



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH  
TAX APPEALS COMMISSION

174TACD2024

Between

████████████████████

**Appellant**

and

**REVENUE COMMISSIONERS**

**Respondent**

---

**Determination**

---

**Introduction**

1. This is an appeal to the Tax Appeals Commission (“the Commission”) brought by ██████████ (“the Appellant”) pursuant to section 865(7) of the Taxes Consolidation Act 1997 as amended (“TCA 1997”) against the refusal by the Revenue Commissioners (“the Respondent”) to refund overpayments of income tax in the total amount of €7,047.86 for the tax years 2018 and 2019, on the ground that the repayments were sought outside the statutory timeframe.
2. In accordance with the provisions of section 949U of the TCA 1997 and by agreement with the parties, this appeal is determined without a hearing.

**Background**

3. On 20 March 2024, the Appellant filed income tax returns for 2018 and 2019. The 2018 return showed an overpayment of tax of €7,013.28. The 2019 return showed an overpayment of tax of €34.58. The Appellant sought a refund of the overpaid amounts. On 22 March 2024, the Respondent refused to refund the overpaid tax, on the basis that the claims had been made more than four years after the chargeable periods.

4. On 14 and 23 April 2024, the Appellant appealed against the Respondent's refusal to the Commission. On 21 June 2024, the Commission notified the parties that the two appeals were consolidated.
5. On 6 August 2024, the Commission notified the parties that the Commissioner considered the appeal suitable for determination without an oral hearing, pursuant to section 949U of the TCA 1997. They were informed that they could object to the Commissioner proceeding without an oral hearing within 21 days of the notice, and that they could also submit any additional documentation that they wished the Commissioner to consider within 21 days. Neither party objected to the appeal being determined without an oral hearing. The Commissioner is satisfied that it is appropriate to determine this appeal without an oral hearing.

### **Legislation**

6. Section 865 of the TCA 1997 provides *inter alia* that

*“(2) Subject to the provisions of this section, where a person has, in respect of a chargeable period, paid, whether directly or by deduction, an amount of tax which is not due from that person or which, but for an error or mistake in a return or statement made by the person for the purposes of an assessment to tax, would not have been due from the person, the person shall be entitled to repayment of the tax so paid.*

*[...]*

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

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

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

*(c) in the case of claims made –*

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

*(ii) in relation to any chargeable period beginning on or after 1 January 2003,*

*within 4 years,  
after the end of the chargeable period to which the claim relates.”*

## **Submissions**

### *Appellant*

7. In written submissions, the Appellant stated that

*“I have been working as a medical doctor [REDACTED] for a number of years and have always been diligent in paying my taxes. For the tax years 2018 and 2019, I overpaid tax. The amount overpaid for those years collectively is over 7000€. My job, as you know, can be very stressful, busy and demanding and the subsequent years that followed 2018 and 2019 were even more so. Due to COVID affecting us all in early 2020, it became a very trying time for all of us and many of us were purely in survival mode due to the exceptionally high infection rate and high morbidity and mortality rate from COVID and all other matters had to unfortunately take a back seat. As a doctor my life was in turmoil, working long hours and calls and having to deal emotionally and physically with the ongoing onslaught of deaths from COVID. As a result I did not file my taxes on time as my focus was on helping others get through this trying time during COVID as well as during the aftermath of COVID and also suffering from burnout during this time as well as for a number of months / years afterwards. When I did file my tax return in 2023/4, I received news of the tax refunds for 2018 and 2019. However, a week later, much to my disappointment, received another letter stating that my tax return was filed outside the required time for submission and my tax refunds would not be paid to me. I am humbly asking you to please consider my exceptional circumstances surrounding my late filing of taxes, given the nature of my work and the events that occurred during COVID and the severe impact it had on everyone (much publicised), not only during that time but for the years that followed as well. Please, please, also consider the cost of living crisis that we are currently experiencing and how this sum of money could help relieve my current financial burdens.”*

### *Respondent*

8. In written submissions, the Respondent stated that

*“The Appellant filed their 2018 Income Tax return through ROS on the 20th March 2024. The return indicated that they had overpaid their tax in the amount of €7,013.28. Their 2019 return was also filed on this date showing an overpayment of €34.58.*

*However, this refund was refused by Revenue as the Income Tax returns were filed outside the four-year time limit as imposed by legislation. It is this decision that the Appellant is appealing.*

*In their appeal, dated 24th April 2024, the Appellant states that due to covid and other factors this was a stressful time and resulted in their returns not being filed in a timely manner.*

*The legislation covering this matter is Section 865, subsection 4 of the TCA 1997. A valid claim for the repayment of tax under the Acts for any chargeable period shall not be allowed unless it is made within 4 years after the end of the chargeable period to which the claim relates.*

*[...]*

*The chargeable periods in this instance are 1st January 2018 to the 31st December 2018 and 1st January 2019 to the 31st December 2019. Therefore, in order that Revenue could consider a refund of tax overpaid for the 2018 tax year, a completed return would have to have been submitted on or before the 31st December 2022, and for the 2019 Tax year on or before 31st December 2023.*

*As both tax returns were filed outside of the 4-year limit imposed by Section 865 of the Acts, Revenue is precluded from allowing refund or offset of the overpaid taxes.”*

## **Material Facts**

9. Having read the documentation submitted by the parties, the Commissioner makes the following findings of material fact:
  - 9.1. On 20 March 2024, the Appellant filed income tax returns for 2018 and 2019. The 2018 return showed an overpayment of tax of €7,013.28. The 2019 return showed an overpayment of tax of €34.58.
  - 9.2. The Appellant sought a refund of the overpaid amounts. On 22 March 2024, the Respondent refused to refund the overpaid tax, on the basis that the claims had been made more than four years after the chargeable periods.

## **Analysis**

10. The burden of proof in this appeal rests on the Appellant, who must show that the Respondent was incorrect to refuse the claims for a refund of tax. In the High Court case of *Menolly Homes Ltd v. Appeal Commissioners* [2010] IEHC 49, Charleton J stated at paragraph 22 that “*The burden of proof in this appeal process is, as in all taxation appeals,*

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

11. Section 865(2) of the TCA 1997 provides that a person is entitled to a repayment of tax paid where an amount of tax paid is not due from that person. However, section 865(4) states *inter alia* that “*a claim for repayment of tax under the Acts for any chargeable period shall not be allowed unless it is made... within 4 years, after the end of the chargeable period to which the claim relates*” (emphasis added). In this appeal, the relevant tax years were 2018 and 2019, and therefore the repayment claim for 2018 had to be made by 31 December 2022, and the repayment claim for 2019 had to be made by 31 December 2023.
12. It is not in dispute that the Appellant’s returns for 2018 and 2019 were submitted outside of the applicable four-year time frame. The Appellant has stated that, as a medical doctor, the pressure caused by the Covid-19 pandemic resulted in the late filing of the returns. The Commissioner does not doubt that the impact of the pandemic was particularly challenging for medical professionals such as the Appellant.
13. However, the Commissioner’s jurisdiction is limited to considering and applying tax law, and he has no equitable power or wider discretion to disapply statutory provisions on the ground that he sympathises with an appellant’s personal circumstances. In this instance, the Commissioner is satisfied that the requirement under section 865(4) that a claim for repayment of tax be made within a specified timeframe is mandatory and that no discretion is allowed to the Respondent, or to the Commission on appeal, to disapply it. It is important to note that the legislature did not amend the timeframe on foot of the disruption caused by Covid-19.
14. Consequently, as the Appellant’s request for a repayment of overpaid tax for 2018 was made after 31 December 2022, and the request for 2019 was made after 31 December 2023, the Commissioner is satisfied that the Respondent was correct to refuse the claims for a refund, as section 865 does not allow the Respondent, or the Commission on appeal, to take into account any mitigating circumstances for the failure to comply with the mandated timeframe. Therefore, as he is satisfied that the Respondent acted correctly, the Commissioner determines that the appeal is unsuccessful.

### **Determination**

15. In the circumstances, and based on a review of the facts and a consideration of the submissions, material and evidence provided by both parties, the Commissioner is

satisfied that the Respondent was correct in refusing the Appellant's application for refunds of overpaid income tax in the total amount of €7,047.86 for the tax years 2018 and 2019.

16. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular sections 949AL and 949U thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

### **Notification**

17. This determination complies with the notification requirements set out in section 949AJ of the TCA 1997, in particular section 949AJ(5) and section 949AJ(6) of the TCA 1997. For the avoidance of doubt, the parties are hereby notified of the determination under section 949AJ of the TCA 1997 and in particular the matters as required in section 949AJ(6) of the TCA 1997. This notification under section 949AJ of the TCA 1997 is being sent via digital email communication **only** (unless the Appellant opted for postal communication and communicated that option to the Commission). The parties will not receive any other notification of this determination by any other methods of communication.

### **Appeal**

18. Any party dissatisfied with the determination has a right of appeal on a point or points of law only within 42 days after the date of the notification of this determination in accordance with the provisions set out in section 949AP of the TCA 1997. The Commission has no discretion to accept any request to appeal the determination outside the statutory time limit.



Simon Noone  
Appeal Commissioner  
11 September 2024