



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

161TACD2025

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 119(1)(h) of the Value-Added Tax Consolidation Act 2010 as amended (“VATCA 2010”) against the refusal by the Revenue Commissioners (“the Respondent”) to refund an overpayment of value-added tax (“VAT”) in the amount of €6,205 for the chargeable period of January to June 2020, on the ground that the repayment was sought outside the statutory timeframe.
2. In accordance with the provisions of section 949U of the Taxes Consolidation Act 1997 as amended (“TCA 1997”) and by agreement with the parties, this appeal is determined without a hearing.

Background

3. On 6 November 2024, the Appellant submitted a VAT3 return for the chargeable period of 1 January to 30 June 2020. He claimed a refund for overpayment of tax on foot of that return. On 14 November 2024, the Respondent notified the Appellant that his refund application was refused, as it had not been made within four years from the end of the chargeable period.

4. On 10 December 2024, the Appellant appealed against the refusal of the Respondent to the Commission. On 6 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 99(4) of the VATCA 2010 states 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.”

Submissions

Appellant

6. In written submissions, the Appellant stated that

*“Unfortunately the last five years have been a very difficult period for me, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]. [REDACTED]
[REDACTED]
[REDACTED]*

With all of that going on I did fall behind on my returns but although my returns were delayed I did make several payments to [the Respondent] to cover the taxes well within the time. In total I made payments amounting to 3 times the actual liability.

Several different payment demands were made by different solicitors for [the Respondent] and although I paid the amounts on the demands the estimates kept increasing and more demands arrived. I had to borrow from family members to make these payments. The estimates were significantly in excess of any previous VAT liability so therefore were considerably higher than the actual liability. I have included below details of my repayments and [the Respondent’s] allocations of these payments.

The reason that the amount which is now in dispute is so high is because of the way in which the allocations of the payments are made. After the payment of €22,619.37 on 18 Dec 2023 the liability was cleared in full but another demand for €38,225 was made and I paid that on 28/06/2024. The majority of the allocated overpayment comes from this second payment. Therefore it is the manner of the allocation of the payments that has caused the repayment to be outside the 4 year time limit.

Also the return for the period 01/07/2019 - 31/12/2019 was made on the 9th November 2023 but a refund was never issued for the overpayment of that return and [the Respondent] continued to allocate future payments against it although it had already been paid in full.

I wish to appeal the non-repayment of my VAT overpayment on these grounds and commit to keeping my returns up to date going forward. As a small business the non repayment of this tax would have an immense impact on my cash flow and jeopardize the future of my business and my mental health.”

Respondent

7. In written submissions, the Respondent stated that

“The due date for the VAT3 return January – June 2020 is 19th July 2020. [The Appellant] filed the January – June 2020 VAT3 return on ROS on the 6th November 2024. The refund that generated for January – June 2020 was disallowed on the 12th November 2024, notification issued to the [Appellant] on the 14th November 2024.”

Material Facts

8. Having read the documentation submitted by the parties, the Commissioner makes the following findings of material fact:

- 8.1. On 6 November 2024, the Appellant submitted a VAT3 return for the chargeable period of 1 January to 30 June 2020. He claimed a refund for overpayment of tax for that period on foot of the return.
- 8.2. On 14 November 2024, the Respondent notified the Appellant that his refund application was refused, as it had not been made within four years from the end of the chargeable period.

Analysis

9. 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 VAT. 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.”*
10. Section 99 of the VATCA 2010 provides for the refunding of overpaid VAT. However, section 99(4) states that a refund claim *“may be made only within 4 years after the end of the taxable period to which it relates.”* Furthermore, section 99(6) states 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.”*
11. Therefore, the Commissioner is satisfied that the requirement, that any claim for a refund of VAT is made within 4 years after the end of the relevant chargeable period, is mandatory, and no discretion is allowed to the Respondent, or to the Commission on appeal, to disapply it.
12. In this appeal, the chargeable period in question was January to June 2020. The end of the chargeable period was 30 June 2020. Therefore, any claim for a refund had to be made by no later than 30 June 2024. However, the uncontroverted evidence before the Commissioner is that the Appellant’s claim was made after this deadline. The Appellant submitted his VAT3 return for the chargeable period on 6 November 2024, and the claim for a refund was made on foot of that return.
13. Consequently, the Commissioner is satisfied that the Respondent was correct to refuse the Appellant’s claim for a refund. The Appellant has provided reasons for why his return was submitted late, and the Commissioner is sympathetic towards the Appellant regarding the difficult personal circumstances he has encountered in recent years. However, as stated above, the Commissioner is satisfied that the timeframe prescribed by section 99(4) is mandatory. Furthermore, while the Appellant has provided details of a large number of what he states are payments by him towards VAT liabilities, the Commissioner can only concern himself with the claim for a refund in respect of the January – June 2020 chargeable period.

14. In conclusion, the Commissioner determines that the Respondent correctly refused the Appellant's claim for a refund of VAT in respect of January – June 2020, and 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 a refund of VAT in the amount of €6,205 for January to June 2020.
16. This Appeal is determined in accordance with Part 40A of the TCA 1997 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
2 April 2025