



61TACD2023

Between:

[REDACTED]

Appellant

and

THE REVENUE COMMISSIONERS

Respondent

Determination

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Introduction

1. This matter comes before the Tax Appeal Commission (hereinafter the “Commission”) as an appeal against Notices of Amended Assessment to income tax (hereinafter the “Amended Assessments”) for the years 2011, 2012 and 2013 (hereinafter the “relevant years”) raised on 10 December 2016, 1 December 2017 and 30 November 2018 respectively by the Revenue Commissioners (hereinafter the “Respondent”).
2. The amounts returned by the Appellant in his Form 11 returns for the years 2011, 2012 and 2013 were not correct and contained amounts which represented significant understatements of the profits or gains which fell to be charged to tax in those years.
3. The total amount of tax under appeal is €1,584,080.00.

Background

4. Mr [REDACTED] (hereinafter the “Appellant”) is a self-employed Chartered Accountant who, during the relevant years, was a partner in the accountancy practice of [REDACTED] which had the registered number of [REDACTED] (hereafter the “accountancy practice”). The Appellant’s work as an accountant covers the areas of accounts preparation, bookkeeping, tax returns, obtaining loans for clients and preparing business plans.
5. An overview of these appeals shows that the Appellant submitted self-assessment income tax Form 11 returns to the Respondent for each of the relevant years which the Respondent did not accept. As a consequence, following a lengthy investigation into the Appellant’s tax affairs for the relevant years, the Respondent raised Notices of Amended Assessment to income tax in respect of each of the relevant years. The following overview shows a comparison between the liabilities contained in the Appellant’s Form 11 returns and those raised by the Respondent in the Notices of Amended Assessment for the relevant years:

	Appellant’s Form 11 Return	Respondent’s Notice of Amended Assessment	Amount Paid by Appellant	Balance Payable on Notice of Amended Assessment
2011 Liability €	19,476	374,555	19,476	355,079
2012 Liability €	134,298	744,522	115,146	629,376

2013 Liability €	65,311	655,125	55,500	599,625
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6. The detailed amounts of income and allowances contained in the Appellant's Form 11 returns submitted to the Respondent for the relevant years are set out at **Annex 1** of this determination.
7. On 22 September 2015 the accountancy practice was selected for audit by the Respondent. In addition, on 22 September 2015 the Respondent issued an investigation letter to the Appellant with the period of investigation of 1 January 2011 to 31 December 2013 being identified.
8. The Respondent raised a Notice of Amended Assessment to income tax for 2011 on 9 December 2016. The Respondent subsequently raised a Notice of Amended Assessment to income tax for 2012 on 1 December 2017 and a Notice of Amended Assessment to income tax for 2013 on 30 November 2013. The detailed amounts of income and allowances contained in the Notices of Amended Assessment for the relevant years are set out at **Annex 2** of this determination.
9. The Appellant submitted Notices of Appeal to the Commission pursuant to section 949I of the Taxes Consolidation Act 1997 (hereinafter the "TCA1997") to the Commission in respect of each of the Notice of Amended Assessment.
10. There are no legal issues between the Parties in these appeals and the only matters which are at issue between the Parties relate to the identification of the correct quantum of income received by the Appellant and the correct allowances which the Appellant is entitled to claim in each of the relevant years.
11. The oral hearing of these appeals was scheduled to take place on 18 July 2022. The Appellant had conducted these appeals on his own behalf until 13 July 2022 when the Commission received correspondence to the effect that the Appellant had appointed a solicitor to represent him and wished to instruct counsel to represent him. In those circumstances the hearing of these appeal was adjourned. The oral hearing of these appeals took place remotely on 30 and 31 January 2023 where the Appellant was represented by a solicitor along with Senior and Junior Counsel, the Appellant having had the benefit of independent legal advice since at least 13 July 2022.
12. The Commissioner has considered the submissions received both written and oral from the Parties, the documentary evidence and the witness evidence at the oral hearing along with the relevant legislation and case law in making this determination.

Legislation and Guidelines

13. The legislation relevant to this appeal is appended to this determination at **Annex 3** of this determination.

Submissions and Witness Evidence

Appellant's Submissions

14. In oral submissions made by Senior Counsel on behalf of the Appellant it was submitted that there are no legal issues between the Parties. It was further submitted that the only matter that is at issue in these appeals is the question of whether the Notices of Amended Assessment raised by the Respondent for the relevant years are excessive.¹

15. Prior to the oral hearing of these appeals the Appellant submitted an analysis of lodgements and receipts in to his bank account ending in ■■■■ which contained the following information:

		2011	2012	2013
1	Transfers from ■■■■ ■■■■	432,019.40	595,329.10	424,170.51
2	Lodgements from ■■■■ ■■■■	414,133.64	517,929.91	337,792.75
3	Transfer from ■■■■ ■■■■			457,923.00
4	■■■■ ■■■■ ■■■■ ■■■■	35,388.00		
5	Transfer from ■■■■	27,819.00	34,346.00	20,845.45
6	Rent	11,364.93	11,481.26	5,894.98
7	Transfer from ■■■■	5,200.00		
8	Transfer from ■■■■	4,000.00	10,000.00	
9	Transfer from ■■■■	3,764.00		
10	Transfer from ■■■■	2,731.00	9,044.00	1,000.00

¹ Hearing transcript day 1 page 5 lines 22 to 29 and page 6 lines 1 to 26.

11	Expenses Refund	2,682.55	1,046.14	
12	Transfer from Credit Card	2,574.00	175.00	1,170.00
13	Transfer from █████	1,850.00		
14	Transfer from █████	1,349.00	321.00	619.00
15	Bank Interest	8.38	38.46	1.08
16	Transfer from █████		4,500.00	46,950.00
17	Transfer from █████		4,000.00	
18	Transfer from █████		2,091.00	3,100.00
19	Transfer from █████		1,045.50	
20	Transfer from █████		300.00	
21	Transfer from █████		103.00	
22	Transfer from █████			12,345.00
23	Transfer from █████ / expenses			9,336.85
24	Transfer from Client			985.22
	Total	944,883.90	1,191,750.37	1,322,133.84

Witness – Mr █████

16. The Appellant stated that he is a Chartered Accountant and that for the years 2011, 2012 and 2013 he was a partner in the accountancy practice of █████. He stated that the partnership also operated a company █████ (hereinafter the “consultancy company”) which operated alongside the accountancy practice and through which certain functions were carried out such as payroll. He stated that most of the work of the accountancy practice was put through the partnership.²

² Transcript Day – Appellant’s evidence 1 Question 2 page 10.

2011

17. In relation to the Notice of Amended Assessment to income tax for 2011 raised by the Respondent, the Appellant stated to the Commissioner that he accepts the following amounts totalling which appear therein:

Income	
Chartered Account – self	732,673
Directors Emoluments – self	20,000
Total	752,673
Capital Allowances / Losses	
Mech&Plant – Chartered Accountant – self	42,358
Total Taxable Income	710,315

18. The Appellant stated that the breakdown of the €752,673 in income received by him in 2011 was €732,673 received from the accountancy practice and €20,000 received in salary from the consultancy company.

19. The Appellant also stated that he accepts the following Personal Allowances / Reliefs and Deductions which were agreed by the Respondent subsequent to the raising of the Notice of Amended Assessment for 2011:

Retirement Annuity - Self	28,750
Carer's Allowance	15,000

20. The Appellant identified three principal issues which, he stated, arise for the tax year 2011 as being:

- i. The disallowed loan interest allowance;
- ii. The difference between lodgements from the accountancy practice into his [REDACTED] account and the profit amount submitted;
- iii. The issue of the disallowance of expenditure claimed by him in relation to his rental properties.

i. The disallowed loan interest allowance:

21. The Appellant disputed the disallowance by the Respondent of a relief in the amount of €23,588 claimed by him in his Form 11 of “*Loan Interest – Acquiring a Partnership – Self*”. He stated that that in 2004 the accountancy practice was under cash flow pressure and as a result he and another partner in the accountancy practice both separately approached a bank to try to assist with the position. He stated that the bank agreed to advance finance to him on the basis that he re-finance investment properties which he owned and release equity in those properties. He stated that he drew down €1,068,000 as a result of the re-finance and that he put 40% or €400,000 of those funds into the accountancy practice as working capital in 2004. These funds were subsequently re-financed with another financial institution in 2007. The Appellant stated that, as a result of him injecting 40% or €400,000 of those funds into the accountancy practice as working capital, he had claimed 40% of the interest paid on those funds as a personal allowance / relief in each of the relevant years. For 2011 that amount was €23,588. The Appellant also stated that the remaining 60% of the funds drawn down in 2004 were applied to fund his mother’s house and to re-finance another property which he held.

22. The Appellant claimed that the total amount in personal allowances which he should be allowed for 2011 is €67,338 being the total of the Retirement Annuity amount of €28,750 and Carer Allowance amount of €15,000 already agreed by the Respondent plus the amount of €23,588 for Loan Interest. As a result the Appellant submitted that his Taxable Income in 2011 was €642,977.

ii. The difference between lodgements from the accountancy practice into his [REDACTED] account and the profit amount submitted:

23. The Appellant submitted an analysis of his bank account ending in [REDACTED] which the Appellant stated was his main operating bank account and which was the account into which all of his drawings from the accountancy partnership were lodged. In 2011 the analysis of the [REDACTED] bank account showed an amount of €846,152 being lodged by cheque and by electronic transfer from the accountancy practice into this bank account. The cheque lodgements into the bank account were made by the accountancy practice’s bookkeeper using cheques drawn on the accountancy practice bank account and the electronic transfer lodgements were made directly from the accountancy practice bank account by the bookkeeper.

24. Addressing the difference of €93,479 between the amount of €752,673 which the Appellant accepts was his income from the accountancy practice and the consultancy

company in 2011 and the €846,152 which was lodged into his bank account from the accountancy practice, the Appellant stated that there would be three reasons for this difference:

- i. The funds received by the accountancy practice were distributed on a percentage of receipts basis, that is to say that funds were drawn out and distributed to the partners in the accountancy practice as soon as they were received leaving sufficient funds for Value Added Tax, wages and overheads. At the end of the year the accountancy practice prepared its accounts and on the basis of the profits arrived at there would be differences between the amounts distributed and the amounts to which the partners were entitled;
- ii. The building from which the accountancy practice operated was owned by the Appellant and another partner and the rent which was owed by the accountancy practice built up over time and those arrears were owed to him by the accountancy practice;
- iii. There was an issue of deferred commission or “trail commission”. The Appellant explained that the term “trail commission” resulted from commissions which were received and distributed by the accountancy practice as a result of the creation of a number of syndicated property investment trusts of which the Appellant and the other partners in the accountancy practice were trustees. This involved the creation of trusts through a brokerage, [REDACTED]. The Appellant stated that the partners would identify commercial properties for sale which had existing tenants and would arrange for loan finance to purchase these properties along with identifying clients of the partners who would invest equity into the trusts to finance the purchase of the buildings. The commission fees which were received and distributed by the accountancy practice related to the work carried out in initially setting up the trusts and also related to the reporting obligations which the trustees had to the investors and to the financial institutions over the period of the trusts, which the Appellant stated was typically 15 years. The Appellant stated that from an accounting point of view, although the commission fees were received at the time of the creation of the syndicate trusts, the work was extended over a period of 15 years. As a result, the Appellant stated, the commission fees were either written off or accrued or accounted for equally over the 15 year lifespan of the syndicate trusts. As an example, the Appellant stated that if a syndicate trust was set up in 2011 1/15th of the commission fees was written off in 2011, 1/15th was written off in 2012 and so on over the lifespan of the syndicate trust. The Appellant stated that at the end of 2013 a calculation was carried out of the amount

of commission fees which he had received but in respect of which work had not yet been carried out relating to trail commission. The Appellant stated that this amounted to €535,000. The Appellant stated that related to the deferred trail commission he had in error received a direct payment in 2011 of €35,388 from one of the syndicates, ██████████ ██████████, which is identified as a payment from ██████████ in his ██████████ account.

iii. Rental expenditure allowances:

25. The Appellant stated that in his Form 11 for 2011 which he submitted to the Appellant he included reference to one rental property which had no receivable rent. Subsequent to filing his Form 1 return for 2011, the Appellant disclosed to the Respondent that he in fact had 14 rental properties in the State and one rental property in the UK during the relevant years. The Appellant submitted a detailed analysis of the rent income and expenditure for these properties for 2011 to the Respondent which is set out at **Annex 3** of this determination. The Appellant submitted that the totals for rent received and expenditure in 2011 were as follows:

	Total 2011
Gross Rent	132,202
<u>Expenditure</u>	
Loan Interest	102,491
Insurance	5,000
Service Charges	3,400
Repairs / Maintenance	34,006
Life assurance	1,260
Capital Allowances	10,000
<u>Total Expenditure</u>	156,157
Rental Profit	(23,957)

26. The Appellant stated that he had borrowed substantially to fund the properties with various financial institutions and that significant loan interest arose on foot of those borrowings.

He stated that where one loan covered more than one property he apportioned the loan interest between each property on an equal basis. He also stated that the returned 75% of the interest paid in relation to the properties as that was the rule applicable in 2011 in relation to loan interest.

27. In relation to the amounts for repairs / maintenance the Appellant stated that he employed a person to carry out the practical work in relation to checking the properties, carrying out any repairs and maintenance and overseeing changes in tenants. This employment, the Appellant stated, was returned to the Respondent in the form of P35L returns copies of which he has submitted to the Commissioner.

28. In relation to the UK property, which the Appellant stated was located in [REDACTED], the Appellant submitted the following analysis of rental income and expenditure in 2011:

	2011
Gross Rent	3,577
Expenditure	
Loan Interest	4,500
Service Charges	1,189
Ground Rent	250
Capital Allowances (£10Kx12.5%)	1,250
Total Expenditure	7,189
Rental Profit	(3,612)
UK Withholding tax paid	640
Rental Profit after tax	(4,252)

2012

29. In relation to the Notice of Amended Assessment to income tax for 2012 raised by the Respondent, the Appellant stated to the Commissioner that he accepts the amount of €400,000 for Emoluments and stated that this amount arises in circumstances where he was paid a salary of €380,000 by a company [REDACTED] which he

carried out work for in the UK. In addition, the Appellant had returned an amount of €20,000 in his Form 11 for 2012 as being “Income attributable to the performance in the State of the duties of foreign offices and foreign employments subjected to PAYE deduction” as a result he accepted that he had received the amount of €400,000 of Emoluments included in the Notice of Amended Assessment for 2012.

30. In addition, the Appellant stated that he was in agreement with the amount included in the Notice of Amended Assessment for 2012 of €795,832 as being his share of the profit from the accountancy practice. The Appellant stated that he disagrees with the amount in the Notice of Amended Assessment for 2012 of €50,000 “Interest / Income from Securities / Possessions” as this, he stated, is double accounting in that this amount should have been substituted into the amount of €380,000 of income which he now accepts he received from [REDACTED]. He stated that he did not receive any interest or dividends in 2012.

31. In relation to the income figure of €220,073 from [REDACTED] contained in the Notice of Amended Assessment for 2012, the Appellant stated that he does not know where this figure comes from but that he assumes it relates to the amounts referable to the deferred commission or trail commission which he had earlier discussed during his direct evidence. He stated that the only money which he received from [REDACTED] was in relation to the syndicate trusts which had been created.

32. As a result of the above, the Appellant submitted to the Commissioner that he received income in the amount of €1,195,832 in 2012.

33. He stated that he is in agreement with the capital allowances contained in the Amended Assessment for 2012 in the amount of €38,976 which reflects the amount which was returned by him in his Form 11 for 2012.

34. The Appellant also stated that he accepts the following Personal Allowances / Reliefs and Deductions which were agreed by the Respondent subsequent to the raising of the Notice of Amended Assessment for 2012:

Retirement Annuity - Self	28,750
Carer's Allowance	50,000

i. The disallowed loan interest allowance

35. The Appellant disputed the disallowance of a relief in the amount of €23,588 claimed by him in his Form 11 of “Retainable Charge”. He stated this relates to the interest payable

on loan finance taken out by him in 2004 from which he put in €400,000 to the accountancy practice as working capital, as previously discussed in relation to the 2011 Notice of Amended Assessment.

36. The Appellant claimed therefore that the total amount in personal allowances which he should be allowed for 2011 is €102,338 being the total of the Retirement Annuity amount of €28,750 and Carer Allowance amount of €50,000 already agreed by the Respondent plus the amount of €23,588 for Loan Interest. As a result the Appellant submitted that his Taxable Income in 2012 was €1,093,494 as opposed to the taxable income amount of €1,426,959 contained in the Notice of Amended Assessment for 2012 issued by the Respondent.

ii. The difference between lodgements from the accountancy practice into his [REDACTED] account and the profit amount submitted:

37. In relation to the analysis of his bank account ending in [REDACTED] which the Appellant submitted in support of his claim this shows that in 2012 an amount of €1,113,259 was lodged by cheque and by electronic transfer from the accountancy practice into this bank account.

38. The Appellant addressed the difference of €317,429 between the amount of €795,832 which the Appellant states was his income from the accountancy practice and the €1,113,259 which was lodged into his bank account from the accountancy practice. The Appellant stated that taking into account the €380,000 which he now accepts he received from [REDACTED] and the €20,000 which he accepts he received from other work, this amounts to €1,195,832. The Appellant stated that the difference between these amounts represent a deficit which offsets the additional amount of €93,479 which he received from the accountancy practice in 2011.

iii. Rental expenditure allowances:

39. The detailed analysis of the rent income and expenditure for these properties in 2012 which is set out at **Annex 4** of this determination. The Appellant submitted that the totals for rent received and expenditure in 2012 were as follows:

	Total 2012
Gross Rent	133,466
<u>Expenditure</u>	
Loan Interest	102,491

Insurance	5,000
Service Charges	3,400
Repairs / Maintenance	60,890
Life assurance	1,260
Capital Allowances	10,000
<u>Total Expenditure</u>	183,041
Rental Profit	(49,577)

40. In relation to the UK rental property the Appellant submitted the following amounts in relation to income and expenditure for 2012:

	2012
Gross Rent	8,187
Expenditure	
Loan Interest	4,500
Service Charges	1,189
Ground Rent	250
Capital Allowances (£10Kx12.5%)	1,250
Total Expenditure	7,189
Rental Profit	995
UK Withholding tax paid	1,647
Rental Profit after tax	(679)

2013

41. In relation to the Amended Assessment to income tax for 2013 raised by the Respondent, the Appellant stated to the Commissioner that he does not accept all of the following amounts of income which appear therein:

Income	
Chartered Account – self	389,672
Unexplained bank Lodgements – self	392,792
Emoluments – self	10,000
Emoluments – ██████████	30,000
██████████ - self	439,673
Total	1,262,137
Capital Allowances / Losses	
Mech&Plant – Chartered Accountant – self	22,930
Total Taxable Income	1,262,137

42. The Appellant stated that he is in agreement with the amount of €40,000 in relation to employments for himself and his ██████████ with whom the Appellant was jointly assessed for 2013.
43. The Appellant stated that he disagrees with the figure of €389,672 which is in the Amended Assessment as being his share of the profit from the accountancy practice in 2013. The Appellant stated that, although the accountancy practice partnership did not submit a Form 1 return to the Respondent, accounts for the accountancy practice for the period ending 31 December 2013 are available. These accounts show a profit share amount of €324,962 for the Appellant and this is the correct figure of profits which he received from the accountancy practice in 2013.
44. In relation to the income figure of €392,792 in unexplained bank lodgements contained in the Amended Assessment for 2013, the Appellant stated that he does not know where this figure comes from but that he assumes it relates to the amounts referable to the deferred commission or trail commission which he had earlier discussed during his direct evidence.
45. As regards the amount of €439,673 included in the Amended Assessment for 2013 for income received from “██████████”, the Appellant stated that in 2013 he borrowed €457,923 from ██████████ which, he stated, was a company within his group of companies encompassed under the holding company ██████████

██████████. He stated that ██████████ had issued some loan notes to some private investors and has taken in some capital. The capital was used for various investments such as an investment in a small B&B hotel in ██████████. As a result, the Appellant proposed that the borrowings should be treated as a preferential loan and that it should be treated under benefit-in-kind taxation provisions. The Appellant stated that these monies were not a salary and they were ad hoc loans which were repaid in the year following 2013. The Appellant stated that it was only a timing matter that he was able to borrow the funds for some of 2013 but that after 2014 and in the subsequent years the funds were moved on to certain investments on behalf of ██████████ ██████████.

46. He stated that he is in agreement with the capital allowances contained in the Amended Assessment for 2013 in the amount of €22,930 which reflects the amount which was returned by him in his Form 11 for 2013.

47. The Appellant also stated that he accepts the following Personal Allowances / Reliefs and Deductions which were agreed by the Respondent subsequent to the raising of the Notice of Amended Assessment for 2012:

Retirement Annuity - Self	18,750
Carer's Allowance	50,000

i. The disallowed loan interest allowance

48. The Appellant disputed the disallowance of a relief in the amount of €19,098 claimed by him in his Form 11 of "Retainable Charge". He stated this relates to the interest payable on loan finance taken out by him in 2004 from which he put in €400,000 to the accountancy practice as working capital, as previously discussed in relation to the 2011 Amended Assessment.

49. The Appellant claimed therefore that the total amount in personal allowances which he should be allowed for 2013 is €87,598 being the total of the Retirement Annuity amount of €28,750 and Carer Allowance amount of €50,000 already agreed by the Respondent plus the amount of €19,098 for Loan Interest.

ii. The difference between lodgements from the accountancy practice into his [REDACTED] account and the profit amount submitted:

50. In relation to the analysis of his bank account ending in [REDACTED] which the Appellant submitted in support of his claim this shows that in 2013 an excess amount of €397,000 was lodged into his account by the accountancy practice. Addressing this difference, the Appellant stated that this relates to the deferred commission / trail commission issue which he previously described and that this was money which did not fall to be taxed in 2013 as it related to future work for the syndicate trusts that would be carried out in future years.

iii. Rental expenditure allowances:

51. The detailed analysis of the rent income and expenditure for these properties in 2013 is set out at **Annex 4** of this determination. The Appellant submitted that the totals for rent received and expenditure in 2013 were as follows:

	Total 2013
Gross Rent	133,466
<u>Expenditure</u>	
Loan Interest	102,491
Insurance	5,000
Service Charges	3,400
Repairs / Maintenance	55,806
Life assurance	1,260
Capital Allowances	10,000
<u>Total Expenditure</u>	177,957
Rental Profit	(44,493)

52. In a similar manner to that in 2011 and 2012, the Appellant stated that he returned 75% of the interest paid in relation to the properties as that was the rule applicable in 2013 in relation to loan interest.

53. The Appellant submitted the following in respect of the UK rental property for 2013:

	2013
Gross Rent	8,184
<u>Expenditure</u>	
Loan Interest	4,500
Service Charges	1,189
Ground Rent	250
Capital Allowances (£10Kx12.5%)	1,250
<u>Total Expenditure</u>	7,189
Rental Profit	995
UK Withholding tax paid	1,674
Rental Profit after tax	(679)

Respondent's Submissions

54. The Respondent submitted that the Appellant has failed to discharge the burden of proof in these appeals and has failed to establish on the balance of probabilities that the relevant tax was not payable.

55. The Respondent submitted that the Appellant has failed to submit any documentation which tends to substantiate any of the disputed areas of income or expenditure.

56. The Respondent further submitted that the Appellant has failed to meet the obligation to keep records pertaining to his tax affairs which is placed upon him by virtue of the provisions of section 886 of the TCA1997.

Application of section 65 of the TCA1997:

57. The Respondent submitted that in circumstances where in 2013 the accountancy practice's accounting year end changed from 31st March to 31 December, then the provisions of section 65 of the TCA1997 apply to the calculation of the profits or gains of the accountancy practice.

58. In those circumstances, the Respondent submitted that the following are the correct amounts of profits or gains for the accountancy practice and of the Appellant's share of the profits or gains of the accountancy practice in 2012 and 2013 and that the accountancy practice's profits for 2012 should be restated as follows:

Accountancy practice net profit for the period 01 April 2012 to 31 March 2013	2,525,830
Appellant's share of net profit (63%)	1,591,455
(A) Appellant's portion of net profit pertaining to 2012 calendar year – 9/12ths	1,193,455
Accountancy practice net profit for the period 01 April 2011 to 31 March 2012	
Appellant's share of net profit	795,832
(B) Appellant's portion of net profit pertaining to 2012 calendar year – 3/12ths	198,958
Summary of Appellant's share of accountancy practice profits for 2012 calendar year	
(A) + (B)	1,392,413

59. The Commissioner allowed the Appellant time to consider the Respondent's submissions in relation to the operation of section 65 of the TCA1997 and in those submissions the Appellant did not disagree that section 65 of the TCA1997 applies to the accountancy practice's net profits for 2012 and that the net profits should be restated. The Appellant made submissions in writing to the Commissioner following the conclusion of the oral hearing.

60. The Appellant stated that the correct percentage share for the Appellant of the accountancy practice's profits in 2012 was 52% and this is to be found in the Form 1 for 2012 which the accountancy practice returned to the Respondent where the Appellant was entitled to a share of €795,832 out of a total net profit of €1,528,042.
61. The Appellant submitted that the net taxable profit for the accountancy practice in the year ending 31 March 2013 was €2,525,830. The net taxable profit for the accountancy practice in the year ending 31 March 2012 was €1,528,042. The Appellant submitted that when section 65 of the TCA1997 is applied it requires that 9/12th of the first sum is added to 3/12th of the second sum to produce the net taxable profit for the accountancy practice in 2012. This is a total of €2,276,383. As the Appellant was entitled to a 52% share of the accountancy practice's profits in 2012, the Appellant submitted that the profit share amount to which he was entitled was €1,183,719.
62. The Appellant submitted that his share of the accountancy firm's profits for 2012 should be reduced by €380,000 that being the salary paid to him in respect of work for [REDACTED]. This is on the basis that the €380,000 paid to the Appellant in 2012 by [REDACTED] reduced the net profit available to the accountancy practice by €380,000 and this falls to be deducted from the net share of the 2012 profits to which the Appellant was entitled. This, the Appellant submitted, results in a total for the Appellant's share of the accountancy practice's net profits of €803,719.
63. The documentation on which both Parties relied in these appeals is set out at **Annex 5** of this determination.

Material Facts

64. 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:-

"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 Commissioner and to whether the taxpayer has shown that the relevant tax is not payable."

65. At the outset of considering the material facts in these appeals, the Commissioner notes that the Appellant is a Chartered Accountant and has worked in that area for in or around 30 years. As such, the Commissioner considers that the Appellant is aware of the

importance of supporting documentation and notes that under cross-examination the Appellant confirmed that he is aware of his obligation under section 886 of the TCA1997 to keep records relating to his tax affairs for a period of 6 years after the completion of the transactions, acts or operations to which they relate. It is a feature of these appeals that the Appellant has provided little to no supporting documentation relating to his tax affairs for the relevant years save and except the supporting documentation which is referenced at **Annex 5** of this determination.

66. The following material facts are not at issue between the Parties and the Commissioner finds same as material facts:

- i. The Appellant is a Chartered Accountant;
- ii. The Appellant was a partner in the accountancy practice [REDACTED] for the years 2011, 2012 and 2013;
- iii. The Appellant submitted Form 11 returns to the Respondent for the years 2011, 2012 and 2013;
- iv. The amounts returned by the Appellant in his Form 11 returns for the years 2011, 2012 and 2013 were not correct and contained amounts which represented significant understatements of the Appellant's profits or gains which fell to be charged to tax in those years;
- v. The Appellant was entitled to the following capital allowances in 2011, 2012 and 2013:

Capital allowance 2011	€42,358
Capital allowance 2012	€38,976
Capital allowance 2013	€22,930

- vi. The Appellant was entitled to the following allowances/ reliefs / deductions in 2011:

Carer allowance	€15,000
Retirement annuity	€28,750
Total	€43,750

- vii. The Appellant was entitled to the following allowances/ reliefs / deductions in 2012:

Carer allowance	€50,000
Retirement annuity	€28,750
Total	€78,750

viii. The Appellant was entitled to the following allowances/ reliefs / deductions in 2013:

Carer allowance	€50,000
Retirement annuity	€28,750
Total	€78,750

67. The following material facts are at issue between the Parties:

- i. Whether the monies received by the Appellant in 2013 from [REDACTED] were a loan;
- ii. The correct amount of the Appellant's profits of gains which fell to be charged to tax in 2011, 2012 and 2013;
- iii. Whether the Appellant was entitled to an allowance / deduction / relief for loan interest on the [REDACTED] loan in 2011, 2012 and 2013;
- iv. Whether the claimed expenditure on rental properties can be off set against rental income.

68. The Commissioner has considered the relevant legislation and case law along with all of the submissions both oral and documentary and the evidence of the Appellant in considering these material facts.

i. Whether the monies received by the Appellant in 2013 from [REDACTED] were a loan;

69. The Commissioner has considered whether the €457,923 received by the Appellant in 2013 was a loan. In the analysis of transfers and lodgements into his [REDACTED] bank account which the Appellant submitted to the Commissioner, the Appellant sets out that in 2013 he received a total amount of €457,923 from [REDACTED]. In his direct evidence to the Commissioner the Appellant stated that in 2013 he borrowed €457,923 from [REDACTED] which, he stated, was a company within his group of

companies encompassed under the holding company [REDACTED]. He stated that [REDACTED] had issued some loan notes to some private investors and has taken in some capital. The capital was used for various investments such as an investment in a small B&B hotel in [REDACTED]. As a result, the Appellant proposed that the borrowings should be treated as a preferential loan and that it should be treated under benefit-in-kind taxation provisions. The Appellant stated that these monies were not a salary and they were ad hoc loans which were repaid in the year following 2013. The Appellant stated that it was only a timing matter that he was able to borrow the funds for some of 2013 but that after 2014 and in the subsequent years the funds were moved on to certain investments on behalf of the company.

70. Under cross examination, the Appellant stated that there was no prospectus for [REDACTED] and that [REDACTED] received a loan of €900,000 from a named person. This loan, the Appellant stated, was encompassed in a loan agreement between [REDACTED] and the named person. This loan agreement was not submitted to the Commissioner during the course of these appeals.

71. The Appellant stated that the loan of €457,923 which he received from [REDACTED] in 2013 was not the subject of any loan agreement. Under cross-examination the Appellant stated that he repaid some of the money to [REDACTED] at some points in 2014 and 2015 but that most of the money was transferred either to a hotel business in [REDACTED] or to a house renovation business.

72. The Appellant has not submitted any documentation in relation to a loan from [REDACTED]. The Appellant has submitted a copy of his [REDACTED] bank statement into which transfers identified from [REDACTED] were lodged. The Commissioner notes that the amount of €457,923 from [REDACTED] was transferred by way of 43 separate transfers between 29 May 2013 and 31 December 2013 and ranged in amounts from €1,500 to €50,000.

73. The Appellant confirmed under cross-examination that [REDACTED] had its own bank account and that accounts were prepared for [REDACTED]. However, none of this documentation was submitted to the Commissioner during these appeals.

74. As previously set out in this determination the burden of proof in these appeals rests with the Appellant. The Appellant claims that he repaid the loan by transferring money into a hotel business in [REDACTED] and by investing it in a home renovations business. The Commissioner finds that it is reasonable to expect that the Appellant would have produced documentary evidence of the claims which he has made which would tend to substantiate

that the money was repaid to [REDACTED] or was invested by him on behalf of [REDACTED]. He did not. The Commissioner finds that the Appellant has not discharged the burden of proof to establish that the amount of €457,923 transferred into his bank account ending [REDACTED] in 2013 was a loan. As the Appellant has not established that this money was a loan the Commissioner finds as a material fact that the €457,923 lodged into the Appellant's bank account ending [REDACTED] in 2013 was a profit or gain which he received from [REDACTED]

ii. The correct amount of the Appellant's profits or gains under which fell to be charged to tax in 2011, 2012 and 2013:

75. The Appellant submitted at the oral hearing that, contrary to the figures returned by him in the Form 11 returns for the relevant years, the following are the correct amount of profits which he received from the accountancy practice in the relevant years:

2011	732,673
2012	803,719
2013	324,962
Total	1,861,354

76. The Appellant has submitted that the bank account ending [REDACTED] was his main operating bank account into which all profits or gains, apart from rental income, were lodged or transferred. The Respondent has not contested this claim by the Appellant and no reason has been put before the Commissioner to suggest otherwise. The Commissioner therefore finds as a material fact that the Appellant's bank account ending in [REDACTED] was his main operating bank account into which all profits or gains, apart from rental income, were lodged or transferred during the relevant years.

77. The analysis of the Appellant's [REDACTED] bank accountant which the Appellant submitted to the Commissioner shows that he received the following lodgements and transfers from the accountancy practice in the relevant years:

2011	846,152
2012	1,113,289

2013	761,963
Total	2,721,404

78. In addressing the difference between the amounts which the Appellant claims are the correct amounts of profits or gains from the accountancy practice and the amounts which were lodged into his [REDACTED] account from the accountancy practice, the Appellant put forward a number of reasons why this occurred. The Commissioner will consider each reason in detail.

(a) Distribution of accountancy practice funds vs profits:

79. The first reason which the Appellant gave for the difference was that the funds received by the accountancy practice were distributed on a percentage of receipts basis, that is to say that funds were drawn out and distributed to the partners in the accountancy practice as soon as they were received leaving sufficient funds for Value Added Tax, wages and overheads. At the end of the year the accountancy practice prepared its accounts and on the basis of the profits arrived at there would be differences between the amounts distributed and the amounts to which the partners were entitled.

80. The Appellant has not provided any evidence to the Commissioner as to how such differences between amounts received by partners in the accountancy practice and the profit share entitlement of the partners were dealt with. No evidence of any communication between the accountancy practice and the Appellant which relate to these differences was submitted to the Commissioner. In addition, no evidence of any repayments by the Appellant to the accountancy practice has been submitted to the Commissioner. The Commissioner notes that under cross-examination, when asked whether any reconciliation was ever done by the accountancy practice and whether any returns were made by any of the partners of the accountancy practice, the Appellant responded:

“I don't recall that ever occurring. I don't recall any of the partners ever giving back money because they were paid too much.”

81. The Commissioner has considered the Form 1 returns made by the accountancy practice for the relevant years, noting that the accountancy practice did not file a Form 1 return for the year 2013. The Commissioner has also considered the accountancy practice

accounts which have been submitted in these appeals. No reference to overpayments to the partners of the accountancy practice is contained in any of these documents.

82. Having considered the evidence heard, the documentation submitted and the submissions made, the Commissioner does not accept as credible the explanation given by the Appellant that because of the manner in which monies were distributed by the accountancy practice, there would be differences between the amounts distributed and the amounts to which the partners were entitled at the end of the relevant years. This is in particular because no evidence of any reconciliation or repayments of the excess amounts has been adduced before the Commissioner.

(b) Rent payable by accountancy practice for business premises:

83. The second reason which the Appellant gave for the difference between the amounts lodged or transferred by the accountancy practice into his [REDACTED] account and the share of profit of the accountancy practice to which he was entitled was that the building from which the accountancy practice operated was owned by him and another partner and the rent which was owed by the accountancy practice built up over time and those arrears were owed to him by the accountancy practice.

84. As part of the submission made by the Appellant on 30 November 2022 he submitted an analysis sheet relating to rent arrears owed to an entity named [REDACTED]. In that submission the Appellant stated that the business premises located at [REDACTED] is owned by [REDACTED] and that transfers into his [REDACTED] bank account from [REDACTED] related to the discharge of rent arrears.

85. The Commissioner notes that in the analysis of lodgements into [REDACTED] account which the Appellant submitted to the Commissioner there are receipts entitled "Transfer from [REDACTED]" in 2012 of €4,500.00 and in 2013 of €46,950.00.

86. The Appellant has not submitted any supporting documentation in relation to this claim. In particular the Appellant has not submitted any evidence:

- i. that he was the joint owner of the premises from which the accountancy practice operated;
- ii. that the [REDACTED] existed;
- iii. that there was any lease in place;
- iv. of the rents payable by the accountancy practice;
- v. of any bank account held by [REDACTED];

vi. of any communication from the accountancy practice to the [REDACTED] that it had paid rent for the business premises from which it operated directly to the Appellant.

87. Having considered the evidence heard, the documentation submitted and the submissions made, the Commissioner does not accept as credible the explanation given by the Appellant that part of the excess monies received by him from the accountancy practice were as a result of rent payable by the accountancy practice to him in respect of the business premises from which the accountancy practice operated. The complete and absolute lack of documentation in respect of this element of his claim is noteworthy.

(c) Deferred trail commission:

88. The third reason which the Appellant gave for the difference between the amounts lodged or transferred by the accountancy practice into his [REDACTED] account and the share of profit of the accountancy practice to which he was entitled was that there was an issue of deferred trail commission. This, the Appellant stated, resulted from commissions which were received and distributed by the accountancy practice as a result of the creation of a number of syndicated property investment trusts of which the Appellant and the other partners in the accountancy practice were trustees. This involved the creation of trusts through a brokerage, [REDACTED]. Thereafter the partners would identify commercial properties for sale which had existing tenants and would arrange for loan finance to purchase these properties along with identifying clients of the partners who would invest equity into the trusts to finance the purchase of the buildings. The commission fees which were received and distributed by the accountancy practice related to the work carried out in initially setting up the trusts and also related to the reporting obligations which the trustees had to the investors and to the financial institutions over the period of the trusts, which the Appellant stated was typically 15 years. The Appellant stated that from an accounting point of view, although the commission fees were received at the time of the creation of the syndicate trusts, the work was extended over a period of 15 years. As a result, the Appellant stated, the commission fees were either written off or accrued or accounted for equally over the 15 year lifespan of the syndicate trusts. As an example the Appellant stated that if a syndicate trust was set up in 2011 1/15th of the commission fees was written off in 2011, 1/15th was written off in 2012 and so on for the lifespan of the syndicate trust. The Appellant stated that at the end of 2013 there was an exact calculation of the amount of commission fees which he had received but in respect of which work had not yet been carried out and this amounted to €535,000. The Appellant

stated that, in relation to the deferred commission, he had in error received a direct payment in 2011 of €35,388 from one of the syndicates, ██████████, which is identified as a payment from ██████████ in his ██████ account.

89. Again, the Commissioner notes that the Appellant has not submitted any documentation which supports this claim. In particular the Appellant has not submitted any documentation which:

- i. evidences the existence of investment syndicates;
- ii. evidences the creation of trusts by ██████████ on behalf of those syndicates;
- iii. evidences the amount of commission due to be paid by the syndicates to those trusts;
- iv. evidences finance being raised on behalf of those syndicates;
- v. evidences the Appellant as being a trustee of those trusts;
- vi. evidence the reporting obligations of the trustees to financial institutions or syndicates;
- vii. evidences a contract between the accountancy practice and the trusts for the claimed reporting obligations;
- viii. evidences the payment of commission to the accountancy practice by ██████████;
- ix. evidences that commission paid to the accountancy practice by ██████████, or any other entity, related to future reporting obligations over a 15 year period.

90. Having considered the evidence heard, the documentation submitted and the submissions made, the Commissioner does not accept as credible the explanation given by the Appellant that part of the excess monies received by him from the accountancy practice were as a result of deferred trail commission payments in respect of the syndicate trusts of which the Appellant was a trustee. The Commissioner again emphasises that the Appellant is a Chartered Accountant and is fully aware of his obligation to keep records of his tax affairs. The Commissioner does not accept as credible that no documentary evidence which would tend to support the Appellant's claim in relation to alleged over-payments of profits from the accountancy practice was retained by the Appellant. The Commissioner again notes the complete and absolute lack of documentation in relation to this element of the Appellant's claim.

91. As a result of the above the Commissioner does not accept the Appellant's explanations for the difference between the amounts lodged or transferred by the accountancy practice into his [REDACTED] account and the share of profit of the accountancy practice to which he was entitled for the relevant years. The Commissioner has already found that she does not accept the Appellant's claims that the difference arises as a result of (i) over-payments from the accountancy practice (ii) rental payments from the accountancy practice in relation to the business premises from which the accountancy practice operated or (iii) deterred tail commission.

92. 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.

93. 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."*³

94. Therefore the role of the Commissioner is to focus on the assessment and the charge to tax. The Appellant himself has submitted an analysis of the lodgements and transfers which he received from the accountancy practice in the relevant years and has submitted that in 2011 he received €845,152, in 2012 he received €1,113,289 and in 2013 he received €761,963. In total the Appellant has, through his own analysis, submitted that in the relevant years he received €2,721,404 from the accountancy practice. This analysis has not been contested by the Respondent.

³ At paragraph 64

95. The Commissioner has already not accepted the Appellant's explanations for any over-payments which he claimed were made by the accountancy practice to him in the relevant years. There is no evidence which the Commissioner has accepted that tends to support any reduction from the amounts received by the Appellant from the accountancy practice onto his [REDACTED] bank account. There is also no evidence before the Commissioner that the amounts received by the Appellant from the accountancy practice in the relevant years were anything other than profit or gain for the purposes of the TCA1997.

96. Therefore, the Commissioner finds as a material fact that the Appellant received the following total amounts as income in the relevant years:

2011	846,152
2012	1,113,289
2013	1,219,886

97. In coming to the amounts of income which the Appellant received in the relevant years, the Commissioner has considered the Notices of Amended Assessment which were raised by the Respondent.

98. The Commissioner has considered the Respondent's submission in relation to the application of section 65 of the TCA1997 to the Appellant's chargeable income from the accountancy practice in 2012. Section 65 of the TCA1997 provides:

“(1)Subject to this Chapter, income tax shall be charged under Case I or II of Schedule D on the full amount of the profits or gains of the year of assessment.

(2)Where in the case of any trade or profession it has been customary to make up accounts—

(a)if only one account was made up to a date within the year of assessment and that account was for a period of one year, the profits or gains of the year ending on that date shall be taken to be the profits or gains of the year of assessment;

(b)if an account, other than an account to which paragraph (a) applies, was made up to a date in the year of assessment, or if more accounts than one were made up to dates in the year of assessment, the profits or gains of the

year ending on that date or on the last of those dates, as the case may be, shall be taken to be the profits or gains of the year of assessment;

(c) in any other case, the profits or gains of the year of assessment shall be determined in accordance with subsection (1).

(3) Where the profits or gains of a year of assessment have been computed on the basis of a period in accordance with paragraph (b) or (c) of subsection (2) and the profits of the corresponding period relating to the preceding year of assessment exceed the profits or gains charged to income tax for that year, then, notwithstanding anything to the contrary in section 66(2), the profits of that corresponding period shall be taken to be the profits or gains of that preceding year of assessment and the assessment shall be amended accordingly.

...”

99. There is no disagreement between the Parties that the provisions of section 65(3) of the TCA1997 apply to the accountancy practice's profit and loss account for 2012. The appeals before the Commissioner in this determination relate to the Appellant and not to the tax affairs of the accountancy practice in the relevant years. Therefore, the question which arises for the Commissioner is not whether the profits returned by the accountancy practice to the Respondent in its Form 1 returns or its accounts in the relevant years were correct or whether they require to be restated, but rather what was the amount of income which the Appellant in fact received in the relevant years. Therefore, the Commissioner does not make any comment on the operation of section 65 of the TCA1997 as it related to the accountancy practice in the relevant years.

iii. Whether the Appellant was entitled to an allowance / deduction / relief for loan interest on the [REDACTED] loan in 2011, 2012 and 2013;

100. The Appellant submitted to the Commissioner that in 2004 he refinanced properties which he owned in order to release finance from same in the amount of €1,068,000. The Appellant submitted that he put €400,000 or 40% of that money into the accountancy practice and as a result is entitled to an allowance / deduction / relief for loan interest in relation to same in the relevant years.

101. The Commissioner notes that the Appellant has submitted the following documentation in relation to this aspect of his claim.

- i. [REDACTED] Joint Loan Account ending [REDACTED] statement from 23 December 2004 to 1 December 2005;

- ii. [REDACTED] Joint Loan Account ending [REDACTED] statement from 8 December 2006 to 3 October 2007;
- iii. [REDACTED] Joint Loan Account ending [REDACTED] statement from 1 January 2011 to 31 December 2011;
- iv. [REDACTED] Joint Loan Account ending [REDACTED] statement from 1 January 2012 to 25 October 2012.

102. From those bank statements the Commissioner can see that the Appellant, jointly with [REDACTED], took out a loan of €1,068,000 from [REDACTED] on 23 December 2004. The bank statement shows that a bank draft in the amount of €1,068,000 was issued on 23 December 2004. The Appellant has not submitted any evidence of where that bank draft was lodged or of how those funds were dispersed. In particular, the Appellant has not submitted any documentation in relation to his claim that he invested €400,000 in the accountancy practice in 2004.

103. The burden of proof rests with the Appellant in relation to this aspect of his claim. The Commissioner has considered the evidence given and the submissions made and finds that the Appellant has not discharged the burden of proof in this regard and therefore has not established that he was entitled to an allowance / deduction / relief for loan interest on the [REDACTED] loan in 2011, 2012 and 2013. Therefore the Commissioner finds as a material fact that the Appellant was not entitled to an allowance / deduction / relief for loan interest on the [REDACTED] loan in 2011, 2012 and 2013.

iv. The amount of rental income and expenditure by the Appellant in the relevant years:

104. The Appellant has claimed that he received the following rental income and incurred the following expenditure in the relevant years. The Appellant has claimed that he is entitled to offset certain amounts of expenditure against rental income which he received in the relevant years in respect of the Irish properties as follows:

	2011	2012	2013
Gross rent	132,202	133,466	133,466
<u>Expenditure</u>			
Loan Interest	102,491	102,491	102,491
Insurance	5,000	5,000	5,000
Service Charges	3,400	3,400	3,400

Repairs / Maintenance	34,006	60,890	55,806
Life assurance	1,260	1,260	1,260
Capital Allowances	10,000	10,000	10,000
<u>Total Expenditure</u>	156,157	183,041	177,957
Rental Profit	(23,957)	(49,577)	(44,493)

105. The Appellant has submitted copies of statements of his bank account ending in [REDACTED] into which he states the rent from the properties was lodged. The Commissioner notes that the Appellant also stated that the rent from one of the properties was lodged into his bank account ending in [REDACTED]. The Appellant was cross-examined in relation to whether any tenancy agreements or leases were in place in respect of the Irish properties and he stated that there were, although he has not submitted any tenancy agreement or lease to the Commissioner. The Commissioner has considered all of the evidence, both oral and documentary, in relation to rental income and, in the absence of any evidence to the contrary, finds as a material fact that the Appellant received €132,202 in rental income in 2011, €133,466 in rental income in 2012 and €133,466 in rental income in 2013.

106. The Appellant has not submitted any documentary evidence to the Commissioner in relation to his claims of expenditure related to insurance, service charges, life assurance or capital allowances. The Commissioner, however, accepts that the Appellant would have insured the Irish properties and indeed notes that financial institutions would most likely have required proof of insurance of the properties. The Commissioner therefore finds as a material fact that, on the balance of probabilities, the Appellant incurred expenditure of €5,000 in insurance costs for the Irish properties in each of the years 2011, 2012 and 2013.

107. In addition, the Commissioner accepts that the Appellant would have been required by financial institutions to have life assurance in place in relation to the loans for the Irish properties and finds as a material fact that, on the balance of probabilities, the Appellant incurred expenditure of €1,260 in each of the years 2011, 2012 and 2013 relating to the Irish properties.

108. The Appellant has not submitted any documentary evidence in relation to service charges or capital allowances in relation to the Irish properties. The Commissioner finds it reasonable to expect that the Appellant should submit documentary evidence in relation

to these elements of his claim and in the absence of same, the Commissioner finds that the Appellant did not incur expenditure in relation to the Irish rental properties in relation to service charges in 2011, 2012 or 2013. In addition the Commissioner finds as a material fact that the Appellant was not entitled to a capital allowance for the years 2012 and 2013. However, the Commissioner notes that the Respondent has indicated that it is prepared to allow the Appellant a capital allowance of €12,109 in respect of 2011 and finds as a material fact that the Appellant was entitled to a capital allowance of €12,109 in respect of the Irish properties in 2011.

109. In relation to the Appellant’s claim of expenditure on bank interest relating to the Irish properties in the relevant years, the Appellant has submitted bank statements for loan accounts relating to 5 of the Irish properties in the relevant years as follows:

- Property 7 ██████████
- Property 8 ██████████
- Property 11 ██████
- Properties 2 and 14 ██████████

110. The statements which the Appellant has submitted tend to demonstrate the following interest amounts being paid in the relevant years:

	Property 7	Property 8	Property 11	Property 2	Property 14	Total
2011	2,475	2,475	6,965	3,240	3,100	18,255
2012	2,475	2,475	6,965	3,240	3,100	18,255
2013	2,475	2,475	6,965	3,240	3,100	18,255
Total	7,425	7,245	20,895	9,720	9,300	54,765

111. The Appellant has not submitted loan statements in relation to the interest which he claims he paid for 9 of the 14 Irish properties. Therefore, the Commissioner finds as a material fact that the Appellant was entitled to an allowance in relation to the payment of bank interest on loans relating to the Irish properties of €18,255 in each of the years 2011, 2012 and 2013.

112. The Appellant claimed in his direct evidence that in relation to repairs and maintenance he incurred the following costs in the relevant years: 2011 €34,006, 2012 €60,890 and

2013 €55,806. The Appellant stated that in 2011 he had directly employed 1 staff member, [REDACTED], at a salary of €34,006 who was employed to manage the 14 Irish properties. The Appellant submitted that he apportioned this employee's salary equally over each property as an expenditure.

113. The Appellant stated that in 2012 and 2013 he had employed a second person, [REDACTED], who was employed both to look after the rental properties and to assist with the Appellant's mother. As a result, the Appellant stated that he assigned 50% of [REDACTED] salary to the rental property expenditure for 2012 and 2013.

114. In support of this element of his claim the Appellant submitted copies of P35L returns which he had submitted to the Respondent for 2012 and 2013. The Appellant did not submit a P35L return for 2011.

115. The P35L return for 2012 submitted by the Appellant returned taxable pay for [REDACTED] of €22,485 and taxable pay for [REDACTED] of €34,586. It therefore follows that, if the Commissioner were to accept the Appellant claim in relation to this aspect of his claim, allowing 50% of [REDACTED] pay and 100% of [REDACTED], the total amount of pay relating to the Irish properties in 2012 would have been €45,858.50 in contrast with the Appellant's claimed amount of €60,890.

116. The P35L return for 2013 submitted by the Appellant returned taxable pay for [REDACTED] of €32,582.29 and taxable pay for [REDACTED] of €26,899.50. It therefore follows that, if the Commissioner were to accept the Appellant claim in relation to this aspect of his claim, allowing 50% of [REDACTED] pay and 100% of [REDACTED], the total amount of pay relating to the Irish properties in 2013 would have been €43,190.65 in contrast with the Appellant's amount of €55,806.

117. The Appellant has not submitted any other documentary evidence in relation to the employment of [REDACTED] and [REDACTED]. The Commissioner notes that the Appellant has not submitted any employment contracts which would have set out the employees duties. In addition the Commissioner notes that the Appellant has not submitted any other documentary evidence which would tend to support this element of the Appellant's claim such as email correspondence to or from the employees in relation to works required on the properties. The burden of proof rests with the Appellant and the Commissioner finds, having considered all of the evidence both oral and documentary, that the Appellant has not discharged the burden of proof to establish that [REDACTED] and [REDACTED] were employed to carry out repairs and maintenance on the Irish properties as claimed. Therefore the Commissioner finds as a material fact that the Appellant was not entitled to

an allowance in respect of the Irish properties for repairs and maintenance as claimed for the years 2011, 2012 and 2013.

118. The Commissioner therefore finds as material facts that, in relation to the Irish properties, the Appellant received the following rental income and was entitled to offset the following expenditure against rental income in relation to the Irish properties in the relevant years:

	2011	2012	2013
Gross rent	132,202	133,466	133,466
<u>Expenditure</u>			
Loan Interest	18,255	18,255	18,255
Insurance	5,000	5,000	5,000
Service Charges	0	0	0
Repairs / Maintenance	0	0	0
Life assurance	1,260	1,260	1,260
Capital Allowances	12,109	0	0
<u>Total Expenditure</u>	36,624	24,515	24,515
Rental Profit	95,578	108,951	108,951

119. The Commissioner therefore finds as a material fact that the Appellant was in receipt of net rental income from the Irish properties of €95,578 in 2011, €108,951 in 2012 and €108,951 in 2013.

120. The Appellant has claimed that he is entitled to offset certain amounts of expenditure against rental income which he received in the relevant years in respect of the UK properties as follows:

	2011	2012	2013
Gross Rent	3,577	8,184	8,184
<u>Expenditure</u>			

Loan Interest	4,500	4,500	4,500
Service Charges	1,189	1,189	1,189
Ground Rent	250	250	250
Capital Allowances (£10Kx12.5%)	1,250	1,250	1,250
<u>Total Expenditure</u>	7,189	7,189	7,189
Rental Profit	(3,612)	995	995
UK Withholding tax paid	640	1,674	1,674
Rental Profit after tax	(4,252)	(679)	(679)

121. The Appellant has not submitted any documentary evidence in relation to his rental income or expenditure claims for the UK property. The Respondent has not contested the rental income for the UK property submitted by the Appellant for the relevant years. The burden of proof in this regard rests with the Appellant and in the absence of any documentary evidence in relation to the claimed expenditure on the UK property, the Commissioner finds that the Appellant has failed to discharge the burden of proof in relation to expenditure on the UK property, to include proof of UK withholding tax paid.

122. Therefore, the Commissioner finds as a material fact that the Appellant was in receipt of net rental income from the UK properties of €3,577 in 2011, €8,184 in 2012 and €8,184 in 2013.

Final findings of material fact

123. For the avoidance of doubt the Commissioner has made the following findings of material fact in these appeals:

- i. The Appellant is a Chartered Accountant;
- ii. The Appellant was a partner in the accountancy practice [REDACTED] for the years 2011, 2012 and 2013;
- iii. The Appellant submitted Form 11 returns to the Respondent for the years 2011, 2012 and 2013;

- iv. The amounts returned by the Appellant in his Form 11 returns for the years 2011, 2012 and 2013 were not correct and contained amounts which represented significant understatements of the Appellant's profits or gains which fell to be charged to tax in those years;
- v. The Appellant was entitled to the following capital allowances in 2011, 2012 and 2013:

Capital allowance 2011	€42,358
Capital allowance 2012	€38,976
Capital allowance 2013	€22,930

- vi. The Appellant was entitled to the following allowances/ reliefs / deductions in 2011:

Carer allowance	€15,000
Retirement annuity	€28,750
Total	€43,750

- vii. The Appellant was entitled to the following allowances/ reliefs / deductions in 2012:

Carer allowance	€50,000
Retirement annuity	€28,750
Total	€78,750

- viii. The Appellant was entitled to the following allowances/ reliefs / deductions in 2013:

Carer allowance	€50,000
Retirement annuity	€28,750
Total	€78,750

- ix. The €457,923 lodged into the Appellant's bank account ending [REDACTED] in 2013 was a profit or gain which he received from [REDACTED];
- x. The Appellant's bank account ending in [REDACTED] was his main operating bank account into which all profits or gains, apart from rental income, were lodged or transferred during the relevant years;
- xi. The Appellant received the following amounts as income in the relevant years:

2011	846,152
2012	1,113,289
2013	1,219,886

- xii. The Appellant was not entitled to an allowance / deduction / relief for loan interest on the [REDACTED] loan in 2011, 2012 and 2013;
- xiii. The Appellant received the following amounts in rental income in the relevant years:

2011	132,202
2012	133,466
2013	133,466

- xiv. The Appellant incurred expenditure of €5,000 in insurance costs for the Irish properties in each of the years 2011, 2012 and 2013.
- xv. The Appellant incurred expenditure of €1,260 in each of the years 2011, 2012 and 2013 relating to the Irish properties;
- xvi. The Appellant was entitled to a capital allowance of €12,109 in respect of the Irish properties in 2011;
- xvii. The Appellant was not entitled to a capital allowance in respect of the Irish properties for the years 2012 and 2013;
- xviii. the Appellant was not entitled to an allowance in respect of the Irish properties for repairs and maintenance as claimed for the years 2011, 2012 and 2013;

- xix. The Appellant was entitled to an allowance in relation to the payment of bank interest on loans relating to the Irish properties of €18,255 in each of the years 2011, 2012 and 2013;
- xx. The Appellant received the following rental income and was entitled to offset the following expenditure against rental income in relation to the Irish properties in the relevant years:

	2011	2012	2013
Gross rent	132,202	133,466	133,466
<u>Expenditure</u>			
Loan Interest	18,255	18,255	18,255
Insurance	5,000	5,000	5,000
Service Charges	0	0	0
Repairs / Maintenance	0	0	0
Life assurance	1,260	1,260	1,260
Capital Allowances	12,109	0	0
<u>Total Expenditure</u>	36,624	24,515	24,515
Rental Profit	95,578	108,951	108,951

- xxi. The Appellant was in receipt of net rental income from the Irish properties of €95,578 in 2011, €108,951 in 2012 and €108,951 in 2013;
- xxii. The Appellant was in receipt of net rental income from the UK properties of €3,577 in 2011, €8,184 in 2012 and €8,184 in 2013.

Conclusion

124. As there was no matter of law at issue between the Parties and the diversion between the Parties rested on the identification of the correct quantum of income received by the Appellant and the correct allowances which the Appellant is entitled to claim in each of the relevant years, these appeals were therefore based on material fact issues. The

Commissioner has found the material facts as set out at paragraph 123 of this determination.

Determination

125. The Commissioner determines that the Appellant has not discharged the burden of proof in this appeal and that he has not succeeded in showing that the relevant tax was not payable.

126. The Commissioner determines that:

i. the Notice of Amended Assessment to Income Tax raised on 9 December 2016 in respect of the tax year 2011 shall be amended and increased to reflect the following:

- a. Income received 846,152
- b. Carer Allowance 15,000
- c. Retirement annuity allowance 28,750
- d. The following in respect of the Irish rental properties:

	2011
Gross rent	132,202
<u>Expenditure</u>	
Loan Interest	18,255
Insurance	5,000
Service Charges	0
Repairs / Maintenance	0
Life assurance	1,260
Capital Allowances	12,109
<u>Total Expenditure</u>	36,624
Rental Profit	95,578

ii. The Notice of Amended Assessment raised on 1 December 2017 in respect of the tax year 2012 shall be amended and increased to reflect the following:

- a. Income received 1,113,289
- b. Carer Allowance 50,000
- c. Retirement annuity allowance 28,750
- d. The following in respect of the Irish rental properties:

	2012
Gross rent	133,466
<u>Expenditure</u>	
Loan Interest	18,255
Insurance	5,000
Service Charges	0
Repairs / Maintenance	0
Life assurance	1,260
Capital Allowances	0
<u>Total Expenditure</u>	24,515
Rental Profit	108,951

iii. The Notice of Amended Assessment raised on 30 November 2018 by the Respondent in relation 2013 shall be amended and increased to reflect the following:

- a. Income received 1,219,886
- b. Carer Allowance 50,000
- c. Retirement annuity allowance 28,750
- d. The following in respect of the Irish rental properties:

	2013
Gross rent	133,466
<u>Expenditure</u>	
Loan Interest	18,255
Insurance	5,000
Service Charges	0
Repairs / Maintenance	0
Life assurance	1,260
Capital Allowances	0
<u>Total Expenditure</u>	24,515
Rental Profit	108,951

127. This Appeal is determined in accordance with Part 40A of the TCA1997 and in particular section 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.

128. The Parties are granted liberty to apply to the Commissioner in relation to any differences which may arise in the calculation of the restated Notices of Amended Assessment as a result of this determination.



Clare O'Driscoll
Appeal Commissioner
16 February 2023

Annex 1 – Appellant’s Form 11 submissions for the relevant years

1. The Appellant submitted the following Form 11 tax return to the Respondent for 2011 which contained the following income and allowances:

Income	
Chartered Accountant – Self	131,585
Property Manager – Self	0
Directors Emoluments – Self	20,000
Total Income	151,585
Capital Allowance / Losses / PAYE Expenses	
Mach & Plant – Chartered Accountant – Self	42,358
Net Position Income	151,585
Less Capital Allowances / Losses / PAYE Expenses	42,358
Total	109,227
Allowances / Reliefs / Deductions	
Retirement Annuity - Self	21,410
Donations to Approved Bodies – self	500
Loan Interest – Acquiring a Partnership – Self	23,588
Carer Allowance	15,000
Total Allowances	60,498
Taxable Income	
Taxable Income	48,729
Charged to Tax as Follows	

Standard Rate	32,800 @ 20% = 6,560.00
Higher Rate	15,959 @ 41% = 6,530.89
Total Liability inclusive of Income Tax, PRSI/USC	19,476

2. The Appellant submitted the following Form 11 tax return to the Respondent for 2012 which contained the following final calculation with total income tax payable of €132,298.11:

Income	
Chartered Accountant – Self	355,832
Foreign Employment – Self	50,000
Emoluments – Self	20,000
Total Income	425,832
Capital Allowance / Losses / PAYE Expenses	
Mach & Plant – Chartered Accountant – Self	38,976
Net Position Income	425,832
Less Capital Allowances / Losses / PAYE Expenses	38,976
Total	386,856
Allowances / Reliefs / Deductions	
Retirement Annuity - Self	28,750
Donations to Approved Bodies – self	5,000
Carer Allowance	15,000
Retainable Charge	23,588

Total	107,338
Taxable Income	
Taxable Income	279,518
Charged to Tax as Follows	
Standard Rate	32,800 @ 20% = 6,560.00
Higher Rate	246,718 @ 41% = 101,154.38
Total Income Tax	107,714.38
Credits / Reliefs set against Tax on Income	
Transborder relief	15,843.51
Personal Credit	1,650.00
PAYE Credit	1,650.00
Total	19,143.51
Net Tax Liability	88,570.87
Add Tax On	
Retainable Charge	23,588 @ 20% = 4,717.60
Total	4,717.60
Net Tax Liability	93,288.47
PRSI / USC / TRS	44,078.64
Other Credits / Reliefs	
Paid PAYE	2,350.00
Universal Social Charge deducted under PAYE	719.00
Total	3,069.00
Total Liability	134,298.11

3. The Appellant submitted the following Form 11 tax return to the Respondent for 2013 which was a joint assessment with his [REDACTED] and which contained the following final calculation with total income tax payable of €65,311.52:

Income	
Gross Employment / Pensions for Universal Social Charge – Self	10,000
Gross Employment / Pensions for Universal Social Charge – [REDACTED]	30,000
Chartered Accountant – Self	244,962
Foreign Employment – Self	50,000
Emoluments – Self	10,000
Emoluments – [REDACTED]	30,000
Total Income	284,962
Capital Allowance / Losses / PAYE Expenses	
Mach & Plant – Chartered Accountant – Self	22,930
Net Position Income	284,962
Less Capital Allowances / Losses / PAYE Expenses	22,930
Total	262,032
Allowances / Reliefs / Deductions	
Pension Contribution - Self	28,750
Loan Interest – Acquiring a Partnership – Self	19,098
Carer Allowance	50,000
Total	97,848

Taxable Income	
Taxable Income	164,184
Charged to Tax as Follows	
Standard Rate	65,600 @ 20% = 13,120.00
Higher Rate	98,584 @ 41% = 40,419.44
Total Income Tax	53,539.44
Credits / Reliefs set against Tax on Income	
Personal Credit	3,300.00
PAYE Credit	1,650.00
Health Expenses	1,000.00
Home Interest Credit	900.00
Total	6,850.00
Net Tax Liability	46,689.44
PRSI / USC / TRS	29,522.08
Other Credits / Reliefs	
Paid PAYE	350.00
Universal Social Charge deducted under PAYE	200.00
Total	550.00
Total Liability	65,311.52

Annex 2 – Notices of Amended Assessment raised by Respondent

4. On 10 December 2016 the Respondent raised a Notice of Amended Assessment to income tax for 2011 showing a total liability of €374,555.75 as follows:

Calculation	
Income	
Chartered Accountant – Self	732,673
Property Manager – Self	0
Directors Emoluments – Self	20,000
Total Income	752,673
Capital Allowance / Losses / PAYE Expenses	
Mach & Plant – Chartered Accountant – Self	42,358
Net Position	
Income	752,673
Less Capital Allowances / Losses / PAYE Expenses	42,358
Total	710,315
Allowances / Reliefs / Deductions	
Total	0
Taxable Income	
Taxable Income	710,315
Charged to Tax as Follows	
Standard Rate	32,800 @ 20% = 6,560.00
Higher Rate	677,515 @ 41% = 277,781.15

Total Income Tax	284,341.15
Credits/ Reliefs set against Tax on Income	
Personal Credit	1,650.00
Health Expenses	1,000.00
Service Charge	80.00
Total	2,730.00
Net Tax Liability	281,611.15
PRSI / USC / TRS	94,362.90
Other Credits / Reliefs	
Paid PAYE	700.00
Universal Social Charge deducted under PAYE	719.00
Total	1,419.00
Total Liability	374,555.05

5. On 1 December 2017 the Respondent raised a Notice of Amended Assessment to income tax for 2012 showing a total liability of €741,522.75 as follows:

Calculation	
Income	
Gross Employment / Pensions for Universal Social Charge – Self	400,000
Chartered Accountant – Self	795,832
Interest / Income from Securities / Possessions – Self	50,000
██████████ – Self	220,073

Total Income	1,465,905
Capital Allowance / Losses / PAYE Expenses	
Mach & Plant – Chartered Accountant – Self	38,976
Net Position	
Income	1,465,905
Less Capital Allowances / Losses / PAYE Expenses	38,976
Total	1,426,959
Irish Effective Rate	41.00
Allowances / Reliefs / Deductions	
Total	0
Taxable Income	
Taxable Income	1,426,929
Charged to Tax as Follows	
Standard Rate	32,800 @ 20% = 6,560.00
Higher Rate	1,394,129 @ 41% = 571,592.00
Total Income Tax	578,152.89
Credits / Reliefs set against Tax on Income	
Personal Credit	1,650.00
Total	1,650.00
Net Tax Liability	576,502.89
PRSI / USC / TRS	168,088.86
Other Credits / Reliefs	

Paid PAYE	2,350.00
Universal Social Charge deducted under PAYE	719.00
Total	3,069.00
Total Liability	741,522.75

6. On 30 November 2018 the Respondent raised an Amended Assessment to income tax for 2013 showing a total liability of €655,125.00 as follows:

Calculation	
Income	
Gross Employment / Pensions for Universal Social Charge – Self	10,000
Gross Employment / Pensions for Universal Social Charge – ██████████	30,000
Chartered Accountant – Self	389,672
Unexplained Bank Lodgements – Self	392,792
Emoluments – Self	10,000
Emoluments – ██████████	30,000
██████████. – Self	439,673
Total Income	1,262,137
Capital Allowance / Losses / PAYE Expenses	
Mach & Plant – Chartered Accountant – Self	22,930
Net Position	
Income	1,262,137

Less Capital Allowances / Losses / PAYE Expenses	22,930
Total	1,239,207
Allowances / Reliefs / Deductions	
Total	0
Taxable Income	
Taxable Income	1,239,207
Charged to Tax as Follows	
Standard Rate	65,6800 @ 20% = 13,120.00
Higher Rate	1,173,607 @ 41% = 481,178.87
Total Income Tax	494,298.87
Credits / Reliefs set against Tax on Income	
Personal Credit	3,300.00
PAYE Credit	1,650.00
Total	4,950.00
Net Tax Liability	489,348.87
PRSI / USC / TRS	166,326.58
Other Credits / Reliefs	
Paid PAYE	350.00
Universal Social Charge deducted under PAYE	300.00
Total	550.00
Total Liability	655,125.00

Annex 3 – Rental Property Analysis

7. The rental property analysis for 2011 submitted by the Appellant was as follows:

2011	1	2	3	4	5	6	7
Loan account	████ ████	████ ████	██	██████ ████	██████ ████	██████ ████	████
Gross Rent	9,300	9,000	4,800	11,400	6,000	9,300	12,700
Expenditure							
Loan Interest	13,268	3,240	4,400	17,871	17,871	17,871	2,475
Insurance	500	0	500	500	500	500	500
Service Charges	0	1,000	0	0	0	0	0
Repairs / Maintenance	2,429	2,429	2,429	2,429	2,429	2,429	2,429
Life assurance	1,260	0	0	0	0	0	0
Capital Allowances	0	1,250	1,250	0	0	0	1,250
Total Expenditure	17,457	7,919	8,579	20,800	20,800	20,800	6,654
Rental Profit	(8,157)	1,081	(3,779)	(9,400)	(14,800)	(11,500)	6,046

	8	9	10	11	12	13	14
	████	██ ████	██████	████ ████	██████ ████	██████	██
Gross Rent	8,500	11,100	12,000	7,200	9,300	12,000	9,600
Expenditure							
Loan Interest	2,475	3,080	5,675	6,965	2,700	1,500	3,100
Insurance	0	500	500	0	0	500	500
Service Charges	700	0	0	700	1,000	0	0
Repairs / Maintenance	2,429	2,429	2,429	2,429	2,429	2,429	2,429
Life assurance	0	0	0	0	0	0	0
Capital Allowances	1,250	0	0	1,250	1,250	1,250	1,250

Total Expenditure	6,854	6,009	8,604	11,344	7,379	5,679	7,279
Rental Profit	1,646	5,091	3,396	(4,144)	1,921	6,321	2,321

8. The rental property analysis for 2012 submitted by the Appellant was as follows:

2012	1	2	3	4	5	6	7
Loan account	████ ██	████ ██	██	████ ██	████ ██	████ ██	██
Gross Rent	9,300	9,000	9,600	11,400	6,000	9,300	10,560
Expenditure							
Loan Interest	13,268	3,240	4,400	17,871	17,871	17,871	2,475
Insurance	500	0	500	500	500	500	500
Service Charges	0	1,000	0	0	0	0	0
Repairs / Maintenance	4,439	4,439	4,439	4,439	4,439	4,439	4,439
Life assurance	1,260	0	0	0	0	0	0
Capital Allowances	0	1,250	1,250	0	0	0	1,250
Total Expenditure	19,377	9,839	10,499	22,720	22,720	22,720	8,574
Rental Profit	(10,007)	(839)	(899)	(11,320)	(16,720)	(13,420)	1,986

	8	9	10	11	12	13	14
	████	██ ██	████	████ ██	████ ██	████	██
Gross Rent	7,104	11,100	12,000	7,200	9,300	12,000	9,600
Expenditure							
Loan Interest	2,475	3,080	5,675	6,965	2,700	1,500	3,100
Insurance	0	500	500	0	0	500	500
Service Charges	700	0	0	700	1,000	0	0
Repairs / Maintenance	4,439	4,439	4,439	4,439	4,439	4,439	4,439

Life assurance	0	0	0	0	0	0	0
Capital Allowances	1,250	0	0	1,250	1,250	1,250	1,250
Total Expenditure	8,774	7,929	10,524	13,264	9,299	7,599	9,199
Rental Profit	(1,670)	3,171	1,476	(6,064)	1	4,401	401

9. The rental property analysis for 2012 submitted by the Appellant was as follows:

2013	1	2	3	4	5	6	7
Loan account	████ ████	████ ████	██	██████ ████	██████ ████	██████ ████	██
Gross Rent	9,300	9,000	9,600	11,400	6,000	9,300	10,560
Expenditure							
Loan Interest	13,268	3,240	4,400	17,871	17,871	17,871	2,475
Insurance	500	0	500	500	500	500	500
Service Charges	0	1,000	0	0	0	0	0
Repairs / Maintenance	3,986	3,986	3,986	3,986	3,986	3,986	3,986
Life assurance	1,260	0	0	0	0	0	0
Capital Allowances	0	1,250	1,250	0	0	0	1,250
Total Expenditure	19,014	9,476	10,136	22,357	22,357	22,357	8,211
Rental Profit	(9,714)	(476)	(536)	(10,957)	(16,357)	(13,057)	2,349

	8	9	10	11	12	13	14
	████	██ ████	██████	████ ████	██████ ████	██████	██
Gross Rent	7,104	11,100	12,000	7,200	9,300	12,000	9,600
Expenditure							
Loan Interest	2,475	3,080	5,675	6,965	2,700	1,500	3,100

Insurance	0	500	500	0	0	500	500
Service Charges	700	0	0	700	1,000	0	0
Repairs / Maintenance	3,986	3,986	3,986	3,986	3,986	3,986	3,986
Life assurance	0	0	0	0	0	0	0
Capital Allowances	1,250	0	0	1,250	1,250	1,250	1,250
Total Expenditure	8,411	7,566	10,161	12,901	8,936	7,236	8,836
Rental Profit	(1,307)	3,534	1,839	(5,701)	364	4,764	764

Annex 4 - Relevant Legislation

1. The following is the legislation relevant to these appeals:

Section 3 of the TCA1997 – “Interpretation of Income Tax Acts “

“(1)In the Income Tax Acts, except where otherwise provided or the context otherwise requires—

“chargeable tax”, in relation to an individual for a year of assessment, means the amount of income tax to which that individual is chargeable for that year of assessment under section 15 in respect of his or her total income for that year including, in the case of an individual assessed to tax in accordance with the provisions of section 1017 or 1031C, the total income, if any, of the individual’s spouse or civil partner, as the case may be;

“general tax credit”, in relation to an individual for a year of assessment, means any relief (other than a credit under section 59) applicable for that year of assessment, not by way of deduction from income, but by way of reduction of or deduction from the chargeable tax or by way of repayment thereof when paid, other than a personal tax credit, and such credit shall be determined by reference to the amount of the reduction, deduction or repayment as the case may be;

“higher rate”, in relation to tax, means the rate of tax known by that description and provided for in section 15;

“incapacitated person” means any minor or person of unsound mind;

“income tax payable”, in relation to an individual for a year of assessment, means the chargeable tax less the aggregate of the personal tax credits and general tax credits;

“personal tax credit”, in relation to an individual for a year of assessment, means a tax credit specified in sections 461, 461A, 462B, 463, 464, 465, 466, 466A, 468 and 472;

“relative” includes any person of whom the person claiming relief had the custody and whom he or she maintained at his or her own expense while that person was under the age of 16 years;

“standard rate”, in relation to tax, means the rate of tax known by that description and provided for in section 15;

“tax” means income tax;

“taxable income” has the meaning assigned to it by section 458;

“total income” means total income from all sources as estimated in accordance with the Income Tax Acts;

“trade” includes every trade, manufacture, adventure or concern in the nature of trade.

(2)(a) Subject to subsection (3), in the Income Tax Acts, “earned income”, in relation to an individual, means—

(i) any income arising in respect of any remuneration from any office or employment of profit held by the individual, or in respect of any pension, superannuation or other allowance, deferred pay, or compensation for loss of office, given in respect of the past services of the individual or of the individual’s husband, civil partner, parent or parent’s civil partner in any office or employment of profit, or given to the individual in respect of the past services of any deceased person, whether or not the individual or the individual’s husband, civil partner, parent or parent’s civil partner shall have contributed to such pension, superannuation allowance or deferred pay,

(ii) any income from any property which is attached to or forms part of the emoluments of any office or employment of profit held by the individual,

(iii) any income charged under Schedule D and immediately derived by the individual from the carrying on or exercise by the individual of his or her trade or profession, either as an individual or, in the case of a partnership, as a partner personally acting in the partnership, and

(iv) any benefit payable under Chapter 12A of Part 2 of the Act of 2005.

(b) In cases where the profits of a wife are deemed to be profits of the husband, or the profits of a civil partner are deemed to be the profits of his or her civil partner, any reference in this subsection to an individual includes the husband or the wife, or either civil partner.

(3) Without prejudice to the generality of subsection (2), in the Income Tax Acts, except where otherwise expressly provided, “earned income” includes—

(a) any annuity made payable to an individual under the terms of an annuity contract or trust scheme for the time being approved by the Revenue Commissioners for the purposes of Chapter 2 of Part 30 to the extent to which such annuity is payable in return for any amount on which relief is given under section 787, and

(b) any payment or other sum which is or is deemed to be income chargeable to tax under Schedule E for any purpose of the Income Tax Acts.

(4)References to profits or gains in the Income Tax Acts shall not include references to chargeable gains within the meaning of the Capital Gains Tax Acts.”

Section 18 of the TCA1997 – “Schedule D”

(1)The Schedule referred to as Schedule D is as follows:

SCHEDULE D

1.Tax under this Schedule shall be charged in respect of—

(a)the annual profits or gains arising or accruing to—

(i)any person residing in the State from any kind of property whatever, whether situate in the State or elsewhere,

(ii)any person residing in the State from any trade, profession, or employment, whether carried on in the State or elsewhere,

(iii)any person, whether a citizen of Ireland or not, although not resident in the State, from any property whatever in the State, or from any trade, profession or employment exercised in the State, and

(iv)any person, whether a citizen of Ireland or not, although not resident in the State, from the sale of any goods, wares or merchandise manufactured or partly manufactured by such person in the State,

and

(b)all interest of money, annuities and other annual profits or gains not charged under Schedule C or Schedule E, and not specially exempted from tax,

in each case for every one euro of the annual amount of the profits or gains.

2.Profits or gains arising or accruing to any person from an office, employment or pension shall not by virtue of paragraph 1 be chargeable to tax under this Schedule unless they are chargeable to tax under Case III of this Schedule.

(2)Tax under Schedule D shall be charged under the following Cases:

Case I — Tax in respect of—

(a)any trade;

...

Case II — Tax in respect of any profession not contained in any other Schedule;

Case III — Tax in respect of—

(a) any interest of money, whether yearly or otherwise, or any annuity, or other annual payment, whether such payment is payable in or outside the State, either as a charge on any property of the person paying the same by virtue of any deed or will or otherwise, or as a reservation out of it, or as a personal debt or obligation by virtue of any contract, or whether the same is received and payable half-yearly or at any shorter or more distant periods, but not including any payment chargeable under Case V of Schedule D;

(b) all discounts;

(c) profits on securities bearing interest payable out of the public revenue other than those charged under Schedule C;

(d) interest on any securities issued, or deemed within the meaning of section 36 to be issued, under the authority of the Minister for Finance, in cases where such interest is paid without deduction of tax;

(e) income arising from securities outside the State except such income as is charged under Schedule C;

(f) income arising from possessions outside the State except, in the case of income from an office or employment (including any amount which would be chargeable to tax in respect of any sum received or benefit derived from the office or employment if the profits or gains from the office or employment were chargeable to tax under Schedule E), so much of that income as is attributable to the performance in the State of the duties of that office or employment;

Case IV — Tax in respect of any annual profits or gains not within any other Case of Schedule D and not charged by virtue of any other Schedule;

Case V — Tax in respect of any rent in respect of any premises or any receipts in respect of any easement;

and subject to and in accordance with the provisions of the Income Tax Acts applicable to those Cases respectively.”

Section 52 of the TCA1997 – “Persons Chargeable”

“Income tax under Schedule D shall be charged on and paid by the persons or bodies of persons receiving or entitled to the income in respect of which tax under that Schedule is directed in the Income Tax Acts to be charged.”

Section 58 of the TCA1997 – “Charge to tax of profits or gains from unknown or unlawful source”

(1) Profits or gains shall be chargeable to tax notwithstanding that at the time an assessment to tax in respect of those profits or gains was made—

(a) the source from which those profits or gains arose was not known to the inspector,

(b) the profits or gains were not known to the inspector to have arisen wholly or partly from a lawful source or activity, or

(c) the profits or gains arose and were known to the inspector to have arisen from an unlawful source or activity,

and any question whether those profits or gains arose wholly or partly from an unknown or unlawful source or activity shall be disregarded in determining the chargeability to tax of those profits or gains.

(2) Notwithstanding anything in the Tax Acts, any profits or gains charged to tax by virtue of subsection (1) or charged to tax by virtue of or following any investigation by any body (in this subsection referred to as “the body”) established by or under statute or by the Government, the purpose or one of the principal purposes of which is—

(a) the identification of the assets of persons which derive or are suspected to derive, directly or indirectly, from criminal activity,

(b) the taking of appropriate action under the law to deprive or to deny those persons of the assets or the benefit of such assets, in whole or in part, as may be appropriate, and

(c) the pursuit of any investigation or the doing of any other preparatory work in relation to any proceedings arising from the purposes mentioned in paragraphs (a) and (b),

shall be charged under Case IV of Schedule D and shall be described in the assessment to tax concerned as “miscellaneous income”, and in respect of such profits and gains so assessed—

(i) the assessment—

(1) may be made solely in the name of the body, and

(II) shall not be discharged by the Appeal Commissioners or by a court by reason only of the fact that the income should apart from this section have been described in some other manner or by reason only of the fact that the profits or gains arose wholly or partly from an unknown or unlawful source or activity,

and

(ii) (I) the tax charged in the assessment may be demanded solely in the name of the body, and

(II) on payment to it of the tax so demanded, the body shall issue a receipt in its name and shall forthwith—

(A) lodge the tax paid to the General Account of the Revenue Commissioners in the Central Bank of Ireland, and

(B) transmit to the Collector-General particulars of the tax assessed and payment received in respect of that tax.”

Section 65 of the TCA 1997 – “Cases I and II: basis of assessment”

(1) Subject to this Chapter, income tax shall be charged under Case I or II of Schedule D on the full amount of the profits or gains of the year of assessment.

(2) Where in the case of any trade or profession it has been customary to make up accounts—

(a) if only one account was made up to a date within the year of assessment and that account was for a period of one year, the profits or gains of the year ending on that date shall be taken to be the profits or gains of the year of assessment;

(b) if an account, other than an account to which paragraph (a) applies, was made up to a date in the year of assessment, or if more accounts than one were made up to dates in the year of assessment, the profits or gains of the year ending on that date or on the last of those dates, as the case may be, shall be taken to be the profits or gains of the year of assessment;

(c) in any other case, the profits or gains of the year of assessment shall be determined in accordance with subsection (1).

(3) Where the profits or gains of a year of assessment have been computed on the basis of a period in accordance with paragraph (b) or (c) of subsection (2) and the profits of the corresponding period relating to the preceding year of assessment exceed the profits or gains charged to income tax for that year, then, notwithstanding anything to the contrary in section 66(2), the profits of that corresponding period shall be taken to be the profits or gains of that preceding year of assessment and the assessment shall be amended accordingly.

(3A) As respects the year of assessment 2001, subsection (2) shall apply as if in both paragraph (a) and paragraph (b) of that subsection "74 per cent of the profits or gains of the year ending on that date" were substituted for "the profits or gains of the year ending on that date".

(3B) For the purposes of subsection (2)(a), an account made up for a period of one year to a date falling in the period from 1 January 2002 to 5 April 2002 shall, in addition to being an account made up to a date in the year of assessment 2002, be deemed to be an account for a period of one year made up to a date within the year of assessment 2001, and the corresponding period in relation to the year of assessment 2000-2001 for the purposes of subsection (3) shall be determined accordingly.

(3C) Notwithstanding subsection (3), where the profits or gains of the year of assessment 2001 have been taken to be the full amount of the profits or gains of that year of assessment in accordance with subsection (2)(c), and the full amount of the profits or gains of the year of assessment 2000-2001 exceed the profits or gains charged to income tax for that year of assessment, then, the profits or gains of the year of assessment 2000-2001 shall be taken to be the full amount of the profits or gains of that year of assessment and the assessment shall be amended accordingly.

(3D) Notwithstanding subsection (3), where the profits or gains of a period of one year ending in the year of assessment 2002 have been taken to be the profits or gains of that year of assessment in accordance with subsection (2)(b), and the profits or gains charged to income tax for the year of assessment 2001 are less than 74 per cent of the profits or gains of the corresponding period relating to the year of assessment 2001, then, the profits or gains of the year of assessment 2001 shall be taken to be 74 per cent of the profits or gains of that corresponding period and the assessment shall be amended accordingly.

(3E) For the purposes of subsection (3D), where, apart from this subsection, a period (in this subsection referred to as the "relevant period") would not be treated as the corresponding period relating to the year of assessment 2001 by virtue of the fact that

the relevant period ends on a date falling in the period from 1 January 2001 to 5 April 2001, the relevant period shall, notwithstanding any other provision of the Income Tax Acts, be treated as the corresponding period relating to that year of assessment.

(3F)Notwithstanding subsection (3), where the profits or gains of the year of assessment 2002 have been taken to be the full amount of the profits or gains of that year of assessment in accordance with subsection (2)(c), and the full amount of the profits or gains of the year of assessment 2001 exceed the profits or gains charged to income tax for that year of assessment, then, the profits or gains of the year of assessment 2001 shall be taken to be the full amount of the profits or gains of that year of assessment and the assessment shall be amended accordingly.

(4)In the case of the death of a person who, if he or she had not died, would under this section have become chargeable to income tax for any year of assessment, the tax which would have been so chargeable shall be assessed and charged on such person's executors or administrators, and shall be a debt due from and payable out of such person's estate."

Section 76 of the TCA1997 – "Computation of income: application of income tax principles"

(1)Except where otherwise provided by the Tax Acts, the amount of any income shall for the purposes of corporation tax be computed in accordance with income tax principles, all questions as to the amounts which are or are not to be taken into account as income, or in computing income, or charged to tax as a person's income, or as to the time when any such amount is to be treated as arising, being determined in accordance with income tax law and practice as if accounting periods were years of assessment.

(2)For the purposes of this section, "income tax law", in relation to any accounting period, means the law applying to the charge on individuals of income tax for the year of assessment in which that accounting period ends, but does not include such of the enactments of the Income Tax Acts so applying as make special provision for individuals in relation to matters referred to in subsection (1).

(3)Accordingly, for the purposes of corporation tax, income shall be computed and the assessment shall be made under the like Schedules and Cases as apply for the purposes of income tax, and in accordance with the provisions applicable to those Schedules and Cases, but (subject to the Corporation Tax Acts) the amounts so computed for several sources of income, if more than one, together with any amounts

to be included in respect of chargeable gains, shall be aggregated to arrive at the total profits.

(4) Nothing in this section shall be taken to mean that income arising in any period is to be computed by reference to any other period (except in so far as this results from apportioning to different parts of a period income of the whole period).

(5) Subject to section 77 and to any enactment applied by this section which expressly authorises such a deduction, no deduction shall be made for the purposes of the Corporation Tax Acts in computing income from any source—

(a) in respect of dividends or other distributions, or

(b) in respect of any yearly interest, annuity or other annual payment or any other payments mentioned in section 104 or 237(2), but not including sums which are, or but for any exemption would be, chargeable under Case V of Schedule D.

(6) Without prejudice to the generality of subsection (1), any provision of the Income Tax Acts, or of any other statute, which confers an exemption from income tax, provides for the disregarding of a loss, or provides for a person to be charged to income tax on any amount (whether expressed to be income or not, and whether an actual amount or not), shall, except where otherwise provided, have the like effect for the purposes of corporation tax.

(7) This section shall not have effect so as to apply for the purposes of corporation tax anything in subsections (1), (2), (3), (4A), (5) and (6) of section 71.

(8) Where by virtue of this section or otherwise any enactment applies both to income tax and to corporation tax—

(a) that enactment shall not be affected in its operation by the fact that income tax and corporation tax are distinct taxes but, in so far as is consistent with the Corporation Tax Acts, shall apply in relation to income tax and corporation tax as if they were one tax, so that, in particular, a matter which in a case involving 2 individuals is relevant for both of them in relation to income tax shall in a like case involving an individual and a company be relevant for such individual in relation to income tax and for such company in relation to corporation tax, and

(b) for that purpose, references in any such enactment to a relief from or charge to income tax or to a specified provision of the Income Tax Acts shall, in the absence of or subject to any express adaptation, be construed as being or

including a reference to any corresponding relief from or charge to corporation tax or to any corresponding provision of the Corporation Tax Acts.”

Section 76A of the TCA 1997 – “Computation of profits or gains of a company – accounting standards”

(1) For the purposes of Case I or II of Schedule D the profits or gains of a trade or profession carried on by a company shall be computed in accordance with generally accepted accounting practice subject to any adjustment required or authorised by law in computing such profits or gains for those purposes.

(2) Schedule 17A shall apply to a company as respects any matter related to the computation of income of the company where as respects that matter—

(a) for an accounting period profits or gains of a trade or profession carried on by the company are computed in accordance with relevant accounting standards (within the meaning of that Schedule), and

(b) for preceding accounting periods profits or gains of a trade or profession carried on by the company are computed in accordance with standards other than relevant accounting standards (within the meaning of that Schedule).

(3)(a) In this subsection—

(i) ‘accounting policy’, ‘a change in accounting policy’, ‘accounting standard’, ‘retrospective’ and ‘opening reserves’ shall be construed in accordance with generally accepted accounting practice;

(ii) “relevant period” means the accounting period beginning on the first day of the period of account in which the change in accounting policy, referred to in paragraph (b), is adopted for the first time.

(b) This subsection shall apply to a change in accounting policy other than on the adoption of—

(i) an accounting standard for the first time, or

(ii) an amendment of an accounting standard for the first time.

(c) Subject to the Tax Acts, an amount representing the retrospective effect of a change in accounting policy which is recognised in opening reserves (howsoever designated) for a period of account in accordance with generally accepted accounting practice shall

be taxable or deductible, as the case may be, in computing the profits or gains of a company for the relevant period for the purposes of Case I or II of Schedule D.

(d)An amount shall not be regarded by virtue of paragraph (c) as deductible in computing the profits or gains of a company for the relevant period for the purposes of Case I or II of Schedule D to the extent that—

(i)a deduction has been made in respect of that amount in computing such profits or gains for a previous accounting period, or

(ii)the company has benefited from a tax relief under any provision in respect of that amount for a previous accounting period.

(e)An amount shall not be regarded by virtue of paragraph (c) as taxable in computing the profits or gains of a company for the relevant period for the purposes of Case I or II of Schedule D to the extent that the amount was treated as taxable in computing such profits or gains for a previous accounting period.

(f)References to profits or gains in paragraphs (c), (d) and (e) include references to losses.

(4)(a)In this subsection—

(i)'accounting standard', 'retrospective' and 'opening reserves' shall be construed in accordance with generally accepted accounting practice;

(ii)"relevant period" means the accounting period beginning on the first day of the period of account in which the accounting standard, referred to in paragraph (b), is adopted for the first time;

(iii)"relevant amount" means the amount representing the retrospective effect of adopting an accounting standard as computed in accordance with generally accepted accounting practice as adjusted to satisfy the requirements of paragraphs (d) and (e).

(b)This subsection shall apply where—

(i)an accounting standard is adopted for the first time and subsection (2) does not apply, or

(ii)an amendment of an accounting standard is adopted for the first time,

and references in this subsection to adopting an accounting standard for the first time shall be construed as including references to adopting an amendment of an accounting standard for the first time.

(c) Subject to the Tax Acts, an amount representing the retrospective effect of adopting an accounting standard which is recognised in opening reserves (howsoever designated) for a period of account in accordance with generally accepted accounting practice shall be taxable or deductible, as the case may be, in computing the profits or gains of a company for the purposes of Case I or II of Schedule D.

(d) An amount shall not be regarded by virtue of paragraph (c) as deductible in computing the profits or gains of a company for an accounting period for the purposes of Case I or II of Schedule D to the extent that—

(i) a deduction has been made in respect of that amount in computing such profits or gains for a previous accounting period, or

(ii) the company has benefited from a tax relief under any provision in respect of that amount for a previous accounting period.

(e) An amount shall not be regarded by virtue of paragraph (c) as taxable in computing the profits or gains of a company for an accounting period for the purposes of Case I or II of Schedule D to the extent that the amount was treated as taxable in computing such profits or gains for a previous accounting period.

(f) References to profits or gains in paragraphs (c), (d) and (e) include references to losses.

(g) Subject to the Tax Acts, the relevant amount shall neither be taxable nor deductible, as the case may be, for the relevant period but instead—

(i) a part of the relevant amount shall be taxable or deductible, as the case may be, for each accounting period falling wholly or partly within the period of 5 years beginning at the commencement of the relevant period,

(ii) the part of the relevant amount which shall be taxable or deductible for any such accounting period shall be such amount as bears to the relevant amount the same proportion as the length of the accounting period, or the part of the accounting period falling within the period of 5 years, bears to 5 years, and

(iii) where any accounting period referred to in subparagraph (ii) is the last accounting period in which the company carried on a trade or profession, then

such part of the relevant amount as is required to ensure that the whole of the relevant amount is accounted for shall be taxable or deductible, as the case may be, for that accounting period.

(5)(a) In this subsection—

(i) ‘material error’, ‘fundamental error’, ‘retrospective’ and ‘opening reserves’ shall be construed in accordance with generally accepted accounting practice;

(ii) “relevant amount” means the amount representing the correction of an error which is taxable or deductible, as the case may be, by virtue of paragraphs (c) or (d) as adjusted to satisfy the requirements of paragraphs (e) and (f);

(iii) “relevant period” means the accounting period beginning on the first day of the period of account in which the error, referred to in paragraph (b), is corrected for the first time.

(b) This subsection shall apply where a company’s accounts include the correction of an error.

(c) Subject to the Tax Acts, an amount representing the retrospective effect of correcting either a material error or a fundamental error which is recognised in opening reserves (howsoever designated) for a period of account in accordance with generally accepted accounting practice shall be taxable or deductible, as the case may be, in computing the profits or gains of a company for the purposes of Case I or II of Schedule D.

(d) Subject to the Tax Acts, an amount representing the effect of correcting an error which is neither a material error nor a fundamental error and which is included in the profits of a company for a period of account as computed in accordance with generally accepted accounting practice shall be taxable or deductible, as the case may be, in computing the profits or gains of that company for the purposes of Case I or II of Schedule D.

(e) An amount shall not be regarded by virtue of paragraphs (c) and (d) as deductible in computing the profits or gains of a company for an accounting period for the purposes of Case I or II of Schedule D to the extent that—

(i) a deduction has been made in respect of that amount in computing such profits or gains for a previous accounting period, or

(ii) the company has benefited from a tax relief under any provision in respect of that amount for a previous accounting period.

(f) An amount shall not be regarded by virtue of paragraphs (c) and (d) as taxable in computing the profits or gains of a company for an accounting period for the purposes of Case I or II of Schedule D to the extent that the amount was treated as taxable in computing such profits or gains for a previous accounting period.

(g) References to profits or gains in paragraphs (c), (d), (e) and (f) include references to losses.

(h) Subject to the Tax Acts, the relevant amount shall neither be taxable nor deductible, as the case may be, for the relevant period but instead—

(i) where any part of the relevant amount relates to the relevant period, then that part of the relevant amount shall be taxable or deductible, as the case may be, for the relevant period,

(ii) where any part of the relevant amount relates to an accounting period which commenced on or after 1 January 2013, then the return and self-assessment for that accounting period shall be amended in accordance with section 959V to correct that part of the relevant amount, and

(iii) where any part of the relevant amount relates to an accounting period which commenced before 1 January 2013, then the return for that accounting period shall be amended to correct that part of the relevant amount and for this purpose section 959V shall apply to such an amendment as if—

(I) subsections (2) and (4) of that section shall not apply,

(II) references in that section to ‘return and self-assessment’, ‘return and a self-assessment’, ‘return and the self-assessment’ and ‘return or self-assessment’ were references to ‘return’, and

(III) the reference in that section to section 959Z was a reference to section 956.”

Section 81 of the TCA1997 – “General rule as to deductions”

“(1) The tax under Cases I and II of Schedule D shall be charged without any deduction other than is allowed by the Tax Acts.

(2) *Subject to the Tax Acts, in computing the amount of the profits or gains to be charged to tax under Case I or II of Schedule D, no sum shall be deducted in respect of—*

(a) any disbursement or expenses, not being money wholly and exclusively laid out or expended for the purposes of the trade or profession;

(b) any disbursements or expenses of maintenance of the parties, their families or establishments, or any sums expended for any other domestic or private purposes distinct from the purposes of such trade or profession;

(c) the rent of any dwelling house or domestic offices or any part of any dwelling house or domestic offices, except such part thereof as is used for the purposes of the trade or profession, and, where any such part is so used, the sum so deducted shall be such as may be determined by the inspector and shall not, unless in any particular case the inspector is of the opinion that having regard to all the circumstances some greater sum ought to be deducted, exceed two-thirds of the rent bona fide paid for that dwelling house or those domestic offices;

(d) any sum expended for repairs of premises occupied, or for the supply, repairs or alterations of any implements, utensils or articles employed, for the purposes of the trade or profession, over and above the sum actually expended for those purposes;

(e) any loss not connected with or arising out of the trade or profession;

(f) any capital withdrawn from, or any sum employed or intended to be employed as capital in, the trade or profession;

(g) any capital employed in improvements of premises occupied for the purposes of the trade or profession;

(h) any interest which might have been made if any such sums as aforesaid had been laid out at interest;

(i) any debts, except bad debts proved to be such to the satisfaction of the inspector and doubtful debts to the extent that they are respectively estimated to be bad and, in the case of the bankruptcy or insolvency of a debtor, the amount which may reasonably be expected to be received on any such debts shall be deemed to be the value of any such debts;

(j)any average loss over and above the actual amount of loss after adjustment;

(k)any sum recoverable under an insurance or contract of indemnity;

(l)any annuity or other annual payment (other than interest) payable out of the profits or gains;

(m)any royalty or other sum paid in respect of the user of a patent;

(n)without prejudice to the preceding paragraphs any consideration given for goods or services, or to an employee or director of a company, which consists, directly or indirectly, of shares in the company, or a connected company (within the meaning of section 10), or a right to receive such shares, except to the extent—

(i)of expenditure incurred by the company on the acquisition of the shares at a price which does not exceed the price which would have been payable, if the shares were acquired by way of a bargain made at arm's length,

(ii)where the shares are shares in a connected company, of any payment by the company to the connected company for the issue or transfer by that company of the shares, being a payment which does not exceed the amount which would have been payable in a transaction between independent persons acting at arm's length, or

(iii)of other—

(I)expenditure incurred, or

(II)payment made to the connected company,

by the company in connection with the right to receive such shares which is incurred or, as the case may be, made for bona fide commercial purposes and does not form part of any scheme or arrangement of which the main purpose or one of the main purposes is the avoidance of liability to income tax, corporation tax or capital gains tax;

(o)any sum paid or payable under any agreement or understanding whereby a person is obliged to make a payment to a connected person resident in any territory outside the State for an adjustment made, or to be made, to the profits of the connected person for which relief may be afforded under the terms of an arrangement entered into by virtue of subsection (1) or (1B) of section 826, or

for a similar adjustment made to the profits of a connected person resident in a territory in respect of which there are not for the time being in force any arrangements providing for such relief;

(p)any taxes on income.

(3)(a)In respect of a company—

(i)interest payable by the company, and

(ii)expenditure on research and development incurred by the company,

shall not be prevented from being regarded for tax purposes as deductible in computing profits or gains of the company for the purposes of Case I or II of Schedule D by virtue only of the fact that for accounting purposes they are brought into account in determining the value of an asset.

(b)Any amount shall not be regarded by virtue of paragraph (a) as deductible in computing profits or gains of a company for the purposes of Case I or II of Schedule D for an accounting period to the extent that—

(i)a deduction has been made in respect of that amount in computing such profits or gains for a previous accounting period, or

(ii)the company has benefited from a tax relief under any provision in respect of that amount for a previous accounting period.

(4)In this section, ‘doubtful debts to the extent that they are respectively estimated to be bad’ means, in respect of a company, impairment losses as calculated in accordance with generally accepted accounting practice.”

Section 787 of the TCA1997 – “Nature and amount of relief for qualifying premiums”

(1)For the purposes of relief under this section, an individual’s relevant earnings shall be those earnings before giving effect to any deduction to be made from those earnings in respect of a loss or in respect of a capital allowance (within the meaning of section 2), and references to income in this section (other than references to total income) shall be construed similarly.

(2)For the purposes of this section, “net relevant earnings”, in relation to an individual and subject to subsections (3) to (5), means the amount of the individual’s relevant earnings for the year of assessment in question less the amount of any deductions to

be made from the relevant earnings in computing the individual's total income for that year, being either—

(a) deductions in respect of payments made by the individual, or

(b) deductions in respect of losses or of such allowances mentioned in subsection (1), being losses or allowances arising from activities, profits or gains of which would be included in computing relevant earnings of the individual or of the individual's spouse or civil partner for the year of assessment.

(2A) Notwithstanding subsection (2), for the purposes of relief under this section an individual's net relevant earnings shall not exceed the earnings limit or such other amount as shall be specified in regulations made by the Minister for Finance.

(2B) Where regulations are proposed to be made under subsection (2A), a draft of the regulations shall be laid before Dáil Éireann and the regulations shall not be made until a resolution approving of the draft has been passed by Dáil Éireann.

(3) Where in any year of assessment for which an individual claims and is allowed relief under this section there is to be made in computing the total income of the individual or of the individual's spouse or civil partner a deduction in respect of any such loss or allowance of the individual referred to in subsection (2)(b), and the deduction or part of it is to be so made from income other than relevant earnings, then, the amount of the deduction made from that other income shall be treated as reducing the individual's net relevant earnings for subsequent years of assessment and shall be deducted as far as may be from those of the following year, whether or not the individual claims or is entitled to claim relief under this section for that year, and in so far as it cannot be so deducted, then from those of the next year, and so on.

(4) Where an individual's income for any year of assessment consists partly of relevant earnings and partly of other income, then, as far as may be, any deductions to be made in computing the individual's total income, and which may be treated in whole or in part either as made from relevant earnings or as made from other income, shall be treated for the purposes of this section as being made from those relevant earnings in so far as they are deductions in respect of any such loss referred to in subsection (2)(b) and otherwise as being made from that other income.

(5) An individual's net relevant earnings for any year of assessment shall be computed without regard to any relief to be given for that year under this section either to the individual or to the individual's spouse or civil partner.

(6) Where relief is to be given under this section in respect of any qualifying premium paid by an individual, the amount of that premium shall, subject to this section, be deducted from or set off against the individual's relevant earnings for the year of assessment in which the premium is paid.

(7) Where in relation to a year of assessment a qualifying premium is paid after the end of the year of assessment but on or before the specified return date for the chargeable period (within the meaning of Part 41A), the premium may, if the individual so elects on or before that date, be treated for the purposes of this section as paid in the earlier year (and not in the year in which it is paid); but where—

(a) the amount of that premium, together with any qualifying premiums paid by the individual in the year to which the assessment relates (or treated as so paid by virtue of any previous election under this subsection), exceeds the maximum amount of the reduction which may be made under this section in the individual's relevant earnings for that year, or

(b) the amount of that premium itself exceeds the increase in that maximum amount which is due to taking into account the income on which the assessment is made,

the election shall have no effect as respects the excess.

(8) Subject to this section, the amount which may be deducted or set off in any year of assessment (whether in respect of one or more qualifying premiums and whether or not including premiums in respect of a contract approved under section 785) shall not be more than—

(a) in the case of an individual who at any time during the year of assessment was of the age of 30 years or over but had not attained the age of 40 years, 20 per cent,

(b) in the case of an individual who at any time during the year of assessment was of the age of 40 years or over but had not attained the age of 50 years, 25 per cent,

(c) in the case of an individual who at any time during the year of assessment was of the age of 50 years or over but had not attained the age of 55 years or who for the year of assessment was a specified individual, 30 per cent,

(d) in the case of an individual who at any time during the year of assessment was of the age of 55 years or over but had not attained the age of 60 years, 35 per cent,

(e) in the case of an individual who at any time during the year of assessment was of the age of 60 years or over, 40 per cent, and

(f) in any other case, 15 per cent,

of the individual's net relevant earnings for that year, and the amount to be deducted shall to the greatest extent possible include qualifying premiums in respect of contracts approved under section 785.

(8A) For the purposes of this section, "specified individual", in relation to a year of assessment, means an individual whose relevant earnings for the year of assessment were derived wholly or mainly from an occupation or profession specified in Schedule 23A.

(8B) The Minister for Finance may, after consultation with the Minister for Tourism, Sport and Recreation, by regulations extend or restrict the meaning of specified individual by adding or deleting one or more occupations or professions to or from, as the case may be, the list of occupations and professions specified in Schedule 23A.

(8C) Where regulations are proposed to be made under subsection (8B), a draft of the regulations shall be laid before Dáil Éireann and the regulations shall not be made until a resolution approving of the draft has been passed by Dáil Éireann.

(10) Where in any year of assessment a reduction or a greater reduction would be made under this section in the relevant earnings of an individual but for an insufficiency of net relevant earnings, the amount of the reduction which would have been made but for that reason, less the amount of the reduction which is made in that year, shall be carried forward to the next year of assessment, and shall be treated for the purposes of relief under this section as the amount of a qualifying premium paid in the next year of assessment.

(11) If and in so far as an amount once carried forward under subsection (10) (and treated as the amount of a qualifying premium paid in the next year of assessment) is not deducted from or set off against the individual's net relevant earnings for that year of assessment, it shall be carried forward again to the following year of assessment (and treated as the amount of a qualifying premium paid in that year of assessment), and so on for succeeding years.

(13)Where relief under this section for any year of assessment is claimed and allowed (whether or not relief is then to be given for that year), and afterwards there is made any assessment, amendment of an assessment, or other adjustment of the claimant's liability to tax, there shall be made also such adjustments, if any, as are consequential thereon in the relief allowed or given under this section for that or any subsequent year of assessment.

(14)Where relief under this section is claimed and allowed for any year of assessment in respect of any payment, relief shall not be given in respect of that payment under any other provision of the Income Tax Acts for the same or a later year of assessment nor (in the case of a payment under an annuity contract) in respect of any other premium or consideration for an annuity under the same contract.

(15)Relief shall not be given under this section in respect of a qualifying premium except on a claim made to and allowed by the inspector.

(16)A person aggrieved by a decision of the inspector in relation to a claim for relief by that person 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 886 of the TCA1997 – "Obligation to keep certain records"

(1)In this section—

"linking documents" means documents drawn up in the making up of accounts and showing details of the calculations linking the records to the accounts;

"records" includes accounts, books of account, documents and any other data maintained manually or by any electronic, photographic or other process, relating to—

(a)all sums of money received and expended in the course of the carrying on or exercising of a trade, profession or other activity and the matters in respect of which the receipt and expenditure take place,

(b)all sales and purchases of goods and services where the carrying on or exercising of a trade, profession or other activity involves the purchase or sale of goods or services,

(c)the assets and liabilities of the trade, profession or other activity referred to in paragraph (a) or (b), and

(d)all transactions which constitute an acquisition or disposal of an asset for capital gains tax purposes.

(2)(a) Every person who—

(i) on that person's own behalf or on behalf of any other person, carries on or exercises any trade, profession or other activity the profits or gains of which are chargeable under Schedule D,

(ii) is chargeable to tax under Schedule D or F in respect of any other source of income, or

(iii) is chargeable to capital gains tax in respect of chargeable gains,

shall keep, or cause to be kept on that person's behalf, such records as will enable true returns to be made for the purposes of income tax, corporation tax and capital gains tax of such profits or gains or chargeable gains.

(aa) Without prejudice to the generality of paragraph (a) and subsection (4)—

(i) the records shall include records and linking documents relating to any allowance, deduction, relief or credit (referred to in this paragraph as a 'relevant amount') taken into account in computing the amount of tax payable (within the meaning of section 959A), for the year of assessment or accounting period concerned,

(ii) the transactions, acts or operations giving rise to a relevant amount shall, for the purposes of subsection (4)(a)(i), be treated as transactions, acts or operations that were completed at the end of the year of assessment or accounting period for which a relevant amount is taken into account in computing the amount of tax payable (within the meaning aforesaid) for the year of assessment or accounting period concerned, and

(iii) the transactions, acts or operations giving rise to a relevant amount shall, for the purposes of subsection (4)(a)(ii), be treated as transactions, acts or operations that were completed at the end of the year of assessment or accounting period in which the return, in which the relevant amount is taken into account in computing the amount of tax payable (within the meaning aforesaid), has been delivered.

(b) The records shall be kept on a continuous and consistent basis, that is, the entries in the records shall be made in a timely manner and be consistent from one year to the next.

(c) Where accounts are made up to show the profits or gains from any such trade, profession or activity, or in relation to a source of income, of any person, that person shall retain, or cause to be retained on that person's behalf, linking documents.

(d) Where any such trade, profession or other activity is carried on in partnership, the precedent partner (within the meaning of section 1007) shall for the purposes of this section be deemed to be the person carrying on that trade, profession or other activity.

(3) Records required to be kept or retained by virtue of this section shall be kept—

(a) in written form in an official language of the State, or

(b) subject to section 887(2), by means of any electronic, photographic or other process.

(4)(a) Notwithstanding any other law, linking documents and records kept in accordance with subsections (2) and (3) shall be retained by the person required to keep the records—

(i) for a period of 6 years after the completion of the transactions, acts or operations to which they relate, or

(ii) in the case of a person who fails to comply with Chapter 3 of Part 41A requiring the preparation and delivery of a return on or before the specified return date for a year of assessment or an accounting period, as the case may be, until the expiry of a period of 6 years from the end of the year of assessment or accounting period, as the case may be, in which a return has been delivered showing the profits or gains or chargeable gains derived from those transactions, acts or operations, or

(iii) where the transaction, act or operation is the subject of—

(I) an inquiry or investigation started by the Revenue Commissioners or by a Revenue officer into any matters to which this Act relates,

(II) a claim under a provision of this Act,

(III) proceedings relating to any matter to which this Act relates,

linking documents and records shall be retained by the person required to keep the records for the 6 year period and until such time as—

(A) the enquiry or investigation has been completed or the claim has been determined, and

(B)any appeal to Appeal Commissioners in relation to that enquiry or the determination of that claim or to any other matter to which the Act relates, has become final and conclusive, and

(C)any proceedings in relation to the outcome of the inquiry or investigation or the determination of that claim or that appeal, or to any other matter to which the Act relates, has been finally determined, and

(D)the time limit for instituting any appeal or proceedings or any further appeal or proceedings has expired.

(aa)Where a person to whom this section applies ceases to be a person to whom subparagraph (i), (ii) or (iii), as appropriate, of subsection (2)(a) applies, that person (or such other person on that person's behalf) required to keep the linking documents and records shall keep or retain the linking documents and records notwithstanding that a period of 5 years has elapsed from the date of such cessation.

(4A)For the purposes of this section—

(a)where a company is wound up, the liquidator, and

(b)where a company is dissolved without the appointment of a liquidator, the last directors, including any person occupying the position of director by whatever name called, of the company,

shall keep or retain the linking documents and records of the company for the period specified in subparagraph (i), (ii) or (iii), as appropriate, of subsection (4)(a).

(4B)For the purposes of this section, where a person dies the executor or administrator of that deceased person shall keep or retain the linking documents and records of that deceased person for the period specified in subparagraph (i), (ii) or (iii), as appropriate, of subsection (4)(a).

(5)Any person who fails to comply with subsection (2), (3), (4), (4A) or (4B) in respect of any records or linking documents in relation to a return for any year of assessment or accounting period shall be liable to a penalty of €3,000; but a penalty shall not be imposed under this subsection if it is proved that no person is chargeable to tax in respect of the profits or gains for that year of assessment or accounting period, as the case may be.”

Section 949AK of the TCA1997 – “Determinations in relation to assessments”

(1) In relation to an appeal against an assessment, the Appeal Commissioners shall, if they consider that—

(a) an appellant has, by reason of the assessment, been overcharged, determine that the assessment be reduced accordingly,

(b) an appellant has, by reason of the assessment, been undercharged, determine that the assessment be increased accordingly, or

(c) neither paragraph (a) nor (b) applies, determine that the assessment stand.

(2) If, on an appeal against an assessment that—

(a) assesses an amount that is chargeable to tax, and

(b) charges tax on the amount assessed,

the Appeal Commissioners consider that the appellant is overcharged or, as the case may be, undercharged by the assessment, they may, unless the circumstances of the case otherwise require, give as their determination in the matter a determination solely to the effect that the amount chargeable to tax be reduced or increased.

(3) In relation to an appeal against an assessment on the grounds referred to in section 959AF(2), if the Appeal Commissioners determine that a Revenue officer was precluded from making the assessment or the amendment, as the case may be, the Acts (within the meaning of section 959A) shall apply as if the assessment or the amendment had not been made and, accordingly, that assessment or amended assessment shall be void.

(4) In relation to an appeal against an assessment on the grounds referred to in section 959AF(2), if the Appeal Commissioners determine that a Revenue officer was not precluded from making the assessment or the amendment, as the case may be, that assessment or amended assessment shall stand, but this is without prejudice to the Appeal Commissioners making a determination in relation to that assessment or amended assessment on foot of an appeal on grounds other than those referred to in section 959AF(2).”

Section 959L of the TCA1997 – “Obligation to make a return”

(1) Every chargeable person shall as respects a chargeable period prepare and deliver to the Collector-General on or before the specified return date for the chargeable period a return in the prescribed form.

(2) The prescribed form referred to in subsection (1) may include such matters in relation to gift tax and inheritance tax as may be required by that form.

(3) Where under this Chapter a person delivers a return to the Collector-General, the person shall be deemed to have been required by a notice under section 877 to deliver a statement containing the matters and particulars contained in the return or to have been required by a notice under section 879, 880 or 884 to deliver the return, as the case may be.

(4) A chargeable person shall prepare and deliver to the Collector-General, a return for a chargeable period as required by this Chapter notwithstanding that the chargeable person has not received a notice to prepare and deliver a statement or return for that period under section 877, 879, 880 or 884, as the case may be.

(5) Nothing in the specified provisions or in a notice given under any of those provisions shall operate so as to require a chargeable person to deliver a return for a chargeable period on a date earlier than the specified return date for the chargeable period.

Section 997 of the TCA1997 – “Supplementary provision (Chapter 4)”

(1) No assessment under Schedule E for any year of assessment need be made in respect of emoluments to which this Chapter applies except where—

(a) the person assessable, by notice in writing given to the inspector, requires an assessment to be made,

(b) the emoluments paid in the year of assessment are not the same in amount as the emoluments which are to be treated as the emoluments for that year, or

(c) there is reason to suppose that the emoluments would, if assessed, be taken into account in computing the total income of a person who is liable to tax at the higher rate or would be so liable if an assessment were made in respect of the emoluments;

but where any such assessment is made credit shall be given for the amount of any tax deducted from the emoluments against the amount of tax chargeable in the assessment on the person assessed.

(1A) Subject to sections 959AB and 959AD, an assessment under Schedule E in respect of emoluments to which this Chapter applies shall not be made for any year of assessment—

(a) where paragraph (a) of subsection (1) applies, unless the person assessable has requested the assessment—

(i) in the case of any year of assessment prior to the year of assessment 2003, within 5 years, and

(ii) in the case of the year of assessment 2003 or any subsequent year of assessment, within 4 years,

from the end of the year of assessment concerned, and

(b) where paragraph (b) or (c) of subsection (1) applies, at any time later than 4 years from the end of the year of assessment concerned.

(2) Where an employer pays to the Revenue Commissioners any amount of tax which, pursuant to this Chapter and any regulations under this Chapter, the employer has deducted from emoluments, the employer shall be acquitted and discharged of the sum represented by the payment as if the employer had actually paid that sum to the employee.

(3) Where the inspector, in accordance with the provisions of Regulation 28 of the Income Tax (Employments) Regulations 2018 (S.I. No. 345 of 2018) sends a statement of liability to an employee, that statement shall, if the inspector so directs and gives notice accordingly in or with the statement sent to the employee, be treated in all respects as if it were an assessment raised on the employee, and all the provisions of the Income Tax Acts relating to the collection and recovery of tax charged in an assessment shall accordingly apply to the statement.

(4) An employee aggrieved by a statement of liability sent to him or her under subsection (3) may appeal the statement to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the statement.

Annex 5 – Documentation Submitted

2. The following documentation was submitted to the Commissioner in relation to these appeals:
 - i. Notice of Appeal dated 22 December 2016 appeal 894/19;
 - ii. Appellant's Statement of Case appeal 894/16 dated 14 March 2017;
 - iii. Respondent's Statement of Case appeal 894/16 dated 25 August 2017;
 - iv. Appellant's Outline of Arguments appeal 894/16 undated;
 - v. Respondent's Outline of Arguments appeal 894/16 undated;
 - vi. Notice of Appeal dated 21 December 2017 appeal Q1084/17;
 - vii. Appellant's Statement of Case appeal Q1084/17 undated;
 - viii. Respondent's Statement of Case appeal Q1084/17 dated 29 January 2018;
 - ix. Respondent's Outline of Arguments appeal Q1084/17 undated;
 - x. Notice of Appeal dated 13 December 2018 appeal M1239/18
 - xi. Respondent's Statement of Case appeal Q1084/17 dated 12 September 2019;
 - xii. Respondent's Consolidated Outline of Arguments dated 3 March 2022
 - xiii. Respondent's Supplemental Outline of Arguments dated 9 January 2023;
 - xiv. Appellant's original Form 11 for 2011;
 - xv. Amended Form 11 for 2011;
 - xvi. Appellant's original Form 11 for 2012;
 - xvii. Amended Form 11 for 2012;
 - xviii. Appellant's original Form 11 for 2013;
 - xix. Amended Form 11 for 2013;
 - xx. Appellant's Notice of Self-Assessment for 2011 dated 20 November 2012;
 - xxi. Notice of Amended Assessment for 2011 dated 10 December 2016;
 - xxii. Appellant's Notice of Self-Assessment for 2012 dated 19 November 2013;
 - xxiii. Notice of Amended Assessment for 2012 dated 01 December 2017;

- xxiv. Notice of Amended Assessment for 2013 dated 13 November 2014;
- xxv. Notice of Amended Assessment for 2013 dated 30 November 2018;
- xxvi. PAYE / PRSI Notice of Estimation of Amounts Due for [REDACTED] [REDACTED] dated 5 December 2017;
- xxvii. Form 1 for 2011 for [REDACTED];
- xxviii. Form 1 for 2012 for [REDACTED];
- xxix. [REDACTED] Profit & Loss a/c May 2010 – March 2011;
- xxx. [REDACTED] Profit & Loss a/c year ending 31 March 2012;
- xxxi. [REDACTED] Profit & Loss a/c April 2012 – March 2013;
- xxxii. [REDACTED] practice accounts for 2013 tax return containing:
 - a. Profit & Loss a/c for period ended 31 December 2013;
 - b. Profit & Loss a/c for period ended 31 March 2013;
 - c. Balance Sheet as at 31 December 2013;
 - d. Tax adjusted profits and partners profit share.
- xxxiii. [REDACTED] Abbreviated Accounts from date of Incorporation to 31 March 2012;
- xxxiv. Appellant's Consolidated Statement of Facts and Outline of Arguments dated 21 March 2022;
- xxxv. Letter Respondent to Appellant dated 22 September 2015;
- xxxvi. Letter Appellant to Respondent dated 7 October 2015;
- xxxvii. Letter Respondent to Appellant dated 9 October 2015;
- xxxviii. Email Appellant to Respondent dated 22 October 2015;
- xxxix. Letter Respondent to Appellant dated 23 October 2015;
 - xl. Email Appellant to Respondent dated 30 October 2015;
 - xli. Letter Appellant to Respondent dated 30 October 2015;
 - xl. Letter Appellant to Respondent dated 30 October 2015;
 - xlii. Letter Appellant to Respondent dated 3 November 2015;
 - xliii. Letter Respondent to Appellant dated 5 November 2015;

- xliv. Letter Respondent to Appellant dated 16 November 2015;
- xlv. Letter Respondent to Appellant dated 24 November 2015;
- xlvi. Letter Respondent to Appellant dated 23 December 2015;
- xlvii. Letter [REDACTED] to Respondent dated 18 January 2016;
- xlviii. Email Appellant to Respondent dated 8 May 2017;
- xlix. Letter Respondent to Appellant dated 18 May 2017;
 - I. Email Appellant to Respondent dated 5 July 2017;
 - li. Letter Respondent to Appellant dated 31 July 2017;
 - lii. Letter Respondent to Appellant dated 31 July 2017;
 - liii. Email Appellant to Respondent dated 9 August 2017;
 - liv. Email Respondent to Appellant dated 21 September 2017;
 - lv. Email Appellant to Respondent dated 25 September 2017;
 - lvi. Fax Respondent to Appellant dated 26 September 2017;
 - lvii. Email Respondent to Appellant dated 3 October 2017;
 - lviii. Letter Respondent to Appellant dated 23 October 2017;
 - lix. Letter Respondent to Appellant dated 2 November 2017;
 - lx. Letter Respondent to Appellant dated 30 November 2017;
 - lxi. Letter [REDACTED] [REDACTED] to Respondent dated 8 December 2017;
 - lxii. Letter [REDACTED] to Respondent dated 8 December 2017;
 - lxiii. Letter [REDACTED] to Respondent dated 15 December 2017;
 - lxiv. Letter Respondent to [REDACTED] dated 22 January 2018;
 - lxv. Letter Respondent to Appellant dated 8 February 2018;
 - lxvi. Letter Respondent to Appellant dated 1 May 2018;
 - lxvii. Email Appellant to Respondent dated 27 June 2018;
 - lxviii. Email Appellant to Respondent dated 28 June 2018;
 - lxix. Letter Respondent to Appellant and [REDACTED] dated 21 September 2018;

- lxx. Email Appellant to Respondent dated 26 September 2018;
- lxxi. Email Respondent to Appellant dated 27 September 2018;
- lxxii. Letter Respondent to Appellant and [REDACTED] dated 5 October 2018;
- lxxiii. Email Appellant to Respondent dated 17 October 2018;
- lxxiv. Letter Respondent to Appellant dated 9 November 2018;
- lxxv. Letter Respondent to Appellant dated 30 November 2018;
- lxxvi. Email Appellant to Respondent dated 3 December 2018;
- lxxvii. Email Appellant to Respondent dated 24 January 2019;
- lxxviii. Email Appellant to Respondent dated 6 February 2019;
- lxxix. Email Appellant to Respondent dated 11 March 2019;
- lxxx. Letter Respondent to Appellant dated 25 March 2019;
- lxxxi. Letter Appellant to Respondent dated 5 April 2019;
- lxxxii. Letter Respondent to Appellant dated 24 April 2019;
- lxxxiii. Letter Respondent to Appellant dated 14 May 2019;
- lxxxiv. Email Appellant to Respondent dated 19 June 2019;
- lxxxv. Letter Respondent to Appellant dated 4 July 2019;
- lxxxvi. Letter Respondent to Appellant dated 27 September 2019;
- lxxxvii. Letter Appellant to Respondent dated 30 November 2022 containing:
 - a. Rental Analysis Irish properties 2011, 2012 and 2013;
 - b. Rental Analysis UK property 2011, 2012 and 2013;
 - c. Summary of Appellant's pension relief claims;
 - d. Summary of Appellant's employment of carers 2011, 2012 and 2013;
 - e. England and Wales Certificate of Incorporation for [REDACTED] dated 28 August 2013;
 - f. Special Resolution and Notice of Change of Names from [REDACTED] to [REDACTED];

- g. [REDACTED] Dormant Accounts dated 31 March 2013;
- h. [REDACTED] Abbreviated Accounts 31 May 2014;
- i. [REDACTED] Abridged Accounts for period ended 31 March 2011;
- j. [REDACTED] Abridged Accounts for period ended 31 March 2012;
- k. Section 30 receipt dated 6 July 2007;
- l. Retirement Annuity Contract Certificate dated 3 October 2007;
- m. [REDACTED] Joint Loan Account ending [REDACTED] statement from 23 December 2004 to 1 December 2005
- n. [REDACTED] Joint Loan Account ending [REDACTED] statement from 8 December 2006 to 3 October 2007;
- o. [REDACTED] Joint Loan Account ending [REDACTED] statement from 1 January 2011 to 31 December 2011;
- p. [REDACTED] Joint Loan Account ending [REDACTED] statement from 1 January 2012 to 25 October 2012;
- q. Appellant's P35 Return for year ended 31 December 2012;
- r. Appellant's P35 Return for year ended 31 December 2013;
- s. Letter [REDACTED] to Appellant dated 21 February 2011;
- t. Invoice [REDACTED] to Appellant dated 10 March 2011;
- u. Invoice [REDACTED] to Appellant dated 15 December 2012 x 3;
- v. Invoice [REDACTED] to Appellant dated 31 October 2012;
- w. Invoice [REDACTED] to Appellant dated 15 October 2012;
- x. Invoice [REDACTED] to Appellant dated 30 September 2012 x 2;
- y. Invoice [REDACTED] to Appellant dated 31 August 2012 x 2;
- z. Invoice [REDACTED] to Appellant dated 31 July 2012;
- aa. Invoice [REDACTED] to Appellant dated 15 July 2012;
- bb. Letter [REDACTED] to Appellant dated 5 July 2012 with invoices x 10;

- cc. Service Agreement between Appellant and [REDACTED] dated 8 February 2012;
 - dd. Analysis of Lodgements to Appellant's Bank Account ending [REDACTED] 2011, 2012 and 2013;
 - ee. [REDACTED] Rental income and expenditure analysis for periods ending 31 March 1999 to 31 December 2013 inclusive;
 - ff. [REDACTED] analysis of arrears owed from [REDACTED] for periods 1999 to 2013 inclusive;
 - gg. Analysis "Storage" for periods 1999 to 2013 inclusive.
- lxxxviii. Submission Appellant to Commission dated 25 January 2023 containing:
- a. Analysis of lodgements and receipts into Appellant's account ending [REDACTED] for 2011, 2012 and 2013;
 - b. Letter from [REDACTED] to Respondent dated 8 December 2017;
 - c. Irish Rental Properties Income and Expenditure analysis 2011, 2012 and 2013
 - d. UK Rental Properties Income and Expenditure analysis 2011, 2012 and 2013.
- lxxxix. Appellant's Bank Account Statements:
- a. [REDACTED] Joint Current Account ending [REDACTED] for 2011, 2012 and 2013;
 - b. [REDACTED] Account ending [REDACTED] for 2011, 2012 and 2013;
 - c. [REDACTED] Personal Account ending [REDACTED] for 2011, 2012 and 2013;
 - d. [REDACTED] Current Account ending [REDACTED] for 2013;
 - e. Appellant's [REDACTED] Account ending [REDACTED] for 2011, 2012 and 2013;
 - f. [REDACTED] Loan Account ending [REDACTED] for 2011 to 2013;
 - g. [REDACTED] Joint Loan Account ending [REDACTED] for 2011 to 2013;
 - h. [REDACTED] Account ending [REDACTED] for 2011 to 2013;
 - i. [REDACTED] Account ending [REDACTED] for 2011 to 2013;
 - j. [REDACTED] Account ending [REDACTED] for 2011 to 2013;
 - k. [REDACTED] Deposit Account ending [REDACTED] for 2011 to 2013;

- l. [REDACTED] Visa Card ending [REDACTED] for 2011 to 2013;
- m. [REDACTED] Visa Card ending [REDACTED] for 2011 to 2013;
- n. [REDACTED] Joint Loan Account ending [REDACTED] for 2011 to 2013;
- o. [REDACTED] Joint Loan Account ending [REDACTED] for 2011 to 2013;
- p. [REDACTED] Joint Loan Account ending [REDACTED] for 2013;
- q. [REDACTED] Loan Account ending [REDACTED] for 2011 to 2013;
- r. [REDACTED] Account ending [REDACTED] for 2011 to 2013;
- s. [REDACTED] Joint Mortgage Account ending [REDACTED] for 2011 to 2013;
- t. [REDACTED] Joint Loan Account ending [REDACTED] for 2011 to 2013;
- u. [REDACTED] Account ending [REDACTED] for 2011 to 2013
- v. [REDACTED] Account ending [REDACTED] for 2011 to 2013
- w. [REDACTED] Account ending [REDACTED] for 2011 to 2013.