



AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

18TACD2024

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 a Notice of Amended Assessment to income tax raised by the Revenue Commissioners (hereinafter the “Respondent”) on 13 December 2022 for the year 2018.
2. The amount returned by the Appellant in her Form 11 tax return for the year 2018 was not correct and contained an amount which represented a significant understatement of the profits or gains which fell to be charged to tax in 2018.
3. The oral hearing of this appeal took place on 26 October 2023.
4. The total amount of tax under appeal is €46,864.30.

Background

5. [REDACTED] (hereinafter the “Appellant”) is a businesswoman who, during 2018, operated a number of Bed and Breakfast businesses both as a sole trader and as part of a business partnership.
6. The Appellant is a [REDACTED].
7. The Appellant was in receipt of child benefit in 2018 totalling €10,080.00 in the amount of €840 per month.
8. A Notice of Revenue Aspect Query was issued by the Respondent to the Appellant’s business partnership on 21 May 2019.
9. On 12 January 2022, the Appellant submitted a Form 11 tax return for 2018 which contained the following:

Income / Profits arising	€5,070.00
Capital allowances	€ 284.00
Personal Tax Credit	€1,650.00
Earned Income Tax Credit	Yes
Amount of Income Tax Chargeable	€ 957.20
Amount of USC Chargeable	€ 0.00
Amount of PRSI chargeable	€ 500.00
Total amount of tax chargeable	€1,457.20

10. As a result of, what the Respondent deemed as, lack of cooperation on the part of the Appellant and her business partner, the Respondent decided to escalate the Revenue Aspect Query to individual audits on the Appellant, her business partner and the business partnership for the years 2018 to 2020. The Respondent issued Notices of Revenue Audit to the Appellant, her partner and the business partnership on 17 February 2022 and the audits commenced on 6 April 2022.

11. Following completion of the individual audit on the Appellant, the Respondent raised a Notice of Amended Assessment to income tax for 2018 on 13 December 2022 which reflected an additional €100,869 in income for the Appellant in 2018 as follows:

Schedule D Income / Profits arising:	
B&B – self	€ 5,070.00
Assessment – self	€100,869.00
Total	€105,939.00
Capital allowances	€ 284.00
Personal Tax Credit	€ 1,650.00
Earned Income Tax Credit	€ 957.00
Amount of Income Tax Chargeable	€ 35,352.00
Amount of USC Chargeable	€ 5,632.71
Amount of PRSI chargeable	€ 4,226.20
Amount of tax chargeable	€ 42,603.91
Surcharge for late filing of return	€ 4,260.39
Balance of tax payable	€ 46,864.30

12. The Respondent also raised Notices of Amended Assessment to income tax and Value Added Tax on the business partnership. No Notices of Appeal were submitted in relation the Notices of Amended Assessment raised in relation to the business Partnership.

13. By way of Notice of Appeal dated 5 January 2023 the Appellant appealed the Notice of Amended Assessment to income tax raised on the Appellant dated 13 December 2022 raised by the Respondent.

14. No matters of dispute in relation to the applicable law have arisen between the Parties in this appeal.

Legislation and Guidelines

15. The legislation relevant to this appeal is as set out below.

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 65 of the TCA1997 – “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 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 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.

Submissions

Appellant's Submissions

16. The Appellant's Notice of Appeal was submitted to the Commission by a Tax Agent on her behalf. On 3 October 2023, the Commission received correspondence from the Tax Agent to the effect that he was no longer representing the Appellant. The Appellant appeared on her own behalf at the oral hearing and was not represented.

17. The Appellant submitted the following Ground of Appeal in her Notice of Appeal to the Commission:

"We believe the Revenue have included all income to my current account as sales. This is not the case. Some were transfers to another account and vice versa. Also no costs of sales / admin expenses have been included in this assessment. Also I am a [REDACTED] and the single parent tax credit has not been granted to me."

18. The Appellant submitted the following in her Statement of Case to the Commission:

"My tax credits are incorrect and not all the business expenses are accounted for. The profit of Revenue stating is double of what my profit was. My excel spreadsheet is attached showing my spending and the profit. I apologise that it is not a professional analysis as my accountant [REDACTED] has ignored me through the whole process. Revenue have also tried to contact him but to no avail.

I have now found a new accountant who will be carrying out a better accountancy analysis of 2018. Find attached a letter from my new accountant and a tax analysis will follow.

Please accept my temporary analysis until my new accountant will provide a professional one within 4 to 6 weeks if you find my analysis not to be clear enough.

I would have got another accountant during the two week extension but revenue advised me they would negotiate a figure asking me to send my workings twice which I did.

They assured me that they would negotiate a figure and on the final day they said they will not be going negotiating and they were sending in their statement of case on that day they said they were going ahead and not negotiating so please do not think that I was wasting time doing nothing.

I will be forwarding more documentation in the next 4 to 6 weeks to support my documentation which my new accountant that will be more professional.

I thank you for all your patience and understanding in this matter.”

19. At the oral hearing of this appeal, the Appellant stated that she had engaged the services of an accountant who, on the basis of bank account statements, had calculated her sole trader net profits for 2018 along with the business partnership net profits for 2018 as follows:

	Total Partnership	Each Partner	Appellant Sole Trader	Appellant Total for 2018
Turnover	444,192	222,096	38,353	260,449
Cost of Sales	88,946	44,473	6,218	50,691
Gross Profit	355,246	177,623	32,135	209,758
Less Overheads:				
Wages	13,920	6,960	0	6,960
Employers	1,197	599	0	599
Utilities	45,755	22,878	1,654	24,532
Food	21,942	10,971	5,405	16,376
Insurance	1,767	883	2,552	3,435
Rent & Rates	177,53	88,977	1,000	89,977
Motor & Travel	7,169	3,584	2,281	5,865

Waste	3,960	1,980	0	1,980
Telephone	4,363	2,181	1,934	4,115
Bk Fees	1,327	664	191	855
Accountancy	1,590	795	750	1,545
Mortgage Interest	0	0	0	0
Depreciation	568	284	0	284
Repairs	9,140	4,570	3,957	8,527
Sundries	12,963	6,482	241	6,723
Total Expenses	303,614	151,807	19,965	171,772
Net Profit / Taxable Profits	51,632	25,816	12,170	37,986

20. The Appellant submitted that, having regard to the accountant's calculations, her assessable profits for 2018 were €37,986. She stated that in filing her Form 11 tax return for 2018 and that she had relied on the calculations of her former tax agent. She stated that she cannot understand where the discrepancies between her accountant's calculations and those of the Respondent come from.

21. The Appellant stated that she had operated one Bed and Breakfast business as a sole trader in 2018, that being [REDACTED]. In addition, the Appellant stated that, as part of the business partnership, she had operated three Bed and Breakfast businesses in 2018, those being [REDACTED], [REDACTED] and [REDACTED].

22. The Appellant also stated that, in 2018, her sole trader business had operated from an [REDACTED] bank account ending in [REDACTED]9 and that the business partnership had operated from an [REDACTED] bank account ending in [REDACTED]8. She stated that transfers would be made between the two [REDACTED] bank accounts and that all payments relating to the business partnership were conducted through the [REDACTED] bank account ending in [REDACTED]8.

23. Prior to the Respondent commencing on a cross examination of the Appellant, the Commissioner asked the Appellant questions as to whether she had a breakdown for the Cost of Sales and the Expenses figures which she had submitted during her direct evidence. The Commissioner asked the Appellant whether she had any invoices or receipts which tended to support her claim in relation to the Cost of Sales and Expenses figures which she had submitted. In response, the Appellant stated that she did not have documentation in relation to the running of her business and that her previous accountant had lost all of the receipts which she had given to him. She stated that the figures and analysis which she had submitted were based on the transactions which appeared in the bank accounts.

24. Prior to the oral hearing the Appellant submitted the following documentation in support of her appeal:

- i. Statement of Case dated 5 April 2023;
- ii. Copies of statements from [REDACTED] account ending in [REDACTED]8 from 18 December 2017 to 5 February 2019;
- iii. Copies of statements from [REDACTED] account ending in [REDACTED]9 from 29 December 2017 to 31 December 2018;
- iv. Trading summary for Appellant's sole trade and for Appellant's business partnership as set out at paragraph 14 of this determination;
- v. Value Added Tax Schedule for 2018;
- vi. Transaction analysis of [REDACTED] account ending in [REDACTED]8 for 2018;
- vii. Monthly summary of income / expenses / profit and loss for business partnership for 2018.

25. During the course of the oral hearing, the Commissioner gave the Appellant an opportunity to submit any invoices, leases or other documentation on which she wished to rely. The Commissioner afforded the Appellant a break of 38 minutes to submit any and all additional documentation on which she wished to rely in her appeal. The Appellant sent the following additional documentation by email to the Commission during the break:

- i. Email dated 23 May 2023 from Respondent to Appellant;
- ii. Email dated 12 December 2022 from Appellant to Respondent containing monthly analysis of [REDACTED] bank account ending [REDACTED]8 for 2018 and monthly analysis of business partnership activity for 2018;

- iii. Email dated 1 February 2018 from [REDACTED] to the Appellant entitled “*Overdue Balance - [REDACTED]*”;
- iv. Copy [REDACTED] electricity bill dated 15 May 2018 addressed to the business partnership relating to [REDACTED];
- v. Email dated 29 March 2019 from [REDACTED] containing monthly rental invoices in the amount of €5,658.00 from [REDACTED] [REDACTED] [REDACTED] to the business partnership in relation to [REDACTED];
- vi. Draft court proceedings dated 7 February 2022 between the business partnership as plaintiffs and [REDACTED] as defendant relating to the tenancy of [REDACTED];
- vii. Unsworn and undated affidavit of the Appellant relating to unidentified [REDACTED] proceedings between the business partnership as plaintiffs and [REDACTED] as defendant relating to the tenancy of [REDACTED];
- viii. Unsigned and undated lease between [REDACTED] and the business partnership relating to [REDACTED];
- ix. Reference dated 24 September 2015 relating to the Appellant from [REDACTED] [REDACTED];
- x. Reference dated 30 May 2016 relating to the business partnership from [REDACTED] [REDACTED];
- xi. Monthly Value Added Tax analysis of [REDACTED] bank account ending in [REDACTED]8 for 2018;
- xii. Monthly Value Added Tax analysis of [REDACTED] bank account ending in [REDACTED]9 for January, July, August, September, October, November and December 2018.

Witness Evidence on behalf of the Respondent – [REDACTED]

26. The Commissioner heard evidence from [REDACTED] (hereinafter the “Witness”) on behalf of the Respondent. The Witness was the Respondent’s officer who was responsible for the Revenue Aspect Query and the audit on the Appellant and who was responsible for raising the Notice of Amended Assessment on 13 December 2022 which is the subject of this appeal.
27. The Witness stated that the only original documentation which he had received from the Appellant during the course of the audit was a copy of her [REDACTED] bank statements. The Witness stated that, from analysing the bank statements provided by the Appellant, it was

established that the Appellant was using the account ending on ■■■9 as her personal account. He stated that monies which were transferred in to the ■■■9 account from the ■■■8 account were being used to pay the Appellant's mortgage, for personal shopping, holidays, restaurants and takeaways. He stated that, as best as could be determined, there was a very small amount being transferred back out of the ■■■9 account.

28. The Witness stated that the Notice of Amended Assessment which is the subject of this appeal was raised based on the transactions which appeared in the ■■■9 account. He stated that during the course of the aspect query and audit processes, which lasted from May 2019 until December 2022, the Appellant had been repeatedly asked to provide vouching documentation in relation her businesses. He stated that, over the four year period, the Appellant had not submitted any books or records to the Respondent in relation to her sole trade business and that only one invoice in relation to the business partnership had been submitted by the Appellant.

29. The Witness stated that, as part of the analysis which had been carried out on the Appellant's bank account, he had established that lodgements in the amount of €100,869 had been made to the Appellant's ■■■9 bank account in 2018. He stated that he had attempted on a number of occasions to get information from the Appellant as to the origins of the lodgements, however nothing had been forthcoming. He stated that as a result, he raised the Notice of Amended Assessment to reflect both the profit of €5,070 which had been returned by the Appellant in her Form 11 tax return along with the €100,869 which had been lodged into her account. He stated that he was unable to establish any trading expenses which the Appellant may have incurred in her sole trade due to the lack of documentation forthcoming from the Appellant.

Respondent's Submissions

30. The Respondent submitted that the Notice of Amended Assessment raised on 13 December 2022 which is the subject of this appeal was raised based on an analysis of the Appellant's ■■■ bank account ending on ■■■9, which was the Appellant's personal bank account. The Respondent submitted that the Notice of Amended Assessment raised on 13 December 2022, which is the subject of this appeal, was not based on any transactions contained in the ■■■ bank account ending in ■■■8 which, it was submitted, was used for the running of the business partnership.

31. The Respondent submitted that, as the Appellant had not provided appropriate records and receipts for her trade, it was obliged to raise the Notice of Amended Assessment on 13 December 2022 which is the subject of this appeal.

32. The Respondent submitted that the Appellant has failed to establish that any of the outgoings from her [REDACTED] bank account ending in [REDACTED]9 are deductible business expenses. The absence of supporting records such as invoices and receipt, the Respondent submitted, mean that the Appellant has failed to establish any deductible business expenses for 2018.
33. The Respondent further submitted that the Appellant has failed to meet the obligation to keep records pertaining to her tax affairs which is placed upon her by virtue of the provisions of section 886 of the TCA1997.
34. At the end of the Respondent's submissions, the Respondent accepted that payments of €10,080.00 in relation to child benefit had been received by the Appellant in 2018 by way of monthly payments of €840.00. The Respondent accepted that this amount is not taxable and accepted that an amount of €10,080.00 be reduced from the total assessable income amount in the Notice of Amended Assessment raised on 13 December 2018 which is the subject of this appeal.
35. In addition, the Respondent accepted that the Appellant was entitled to an increased amount of Earned Income Tax Credit for 2018 in the amount of €1,150.00 which was the highest amount of Earned Income Tax Credit available to taxpayers in 2018.
36. Finally, the Respondent accepted that, if the Appellant had applied for the Single Parent Child Carer's Credit in 2018, she is entitled to the benefit of that tax credit.

Material Facts

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

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

38. The following material facts are not at issue between the Parties in this appeal and the Commissioner finds the following as the material facts in this appeal:
- i. The Appellant is a businesswoman who, during 2018, operated a number of Bed and Breakfast businesses both as a sole trader and as part of a business partnership.
 - ii. The Appellant is [REDACTED].
 - iii. The Appellant was in receipt of child benefit in 2018 totalling €10,080.00 in the amount of €840 per month.

- iv. A Notice of Revenue Aspect Query was issued by the Respondent to the Appellant's business partnership on 21 May 2019.
- v. On 12 January 2022, the Appellant submitted a Form 11 tax return for 2018 which contained the following relevant information:

Income / Profits arising	€5,070.00
Capital allowances	€ 284.00
Personal Tax Credit	€1,650.00
Earned Income Tax Credit	Yes
Amount of Income Tax Chargeable	€ 957.20
Amount of USC Chargeable	€ 0.00
Amount of PRSI chargeable	€ 500.00
Total amount of tax chargeable	€1,457.20

- vi. As a result of what the Respondent deemed as lack of cooperation, the Respondent decided to escalate the Revenue Aspect Query to individual audits on the Appellant, her partner and the business partnership for the years 2018 to 2020. The Respondent issued Notices of Revenue Audit to the Appellant, her partner and the business partnership on 17 February 2022 and the audits commenced on 6 April 2022.
- vii. Following completion of the individual audit on the Appellant, the Respondent raised the Notice of Amended Assessment to income tax for 2018 on 13 December 2022 which reflected an additional €100,869 in income for the Appellant in 2018 as follows:

Income / Profits arising	€105,939.00
Capital allowances	€ 284.00
Personal Tax Credit	€ 1,650.00
Earned Income Tax Credit	€ 957.00
Amount of Income Tax Chargeable	€ 35,352.00

Amount of USC Chargeable	€ 5,632.71
Amount of PRSI chargeable	€ 4,226.20
Amount of tax chargeable	€ 42,603.91
Surcharge for late filing of return	€ 4,260.39
Balance of tax payable	€ 46,864.30

- viii. The Respondent also raised Notices of Assessment to income tax and Value Added Tax on the business partnership. No Notices of Appeal were submitted in relation to the Notices of Assessment raised in relation to the business Partnership.
- ix. By way of Notice of Appeal dated 5 January 2023 the Appellant appealed the Notice of Amended Assessment to income tax raised on the Appellant dated 13 December 2022 raised by the Respondent.

39. The following material facts are at issue between the Parties in this appeal:

- i. The Notice of Amended Assessment raised by the Respondent on 13 December 2022 which is the subject of this appeal relates to the Appellant's sole trade for 2018 and not to the business partnership trade of which she was a partner in 2018;
- ii. The Appellant incurred deductible business expenses in relation to her sole trade in 2018;
- iii. The Appellant had Schedule D income of €105,939.00 in 2018;

The Notice of Amended Assessment raised by the Respondent on 13 December 2022 which is the subject of this appeal relates to the Appellant's sole trade for 2018 and not to the business partnership trade of which she was a partner in 2018:

40. The Commissioner notes that there was a level of confusion on the part of the Appellant as to the basis of the Notice of Amended Assessment to income tax dated 13 December 2022 which is the subject of this appeal.

41. During the course of the oral hearing and when cross examining the Witness, the Appellant was adamant that the Schedule D income amount which is contained in the

Notice of Amended Assessment raised by the Respondent on 13 December 2022 relates both to her sole trade and to the business partnership.

42. The Witness, on the other hand, gave clear evidence to the Commissioner outlining that he had conducted an analysis of the Appellant's ■■■ bank account ending in ■■■9 and that, on the basis of that analysis, he had established that lodgements of €105,869 had been made to that account during the course of 2018.
43. The Witness was clear in his evidence to the Commissioner that the Notice of Amended Assessment which was raised on 13 December 2022 in relation to the Appellant related only to monies received in to her personal ■■■ bank account ending in ■■■9. The Witness was equally clear in his evidence that no account had been taken of the amounts lodged in to the business partnership ■■■ bank account ending in ■■■8 when raising the Notice of Amended Assessment on 13 December 2022 to which this appeal relates.
44. In that regard, the Witness pointed the Commissioner to an analysis which he had carried out of the Appellant's personal ■■■ bank account ending in ■■■9 for 2018 which showed lodgements to the account of €100,869 and debits of €100,682.51.
45. The Appellant gave evidence to the Commissioner during the oral hearing that the ■■■ bank account ending in ■■■9 was used for the operation of her sole trade business in addition to her personal spending.
46. By her own evidence, the Appellant utilised the ■■■9 account for the operation of her sole trade business in addition to her personal spending. On the evidence of the Witness, to include the analysis which the Witness had carried out of the Appellant's personal ■■■ bank account ending in ■■■9 of 2018, the Commissioner finds as a material fact, on the balance of probabilities, that the Notice of Amended Assessment raised by the Respondent on 13 December 2022 which is the subject of this appeal relates to the Appellant's sole trade for 2018 and not to the business partnership trade of which she was a partner in 2018.

The Appellant incurred deductible business expenses in relation to her sole trade in 2018.

47. Section 81 of the TCA1997 is entitled "General rule as to deductions" and provides that

"(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;

...

48. The Appellant submitted to the Commission the documentation set out in paragraphs 24 and 25 of this determination in support of this appeal. None of the documentation submitted by the Appellant to the Commission, whether prior to the oral hearing or during the oral hearing of this appeal, relates to invoices or receipts for payments which were made for the purposes of the Appellant's sole trade.
49. The Commissioner asked the Appellant on a number of occasions during the course of the oral hearing whether she had any documentation which tended to prove that any of the debit amounts in her [REDACTED]9 bank account were payments made for the purposes of her sole trade, that is to say for the purposes of running her Bed and Breakfast sole trade business at [REDACTED]. In addition, the Commissioner allowed a 38 minute break in the oral hearing to allow the Appellant to email to the Commission any and all documentation on which she wished to rely in support of her appeal.
50. The Appellant submitted to the Commissioner at the oral hearing that she had previously given all of her invoices and receipts to her previous accountant but that he had lost them.
51. During the oral hearing the Appellant placed significant weight on invoices relating to monthly rental invoices in the amount of €5,658.00 for 2018 from [REDACTED] to the business partnership in relation to [REDACTED]. By the Appellant's own evidence, this property was operated as part of the business partnership and was not part of the Appellant's sole trade in 2018.
52. In addition, during the oral hearing the Appellant placed significant weight on a letter from [REDACTED] dated 1 February 2018 which noted that an overdue balance of €4,949.73 existed in relation to [REDACTED]. The Appellant also placed significance on a copy of a bill from [REDACTED] dated 15 May 2018 in relation to [REDACTED]. By the Appellant's own evidence, this property was operated as part of the business partnership and was not part of the Appellant's sole trade in 2018.
53. In closing submissions, the Appellant pointed to a number of transactions in the [REDACTED] bank account ending in [REDACTED]9 as being business expenditure:

- i. 1 April 2018: ██████████ debit of €279.45 which the Appellant stated was commission charged by ██████████ relating to her sole trade business;
- ii. 2 June 2018: ██████████ debit of €50.88 which the Appellant stated was a charge for a credit card terminal;
- iii. 4 July 2018: ██████████ debit of €666.75 which the Appellant stated was commission charged by ██████████ relating to her sole trade business;
- iv. 5 September 2018: ██████████ debit of €749.25 which the Appellant stated was commission charged by ██████████ relating to her sole trade business;
- v. 5 September 2018: ██████████ debit of €190.17;
- vi. 19 November 2018: ██████████ debit of €739.41 which the Appellant stated was commission charged by ██████████ relating to her sole trade business;
- vii. 19 November 2018: ██████████ debit of €125.02;
- viii. 19 December 2018: ██████████ debit of €476.25 which the Appellant stated was commission charged by ██████████ relating to her sole trade business;
- ix. 19 December 2018: ██████████ debit of €126.65.

54. The Commissioner asked the Appellant whether she had attempted to contact either ██████████ or ██████████ for invoices or receipts in relation to the debits from her account and she stated that she had not.

55. The Commissioner does not accept as credible the Appellant's argument that her accountant has lost the invoices and receipts relating to 2018 for her sole trade. The Appellant has not submitted any documentation or communication with her former accountant which tends to support her claim that her accountant has lost the invoices and receipts relating to 2018 for her sole trade.

56. The Appellant, by her own admission, has not approached any vendors for copy invoices or receipts. The Appellant has failed to produce any documentation to support her claim that she incurred expenditure wholly and exclusively for the purposes of her trade.

57. Section 886 of the TCA1997 is entitled "*Obligation to keep certain records*". Section 886(2)(a)(i) of the TCA1997 provides that:

"(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,

...

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.

58. Section 886(2)(c) further provides that:

"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."

59. In addition, section 886(4)(a) of the TCA1997 provides that:

"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,..."

60. The Commissioner notes that the Notice of Revenue Aspect Query was served on the Appellant in 2019 and the audit commenced in 2022. The Appellant has not complied with her obligation to keep and maintain full and accurate records of her trade for a period of six years after the completion of the transactions of her sole trade.

61. As a result of the above, the Commissioner finds that the Appellant has not discharged the burden of proof which tends to establish that she incurred deductible business expenses in relation to her sole trade in 2018. Therefore this material fact is not accepted.

The Appellant had Schedule D income of €105,939.00 in 2018:

62. Section 18(1) of the TCA1997 defines that tax under Schedule D shall be charged in respect of:

"...

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

...

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

...

63. Section 18(2) of the TCA1997 provides that:

“Tax under Schedule D shall be charged under the following Cases:

Case I — Tax in respect of—

(a) any trade;

...”

64. There is no dispute between the Parties that the Appellant carried on the trade of running Bed and Breakfast accommodation in 2018. As a result the Appellant’s income in 2018 falls to be taxed under Schedule D Case I of the TCA1997.

65. The Notice of Amended Assessment raised by the Respondent on 13 December 2022 which is the subject of this appeal assessed that the Appellant had the following income Schedule D income in 2018:

Schedule D Income / Profits arising:	
B&B – self	€ 5,070.00
Assessment – self	€100,869.00
Total	€105,969.00

66. The Respondent submits that the total figure of €105,869 for Schedule D income which is contained in the Notice of Amended Assessment was calculated based on an analysis of the Appellant’s ■■■ bank account ending in ■■■9. The Respondent submits that the total amount of lodgements in to the ■■■ bank account ending in ■■■9 in 2018 equals the amount of €105,869 of Schedule D income included as Schedule D income in the Notice of Amended Assessment.

67. The Commissioner notes that, as a result of the Appellant’s submissions during the oral hearing, the Respondent has now accepted that the Appellant was in receipt of untaxable child benefit in the amount of €10,080 in 2018 by way of monthly payments of €840 in to the ■■■ bank account ending in ■■■9. This means that the Respondent has now accepted that the amount of the Appellant’s Schedule D income in 2018 is €95,789.

68. The Appellant, on the other hand, submitted during the oral hearing that the correct amount of Schedule D income which she had in 2018 was €37,986. This is in contrast to the amount of Schedule D income of €5,070 which the Appellant returned in her Form 11 tax return for 2018 which she submitted to the Respondent.
69. The Commissioner notes that the Appellant claims that her Schedule D income for 2018 was €37,986 and that this amount was calculated based on an analysis of the business partnership [REDACTED] bank account ending in [REDACTED]8 which she claims generated Schedule D income for her relating to the business partnership of €25,816. In addition, the Appellant has submitted at oral hearing that her Schedule D income for her sole trade for 2018 was €12,170.
70. The Commissioner notes that the Appellant is an experienced businesswoman who, based on the references submitted by the Appellant during the course of the oral hearing, has been in business both as a sole trader and as part of a business partnership since at least early 2015.
71. The Commissioner has carefully considered all of the documentation along with the oral and written submissions received in this appeal. The Commissioner notes that, apart from the child benefit payments received, the Appellant has not identified any lodgements to the [REDACTED] bank account ending in [REDACTED]9 which cannot be attributed to Schedule D income. Nothing that the Appellant has submitted to the Commissioner tends to establish that any other lodgements received in to the [REDACTED]9 bank account in 2018 was anything other than Schedule D income. The Commissioner considers it reasonable to expect that the Appellant would provide an explanation as to the origin of the lodgements into her [REDACTED] bank account ending in [REDACTED]9 for 2018. The Appellant did accept during the course of the oral hearing that some lodgements came from the business partnership [REDACTED] bank account ending in [REDACTED]8. The Appellant, although given time by the Commissioner to provide an explanation for the lodgements received, could not and did not provide any explanation.
72. The Commissioner has already found that the Appellant has not discharged the burden of proof which tends to establish that she incurred deductible business expenses in relation to her sole trade in 2018.
73. As a result of the above, the Commissioner finds as a material fact that the Appellant's Schedule D income for 2018 was €95,789.
74. For the avoidance of doubt the Commissioner makes the following findings of material fact in this appeal:

- i. The Appellant is a businesswoman who, during 2018, operated a number of Bed and Breakfast businesses both as a sole trader and as part of a business partnership.
- ii. The Appellant is [REDACTED].
- iii. The Appellant was in receipt of child benefit in 2018 totalling €10,080.00 in the amount of €840 per month.
- iv. A Notice of Revenue Aspect Query was issued by the Respondent to the Appellant's business partnership on 21 May 2019.
- v. On 12 January 2022, the Appellant submitted a Form 11 tax return for 2018 which contained the following relevant information:

Income / Profits arising	€5,070.00
Capital allowances	€ 284.00
Personal Tax Credit	€1,650.00
Earned Income Tax Credit	Yes
Amount of Income Tax Chargeable	€ 957.20
Amount of USC Chargeable	€ 0.00
Amount of PRSI chargeable	€ 500.00
Total amount of tax chargeable	€1,457.20

- vi. As a result of what the Respondent deemed as lack of cooperation, the Respondent decided to escalate the Revenue Aspect Query to individual audits on the Appellant, her partner and the business partnership for the years 2018 to 2020. The Respondent issued Notices of Revenue Audit to the Appellant, her partner and the business partnership on 17 February 2022 and the audits commenced on 6 April 2022.
- vii. Following completion of the individual audit on the Appellant, the Respondent raised the Notice of Amended Assessment to income tax for 2018 on 13 December 2022 which reflected an additional €100,869 in income for the Appellant in 2018 as follows:

Income / Profits arising	€105,939.00
Capital allowances	€ 284.00

Personal Tax Credit	€ 1,650.00
Earned Income Tax Credit	€ 957.00
Amount of Income Tax Chargeable	€ 35,352.00
Amount of USC Chargeable	€ 5,632.71
Amount of PRSI chargeable	€ 4,226.20
Amount of tax chargeable	€ 42,603.91
Surcharge for late filing of return	€ 4,260.39
Balance of tax payable	€ 46,864.30

- viii. The Respondent also raised Notices of Assessment to income tax and Value Added Tax on the business partnership. No Notices of Appeal were submitted in relation the Notices of Assessment raised in relation to the business Partnership.
- ix. By way of Notice of Appeal dated 5 January 2023 the Appellant appealed the Notice of Amended Assessment to income tax raised on the Appellant dated 13 December 2022 by the Respondent;
- x. The Notice of Amended Assessment raised by the Respondent on 13 December 2022 which is the subject of this appeal relates to the Appellant's sole trade for 2018 and not to the business partnership trade of which she was a partner in 2018;
- xi. The Appellant's Schedule D income for 2018 was €95,789.

Conclusion

75. As there was no matter of law at issue between the Parties, the question which arises for the Commissioner rested on the identification of the correct quantum of Schedule D income received by the Appellant in 2018 and the correct allowances which the Appellant is entitled to claim. These appeals were therefore based on material fact issues. The Commissioner has found the material facts as set out at paragraph 73 of this determination.

76. Section 65 of the TCA1997 is entitled "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.

77. The Commissioner has already found as a material fact that the Appellant's Schedule D income for 2018 was €95,789.

78. In addition, the Commissioner has found that the Appellant has not discharged the burden of proof which tends to establish that she incurred deductible business expenses in relation to her sole trade in 2018.

79. As a result, the Commissioner finds that the Appellant's profits or gains for 2018 were €95,789.

80. As previously noted the Respondent has accepted that the Appellant is entitled to an increased Earned Income Tax Credit of €1,150 for 2018 and in addition, the Respondent has accepted that, if the Appellant applied for a Single Parent Child Carer Tax Credit in or before 2018, she is entitled to the benefit of an additional tax credit of €1,650 for 2018.

Determination

81. Having considered the facts and circumstances of this appeal, together with the submissions from both Parties, the Commissioner determines that the Appellant has partially succeeded in this appeal.

82. The Commissioner determines that the Notice of Amended Assessment to income tax for 2018 should be reduced to reflect:

- i. A reduced Schedule D income of €95,789;
- ii. An increased Earned Income Tax Credit of €1,150; and
- iii. A Single Parent Child Carer Tax Credit, if it is established that the Appellant had applied for such tax credit in or before 2018.

83. This Appeal is determined in accordance with Part 40A of the TCA1997 in particular section 949AK thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA1997.

Notification

84. This determination complies with the notification requirements set out in section 949AJ of the TCA1997, in particular section 949AJ(5) of the TCA1997 and section 949AJ(6) of the TCA1997. For the avoidance of doubt, the Parties are hereby notified of the determination under section 949AJ of the TCA1997 and in particular the matters as required in section 949AJ(6) of the TCA1997. This notification under section 949AJ of the TCA1997 is being sent via digital email communication **only** (unless the Appellant opted for postal

communication and communicated that option to the Commission). The Parties shall not receive any other notification of this determination by any other methods of communication.

Appeal

85. Any party dissatisfied with the determination has a right of appeal on a point or points of law only to the High Court within 42 days after the date of the notification of this determination in accordance with the provisions set out in section 949AP of the TCA1997. The Commission has no discretion to accept any request to appeal the determination outside the statutory time limit.



Clare O'Driscoll
Appeal Commissioner
29 November 2023