



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

12TACD2025

Between

██████████

Appellant

and

The Revenue Commissioners

Respondent

Determination

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Introduction

1. This is an appeal to the Tax Appeals Commission (“the Commission”) brought by [REDACTED] [REDACTED] (“the Appellant”) under section 119(h) of the Value-Added Tax Consolidation Act 2010 (“the VATCA 2010”) and section 949I of the Taxes Consolidation Act 1997 (“the TCA 1997”), against a refusal by the Revenue Commissioners (“the Respondent”) of a claim made by the Appellant for a repayment of value added tax (“VAT”) for the taxable period 1 March 2016 – 30 April 2016, on the ground that the Appellant’s claim for a repayment of the overpaid VAT was made outside the statutory timeframe.
2. On 25 September 2024, the Commission notified the Appellant and the Respondent that the Commissioner intended to adjudicate on this appeal without a hearing and informed the parties that they could request a hearing within 21 days of that notification. On 1 October 2024, the Respondent confirmed that it had no objection to the appeal being adjudicated on without a hearing. The Appellant did not reply to the Commission’s notification, either to object or to request a hearing. Accordingly, this appeal is adjudicated without a hearing, under section 949U of the TCA 1997.

Background

3. The Respondent submitted that on **30 March 2021**, the Appellant filed a VAT 3 return for 1 March 2016 – 30 April 2016 through the Revenue Online System (“ROS”).
4. The Respondent submitted that: *“caseworkers identified the refund as awaiting decision while undertaking file maintenance in 2024”*. On 25 April 2024, the Respondent wrote to the Appellant to inform him of its decision to refuse the Appellant’s claim for a repayment of VAT for the taxable period 1 March 2016 – 30 April 2016, on the ground that the Appellant’s VAT return for the taxable period was filed outside the four year time limit imposed by legislation.
5. On 12 May 2024, the Appellant submitted a Notice of Appeal to the Commission, which enclosed a copy of the Respondent’s correspondence of 25 April 2024. On 20 September 2024, the Appellant submitted a Statement of Case. In neither his Notice of Appeal nor his Statement of Case did the Appellant dispute that he had filed his VAT 3 return for the taxable period 1 March 2016 – 30 April 2016 in 2021.
6. On 19 July 2024, the Respondent submitted a Statement of Case. The Statement of Case enclosed a copy of the VAT 3 return submitted by the Appellant for the tax period 1 March 2016 – 30 April 2016, the header of which stated: *“Below is a copy of the VAT3 Return details received by ROS on 30 Mar 21”*. The Commissioner has considered all of the documentation submitted by the parties in this appeal.

Legislation and Guidelines

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

8. Section 99 of the VATCA 2010 provides (among other things):

(1) Subject to subsections (2) and (3), where in relation to a return lodged under Chapter 3 of Part 9 or a claim made in accordance with regulations, it is shown to the satisfaction of the Revenue Commissioners that, as respects any taxable period, the amount of tax (if any) actually paid to the Collector-General in accordance with Chapter 3 of Part 9 together with the amount of tax (if any) which qualified for deduction under Chapter 1 of Part 8 exceeds the tax (if any) which would properly be payable if no deduction were made under Chapter 1 of Part 8, the Commissioners shall refund the amount of the excess less any sums previously refunded under this subsection or repaid under Chapter 1 of Part 8 and may include in the amount refunded any interest which has been paid under section 114 ...

(4) A claim for a refund under this Act may be made only within 4 years after the end of the taxable period to which it relates ...

(6) The Revenue Commissioners shall not refund any amount of tax except as provided for in this Act or any order or regulations made under this Act."

Submissions

Appellant

9. In his Notice of Appeal, the Appellant submitted:

"I am appealing for late claim for repayment of tax. I claimed my tax repayment after 4 years of time. [REDACTED]

[REDACTED]
[REDACTED]"

10. In his Statement of Case, the Appellant submitted (among other things):

" [REDACTED]
[REDACTED]
[REDACTED] so I request you to refund my tax."

Respondent

11. In its Statement of Case, the Respondent submitted (among other things):

“[REDACTED] filed the March-April 2016 VAT 3 return on ROS 30th March 2021...

Caseworkers identified the refund as awaiting decision while undertaking file maintenance in 2024. As the March-April 2016 return was filed outside of the 4-year period following the end of the taxable period, the refund that was created on foot of the VAT 3 was disallowed on 27th March 2024. The notification issued from Revenue systems on 25th April 2024.”

Material Facts

12. Having read the documentation submitted, the Commissioner makes the following findings of material fact:

- 12.1. On 30 March 2021, the Appellant filed a VAT 3 return for the taxable period 1 March 2016 – 30 April 2016.
- 12.2. On 25 April 2024, the Respondent refused a repayment of the overpaid VAT for the taxable period 1 March 2016 – 30 April 2016 on the ground that the Appellant had filed his VAT 3 return for the taxable period 1 March 2016 – 30 April 2016 outside the four year statutory time limit.

Analysis

- 13. This appeal relates to the Respondent's refusal of the Appellant's claim for a repayment of overpaid VAT for the taxable period 1 March 2016 – 30 April 2016. The Commissioner is confined to considering whether that decision was in accordance with the applicable legislation.
- 14. In an appeal before the Commission, the burden of proof rests on the Appellant, who in this appeal must show that the Respondent was incorrect to refuse a claim for repayment of VAT overpaid by the Appellant. In the High Court case of *Menolly Homes Ltd v Appeal Commissioners and another* [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”.

Section 99 VATCA 2010

15. Section 99(4) of the VATCA 2010 provides that “*a claim for a refund under this Act may be made only within 4 years after the end of the taxable period to which it relates.*” In addition, section 99(6) of the VATCA 2010 provides that “*the Revenue Commissioners shall not refund any amount of tax except as provided for in this Act or any order or regulations made under this Act*”.
16. In this appeal, the relevant taxable period was 1 March 2016 – 30 April 2016. Therefore, the claim for a repayment of VAT must have been made within four years after the end of 30 April 2016. The Appellant has not disputed that he filed his VAT return for 1 March 2016 – 30 April 2016 on 30 March 2021 and the Commissioner has found this to be a material fact.
17. The wording in section 99 of the VATCA 2010 does not provide for extenuating circumstances in which the four year rule might be mitigated. The legislation does not afford the Commissioner any discretion to disapply the rule.
18. Previous determinations of the Commission have addressed the matter of repayment in the context of the four year statutory limitation period. These determinations may be found on the Commission website¹.
19. The Commissioner appreciates that this decision will be disappointing for the Appellant. The Commissioner acknowledges the financial and business circumstances which the Appellant outlined on appeal. The Appellant was entitled to check whether the Respondent’s refusal of his claim for a repayment of VAT was correct. However as noted above, the legislation does not afford the Commissioner any discretion on this matter.

Determination

20. For the reasons set out above, the Commissioner determines that the Appellant has not succeeded in showing that the Respondent was incorrect to refuse the Appellant’s claim for a repayment of overpaid VAT under section 99 of the VATCA 2010.
21. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular section 949U thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

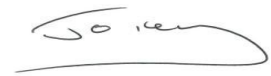
¹ www.taxappeals.ie

Notification

22. 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

23. 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.



Jo Kenny
Appeal Commissioner
7 November 2024