



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH  
TAX APPEALS COMMISSION

160TACD2025

Between

████████████████████

**Appellant**

and

**REVENUE COMMISSIONERS**

**Respondent**

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**Determination**

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**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 an overpayment of relevant contracts tax (“RCT”) in the amount of €4,200.81 for the 2019 tax year, on the ground that the repayment was 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 16 May 2024, the Appellant filed his RCT payment notifications for 2019. The notifications indicated that he had overpaid tax in the amount of €4,200.81. The Appellant claimed a refund of the overpaid tax. On 24 October 2024, the Respondent refused the refund claim, on the basis that the claim had been made more than four years after the chargeable period.

4. On 20 November 2024, the Appellant appealed against the refusal to the Commission. On 25 February 2025, 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

5. Section 865 of the TCA 1997 provides 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

6. In his Notice of Appeal, the Appellant stated that

*"I am appealing the decision of the revenue which I understand under the provisions of Section 865 of the Tax Consolidation Act 1997 Revenue is not permitted to refund the tax after a period of four years has elapsed from end of the reference period.*

*I respect the legislation but would plea for leniency in this situation.* [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] *As a result I am seeking compassionate consideration for the repayment of the tax.*

[REDACTED] *has impacted my ability to manage day to day responsibilities effectively. Due to this I was not aware of the tax legislation in Ireland which only allows a period of 4 years to reclaim RCT tax deductions. I realise this ordinarily would not be a reason to appeal however* [REDACTED]

[REDACTED]

[REDACTED] *strongly feel this is an extenuating circumstance.*

*It was* [REDACTED] *that looked after my accounts and repayment claims with the Irish revenue* [REDACTED]

[REDACTED] *did make an attempt to reclaim the tax by making contact with the revenue on 25/10/21, 27/1/22 and 30/5/22.*

*The RCT tax that has been refused to be refunded is from September 2019 to December 2019 which is only a few months from the cut off date, but is a substantial sum of €4,201.*

*Due to the double taxation agreement, the income I earned in Ireland was entered onto my UK tax return and the income was taxed, which is a substantial sum to have paid tax on twice.*

*I am hopeful that you will understand the unusual difficult nature of my circumstances and consider this request favourably.*

*Thank you for taking the time to consider my appeal and would be grateful if my case could be reviewed under compassionate/sympathetic grounds, and any assistance in alleviating the financial burden would be deeply appreciated."*

7. The Appellant's agent also submitted a Statement of Case on behalf of the Appellant, in similar terms to the above, which the Commissioner has considered in determining the appeal.

*Respondent*

8. In its Statement of Case, the Respondent stated that

*"The Appellant filed their 2019 RCT Payment Notifications on the 16th May 2024. The payment notifications indicated that they had a refund of tax due in the amount of €4,200.81.*

*However, this refund was refused by Revenue as the Payment Notifications 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 19th November 2024, the Appellant states that [REDACTED]. This prevented them keeping up to date with their tax affairs. Revenue sympathises with the appellant and acknowledges the difficult circumstances they suffered and continue to suffer. Revenue is however bound by legislation in relation to the time limits imposed in order for refunds to be claimed.*

*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 period in this instance is 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 or payment notification would have to have been submitted on or before the 31st December 2023.*

*As the 2019 payment notifications were filed outside of the 4-year limit imposed by Section 865 of the Acts, Revenue are precluded from allowing refund or offset of the overpaid tax."*

## Material Facts

9. Having read the documentation submitted by the parties, the Commissioner makes the following findings of material fact:
  - 9.1. On 16 May 2024, the Appellant filed his RCT payment notifications for 2019. The notifications indicated that he had overpaid tax in the amount of €4,200.81.
  - 9.2. The Appellant claimed a refund of the overpaid tax. On 24 October 2024, the Respondent refused the refund claim, on the basis that the claim had been made more than four years after the chargeable period.

## Analysis

10. The burden of proof in this appeal rests on the Appellant, who must show that the Respondent was incorrect to refuse his claim 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 year was 2019, and therefore the repayment claim had to be made by 31 December 2023.
12. The Appellant sought a refund of €4,200.81 on foot of the filing of his 2019 RCT payment notifications on 16 May 2024. The refund claim was refused by the Respondent on 24 October 2024. Consequently, the Commissioner is satisfied that the application for a refund was made after the four-year timeframe prescribed by section 865(4) of the TCA 1997.
13. In his submissions, the Appellant has stated that he [REDACTED] which impacted on his ability to manage his tax affairs, and he has asked that his appeal be reviewed “*under compassionate/sympathetic grounds.*” The Commissioner has every sympathy for the Appellant in respect of the very difficult circumstances he has experienced in recent years.

14. 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.
15. Consequently, as the Commissioner is satisfied that the Respondent correctly interpreted and applied section 865(4) when refusing the Appellant's claim for a refund, it follows that the appeal cannot succeed. The Commissioner understands that the Appellant will be disappointed with this determination. However, for the reasons as set out herein, the Respondent's decision to refuse the Appellant's claim for a refund is upheld.

### **Determination**

16. 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 a refund of RCT in the amount of €4,200.81 for 2019.
17. 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**

18. 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**

19. 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.

A handwritten signature in black ink, appearing to read 'Simon Noone', with a stylized, cursive script.

Simon Noone  
Appeal Commissioner  
2 April 2025