



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

Between

170TACD2025

[REDACTED]

Appellant

and

REVENUE COMMISSIONERS

Respondent

Determination

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Introduction

1. This is an appeal to the Tax Appeals Commission (“the Commission”) pursuant to and in accordance with the provisions of section 949I of the Taxes Consolidation Act 1997 (“the TCA 1997”) brought by [REDACTED] (“the Appellant”) regarding the assessment to income tax due for the tax year 2020 in the amount of €3,245.31 issued by the Revenue Commissioners (“the Respondent”).
2. In accordance with the provisions of section 949U of the TCA 1997 and by agreement with the parties, this appeal is adjudicated and determined without a hearing.

Background

3. On 15 October 2024 the Appellant filed her Notice of Appeal with the Commission. The grounds of appeal in the Notice of Appeal are:

“I’m appealing as it was not my fault the revenue duplicated my tax credits on USC for 2020. In 2020 if I was correctly taxed this would not have been a problem. My situation has changed as of January 2024 and I’m on reduced working week. Also, I believe that I will have a similar situation with part of 2021, incorrectly credited for USC. Which is outrageous. To say I was upset and worried about having so much extra coming out of my wages for the next 4 year is an understatement.”

Legislation

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

Section 1 of the TCA 1997: Interpretation of this Act; provides *inter alia* that:

(1).....;

(2) *In this Act and in any Act passed after this Act, except where the context otherwise requires –*

“the Capital Gains Tax Acts” means the enactments relating to capital gains tax in this Act and in any other enactment;

“the Corporation Tax Acts” means the enactments relating to corporation tax in this Act and in any other enactment, together with the Income Tax Acts in so far as those Acts apply for the purposes of corporation tax;

“the Income Tax Acts” means the enactments relating to income tax in this Act and in any other enactment;

“the Tax Acts” means the Income Tax Acts and the Corporation Tax Acts.

Section 3(1) of the TCA 1997: “Definitions”

“tax” is provided as “income tax”.

Section 112 (1) of the TCA 1997: *Basis of assessment, persons chargeable and extent of charge*, provides that:

- (1) *Income tax under Schedule E shall be charged for each year of assessment on every person having or exercising an office or employment of profit mentioned in that Schedule, or to whom any annuity, pension or stipend chargeable under that Schedule is payable, in respect of all salaries, fees, wages, perquisites or profits whatever therefrom, and shall be computed on the amount of all such salaries, fees, wages, perquisites or profits whatever therefrom for the year of assessment.*

Section 960C of the TCA 1997: Tax to be due and payable to Revenue Commissioners

Tax due and payable under the Acts shall be due and payable to the Revenue Commissioners.

Submissions

The Appellant’s Submissions

5. The Commissioner sets out hereunder an extract of the Appellant’s submissions in her Statement of Case:

“In the Statement of Liability for 2020, it was noted that revenue duplicated my USC credits in error. I had noticed it was less during 2020 but thought that my [REDACTED] USC had therefore been increased. I did not check this at the time. Due to Covid I was obviously not spending money. So to have been charged correctly during that year would not have been an issue.”

The Respondent’s Submissions

6. The Commissioner sets out hereunder an extract of the Respondent’s submissions from its Statement of Case:

“1. Statutory provisions and other materials being relied on

1.1 Section 112(1) of the Taxes Consolidation Act (TCA) 1997.

1.2 Section 960 of the TCA 1997.

1.3 134TACD2024.

2. Outline of relevant facts

The Appellant was employed with [REDACTED] until [REDACTED] 2020. The Appellant commenced in a new employment with [REDACTED] on [REDACTED] 2020.

The Appellant was taxed under joint assessment with their spouse for 2020.

A Tax Credit Certificate for 2020 issued to the Appellant 10 December 2019 which confirmed their tax credits of €3,656.00 and a rate band allocation of €32,281.00 for their employment with [REDACTED] in 2020. A Revenue Payroll Notification (RPN) issued to the employer of the Appellant in advance of 2020 to confirm their tax credit and rate band allowances for 2020.

As the Appellant changed employments in 2020, their new employer advised the Respondent of the Appellants new employment on [REDACTED] 2020. Following this update, the Respondent issued the Appellant with an amended Tax Credit Certificate for 2020, which confirmed an annual tax credit allocation of €6,956.00 and a rate band allocation of €32,281.00.

The Respondent issued to new employer of the Appellant a revised RPN number [REDACTED] on [REDACTED] 2020, which the employer utilised when operating the payroll of the Appellant for the remainder of 2020.

The revised RPN [REDACTED] allocated the Appellant additional tax credits for 2020 tax period. The Respondent can confirm the allocation of additional tax credits in this instances was due to an internal systems error which led to incorrect information issuing to the Appellant via their amended Tax Credit Certificate on [REDACTED] 2020 and the employer of the Appellant on [REDACTED] 2020.

The Respondent can confirm this inadvertent technical error led to the Appellant's tax credits duplicating in 2020 from €3,656.00 to €6,956.00.

In this case, the Respondent wrote to the Appellant on 19 June 2024 and requested that they complete an income tax return for 2020 as required by Section 879 TCA 1997, prior to 5 August 2024.

Following on from this correspondence, the Respondent generated a Statement of Liability for 2020 which issued to the Appellant on 11 September 2024. The Statement of Liability confirmed an underpayment on record for 2020 of €3,245.31.

The underpayment will be collected by the Respondent through a reduction of the Appellant's tax credits from 2025 – 2028:

- 2025 - €811.32*
- 2026 - €811.33*
- 2027 - €811.33*
- 2028 - €811.33*

Calculation of the Appellants PAYE liability in 2020:

Gross income liable to PAYE €141,432.10

PAYE due @ 20%: €14,290.39

PAYE due @40%: €27,992.07

PAYE Due: €42,282.46

Less tax credits: €7,050.99

Less tax paid: €31,986.17

Underpayment: €3,245.30

The Respondent sincerely regrets the systems error which led to the issuing of incorrect tax credits to the Appellant in this matter. The Respondent apologises to the Appellant for the distress experienced by them in this case. However, despite the circumstances of this case, as per the Statement of Liability issued to the Appellant on 11 September 2024 an outstanding liability of €3,245.31 is due and payable by the Appellant as per Section 960C TCA 1997.

3. Relevant case law

Menolly Homes Ltd v Appeal Commissioners and Revenue Commissioners: [2010] ITR 75 states that 'The burden of proof in this appeal process is, as in all taxation appeals, on the taxpayer' (para. 22). The onus, therefore, is on the Appellant to show that the Respondent has misapplied the legislation with regard to the taxation of their income for 2020.

The judgement of the court in Bolands Limited v Revenue Commissioners 1 ITR 34 states that the burden of proof falls on “he who asserts”, i.e., the Appellant. Furthermore, in the case of MacEachern v Carr [1996] STC 282, it was observed that one of the reasons the onus is justified is because it is only the taxpayer who has access to the full facts relating to their personal situation. In this case, the Respondent can find no evidence to amend the Statement of Liability issued for the 2020 period.

In Lee v Revenue Commissioners [2021] IECA 18, the Court of Appeal considered in some detail the scope of the jurisdiction of the Appeals Commissioners. There it was held that the function of an Appeals Commissioner in hearing an appeal is to address the question of whether there is a charge to tax to be applied by reference to legislation and, if there is, the correct amount owed. In this case the facts are clear the Appellant was granted the benefit of additional tax credits in 2020 and therefore, the Statement of Liability for 2020 issued to the Appellant on 11 September 2024 confirming an underpayment of €3,245.31 is valid.

4. Conclusion

The facts of the case clearly establish that the Appellant received the benefit of additional tax credits via their payroll in 2020.

The Respondent has every sympathy with the Appellant’s position as the technical issue which allocated them additional tax credits in 2020 was outside of their control. However, they did receive the benefit of the additional tax credit through their 2020 payroll and therefore the liability is now due.

The Respondent would also emphasise that it did issue the Appellant with an amended Tax Credit Certificate for 2020 on 20 March 2020 which outlined additional tax credits on their record. The Appellant did not contact the Respondent regarding this matter in 2020.

The Respondent has sought to mitigate any potential hardship to the Appellant by spreading out the underpayment in this case over a 4-year period via a reduction of their tax credits. The Respondent notes it is willing to extend the collection period beyond 4 years if the Appellant requires.”

Material Facts

7. Having considered and assessed the documentation submitted by the parties in this appeal, the Commissioner makes the following findings of material fact:

- 7.1. due to an error with the Respondent's internal systems incorrect information was issued to the Appellant via her amended Tax Credit Certificate on [REDACTED] 2020 and separately to the Appellant's employer on [REDACTED] 2020;
- 7.2. due to the Respondent's error (as above) the Respondent allocated to the Appellant additional tax credits for the 2020 tax year and instead of the Appellant being allocated tax credits to the value of €3,656.00, she was allocated with tax credits to the value of €6,956.00;
- 7.3. on 19 June 2024, the Respondent requested the Appellant complete an income tax return for the tax year 2020 and on 11 September 2024, the Respondent issued a Statement of Liability for the tax year 2020 with a demand for an underpayment of income tax for the 2020 tax year in the sum of €3,245.31.

Analysis

8. The Commissioner is bound by the prevailing legislation and guiding case law from the Superior Courts which has found, that in any appeal before the Commission, the burden of proof rests on the Appellant and that it is the Appellant who must satisfy the Commission at the threshold of the balance of probabilities, that an assessment to tax made against them is incorrect. This binding legal principle was stated in the High Court case of *Menolly Homes Ltd v Appeal Commissioners and Anor.* [2010] IEHC 49, wherein at paragraph 22, Charleton, J. stated:

"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".

9. The Commissioner also refers to paragraph 12 of the High Court case of *Menolly Homes*, wherein Charleton. J, stated:

"Revenue law has no equity. Taxation does not arise by virtue of civic responsibility but through legislation. Tax is not payable unless the circumstances of liability are defined, and the rate measured, by statute..."

10. The Commission is a statutory body and it can only lawfully operate within the confines of empowering and enabling legislation. *The Commissioner refers to Lee v The Revenue Commissioners* [2021] IECA 18, wherein Murray, J. stated at paragraph 76:

"The jurisdiction of the Appeal Commissioners is limited to determining whether an assessment correctly charges the relevant taxpayer in accordance with the

relevant provisions of the TCA. That means that the Commissioners are restricted to inquiring into, and making findings as to, those issues of fact and law that are relevant to the statutory charge to tax. Their essential function is to look at the facts and statutes and see if the assessment has been properly prepared in accordance with those statutes. They may make findings of fact and law that are incidental to that inquiry. Noting the possibility that other provisions of the TCA may confer a broader jurisdiction and the requirements that may arise under European Law in a particular case, they do not in an appeal of the kind in issue in this case enjoy the jurisdiction to make findings in relation to matters that are not directly relevant to that remit, and do not accordingly have the power to adjudicate upon whether a liability the subject of an assessment has been compromised, or whether Revenue are precluded by legitimate expectation or estoppel from enforcing such a liability by assessment, or whether Revenue have acted in connection with the issuing or formulation of the assessment in a manner that would, if adjudicated upon by the High Court in proceedings seeking Judicial Review of that assessment, render it invalid.”

11. The Commissioner refers to section 960C of the TCA 1997 which provides that tax due and payable under the Acts shall be due and payable to the Respondent.
12. It is noted that section 1 of the TCA 1997: *Interpretation of this Act*, provides *inter alia* that the Income Tax Acts means the enactments relating to income tax in the Act and in any other enactment and the Tax Acts means the Income Tax Acts and the Corporation Tax Acts.
13. It is noted that at section 3(1) of the TCA 1997 the definition of “*tax*” is provided as “*income tax*”.
14. It is noted that section 112(1) of the TCA 1997 provides that income tax under Schedule E shall be charged for each year of assessment on every person having or exercising an office or employment of profit mentioned in that Schedule, or to whom any annuity, pension or stipend chargeable under that Schedule is payable, in respect of all salaries, fees, wages, perquisites or profits whatever therefrom. Further that any such person shall be computed on the amount of all such salaries, fees, wages, perquisites or profits whatever therefrom for the year of assessment.
15. It is noted that section 960C of the TCA 1997 provides that tax due and payable under the Acts shall be due and payable to the Revenue Commissioners.
16. The Commissioner having assessed the provisions of sections 1, 3, 112(1) and 960C of the TAC 1997 finds that the Respondent is empowered and mandated to demand

payment of income tax due under the Tax Acts and to issue notices of assessment in that regard.

17. The Commissioner refers to section 960C of the TCA 1997 which provides that tax due and payable under the Acts shall be due and payable to the Respondent. The Commissioner finds that the word "*shall*" means that the obligation to pay to the Respondent taxes due under the Acts is mandatory and that there is no leeway and/or discretion not to pay the taxes due.
18. The Commissioner has assessed the material facts and the grounds of the Appellant's appeal which are that, given the circumstances under which the underpayment of income tax arose, that she be discharged from the demand for payment of the underpayment of income tax for the 2020 tax year. The Commissioner finds that the Appellant's claim for discharge from the assessment to tax for the 2020 tax year must be refused, as the Respondent is entitled by virtue of the provisions of section 960C of the TCA 1997 to issue the notice of assessment and seek payment, and that the Appellant must pay the demanded amount to the Respondent. Further the Commissioner finds that she has no discretion in the above finding.
19. The Commissioner has assessed all matters in this appeal and finds that the Appellant has not established on the balance of probabilities that the Respondent was not entitled to issue the notice of assessment of income tax for the tax year 2020. Accordingly, for the reasons set out above the Commissioner finds that the Appellant's appeal is unsuccessful.
20. Accordingly, the Commissioner finds that further to the provisions of section 949 AL(1) (b) of the TCA 1997 the decision by the Respondent to demand payment of the underpayment of income tax for the tax year 2020 in the amount of €3,245.31 shall stand.

Determination

21. The Commissioner for the reasons set out above finds that the Appellant has not been successful in her appeal and the grounds of appeal in the Notice of Appeal are denied. Further, the Commissioner finds that further to the provisions of section 949 AL(1) (b) of the TCA 1997 the decision by the Respondent to issue the notice of assessment of income tax for the tax year 2020 in the amount of €3,245.31 shall stand.
22. The Commissioner acknowledges that the Appellant was within ■■■ rights to seek an appeal of the Respondent's decision. The Commissioner understands that the Appellant may be disappointed with the outcome of ■■■ appeal.

23. This appeal is determined in accordance with the provisions of 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

24. 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

25. 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.



Leonora B. Doyle
Appeal Commissioner
17 April 2025