



49TACD2023

Between

[REDACTED]

Appellant

and

THE REVENUE COMMISSIONERS

Respondent

Determination

Introduction

1. This matter comes before the Tax Appeal Commission (hereinafter “the Commission”) as an appeal against a Statement of Liability (hereinafter an “SOL”) which was raised by the Revenue Commissioners (“the Respondent”) on 15 February 2022.
2. The amount of tax at issue is €687.97.
3. This appeal has been determined, by agreement of the Parties, without an oral hearing pursuant to section 949U of the Taxes Consolidation Act 1997 (hereinafter the “TCA 1997”).

Background

4. Ms [REDACTED] (hereinafter “the Appellant”) is a Pay as You Earn (hereinafter “PAYE”) taxpayer and on 2 January 2022 she submitted an income tax return for the tax year 2021 to the Respondent. The income tax return submitted by the Appellant on 2 January 2022 contained the following income and deductions which Appellant stated she had received from her former employer [REDACTED] in 2021:

| | |
|---|-----------|
| Income received | €5,431.54 |
| Pay as You Earn (hereinafter "PAYE") Income Tax deducted | €1,638.61 |
| Universal Social Charge deducted | € 93.62 |

5. On foot of the information contained in the income tax return submitted by the Appellant, an overpayment of tax by the Appellant of €2,761.18 for 2021 was indicated. The Respondent issued an SOL on 15 January 2022 which reflected this overpayment and a refund of €2,761.18 was issued to the Appellant on 19 January 2022.
6. Subsequent to this on 14 February 2022 the Appellant's employer amended its payroll submission to the Respondent for 2021 which reflected the following income and deductions which the Appellant had been paid by [REDACTED] in 2021:

| | |
|----------------------------------|-----------|
| Gross Income received | €5,077.69 |
| PAYE Income Tax deducted | € 972.73 |
| Universal Social Charge deducted | € 71.53 |

7. The amended payroll submission indicated that the refund which the Appellant had received on 19 January 2022 was incorrect and that the Appellant had been refunded an excess amount of €687.97. On foot of this, the Respondent issued an amended SOL for 2021 to the Appellant on 14 February 2022 reflecting the underpayment of €687.97 as follows:

| | |
|---------------------------|------------|
| Income received | €11,609.11 |
| Comprised of income from: | |
| [REDACTED] €4,834.42 | |
| [REDACTED] €5,077.69 | |

| | | |
|----------------------------------|------------|--|
| DSP Jobseekers benefit | €1,697.00 | |
| PAYE Income Tax deducted | € 1,935.02 | |
| Comprised of: | | |
| ██████████ €962.29 | | |
| ██████████ €972.73 | | |
| DSP Jobseekers benefit | € 0.00 | |
| Universal Social Charge deducted | € 138.19 | |
| Comprised of: | | |
| ██████████ € 66.66 | | |
| ██████████ € 71.53 | | |

8. On 20 February 2022 the Appellant submitted a Notice of Appeal to the Commission in relation to the SOL issued by the Respondent on 15 February 2022.
9. On 25 February 2022, as part of a response to the Workplace Relations Commissioner (hereinafter the “WRC”) ████████ set out the Appellant’s pay details for 2021 as being €5,077.69 with PAYE Income Tax deducted of €972.73 and USC deducted of €71.53 and total net pay of €3,830.36 as follows:

| | |
|----------------------------------|-----------|
| August 2021 | |
| Gross Income received | €3,007.69 |
| PAYE Income Tax deducted | € 972.73 |
| Universal Social Charge deducted | € 71.53 |
| Net Pay | €2,173.17 |

| | |
|----------------------------------|------------|
| September 2021 | |
| Gross Income received | € 2,070.01 |
| PAYE Income Tax deducted | € 303.66 |
| Universal Social Charge deducted | € 26.39 |
| Net Pay | €1,657.19 |

10. The information which [REDACTED] submitted to the WRC also stated that the Appellant had been underpaid a gross amount of €276.62 in 2021.

Legislation and Guidelines

11. The legislation relevant to the within appeal is as follows:

Section 12 of the TCA1997 “The charge to Income Tax”:

“Income tax shall, subject to the Income Tax Acts, be charged in respect of all property, profits or gains respectively described or comprised in the Schedules contained in the sections enumerated below—

...

Schedule E— Section 19;

...

and in accordance with the provisions of the Income Tax Acts applicable to those Schedules.”

Section 19 of the TCA1997 “Schedule E”:

“(1)The Schedule referred to as Schedule E is as follows:

SCHEDULE E

1. In this Schedule, “annuity” and “pension” include respectively an annuity which is paid voluntarily or is capable of being discontinued and a pension which is so paid or is so capable.

2. *Tax under this Schedule shall be charged in respect of every public office or employment of profit, and in respect of every annuity, pension or stipend payable out of the public revenue of the State, other than annuities charged under Schedule C, for every one euro of the annual amount thereof.*
3. *Tax under this Schedule shall also be charged in respect of any office, employment or pension the profits or gains arising or accruing from which would be chargeable to tax under Schedule D but for paragraph 2 of that Schedule.*
4. *Paragraphs 1 to 3 are without prejudice to any other provision of the Income Tax Acts directing tax to be charged under this Schedule, and tax so directed to be charged shall be charged accordingly.*
5. *Subsection (2) and sections 114, 115 and 925 shall apply in relation to the tax to be charged under this Schedule.*

(2) Tax under Schedule E shall be paid in respect of all public offices and employments of profit in the State or by the officers respectively described below—

- (a) offices belonging to either House of the Oireachtas;*
- (b) offices belonging to any court in the State;*
- (c) public offices under the State;*
- (d) officers of the Defence Forces;*
- (e) offices or employments of profit under any ecclesiastical body;*
- (f) offices or employments of profit under any company or society, whether corporate or not corporate;*
- (g) offices or employments of profit under any public institution, or on any public foundation of whatever nature, or for whatever purpose established;*
- (h) offices or employments of profit under any public corporation or local authority, or under any trustees or guardians of any public funds, tolls or duties;*

(i)all other public offices or employments of profit of a public nature."

Section 112 of the TCA1997 "Basis of assessment, persons chargeable and extent of charge":

"(1) Income tax under Schedule E shall be charged for each year of assessment on every person having or exercising an office or employment of profit mentioned in that Schedule, or to whom any annuity, pension or stipend chargeable under that Schedule is payable, in respect of all salaries, fees, wages, perquisites or profits whatever therefrom, and shall be computed on the amount of all such salaries, fees, wages, perquisites or profits whatever therefrom for the year of assessment.

(2)(a)In this section, "emoluments" means anything assessable to income tax under Schedule E.

(b)Where apart from this subsection emoluments from an office or employment would be for a year of assessment in which a person does not hold the office or employment, the following provisions shall apply for the purposes of subsection (1):

(i)if in the year concerned the office or employment has never been held, the emoluments shall be treated as emoluments for the first year of assessment in which the office or employment is held, and

(ii)if in the year concerned the office or employment is no longer held, the emoluments shall be treated as emoluments for the last year of assessment in which the office or employment was held.

(3)Notwithstanding subsection (1) and subject to subsections (4) and (6), the income tax under Schedule E to be charged for the year of assessment 2018 and subsequent years of assessment in respect of emoluments to which Chapter 4 of Part 42 applies or is applied shall be computed on the amount of the emoluments paid to the person in the year of assessment.

(4)Where emoluments chargeable under Schedule E arise in the year of assessment 2017, and those emoluments are also chargeable to income tax in accordance with subsection (3) for the year of assessment 2018 or a subsequent year of assessment, the

amount of the emoluments chargeable to income tax for the year of assessment 2017 shall, on a claim being made by the person so chargeable, be reduced to the amount of emoluments that would have been charged to income tax had subsection (3) applied for that year of assessment.

(5)Where a person dies and emoluments are due to be paid to that deceased person, the payment of such emoluments shall be deemed to have been made to the deceased person immediately prior to death.

(6)(a)In this subsection, “proprietary director” has the same meaning as it has in section 472.

(b)Subsection (3) shall not apply to—

(i)emoluments paid directly or indirectly by a body corporate (or by any person who is connected (within the meaning of section 10) with the body corporate) to a proprietary director of the body corporate, or

(ii)emoluments in respect of which a notification has issued under section 984(1)."

Submissions

Appellant's submissions

12. The Appellant submitted the following grounds of appeal in her Notice of Appeal submitted on 20 February 2022:

“Dear Sir or Madam,

I received an amended Statement of Liability 2021 from the Revenue, dated 14th February 2022.

According to this document, there is now a tax underpayment in the value of 687.97 EUR for which I shall be liable. I herewith dispute my liability to the underpayment and appeal the decision of the Revenue accordingly.

I called the Revenue on Friday, 18/02/2022 and asked why they issued an amended Statement of Liability 2021 to me. The Revenue Officer on the phone explained, that

my previous employer [REDACTED] reported new income figures to the Revenue which resulted in this amendment and their conclusion of underpayment.

The company [REDACTED] terminated my employment on 7th September 2021. I did receive 3553.71 EUR in total, split in three transactions to my bank account for my employment from 09th August 2021 until 14th September 2021 (-> end of 1 weeks' notice). The company did not provide me with pay slips during my employment and I filed a complaint at the Workplace Relations Commission, WRC accordingly. The pay slip matter is being investigated by a WRC inspector under case reference number [REDACTED].

These are the contact details of the inspector at the WRC:

...

The company [REDACTED] ... refuses to provide the WRC and myself with the necessary pay slips in order to be able to cross-check their reported figures to the Revenue. It's an offence not providing pay slips as outlined in law: <http://www.irishstatutebook.ie/eli/1991/act/25/section/4/enacted/en/html>. -> section 4

My previous employer [REDACTED] did not take reasonable care to operate PAYE and the error was not made in good faith. In describing a "failure to take reasonable care", this means failing to follow proper instructions to deduct PAYE tax from my pay or by failing to use Tax Code notices issued to them. This means that [REDACTED] knew that they were not deducting the right amount of tax from me but took no action to correct their mistake. During my employment with [REDACTED], I evidently asked multiple times to set me up for Payroll correctly and to use the tax code notices that were sent to them by Revenue in order to get my payslips and to be taxed correctly. The company constantly responded with an excuse stating that their nominated payroll provider, [REDACTED] would be "slow" or "having issues". [REDACTED] failed up until today to resolve this matter and I do not agree to pay any resulting tax underpayment that were caused by mistakes of [REDACTED]. I am dependent on an employer's correct internal processes as employed staff and cannot be made responsible for any false reports that they issue belated the following year, here 2022 to the Revenue without any explanation and information to myself.

I appreciate your reply in this matter as soon as possible and I attach all relevant documentation to this appeal.

Sincerely

██████████"

13. At the same time as submitting the Notice of Appeal in this appeal the Appellant submitted the following supporting documentation:

- Email from Appellant to employer seeking pay slips dated 31 August 2021;
- Email from solicitor for employer to Workplace Relations Commission dated 14 October 2021;
- Letter from Workplace Relations Commission to Appellant dated 10 November 2021;
- Copy SOL issued by the Respondent dated 14 February 2022;
- Email from Appellant to the Workplace Relations Commissioner dated 17 February 2022.

14. The Appellant also submitted her bank statements into which her pay from ██████████ was lodged which showed the following lodgements from ██████████ totalling €3,553.71:

- 30 August 2021 €2,025.02
- 6 September 2021 € 212.50
- 28 September 2021 €1,316.19

15. The Appellant also submitted a Statement of Case in support of her appeal outlining the following relevant facts:

"To Whom It May Concern,

Dear Sir or Madam,

The facts involved in my case are as follows:

- 1.) *I was employed with company ██████████ from 09/08/2021 until 14/09/2021. A notice of termination of employment by the employer dated 06/09/2021 was sent to me via email on 07/09/2021. See contract of employment and termination letter attached.*
- 2.) *██████████ referred to the salary payments issued to me as "Pro-forma net payments". I received these so-called pro-forma net payments totalling the amount of 3,553.71 EUR in three transactions to my Bank of Ireland Account, see screenshots attached.*

-> 30/08/2021: 2,025.02 EUR

-> 05/09/2021: 212.50 EUR

-> 27/09/2021: 1,316.19 EUR

3.) I did not receive my pay slips from [REDACTED] in August and September 2021 as to why I filed a complaint to the WRC who investigated under reference CA-00046037, WRC Investigator Name: ... The WRC Investigator asked the company to provide the outstanding pay slips to me.

4.) On 27/10/2021, I received an email from ... at [REDACTED] with a combined payslip for August and September 2021 and explanatory letter. See attachments. On the payslip [REDACTED] confirms the following gross figures and deductions:

Basic Salary 4,246.15EUR

Notice 884.62 EUR

Holiday 300.77 EUR

-> Total: 5,431.54 EUR

PAYE: 1,638.61 EUR

PRSI: 217.26 EUR

USC 93.62 EUR

5.) As Revenue already noted, I confirm same: I submitted an income tax return on 02/01/22 confirming that the income I received from [REDACTED] for 2021 was [sentence unfinished].

6.) I was not employed with [REDACTED] in 2022 and did not return to employments with [REDACTED] in 2022.

7.) I disagree to have received the amended payroll submissions for 2021 on 12/02/22 to show that I would have received an income of 5,077.69 EUR, with PAYE deducted of 972.73 EUR and USC deducted of 71.53 EUR. I therefore appealed the new Statement of Liability issued to me on 15/02/22 accordingly. I evidently received a total from [REDACTED] of 5,431.54 EUR as explained under 2.) + 4.)."

16. The Appellant stated the following at section 6 of her Statement of Claim:

"I have consulted a solicitor at [REDACTED] who advised that the essential question in this matter is as follows:

Did [REDACTED] send the amended payroll amount of 14/02/2022 to my bank account?

If not, myself as appellant is not liable for the underpayment.

If yes, myself as appellant is liable for the underpayment.

Please review all attached documentation."

17. The Appellant attached the following documentation to her Statement of Claim:

- Contract of employment between the Appellant and [REDACTED] dated 29 July 2021;
- Letter from [REDACTED] to Appellant dated 6 September 2021 terminating her employment;
- Letter from [REDACTED] to Appellant dated 27 October 2021 setting out details of net pay paid to Appellant;
- Copy of pay details dated 29/10/2021 from [REDACTED] to Appellant outlining the following:

Basic Salary 4,246.15

Notice 884.62

Holiday 300.77

PAYE 1,638.61

PRSI 217.26

USC 93.62

- Copy of Appellant's bank account statement showing the following payments from the Employer totalling €3,552.70:

30 August 2021 €2,024.01

6 September 2021 € 212.50

28 September 2021 €1,316.19

Respondent's submissions

18. The Respondent submitted that the Appellant's Employer amended its payroll submissions for 2021 on 14 February 2022 to show that the income which the Appellant received was

€5,077.69, with PAYE Income Tax deducted of € 972.73 and USC deducted of €71.53. This, the Respondent submitted, meant that the refund the Appellant had originally received on 19 January 2022 was not correct. The Respondent submitted that the Appellant had been over-refunded in the amount of €687.97. As a result, the Appellant was issued with an amended SOL for 2021 on 15 February 2022 reflecting the underpayment to tax for the year 2021 which was due and payable.

19. The Respondent submitted that as the payment was received by the Appellant during her employment in 2021, it was also liable to tax in 2021 in accordance with Section 112 of the TCA1997. The Respondent submitted that the [REDACTED] correctly adjusted their payroll submissions upon realising their error in not including all of the Appellant's 2021 payroll in their 2021 payroll submissions. The Respondent submitted that because the Appellant had already completed her income tax return for 2021 prior to the Employer amending its payroll submissions for 2021, she received a refund that was not in fact due. The underpayment arising from the Appellant's SOL is not as a result of additional income being taxed, it is because a refund issued to the Appellant that was not due to her.
20. The Respondent submitted that the Appellant's Revenue record correctly reflects a gross payroll amount of €5,077.69 and that this is confirmed by the Appellant's submitted documentation which is made up of:

| | |
|---------------------------|-----------|
| Total net income received | €3,553.71 |
| Payroll underpayment | € 276.62 |
| PAYE Deducted | € 972.73 |
| PRSI Deducted | € 203.71 |
| USC Deducted | € 71.52 |
| Total Gross Payroll | €5,077.69 |

Material Facts

21. The following material facts are not at issue in this appeal and the Commissioner accepts same as a material facts:

- i. The Appellant submitted an income tax return for the tax year 2021 to the Respondent on 2 January 2022 which contained the following income and deductions which Appellant had received from Employer in 2021:

| | |
|----------------------------------|-----------|
| Income received | €5,431.54 |
| PAYE Income Tax deducted | €1,638.61 |
| Universal Social Charge deducted | € 93.62 |

- ii. The income tax return submitted by the Appellant for 2021 on 2 January 2022 indicated a refund of €2,761.18 for 2021 which was refunded to the Appellant by the Respondent on 19 January 2022.
- iii. [REDACTED] amended its payroll submissions for 2021 on 14 February 2022 to show that the income which the Appellant received was €5,077.69, with PAYE Income Tax deducted of € 972.73 and USC deducted of €71.53;
- iv. The amended payroll submission indicated that the refund which the Appellant had received in 19 January 2022 was incorrect and that the refund amount was over stated by €687.97.

22. The following material fact is at issue between the Parties:

- i. The correct gross amount paid to the Appellant by [REDACTED] in 2021.

23. The Commissioner has considered the submissions and the documentary evidence received from both Parties.

The correct gross amount paid to the Appellant by [REDACTED] in 2021:

24. On the one hand the Appellant claims that she received gross pay of €5,431.54 from [REDACTED] in 2021. This is based on the information received from [REDACTED] by payroll printout dated 29 October 2021 which she submitted to the Commission.

25. On the other hand the Respondent claims that the Appellant received gross pay of €5,077 from [REDACTED] in 2021. This is based on the payroll submission made by [REDACTED] to the Respondent on 14 February 2022.

26. The information relating to the Appellant's gross pay, PAYE Income Tax deductions and USC deductions for 2021 contained in the payroll submission made by [REDACTED] to the Respondent on 14 February 2022 and the information contained in the letter from

████████ to the WRC dated 25 February 2022 is the same. The information contained in the letter from █████ to the Appellant is different and states that the Appellant received gross pay of €5,431.54. The Commissioner stresses that this conflicting information is not the fault of the Appellant and is as a result of conflicting information being supplied by █████.

27. The Commissioner notes that in its correspondence to the WRC dated 25 February 2022, █████ confirmed that there was an underpayment of €276.62 to the Appellant in 2021 which comprised of an overpayment of €64.35 in August 2021 and an underpayment of €340.97 in September 2021.
28. As a result of the above, the Commissioner finds as a material fact that the Appellant's gross pay from █████ in 2021 was €4,801.07.
29. For completeness the Commissioner finds the following as material facts in this appeal:

- i. The Appellant submitted an income tax return for the tax year 2021 to the Respondent on 2 January 2022 which contained the following income and deductions which Appellant had received from █████ in 2021:

| | |
|----------------------------------|-----------|
| Income received | €5,431.54 |
| PAYE Income Tax deducted | €1,638.61 |
| Universal Social Charge deducted | € 93.62 |

- ii. The income tax return submitted by the Appellant for 2021 on 2 January 2022 indicated a refund of €2,761.18 for 2021 which was refunded to the Appellant by the Respondent on 19 January 2022.
- iii. █████ amended its payroll submissions for 2021 on 14 February 2022 to show that the income which the Appellant received was €5,077.69, with PAYE Income Tax deducted of € 972.73 and USC deducted of €71.53;
- iv. The amended payroll submission indicated that the refund which the Appellant had received in 19 January 2022 was incorrect and that the refund amount was over stated by €687.97;
- v. The Appellant's gross pay from █████ in 2021 was €4,801.07.

Analysis

30. As with all appeals before the Commission the burden of proof lies with the Appellant. As confirmed in Menolly Homes v Appeal Commissioners [2010] IEHC 49, the burden of proof is, as in all taxation appeals, on the taxpayer. As confirmed in that case by Charleton J at paragraph 22:-

“This is not a plenary civil hearing. It is an enquiry by the Appeal Commissioner as to whether the taxpayer has shown that the tax is not payable.”

31. The circumstances of this appeal are unusual. The Appellant was not supplied with contemporaneous payslips by [REDACTED] with whom she was employed in August and September 2021. This is a matter which the Appellant has taken up with the WRC and which does not fall within the jurisdiction of the Appeal Commissioner.

32. [REDACTED] supplied the Appellant with one document dated 29 October 2021 which purported to set out the Appellant's consolidated pay position and which set out that the Appellant had received gross pay of €5,431.54 and had paid PAYE income tax of €1,638.61 and USC of €93.62. This was the information supplied to the Appellant and this was the information on which the Appellant relied when filing her tax return with the Respondent on 2 January 2022 and on which the refund of €2,761.18 was paid to the Appellant by the Respondent.

33. On 14 February 2022 [REDACTED] submitted an amended payroll submission to the Respondent which set out that the Appellant had received gross pay of €5,077.69 in 2021 from which deductions of €972.73 in PAYE income tax and €71.53 in USC had been made. This was the information which resulted in the Respondent issuing the Amended SOL to the Appellant which indicated that she had been over-refunded €687.97. The Appellant appealed this decision to the Commission and that is the subject of this appeal.

34. On 25 February 2022 [REDACTED] submitted information to the WRC which set out that the Appellant had received gross pay of €5,077.69 in 2021 from which deductions of €972.73 in PAYE income tax and €71.53 in USC had been made. However, the information supplied by [REDACTED] to the WRC also set out that the Appellant had been underpaid in 2021 by €276.62 and as a result the Commissioner has already found as a material fact that, on the balance of probabilities, the Appellant was paid a gross amount of €4,801.07 by [REDACTED] in 2021 and not €5,077.69 as returned in the payroll submission of 14 February 2022 submitted by [REDACTED] to the Respondent.

35. The charge to income tax is contained in section 12 of the TCA1997 and employment income falls within Schedule E as set out in section 19 of the TCA1997.

36. Section 112(1) of the TCA1997 sets out that income tax under Schedule E “...shall be charged for each year of assessment on every person having or exercising an office or employment of profit mentioned in that Schedule...” The Appellant was employed by [REDACTED] in August and September 2021.

37. Section 112(1) of the TCA1997 also sets out that income tax is payable “...in respect of all salaries, fees, wages, perquisites or profits whatever therefrom, and shall be computed on the amount of all such salaries, fees, wages, perquisites or profits whatever therefrom for the year of assessment.”

38. Section 121(2)(a) of the TCA1997 set out that “emoluments” means “anything assessable to income tax under Schedule E”

(b)Where apart from this subsection emoluments from an office or employment would be for a year of assessment in which a person does not hold the office or employment, the following provisions shall apply for the purposes of subsection (1):

(i)if in the year concerned the office or employment has never been held, the emoluments shall be treated as emoluments for the first year of assessment in which the office or employment is held, and

(ii)if in the year concerned the office or employment is no longer held, the emoluments shall be treated as emoluments for the last year of assessment in which the office or employment was held.

(3)Notwithstanding subsection (1) and subject to subsections (4) and (6), the income tax under Schedule E to be charged for the year of assessment 2018 and subsequent years of assessment in respect of emoluments to which Chapter 4 of Part 42 applies or is applied shall be computed on the amount of the emoluments paid to the person in the year of assessment.

39. The provisions of section 112(1) and (2) of the TCA1997 mean that, from the tax year 2018, tax is levied on payments received by taxpayers in the years in which they receive the payments. The Commissioner has already found as a material fact that the Appellant's gross pay from [REDACTED] in 2021 was €4,801.07 and the Commissioner determines that this is the gross pay from [REDACTED] which should be reflected in the Appellant's SOL for 2021.

40. The scope of the jurisdiction of an Appeal Commissioner has been set out in a number of cases decided by the Courts, namely; *Lee v Revenue Commissioners* [IECA] 2021 18 (hereinafter “Lee”), *Stanley v The Revenue Commissioners* [2017] IECA 279, *The State (Whelan) v Smidic* [1938] 1 I.R. 626, *Menolly Homes Ltd. v The Appeal Commissioners* [2010] IEHC 49 and the *State (Calcul International Ltd.) v The Appeal Commissioners* III ITR 577.

41. Most recently Murray J. in *Lee* held as follows:

“From the definition of the appeal, to the grounds of appeal enabled by the Act, to the orders the Appeal Commissioners can make at the conclusion of the proceedings, and the powers vested in them to obtain their statutory objective, their jurisdiction is focussed on the assessment and the charge. The ‘incidental questions’ which the case law acknowledges as falling within the Commissioners’ jurisdiction are questions that are ‘incidental’ to the determination of whether the assessment properly reflects the statutory charge to tax having regard to the relevant provisions of the TCA, not to the distinct issue of whether as a matter of public law or private law there are additional facts and/or other legal principles which preclude enforcement of that assessment.”¹

42. The Commission is a statutory body created by the Finance (Tax Appeals) Act 2015. Section 6(2) of the Finance (Tax Appeals) Act 2015 sets out the functions of Commissioners appointed pursuant to that Act.

43. The Commissioner notes the Appellant’s complaints in relation to the failure by [REDACTED] [REDACTED] to provide her with contemporaneous payslips in August and September 2021 and in relation to the incorrect information in relation to her pay position dated 29 October 2021 supplied to her by [REDACTED]. However, as set out above, the focus of the Appeal Commissioner in this appeal is on the SOL and the charge to tax. The Commissioner does not have any jurisdiction in relation to the failure by [REDACTED] to supply provide her with contemporaneous payslips in August and September 2021 and in relation to the incorrect information in relation to her pay position dated 29 October 2021 supplied to her by [REDACTED]. In addition the Commissioner does not have any jurisdiction in relation to the information provided by [REDACTED] in the payroll submission submitted to the Respondent on 14 February 2022. The Commissioner makes no comment on same.

¹ At paragraph 64

Determination

44. The Commissioner determines that the Appellant has discharged the burden of proof in this appeal and it has succeeded in showing that a part of the relevant tax was not payable.
45. The Commissioner therefore determines pursuant to section 949AK of the TCA1997 that the Statement of Liability for the Appellant for 2021 is to be amended and reduced to reflect the Appellant's gross pay from [REDACTED] in 2021 as being €4,801.07.
46. This Appeal is determined in accordance with Part 40A of the TCA1997 and in particular sections 949AK thereof. 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 TCA1997.



Clare O'Driscoll
Appeal Commissioner
30 January 2023