



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

187TACD2025

Between

[REDACTED]

Appellant

and

REVENUE COMMISSIONERS

Respondent

Determination

Introduction

1. This is an appeal to the Tax Appeals Commission ("the Commission") brought by [REDACTED] ("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 alleged overpayment of value-added tax ("VAT") in the amount of €1,000 for the chargeable period of May – June 2010, 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 22 August 2024, the Appellant submitted a VAT 3 return for the May – June 2010 period. The return showed that there had been an overpayment of VAT. The Appellant sought a repayment of the overpaid amount.

4. On 4 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.
5. On 2 December 2024, the Appellant appealed against the Respondent's refusal to the Commission. On 2 April 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

6. 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

7. In his notice of appeal, the Appellant stated that

"An estimate for outstanding vat returns was made on the 22nd July 2024 [sic] for jan 2010 _sept 2010 [sic] for €17000 _ With amount paid at €5000 ...this period had previously been subjected to warrant s of €8159 with interest paid of €6804

Notice of non repayment of over due vat was sent on the 4th of Nov...I have written to the case worker to challenge this non refund."

8. Due to a repeated failure by the Appellant to submit a Statement of Case, on 1 April 2025 the Commission issued a notice of intention to dismiss the appeal for non-compliance with directions. On 2 April 2025, the Appellant replied to that notice as follows:

"I wish to continue the appeal as clearly this isn't right.

I have paid over €14963 in estimates and interest payments via sheriff warrants for that period .see attached

The vat period was retro registered in June 2010 to 1/1/2010 see attached .

I have spend over €1000 in Accountant's fees to show that the estimate of €17000 on the 22nd July 2024 was not correct!...

Can you inform me of some mechanism of appeal whereby I can retrieve this overpayment on estimates and interest charges?"

Respondent

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

"The due date for the VAT 3 return for May-June 2010 is 19th July 2010...[The Appellant] filed the May-June 2010 VAT return via Integrated Correspondence on the 22nd August 2024...The refund that generated for May-June 2010 was disallowed on the 10th September 2024, notification issued to the customer on the 4th November 2024."

Material Facts

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

- 10.1. On 22 August 2024, the Appellant submitted a VAT 3 return for the May – June 2010 period. The return showed that there had been an overpayment of VAT. The Appellant sought a repayment of the overpaid amount.
- 10.2. On 4 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

- 11. 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."*
- 12. 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.”

13. Therefore, the Commissioner is satisfied that the requirement, that any claim for a refund of VAT be 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.
14. In this appeal, the chargeable period was May – June 2010. Therefore, any claim for a refund had to be made by no later than 30 June 2014. However, the evidence before the Commissioner is that the Appellant’s claim was made long after this deadline. The Appellant submitted his VAT 3 return for the chargeable period in August 2024, and the claim for a refund was made on foot of that return.
15. Consequently, the Commissioner is satisfied that the Respondent was correct to refuse the Appellant’s claim for a refund. It appears that the Appellant is aggrieved by estimates of tax raised by the Respondent against him. The documentation submitted by him refers to estimates for chargeable periods in 2010 – 2012. No appeal has been brought to the Commission in respect of these estimates, and therefore they do not fall to be considered in this determination. Furthermore, the Commissioner would remind the Appellant that section 119 of the VATCA 2010 prescribes a time limit of 30 days from a decision/determination of the Respondent for the making of an appeal to the Commission.
16. In conclusion, the Commissioner determines that the Respondent correctly refused the Appellant’s claim for a refund of VAT in respect of May – June 2010, and the appeal is unsuccessful.

Determination

17. 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 for the chargeable period of May – June 2010.
18. 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

19. 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

20. 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
13 May 2025