income and his or her adjusted income for the tax year is less than €400,000, the amount determined by the formula—

€125,000 x $\frac{A}{B}$

B

where—

A is the individual's adjusted income for the year, and

B is an amount determined by the formula—

T + S

where T and S have the same meanings respectively as they have in the definition of "adjusted income";

"relief threshold amount", in relation to a tax year and an individual, means €80,000;

"Revenue officer" means an officer of the Revenue Commissioners;

"ring-fenced income", in relation to a tax year and an individual, means the aggregate of the following amounts, if any, charged to tax on the individual for the tax year—

(a) income chargeable to tax in accordance with subparagraph (i) of paragraph (c) of section 261 where clause (II) of that subparagraph applies to the income concerned, and

(b) income referred to in section 261B or 267M;

"specified relief", in relation to a tax year and an individual, means any relief arising under, or by virtue of, any of the provisions set out in column (2) of Schedule 25B;

"tax year" means a year of assessment;

(1A) Where a balancing charge is made under section 274, in relation to a building or structure, on an individual for a tax year, then—

(a) to the extent that any unused capital allowances attributable to capital expenditure incurred on the construction or refurbishment of that building or structure, have been carried forward in accordance with section 304 or 305 to the tax year, and are used in that tax year to reduce the amount of the balancing charge, those allowances so used shall not be treated as an amount of specified relief under this Chapter, and

(b) any amount by which the balancing charge has been reduced in the manner referred to in paragraph (a), shall not be taken into account for the purposes of determining the adjusted income of the individual for the tax year.

(1B) (a) For the purposes of this subsection and Schedule 25B "specified plant and machinery" means plant and machinery on which a wear and tear allowance

may be granted under section 284, whether by virtue of section 298 or otherwise, which would be restricted by section 403(3) save for the provisions of section 403(9).

(b) Subject to paragraph (d), a wear and tear allowance granted under section 284, or deemed to have been made to an individual under section 287, whether by virtue of section 298 or otherwise, shall only be a specified relief to the extent it relates to specified plant and machinery.

(c) Subject to paragraph (d), a balancing allowance arising under section 288 shall only be a specified relief to the extent it relates to specified plant and machinery.

(d) This subsection and the matters set out opposite reference numbers 15C and 15D in Schedule 25B shall not apply to allowances granted to an individual who in respect of the trade to which the allowances relate is an active trader, within the meaning of section 409D, or an active partner, within the meaning of section 409A.

(2) (a) For the purposes of this Chapter, references in this Chapter to specified reliefs used by the individual in respect of the tax year include references in the Tax Acts to—

(i) an allowance having been made to the individual for the year, in respect of which allowance, effect has been given, in full or in part, for that year,

(ii) a deduction having been given or allowed to the individual for the year, in respect of which deduction, effect has been given, in full or in part, for that year,

(iii) a deduction from or set off against income of whatever description being allowed to the individual for the year, in respect of which deduction or set off, effect has been given, in full or in part, for that year,

(iv) relief given to the individual for the year by way of repayment or discharge of tax in respect of which repayment or discharge effect has been given, in full or in part, for that year,

(v) income, profits or gains arising to the individual in the year being exempt from income tax for the year,

(vi) income, profits or gains arising to the individual in the year being disregarded or not reckoned for the purposes of the Income Tax Acts or, as the case may be, for the purposes of income tax for the year, and other references in the Tax Acts to methods of affording relief from tax, however expressed, and in respect of which effect, in full or in part, has been given in the tax year shall likewise be construed as included in any reference in this Chapter to specified reliefs used by the individual in respect of the tax year.

(b) For the purposes of the definition of the “amount of specified relief”, in relation to a specified relief which is of a kind referred to in subparagraph (v) or (vi) of paragraph (a), the amount of any income, profits or gains, as the case may be, shall be computed in accordance with the Tax Acts as if the specified relief concerned had not been enacted.

(3) Notwithstanding any other provision of the Tax Acts, the following provisions shall apply for the purposes of those Acts—

(a) where, in relation to any tax year and the capital allowances to be given effect to in that year, any provision of the Tax Acts requires allowances (in this paragraph referred to as the “first-mentioned allowances”) for one period to be given effect to, or to be deemed to be given effect to, in priority to allowances for another period (in this paragraph referred to as the “second-mentioned allowances”), then—

(i) as respects the first-mentioned allowances, effect shall be given, or be deemed to be given, as the case may be, for an allowance which is not a specified relief in priority to any such allowance which is a specified relief and in priority to the second-mentioned allowances, and

(ii) as respects the second-mentioned allowances, effect shall be given, or be deemed to be given, as the case may be, for an allowance which is not a specified relief in priority to any such allowance which is a specified relief,

(ab) a deduction authorised by subsection (2) of section 97 shall be allowed in respect of a matter which is specifically referred to in that subsection in priority to a deduction authorised to be made under that subsection by virtue of a specified relief,

(ac) a deduction from total income shall be made in respect of a relief due for a tax year which is not a specified relief in priority to any such deduction due for the tax year which is a specified relief,

(b) loss relief for any tax year shall be given in respect of a loss which is not referable to a specified relief in priority to relief being given for a loss which is referable to a specified relief,

(c) a further deduction due under section 324, 333, 345, 354 or paragraph 13 of Schedule 32 for a tax year shall only be given effect for that year after effect is given to any other deduction the individual is entitled to for that year in computing the amount of the individual's profits or gains to be charged to tax for that year under Case I or II of Schedule D.

(4) Schedules 25B and 25C shall have effect for the purposes of this Chapter.

Section 485D Application (Chapter 2A).

This Chapter shall apply to an individual for a tax year where-

(a) the individual's adjusted income for the tax year is equal to or greater than the income threshold amount, and

(b) the aggregate of the specified reliefs used by the individual in respect of the tax year is equal to or greater than the relief threshold amount,

but this Chapter, other than section 485F, shall not apply for the tax year where 20 per cent of the individual's adjusted income for the tax year is equal to or greater than the aggregate of the specified reliefs used by the individual in respect of the tax year.

Section 485 E Recalculation of taxable income for purposes of limiting reliefs.

Where this Chapter applies to an individual for a tax year, notwithstanding anything in any provision of the Tax Acts other than this Chapter, the individual's taxable income for the tax year shall, instead of being the amount it would have been had this Chapter not applied to the individual for the tax year, be the amount determined by the formula—

$$T + (S - Y)$$

where—

T is the amount of the individual's taxable income for the tax year determined on the basis that this Chapter, other than sections 485F and 485FA, does not apply to the individual for the tax year,

S is the aggregate of the specified reliefs for the tax year, and

Y is the greater of—

(i) the relief threshold amount, and

(ii) 20 per cent of the individual's adjusted income for the tax year.

Section 485FB TCA 1997 - Requirement to provide estimates and information.

(1) In this section—

“chargeable person” and “specified return date for the chargeable period” have the same meanings as in Part 41A;

“prescribed form” means a form prescribed by the Revenue Commissioners or a form used under the authority of the Revenue Commissioners, and includes a form which involves the delivery of a statement by any electronic, photographic or other process approved of by the Revenue Commissioners.

(2) Where this Chapter applies to an individual for a tax year that individual shall, if not otherwise a chargeable person, be deemed to be a chargeable person for such year for the purposes of Part 41A.

(3) Where this Chapter applies to an individual for a tax year that individual shall, in addition to the return required to be delivered under Chapter 3 of Part 41A, prepare and deliver to the Collector-General at the same time as, and together with, the return required under Chapter 3 of Part 41A on or before the specified return date for the chargeable period a full and true statement in a prescribed form of the details required by the form in respect of—

(a) the amounts constituting the aggregate of the specified reliefs,

(b) the determination of those amounts, and

(c) the estimates required by subsection (4),

and of such further particulars in relation to this Chapter as may be required by the prescribed form.

(4) The estimates required by this subsection are estimates of—

(a) the individual's taxable income for the year determined as if this Chapter, other than section 485F, did not apply to the individual for that year,

(b) the individual's taxable income determined in accordance with section 485E, and

(c) the amount of tax that should be assessed on the individual as a consequence of the application of this Chapter,

which estimates shall be made to the best of the individual's knowledge and belief.

...

(6) (a) For the purposes of determining—

(i) the accuracy or otherwise of any details, particulars or estimates contained in the statement referred to in subsection (3), or

(ii) whether or not an individual who has not provided a statement under this section is an individual to whom this Chapter applies,

a Revenue officer may make such enquiries or take such actions within his or her powers as he or she considers necessary for the purposes of determining the matters set out in subparagraph (i) or (ii), including, in the case of subparagraph (ii), requiring by notice in writing the individual to furnish in writing to the officer within such time, not being less than 14 days, as may be provided by the notice, details of each provision in respect of which the individual is claiming tax relief for a tax year together with the amount of each separate claim and the particulars of each separate claim under that provision.

(b) Subparagraph (ii) of paragraph (a) shall only apply to an individual who has made a return under section 951 for a tax year and whose income, including income exempt from tax, from all sources and disregarding all deductions, allowances and other tax reliefs is equal to or greater than the income threshold amount.

(7) Subsections (9) and (10) of section 951 shall apply to a statement required to be delivered under this section in the same way as they apply to a return required to be delivered under that section, and for this purpose a reference in those subsections to a return, other than a reference to the specified return date for the chargeable period, shall be construed as a reference to a statement under this section.

(8) Section 1052 shall apply to a failure by an individual to deliver a statement under this section or the details, amounts and particulars referred to in subsection (6) as it applies to a failure to deliver a return referred to in section 1052.

Section 959A TCA 1997 – Interpretation

...

“chargeable person” means, as respects a chargeable period, a person who is chargeable to tax for that period, whether on that person’s own account or on account of some other person but, as respects income tax, does not include a person to whom subsection (1) of section 959B relates;

...

Section 959P Expression of doubt.

(1) In this section—

“law” means one or more provisions of the Acts;

“letter of expression of doubt”, in relation to a matter, means a communication by written or electronic means, as appropriate, which—

(a) sets out full details of the facts and circumstances of the matter,

(b) specifies the doubt, the basis for the doubt and the law giving rise to the doubt,

(c) identifies the amount of tax in doubt in respect of the chargeable period to which the expression of doubt relates,

(d) lists or identifies the supporting documentation that is being submitted to the appropriate inspector in relation to the matter, and

(e) is clearly identified as a letter of expression of doubt for the purposes of this section,

and reference to “an expression of doubt” shall be construed accordingly.

(2) Where a chargeable person is in doubt as to the correct application of the law to any matter to be contained in a return required for a chargeable period by this Chapter, which could—

(a) give rise to a liability to tax by that person, or

(b) affect that person's liability to tax or entitlement to an allowance, deduction, relief or tax credit,

then, the chargeable person may—

- (i) prepare the return for the chargeable period to the best of that person's belief as to the correct application of the law to the matter, and deliver the return to the Collector-General,*
- (ii) include a letter of expression of doubt with the return, and*
- (iii) submit supporting documentation to the appropriate inspector in relation to the matter.*

(3) This section applies only if—

(a) the return referred to in subsection (2) is delivered to the Collector-General, and

(b) the documentation referred to in paragraph (iii) of that subsection is delivered to the appropriate inspector,

on or before the specified return date for the chargeable period involved.

(3A) (a) The documentation referred to in subsection (3) (b) shall be delivered by electronic means where the return referred to in subsection (2) is delivered by electronic means.

(b) The electronic means by which the documentation referred to in subsection

(3) (b) shall be delivered shall be such electronic means as may be specified by the Revenue Commissioners for that purpose.

(4) Where a return is delivered in accordance with subsection (2), a self assessment shall, where required under section 959R, be included in the return by reference to the particulars included in the return.

(5) Subject to subsection (6), where a letter of expression of doubt is included with a return delivered by a chargeable person to the Collector-General for a chargeable period—

(a) that person shall be treated as making a full and true disclosure with regard to the matter involved, and

(b) any additional tax arising from the amendment of an assessment for the chargeable period by a Revenue officer to give effect to the correct application of the law to that matter shall be due and payable in accordance with section 959AU(2).

(6) Subsection (5) does not apply where a Revenue officer does not accept as genuine an expression of doubt in respect of the application of the law to a matter, and an expression of doubt shall not be accepted as genuine in particular where—

(b) the officer is of the opinion, having regard to any guidelines published by the Revenue Commissioners on the application of the law in similar circumstances and to any relevant supporting documentation delivered to the appropriate inspector in relation to the matter in accordance with subsections (2) and (3), that the matter is sufficiently free from doubt as not to warrant an expression of doubt, or

(c) the officer is of the opinion that the chargeable person was acting with a view to the evasion or avoidance of tax.

(7) Where a Revenue officer does not accept an expression of doubt as genuine, he or she shall notify the chargeable person accordingly and any additional tax arising from the amendment of an assessment for the chargeable period by a Revenue officer to give effect to the correct application of the law to the matter involved shall be due and payable in accordance with section 959AU (1).

(8) A person aggrieved by a Revenue officer's decision that the person's expression of doubt is not genuine may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision.

Section 959R Inclusion of self assessment in return.

(1) Subject to sections 959S and 959T, every return prepared and delivered under Chapter 3 in respect of a chargeable period shall include a self assessment by the chargeable person to whom the return relates.

(2) A self assessment shall be made in, and as part of, the return and shall include such details as the Revenue Commissioners may require.

(3) The details referred to in subsection (2) shall include an assessment by the chargeable person, in accordance with the Acts, for the chargeable period involved of—

(a) the amount of the income, profits or gains or, as the case may be, chargeable gains arising to the person for the period,

(b) the amount of tax chargeable on the person for the period,

(c) the amount of tax payable by the person for the period, and

(d) the balance of tax, taking account of any amount of tax paid directly by the person to the Collector-General for the period, which under the Acts—

(i) is due and payable by the person to the Revenue Commissioners for the period, or

(ii) is overpaid by the person for the period and which, subject to the Acts, is available for offset or repayment by the Revenue Commissioners.

(4) (a) Where a self assessment relates to tax chargeable on a person under more than one of the Acts, the self assessment shall identify the amount of tax chargeable under each of the Acts.

(b) Where by virtue of an enactment other than the Acts, an amount due under that enactment is to be assessed and charged as if it were an amount of income tax, the self assessment shall include such amount and shall identify the amount so chargeable by virtue of that enactment.

(c) A self assessment shall include and identify the amount of any surcharge which, under section 1084, is required to be included in the assessment for the chargeable period.

(5) Subject to subsection (6), where the obligation to make a return for a chargeable period is treated as fulfilled under Chapter 6 of Part 38 and the chargeable person—

(a) includes a self assessment in the return in accordance with such indicative tax calculation as may be provided by the electronic system that is made available by the Revenue Commissioners for the purposes of that Chapter, and

(b) pays tax in accordance with that calculation,

then, in the event that the indicative tax calculation is incorrect—

(i) any additional tax due for the chargeable period that arises by reason of the indicative tax being incorrect shall be deemed to be due and

payable not later than one month from the date of amendment of the self assessment, and

(ii) Part 47 does not apply to the extent that the return included a self assessment that was in accordance with the indicative tax calculation.

(6) Subsection (5) applies where the chargeable person retains either an electronic or printed record of the indicative tax calculation and, on request from a Revenue officer, submits a copy of that record, and the various elements of the calculation are in accordance with the information, statements and particulars provided in the return.

Section 949AU TCA 1997 Date for payment of tax: amended assessments.

(1) Subject to subsection (2) and section 959AV, any additional tax due by reason of the amendment of an assessment for a chargeable period shall be deemed to be due and payable on the same day as the tax due under the assessment, before its amendment, was due and payable.

(2) Where—

(a) the assessment was made after the chargeable person had delivered a return containing a full and true disclosure of all material facts necessary for the making of the assessment, or

(b) the assessment had previously been amended following the delivery of the return containing such disclosure,

any additional tax due by reason of the amendment of the assessment shall be deemed to have been due and payable not later than one month from the date of the amendment.

Section 959 Z - Right of Revenue officer to make enquiries.

(1) A Revenue officer may, subject to this section, make such enquiries or take such actions within his or her powers as he or she considers necessary to satisfy himself or herself as to—

(a) whether a person is chargeable to tax for a chargeable period,

(b) whether a person is a chargeable person as respects a chargeable period,

(c) the amount of income, profit or gains or, as the case may be, chargeable gains in relation to which a person is chargeable to tax for a chargeable period, or

(d) the entitlement of a person to any allowance, deduction, relief or tax credit for a chargeable period.

(2) The making of an assessment or the amendment of an assessment in accordance with section 959Y (2) by reference to any statement or particular referred to in paragraph (a) of that section does not preclude a Revenue officer from, subject to this section, making such enquiries or taking such actions within his or her powers as he or she considers necessary to satisfy himself or herself as to the accuracy or otherwise of that statement or particular.

(3) Subject to subsection (4), any enquiries or actions to which either subsection (1) or (2) applies shall not be made in the case of a chargeable person for a chargeable period at any time after the expiry of the period of 4 years commencing at the end of the chargeable period in which the chargeable person has delivered a return for the chargeable period.

(4) Enquiries and actions to which either subsection (1) or (2) applies may be made at any time in relation to a person or a return for a chargeable period where—

(a) any of the circumstances referred to in paragraph (a), (b) or (c) of section 959AC (2) apply,

(b) a Revenue officer has reasonable grounds for believing, in accordance with section 959AD (3), that any form of fraud or neglect has been committed by or on behalf of the person in connection with or in relation to tax due for the chargeable period.

(9) Nothing in this section affects the operation of section 811, 811A, 811C or 811D.

Submissions

Appellant

11. The Appellant's agent advised that he filed the Appellant's 2014 income tax return in a timely manner on 8th November 2015 ("the first return") "*following instruction and guidance provided by the Respondent's online filing system*" ("ROS").
12. The Appellant's agent stated following the filing of that return, he noted a discrepancy in the figures submitted as the Appellant's Case V (rental) income was under-returned. In order to correct this error, the Appellant's agent stated that he submitted an amended return reflecting the correct figures on 16th November 2015 ("the second return").

13. The Appellant's agent submitted that when he completed the Appellant's first and second return he received a validation error. This stated:

"The following errors exist on this return. You must correct these errors before you can proceed. You have indicated that you are a High Earner but have not reached the requirements needed as per the legislation."

14. The Appellant's agent advised that the only way he could get both the first and second returns uploaded on ROS was to delete the section on the returns which he had originally selected advising that the Appellant was a high earner. Having done this, the Appellant's agent stated that notices of assessment issued from the Respondent. These notices of assessment showed a balance of tax payable in the sum of €1,949.64 in respect of the first return and €4,929.26 in respect of the second return. The Appellant's agent advised that these balances were paid at the same time as the returns were filed.

15. The Appellant's agent submitted that as the Appellant acted in a *"responsible and compliant manner"* and *"paid all taxes and other charges as assessed by ROS"* that the Appellant was not required to pay the additional tax computed by the Respondent.

16. The Appellant's agent further submitted that it was unfair for the Respondent to re-open the Appellant's 2014 income tax return some four years later by issuing the notice of assessment on 13th November 2019.

17. In those circumstances, the Appellant's agent requested that the Commission allow the within appeal and vacate the notice of assessment raised by the Respondent in the sum of €34,606.36.

Respondent

18. The Respondent advised that the second return submitted by the Appellant disclosed rental income after expenses but before capital allowances of €196,505 and taxable emoluments of €8,100. In relation to this income, the Appellant claimed the sum of €184,592 in *"specified property allowances"*, €11,288 in respect of all other *"specified relief"* capital allowances and the amount of €625 in respect of *"non-specified"* capital allowances.

19. The Respondent submitted that as the Appellant's income exceeded the amount provided under section 485C TCA 1997, then the amount of specified capital allowances claimed by the Appellant was required to be restricted in accordance with the provisions of section 485E TCA 1997.

20. The Respondent stated that the validation error submitted by the Appellant was derived from the ROS “offline system” and as the 2014 income tax return was not uploaded onto the ROS “online” system its information technology (“IT”) department were unable to provide the Appellant with an explanation as to why the Appellant’s agent received the validation error. The ROS offline system is a facility provided by the Respondent to taxpayers so that they can prepare their tax returns on their devices local drive before uploading it onto the Respondent’s portal whereas the ROS online system provides for instantaneous uploading onto the Respondent’s portal. It is common for taxpayers to prepare their returns on the offline system so that they can review and amend their tax returns before uploading them to the Respondent’s portal. In this instance as the Appellant had completed the return on the ROS offline system and not uploaded it to the Respondent’s portal, the IT department could not and did not have sight of the return giving rise to the validation error and accordingly could not assess the nature of the error.
21. The Respondent submitted that although a validation error screenshot was provided by the Appellant, it was of no evidential value since it did not provide any identification of the taxpayer to whom it related such as a name or PPS number. In addition the Respondent submitted that no regard should be had by the Commission to that document as it did not provide any figures detailing income or expenditure or any figures and being dated 19th April 2016, was irrelevant (as the 2014 tax returns were submitted by the Appellant in November 2015). Furthermore, the Respondent advised that its IT department had confirmed that it had received no notifications from other taxpayers reporting any difficulties when uploading their 2014 tax returns which were subject to the HIER restriction.
22. The Respondent submitted even if a validation error did exist that this did not relieve the Appellant from her obligation to apply the HIER and discharge the resultant tax liability. The Respondent submitted that the Appellant was required to “tick the box” on her 2014 income tax return to indicate “*if you and/or your spouse/civil partner are/is subject to the Limitation on the use of Relief by High Income Individuals*” but had not done this.
23. The Respondent further submitted that had the Appellant indicated she was a high earner, then she would have been required to complete a Form RR1 (this is a separate form to a taxpayer’s tax return and is required to be completed by any taxpayer where they and/or their spouse/civil partner, if relevant, are subject to the HIER). As the Appellant had not completed this form nor provided the Respondent with the requested

HIER computation, the Respondent advised that it prepared its own computation of the liability which formed the basis of the assessment under appeal.

24. The Respondent submitted as the Appellant's submissions did not dispute the fact that the HIER restriction applied to the Appellant in 2014 nor the quantum of the resultant liability, then the assessment should be upheld by the Commission.
25. The Respondent submitted in the event of the Appellant being subject to the HIER under the legislation but the ROS offline system advising her otherwise, that the correct course of action was to include an expression of doubt on her 2014 income tax return in accordance with the provisions of section 959AP TCA 1997. The Respondent advised that had a genuine expression of doubt been received from the Appellant, the Appellant would have been treated as making a "full and true disclosure" and the additional tax, if payable, would have been due one month after the issuance of the revised assessment in accordance with the provisions of section 959AU(2) TCA 1997. The Respondent submitted as the Appellant had not included an expression of doubt on her tax return then the Commission should uphold the amended notice of assessment which issued on 13th November 2019.
26. The Respondent submitted as the Appellant lodged her 2014 income tax return on 16th November 2015, in accordance with the provisions of section 959Z (2) and (3) TCA 1997, it had four years from that date in which to make any enquiries it saw fit in relation to the Appellant's tax return and in which to issue any amended notice of assessment. The Respondent submitted that as it had completed its enquiries and issued its assessment on 13^h November 2019, it was within the four year period and given this, the Appellant's submissions regarding delay and unfairness should be refused by the Commission.
27. In summation, the Respondent submitted that the Appellant was required to restrict the amount of specified reliefs which she claimed against her 2014 income and pay additional income tax and USC in accordance with that restriction and as she had not, the Commission should deny the within appeal.

Material Facts

28. The Commissioner finds the following material facts:-
 - 28.1 The Appellant filed her amended (final) tax return for 2014 on 16th November 2015.

- 28.2 That tax return disclosed that the Appellant had rental income after expenses but before capital allowances of €196,505. The tax return showed other income of taxable emoluments in the sum of €8,100.
- 28.3 As the Appellant's rental income was reduced to nil by virtue of the Appellant claiming unrestricted allowances against it, the Appellant's taxable income was shown on that return as €8,100. This figure represents the amount the Appellant received in respect of taxable emoluments for 2014.
- 28.4 The nature and quantum of the Appellant's income is not in dispute between the Appellant and the Respondent.
- 28.5 The Appellant claimed the sum of €184,596 in specified capital allowances, €11,288 in other specified reliefs and non-specified capital allowances of €625 in her 2014 tax return.
- 28.6 The quantum and classification of these allowances and reliefs is not in dispute between the Appellant and the Respondent.
- 28.7 In the 2014 income tax return, the Appellant did not apply the provisions of sections 485C and 485E TCA 1997 nor did she provide a computation of her HIER when requested to do so by the Respondent.
- 28.8 The Appellant did not submit a Form RR1 to the Respondent.
- 28.9 Absent the Appellant providing a HIER computation, the Appellant conducted its own calculations which resulted in the Appellant being assessed to an additional sum of income tax for 2014 in the amount of €34,606.36. The Respondent issued an amended notice of assessment in this amount on 13th November 2019.

Analysis

29. Under Part 41A TCA 1997, all "chargeable persons" which by definition includes the Appellant are responsible for ensuring that their obligations under the self-assessment system are met. Those obligations include the requirement to file a tax return on or before its due date, calculate their tax liability and to discharge any tax payable in a timely manner.

30. Section 959R (1) TCA 1997 requires that all chargeable persons include a “self-assessment” of their tax liability for the chargeable period with their tax return. This self-assessment must include
- (a) The income/profits of the period.
 - (b) Details of any reliefs and allowances claimed.
 - (c) The tax chargeable for the period
 - (d) The amount owing to the Collector-General.
31. Section 485FB (3) TCA 1997 states that individuals who are subject to the HIER are required to provide a statement to the Respondent (Form RR1) setting out the actual calculation of the restriction and identifying precisely the specified reliefs involved. The Respondent has the power under that legislation to seek further information on the calculations and the reliefs used. These powers extend to seeking information from high earners, who have not submitted a statement, as to whether they are liable to submit a statement.
32. Section 485C (i) (b) TCA 1997 provides in a year of assessment where an individual’s income exceeds €125,000, they are considered a “high income individual”. It therefore follows as the Appellant’s 2014 income exceeded this sum then she is considered a high income individual for the purpose of this section.
33. Section 485C (2) TCA 1997 provides in circumstances where a high income individual claims specified reliefs they are subject to a limitation on the amount of relief which they may claim against their taxable income in a year of assessment. As it was not disputed by the Appellant that she claimed specified reliefs in 2014, it follows that she is subject to those limits imposed under section 485C TCA 1997.
34. In calculating those limits, section 485C (1) TCA 1997 provides for an adjustment to the individual’s taxable income by the application of the formula, $T + (S - R)$, where:
- T = the individual’s taxable income for the year of assessment.
 - S = the aggregate of specified reliefs claimed.
 - R = any ring-fenced income.
35. As the Appellant had no ring-fenced income in 2014, and applying the formula above this gives adjusted income of €203,980 ($€8,100 + [€184,592 + €11,288] - 0$).

36. Thus, as the Appellant's adjusted income of €203,980 in the year of assessment 2014 is greater than her income threshold amount (at €125,000) and the aggregate of her specified reliefs used (at €195,880) is greater than the relief threshold amount for 2014 (€80,000), then the Appellant is required to have her taxable income for 2014 recalculated.

37. Section 485E TCA 1997 provides the framework for the recalculation of taxable income. It defines:

T as the amount of the individual's taxable income for the tax year determined on the basis that this Chapter, other than sections 485F and 485FA, does not apply to the individual for the tax year,

S as the aggregate of the specified reliefs for the tax year, and

Y as the greater of—

(i) the relief threshold amount, and

(ii) 20 per cent of the individual's adjusted income for the tax year.

In the Appellant's case, this equates to:

T = €8,100.

S = €195,880

Y = is the greater of €80,000 (the relief threshold amount) and 20 per cent of the Appellant's adjusted income for 2014. [€80,000 is the figure used in Appellant's case, as it is greater than 20% of €203,980].

38. When the above sections are applied, the Appellant's recalculated taxable income is €123,980 (€8,100 + (€195,880 – €80,000)). In accordance with the provisions of section 485C, this recalculated taxable income of €123,980 is subject to income tax and USC at the appropriate rates.

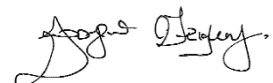
39. It is noted that the Respondent erred in its calculation of the recalculated taxable income (by omitting to include the "other specified reliefs" claimed by the Appellant in the sum of €11,288 in its computation). Accordingly, the Commissioner directs that the correct figure for recalculated income, €123,980 is substituted for the incorrect figure used by the Respondent, €112,692 and the appropriate liability to income tax and USC is re-calculated on that figure.

40. In circumstances where an indicative tax calculation provided on ROS is incorrect, and where the taxpayer can provide a record of that incorrect calculation, the provisions of section 959R (5) and (6) TCA 1997 provide that penalties may not apply (in certain circumstances) and interest only accrues from 1 month after the date on which the amended assessment is issued. However, as the Appellant did not provide a copy of the record of the indicative tax calculation as required under section 959R (6) TCA 1997, it follows that this section is not applicable and accordingly the Respondent may charge interest and, if appropriate, a penalty reflective from the date the tax and USC was originally payable by the Appellant.
41. While outside the remit of the Commissioner (see, for example *Lee v Revenue Commissioners* IECA 18) it would be remiss of the Commissioner to dismiss without comment the Appellant's submission that "*it was unfair for the Respondent to re-open the Appellant's 2014 income tax return some four years later by issuing the notice of assessment on 13th November 2019.*"
42. Section 959Z (1) TCA 1997 permits a Respondent officer to make an enquiry within a four-year period. Subsection 959Z (4) (b) TCA 1997 provides that where fraud or neglect occurs that such enquiries may be made at any time. As the Respondent issued the assessment within the four-year limitation period, the Commissioner finds the Appellant's submission to be devoid of merit. Furthermore, had the Respondent not issued the notice of assessment within the statutory time period, it was open to them to raise the assessment at any time owing to the neglect arising from the failure to include the HEIR computation in the Appellant's 2014 tax return or to provide the form RR1 when so requested by the Respondent.
43. In an appeal before the Commission, the burden of proof rests on the Appellant, who must prove on the balance of probabilities that an assessment to tax is incorrect. This proposition is now well established by case law; for example in the High Court case of *Menolly Homes Ltd v Appeal Commissioners and another* [2010] IEHC 49 where 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"*
44. The Commissioner determines that the Appellant has not discharged the necessary burden of proof to satisfy the Commission that the assessment should be vacated. Moreover, the Commissioner determines, as the Respondent erred in its calculations,

then the Appellant's recalculated taxable income should be amended from the sum of €112,692 to the correct figure of €123,980 and income tax and USC calculated accordingly.

Determination

45. For the reasons set out above, the Commissioner determines that the within appeal has failed and that it has not been shown that the relevant tax is not payable. The Commissioner further determines that the Appellant is liable to income tax and USC on the recalculated income in the sum of €123,980 and directs that the Respondent recalculate the liability due on this amended figure.
46. The Commissioner appreciates this decision will be disappointing for the Appellant but the Commissioner has no discretion and must apply the provisions of the TCA, 1997. The Appellant was correct to check to see whether her legal rights were correctly applied.
47. The appeal is determined in accordance with section 949AK TCA 1997. This determination contains full findings of fact and reasons for the determination. Any party dissatisfied with the determination has a right of appeal on a point of law only within 42 days of receipt in accordance with the provisions set out in the TCA 1997.



Andrew Feighery
Appeal Commissioner
14th December 2022

Taxes Consolidation Act, 1997 (Number 39 of 1997)

SCHEDULE 25B

LIST OF SPECIFIED RELIEFS AND METHOD OF DETERMINING AMOUNT OF SPECIFIED RELIEF USED IN A TAX YEAR

Section 485C.

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
1.	<i>Section 140</i> (exemption of distributions out of income from stallion fees, stud greyhounds, and occupation of woodlands).	So much of any distribution made out of exempt profits (within the meaning of <i>section 140</i>) as is received by the individual in the tax year.
3.	<i>Section 142</i> (exemption of distributions out of profits of certain mining operations).	So much of any distribution made out of exempted income (within the meaning of <i>section 142</i>) as is received by the individual in the tax year.
4.	<i>section 143</i> (exemption of distributions out of profits of certain mining operations).	So much of any distribution made out of relieved income (within the meaning of <i>section 143</i>) as is received by the individual in the tax year.
5.	<i>section 195</i> (exemption of certain earnings of writers, composers and artists).	So much of any profits or gains arising to the individual for the tax year from the publication, production or sale, as the case may be, of— (a) a work or works in relation to which the Revenue Commissioners have made a determination under clause (I) or (II) of <i>subsection (2)(a)(ii)</i> of <i>section 195</i> , or (b) a work of the individual in the same category as that work.
12.	<i>Section 253</i> (relief for interest paid on loans used to acquire an interest in a partnership).	The amount of any payment of interest by the individual in the tax year, being interest eligible for relief under <i>section 253</i> for the tax year in which the interest is paid, which is deducted from or set off against the income of the individual for that year.
13.	<i>Section 272</i> (writing-down allowances).	An amount equal to—

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
		<p>(a) the aggregate amount of writing-down allowances (within the meaning of <u>section 272</u>) made to the individual for the tax year under <u>section 272</u>, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <u>Part 9</u>, in respect of the following buildings or structures:</p> <p>(i) an industrial building or structure within the meaning of—</p> <p>(I) <u>section 268(1)(d)</u>, (II) <u>section 268(1)(g)</u>, (III) <u>section 268(1)(i)</u>, (IV) <u>section 268(1)(j)</u>, (V) <u>section 268(1)(k)</u>, (VI) <u>section 268(1)(l)</u> (inserted by the <u>Finance Act 2006</u>), (VII) <u>section 268(1)(m)</u> (inserted by the <u>Finance Act 2008</u>), (VIII) <u>section 268(1)(n)</u> (inserted by the Finance Act 2013) to the extent that the writing-down allowances are referable to specified capital expenditure (within the meaning of <u>section 268</u>),</p> <p>(ii) a building or structure which is deemed to be a building or structure in use for the purposes of the trade of hotel-keeping by virtue of <u>section 268(3)</u>,</p> <p>(iii) a building or structure which is deemed to be a building or structure in use for the purposes of a trade referred to in <u>section 268(1)(g)</u> by virtue of <u>section 268(3B)</u>,</p> <p>but there shall not be included in the aggregate any allowance referred to in <u>section 272(3)(c)(iii)</u>,</p> <p>or</p> <p>(b) where full effect has not been given in respect of the aggregate for that tax year, the part of that aggregate in respect of which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u>, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p>
14.	<u>Section 273</u> (acceleration of writing-down	<p>An amount equal to—</p> <p>(a) the aggregate amount of writing-down allowances (within the meaning of <u>section 272</u>)</p>

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
	allowances in respect of certain expenditure on certain industrial buildings or structures).	as increased under <i>section 273</i> made to the individual for the tax year under <i>section 272</i> as modified by <i>section 273</i> , including any such increased allowances or part of any such increased allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <i>Part 9</i> , or (b) where full effect has not been given in respect of that aggregate for that tax year, the part of the aggregate in respect of which full effect has been given for that tax year in accordance with <i>section 278</i> and <i>section 304</i> or <i>305</i> , as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.
15.	<i>Section 274</i> (balancing allowances and balancing charges).	An amount equal to— (a) the aggregate amount of balancing allowances (within the meaning of <i>section 274</i>) made to the individual for the tax year under <i>section 274</i> , including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <i>Part 9</i> , in respect of the following buildings or structures: (i) an industrial building or structure within the meaning of— <ul style="list-style-type: none"> (I) <i>section 268(1)(d)</i>, (II) <i>section 268(1)(g)</i>, (III) <i>section 268(1)(i)</i>, (IV) <i>section 268(1)(j)</i>, (V) <i>section 268(1)(k)</i>, (VI) <i>section 268(1)(l)</i> (inserted by the Finance Act 2006), (VII) <i>section 268(1)(m)</i> (inserted by the Finance Act 2008), (VIII) <i>section 268(1)(n)</i> (inserted by the Finance Act 2013) to the extent that the balancing allowances are referable to specified capital expenditure (within the meaning of <i>section 268</i>), (ii) a building or structure which is deemed to be a building or structure in use for the purposes of the trade of hotel-keeping by virtue of <i>section 268(3)</i> , (iii) a building or structure which is deemed to be a building or structure in use for the

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
		<p>purposes of a trade referred to in <u>section 268(1)(g)</u> by virtue of <u>section 268(3B)</u>, (iv) a building or structure in respect of which an allowance under <u>section 272</u> as increased under <u>section 273</u> was made, but there shall not be included in the aggregate any balancing allowance made in respect of a building or structure to which <u>section 272(3)(c)(iii)</u> applies, or (b) where full effect has not been given in respect of the aggregate for that year, the part of that aggregate in respect of which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u>, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p>
Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
15A	<p><u>Section 304(4)</u> (income tax: allowances and charges in taxing a trade, etc.).</p>	<p>An amount equal to—</p> <p>(a) as respects the tax year 2007, the amount determined in accordance with <i>paragraph 1 of Schedule 25C</i> as referable to specified reliefs less any part of that amount (in this provision referred to as the “surplus”) for which effect cannot be given in that tax year, and</p> <p>(b) as respects any subsequent tax year, the surplus or that part of the surplus for which effect is given in that subsequent tax year.</p>
15B	<p><u>Section 305(1)</u> (income tax: manner of granting, and effect of, allowances made by means of discharge or repayment of tax).</p>	<p>An amount equal to—</p> <p>(a) as respects the tax year 2007, the amount determined in accordance with <i>paragraph 3 of Schedule 25C</i> as referable to specified reliefs less any part of that amount (in this provision referred to as the “surplus”) for which effect cannot be given in that tax year, and</p> <p>(b) as respects any subsequent tax year, the surplus or that part of the surplus for which effect is given in that subsequent tax year.</p>
15C.	<p><u>Section 284</u> (wear and tear allowances)</p>	<p>An amount equal to the amount of wear and tear allowances (within the meaning of <u>section 284</u>) made to an individual in relation to specified plant and machinery</p>

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
	subject to <u>section 485C(1B)</u> .	for the tax year under <u>section 284</u> , or deemed to have been made to an individual under <u>section 287</u> , whether by virtue of <u>section 298</u> or otherwise, including any such allowances or part of any such allowance made to the individual in a previous tax year and carried forward from that previous tax year in accordance with Part 9.
15D.	<u>Section 288</u> (balancing allowances and balancing charges) subject to <u>section 485C(1B)</u> .	An amount equal to the amount of the balancing allowance (within the meaning of <u>section 288</u>) made to an individual for the tax year under <u>section 288</u> in relation to specified plant and machinery.

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
16.	<u>Section 323</u> (capital allowances in relation to the construction of certain commercial premises).	An amount equal to— (a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <u>Chapter 1 of Part 9</u> as that Chapter is applied by <u>section 323</u> , including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <u>Part 9</u> , or (b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u> , as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.
17.	<u>Section 324</u> (double rent allowance in respect of rent paid for certain business premises).	Where any further deduction is given to the individual for the tax year under <u>section 324(2)</u> , the amount by which that deduction reduces the amount of the individual's profits or gains to be charged to tax under Case I or Case II of <u>Schedule D</u> .
18.	<u>Section 331</u> (accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures).	An amount equal to— (a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <u>Chapter 1 of Part 9</u> as that Chapter is applied by <u>section 331</u> , including any such allowances or part of any such

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
		<p>allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <i>Part 9</i>, or</p> <p>(b)where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <i>section 278</i> and <i>section 304</i> or <i>305</i>, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p>
19.	<p><i>Section 332</i> (capital allowances in relation to construction or refurbishment of certain commercial premises).</p>	<p>An amount equal to—</p> <p>(a)the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <i>Chapter 1 of Part 9</i> as that Chapter is applied by <i>section 332</i>, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <i>Part 9</i>, or</p> <p>(b)where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <i>section 278</i> and <i>section 304</i> or <i>305</i>, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p>
20.	<p><i>Section 333</i> (double rent allowance in respect of rent paid for certain business premises).</p>	<p>Where any further deduction is given to the individual for the tax year under <i>section 333(2)</i>, the amount by which that deduction reduces the amount of the individual's profits or gains to be charged to tax under Case I or Case II of <i>Schedule D</i>.</p>
21.	<p><i>Section 341</i> (accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures).</p>	<p>An amount equal to—</p> <p>(a)the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <i>Chapter 1 of Part 9</i> as that Chapter is applied by <i>section 341</i>, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward</p>

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
		<p>from that previous year in accordance with <u>Part 9</u>, or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u>, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p>
22.	<p><u>Section 342</u> (capital allowances in relation to construction or refurbishment of certain commercial premises).</p>	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <u>Chapter 1 of Part 9</u> as that Chapter is applied by <u>section 342</u>, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <u>Part 9</u>, or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u>, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p>
23.	<p><u>Section 343</u> (capital allowances in relation to construction or refurbishment of certain buildings or structures in enterprise areas).</p>	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <u>Chapter 1 of Part 9</u> as that Chapter is applied by <u>section 343</u>, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <u>Part 9</u>, or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u>, as the case may be, or any of</p>

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
		those sections as applied or modified by any other provision of the Tax Acts.
24.	<u>Section 344</u> (capital allowances in relation to construction or refurbishment of certain multi-storey car parks).	An amount equal to— (a)the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <i>Chapter 1 of Part 9</i> as that Chapter is applied by <u>section 344</u> , including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <i>Part 9</i> , or (b)where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u> , as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.
25.	<u>Section 345</u> (double rent allowance in respect of rent paid for certain business premises).	Where any further deduction is given to the individual for the tax year under <u>section 345(3)</u> , the amount by which that deduction reduces the amount of the individual's profits or gains to be charged to tax under Case I or Case II of <u>Schedule D</u> .
26.	<u>Section 352</u> (accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures).	An amount equal to— (a)the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <i>Chapter 1 of Part 9</i> as that Chapter is applied by <u>section 352</u> , including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <i>Part 9</i> , or (b)where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u> , as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
27.	<u>Section 353</u> (capital allowances in relation to construction or refurbishment of certain commercial premises).	An amount equal to— (a)the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <u>Chapter 1 of Part 9</u> as that Chapter is applied by <u>section 353</u> , including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <u>Part 9</u> , or (b)where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u> , as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.
28.	<u>Section 354</u> (double rent allowance in respect of rent paid for certain business premises).	Where any further deduction is given to the individual for the tax year under <u>section 354(3)</u> , the amount by which that deduction reduces the amount of the individual's profits or gains to be charged to tax under Case I or Case II of <u>Schedule D</u> .
29.	<u>Section 372C</u> (accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures).	An amount equal to— (a)the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <u>Chapter 1 of Part 9</u> as that Chapter is applied by <u>Section 372C</u> , including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <u>Part 9</u> , or (b)where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u> , as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.
30.	<u>Section 372D</u> (capital allowances in relation to construction or	An amount equal to—

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
	refurbishment of certain commercial premises).	(a)the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <u>Chapter 1 of Part 9</u> as that Chapter is applied by <u>Section 372D</u> , including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <u>Part 9</u> , or (b)where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u> , as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.
31.	<u>Section 372M</u> (accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures).	An amount equal to— (a)the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <u>Chapter 1 of Part 9</u> as that Chapter is applied by <u>Section 372M</u> , including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <u>Part 9</u> , or (b)where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u> , as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.
32.	<u>Section 372N</u> (capital allowances in relation to construction or refurbishment of certain commercial premises).	An amount equal to— (a)the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <u>Chapter 1 of Part 9</u> as that Chapter is applied by <u>Section 372N</u> , including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
		<p>from that previous year in accordance with <u>Part 9</u>, or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u>, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p>
33.	<p><u>Section 372V</u> (capital allowances in relation to construction or refurbishment of certain park and ride facilities).</p>	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <u>Chapter 1 of Part 9</u> as that Chapter is applied by <u>section 372V</u>, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <u>Part 9</u>, or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u>, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p>
34.	<p><u>Section 372W</u> (capital allowances in relation to construction or refurbishment of certain commercial premises).</p>	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <u>Chapter 1 of Part 9</u> as that Chapter is applied by <u>section 372W</u>, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <u>Part 9</u>, or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u>, as the case may be, or any of</p>

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
		those sections as applied or modified by any other provision of the Tax Acts.
35.	<u>Section 372AC</u> (accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures).	An amount equal to— (a)the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <u>Chapter 1</u> of <u>Part 9</u> as that Chapter is applied by <u>section 372AC</u> , including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <u>Part 9</u> , or (b)where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u> , as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.
36.	<u>Section 372AD</u> (capital allowances in relation to construction or refurbishment of certain commercial premises).	An amount equal to— (a)the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <u>Chapter 1</u> of <u>Part 9</u> as that Chapter is applied by <u>section 372AD</u> , including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <u>Part 9</u> , or (b)where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u> , as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.
Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
36A.		An amount equal to—

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
	<u>Section 372AX</u> (accelerated capital allowances in relation to the construction or refurbishment of certain registered holiday camps).	<p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <u>Chapter 1 of Part 9</u> as that Chapter is applied by <u>Section 372AX</u>, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <u>Part 9</u>, or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u>, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p>
36B.	<u>Section 372AY</u> (capital allowances in relation to the construction or refurbishment of certain tourism infrastructure facilities).	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <u>Chapter 1 of Part 9</u> as that Chapter is applied by <u>section 372AY</u>, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <u>Part 9</u>, or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u>, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p>
Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
37.	<u>Section 372AP</u> (relief for lessors).	<p>An amount equal to the lesser of—</p> <p>(a) the aggregate of the amounts the individual deducts in the tax year under <u>section 372AP</u> in computing for the purpose of <u>section 97(1)</u> the amount</p>

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
		<p>of a surplus or deficiency in respect of the rent from each qualifying premises (within the meaning of <i>section 372AM</i>) and each special qualifying premises (within the meaning of that section), and</p> <p>(b) the aggregate of the gross amount of each rent received by the individual plus the individual's total receipts from easements for the tax year less the deductions authorised by <i>section 97(2)</i> to which the individual is entitled for the tax year, other than any deduction authorised by <i>section 372AP</i>,</p> <p>but where both amounts are the same, the amount shall be the amount given under <i>paragraph (a)</i>.</p>
38.	<p><i>Section 372AU(1)</i> (saver for relief due, and for clawback of relief given under, old schemes).</p>	<p>An amount equal to the lesser of—</p> <p>(a) the aggregate of the amounts the individual deducts in the tax year by virtue of the provisions of <i>section 372AU(1)</i> in computing for the purpose of <i>section 97(1)</i> the amount of a surplus or deficiency in respect of the rent from each premises, and</p> <p>(b) the amount determined by the formula—</p> $(G + E) - (D + R)$ <p>where—</p> <p>G is the aggregate of the gross amount of each rent received by the individual for the tax year,</p> <p>E is the individual's total receipts from easements for the tax year,</p> <p>D is the total amount of deductions authorised by <i>section 97(2)</i> to which the individual is entitled for the tax year apart from any deduction authorised by <i>section 372AP</i> or <i>section 372AU</i>, and</p> <p>R is the amount determined under this Schedule as the amount of specified relief in respect of <i>section 372AP</i>, but the amount so determined shall not exceed the amount determined by the formula—</p> $(G + E) - D$

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
		<p>where G, E and D have the same meanings as they have in the first formula in this paragraph,</p> <p>but where both amounts are the same, the amount shall be the amount given under <i>paragraph (a)</i>.</p>
38A.	<p><u>Section 372AAC</u> (capital allowances in relation to conversion or refurbishment of certain commercial premises)</p>	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual under Chapter 1 of Part 9 as that Chapter is applied by <u>section 372AAC</u>, including any such allowance or part of any allowances made to the individual for a previous tax year and carried forward from that previous tax year in accordance with Part 9, or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u>, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p>
38B.	<p><u>Section 372AAB</u> (residential accommodation: allowance to owneroccupiers in respect of qualifying expenditure incurred on the conversion and refurbishment of Georgian houses)</p>	<p>The amount the individual deducts from his or her total income for a year of assessment under <u>section 372AAB(2)</u> in respect of qualifying expenditure incurred on the conversion or refurbishment of a qualifying premises.</p>
38C.	<p><u>Section 372AAD</u> (residential accommodation: capital allowances to lessors in respect of eligible expenditure incurred on the conversion and refurbishment of relevant houses)</p>	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual under Chapter 1 of Part 9 as that Chapter is applied by <u>section 372AAD</u>, including any such allowance or part of any allowances made to the individual for a previous tax year and carried forward from that previous tax year in accordance with Part 9, or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax</p>

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
		year in accordance with <i>section 278</i> and <i>section 304</i> or <i>305</i> , as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.
39.	<i>Section 381</i> (right to repayment of tax by reference to losses).	To the extent that any loss or any part of a loss sustained by the individual in the tax year is referable to a further deduction given to the individual under <i>section 324, 333, 345, 354</i> or <i>paragraph 13</i> of <i>Schedule 32</i> , the amount of the loss or any portion of the loss that is so referable in respect of which relief is given to the individual for the tax year under <i>section 381</i> less any amount of such loss as is carried forward under <i>section 382</i> .
40.	<i>Section 381</i> (right to repayment of tax by reference to losses) as extended by <i>section 392</i> (option to treat capital allowances as creating or augmenting a loss).	To the extent that any loss or any part of a loss sustained by the individual in the tax year is referable to capital allowances, being allowances which are specified reliefs, made to the individual for the tax year, the amount of the loss or any portion of the loss that is so referable in respect of which relief is given to the individual for the tax year under <i>section 381</i> less any amount of such loss as is carried forward under <i>section 382</i> .
41.	<i>Section 382</i> (right to carry forward losses to future years).	To the extent that any loss or any part of a loss is referable to a specified relief, made to the individual for any previous tax year, the amount of the loss or any portion of the loss that is so referable which is carried forward to the tax year under <i>section 382</i> and in respect of which the individual is given relief under that section for the tax year less any part of that loss for which relief cannot be given under that section for that year.
42.	<i>Section 383</i> (relief under Case IV for losses).	To the extent that any loss or any part of a loss is referable to a specified relief to which the individual is or was entitled to for a tax year, the amount of the loss or any portion of the loss that is so referable in respect of which the individual is given relief under <i>section 383</i> for that year.
43.	<i>Section 384</i> (relief under Case V for losses).	To the extent that the excess referred to in <i>section 384</i> is referable to a specified relief, the amount of the excess or any portion of the excess that is so referable in respect of which the individual is given relief under that section for the tax year less any part

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
		of that excess for which relief cannot be given under that section for that year.
44.	<u>Section 385</u> (terminal loss).	To the extent that a terminal loss (within the meaning of <u>section 385</u>) or any part of such a loss is referable to a specified relief, the amount of the loss or any portion of the loss that is so referable in respect of which the individual is given relief under <u>section 385</u> for the tax year.
46.	<u>Section 482</u> (relief for expenditure on significant buildings and gardens).	The amount of qualifying expenditure (within the meaning of <u>section 482</u>) incurred by the individual in the tax year for which relief is given for the tax year under <u>section 381</u> , including any amounts in respect of which relief is given in that year by virtue of <u>section 482(3)</u> .
47.	<u>Section 485F</u> (carry-forward of excess relief).	The total amount deducted from the individual's total income for the tax year under <u>section 485F</u> in respect of all amounts of excess relief carried forward by the individual to that year under that section.
48A.	<u>Section 823A</u> (deduction for income earned in certain foreign states).	An amount equal to the total amount deducted from the individual's total income for the tax year under <u>Section 823A</u> .
49.	<u>Section 843</u> (capital allowances for buildings used for third level educational purposes).	An amount equal to— (a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <u>Chapter 1 of Part 9</u> as that Chapter is applied by <u>section 843</u> , including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <u>Part 9</u> , or (b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u> , as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.
50.	<u>Section 843A</u> (capital allowances for buildings used	An amount equal to—

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
	for certain childcare purposes).	(a)the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <i>Chapter 1</i> of <i>Part 9</i> as that Chapter is applied by <i>Section 843A</i> , including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <i>Part 9</i> , or (b)where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <i>section 278</i> and <i>section 304</i> or <i>305</i> , as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.
50A.	<i>Section 843B</i> (capital allowances for buildings used for the purposes of providing childcare services or a fitness centre to employees)	An amount equal to— (a)the aggregate amount of allowances (including balancing allowances) made to the individual under Chapter 1 of Part 9 as that Chapter is applied by <i>section 843B</i> , including any such allowances or part of any allowances made to the individual for a previous tax year and carried forward from that previous tax year in accordance with Part 9, or (b)where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <i>section 278</i> and <i>section 304</i> or <i>305</i> , as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.
51.	<i>Section 847A</i> (donations to certain sports bodies).	The amount of a relevant donation (within the meaning of <i>Section 847A</i>) made by an individual in a relevant year of assessment (within the meaning of that section) which is deducted from or set off against any income of the individual in the tax year.
53.	<i>Paragraph 11</i> (Urban Renewal Scheme, 1986—capital allowances in relation	An amount equal to—

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
	to certain commercial premises in designated areas other than the Customs House Docks Area) of <u>Schedule 32</u> .	(a)the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under <u>Chapter 1 of Part 9</u> as applied by virtue of <u>paragraph 11 of Schedule 32</u> , including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with <u>Part 9</u> , or (b)where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with <u>section 278</u> and <u>section 304</u> or <u>305</u> , as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.
54.	<u>Paragraph 13</u> (Urban Renewal Scheme, 1986—double rent allowance in relation to certain premises in designated areas other than the Customs House Docks Area) of <u>Schedule 32</u> .	Where any further deduction is given to the individual for the tax year by virtue of <u>paragraph 13 of Schedule 32</u> , the amount by which that deduction reduces the amount of the individual's profits or gains to be charged to tax under Case I or Case II of <u>Schedule D</u> .