



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

195TACD2025

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 787D of the Taxes Consolidation Act 1997 as amended ("TCA 1997"), against the refusal by the Revenue Commissioners ("the Respondent") to allow tax relief on a fee of €400 paid by him to a third party broker. The fee was paid to arrange for the setting up of the Appellant's Additional Voluntary Contributions ("AVCs") to his Personal Retirement Savings Account ("PRSA").
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. In 2023, the Appellant notified the Respondent that he had made AVCs to his PRSA. The Respondent has afforded him tax relief on his contributions. He queried whether he was entitled to relief on the fee of €400 paid by him to a broker to set up his AVC account. On 8 January 2025, the Respondent formally notified the Appellant that he was not entitled to tax relief in respect of the fee.

4. On 14 January 2025, the Appellant appealed against the Respondent's refusal to the Commission. On 23 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

5. Section 787A(1) of the TCA 1997 states *inter alia* that

““additional voluntary PRSA contributions” means contributions made to a PRSA by an employee, who is a member of an approved scheme or of a statutory scheme, which are –

- (i) contributions made under a rule or part of a rule, as the case may be, of a retirement benefits scheme (in this definition referred to as the “main scheme”) which provides specifically for the payment of voluntary contributions to a PRSA by members of the main scheme...”*

6. Section 787C(1) of the TCA 1997 states that

“Subject to the provisions of this Chapter, relief from income tax shall be given in respect of contributions to a PRSA by an individual chargeable to tax in respect of relevant earnings from any trade, profession, office or employment carried on or held by that individual.”

Submissions

Appellant

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

“Revenue have refused to allow the set-up fees for a PRSA AVC account to be granted relief. It is not possible to have an AVC account without paying a fee to the relevant provider. For those making payroll deductions to their AVC provider these fees are deducted at source and granted relief, however Revenue have stated this will not be allowed for the one-off AVC account. This is discriminatory treatment based on the contribution method to the AVC.”

8. In a further submission, he stated that

“The documentation from Revenue appears to misunderstand the issue – as can be seen from the email thread with Revenue officials when setting up this case – Revenue allows tax relief on fees paid to brokers/AVC providers when payments are made from salary (this is confirmed in the thread).

Revenue does not allow relief on the set-up or contribution fee when making a one-off payment. It is also not possible to directly purchase a PRSA, so the fees are an inherent part of the product.”

Respondent

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

“The Appellant is currently in employment with [REDACTED]

[REDACTED].

The Appellant first notified the Respondent of their PRSA AVC on 18 October 2023 following the submission of their 2022 Income Tax Return.

The Respondent can confirm the Appellant has been granted the maximum relief allowable for their PRSA AVC contributions for the periods 2022-2024 following the submission of income tax returns and relevant supporting documentation for these claims.

Additionally, the Appellant has been granted relief in-year in 2025 in respect of the contributions made to their PRSA AVC...

The Appellant contacted the Respondent on 17 September 2024 to query “if the set-up fee for an AVC product is eligible for tax relief in the same manner as AVC payments?”

The Appellant submitted a receipt for €400.00 on 26 September 2024 from [REDACTED] [REDACTED] which confirmed he had engaged their services for setting-up his PRSA AVC account...

The Respondent wrote to the Appellant on 8 January 2025 formally refusing his claim of €400 for the setup costs associated with creating their PRSA AVC account...

For the matter under appeal the Appellant is seeking to claim for additional relief on an expense incurred by them for using a broker/financial advisor to setup their PRSA AVC account. There is no basis within the existing legislation to grant such relief...

The Respondent is not aware of any provision of the TCA which provides for TAC to adjudicate on matters outside of its jurisdiction, and respectfully contends in this matter the Appellant has not provided a valid legislative argument on which the Respondent has erred in this matter.”

Material Facts

10. Having read the documentation submitted by the parties, the Commissioner makes the following findings of material fact:
 - 10.1. The Appellant has made AVCs to his PRSA. He paid a fee of €400 to a third party broker to set up the AVC account.
 - 10.2. The Appellant sought tax relief on the fee paid to the broker. The Respondent refused his request.

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 tax relief. 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. Chapter 2A of Part 30 of the TCA 1997 provides for tax relief on additional voluntary contributions made to PRSAs. In this appeal, the Appellant has been granted relief on his AVCs. However, the Respondent refused his claim for relief on a set up fee paid by him to a broker to set up his AVC account.
13. Section 787C(1) of the TCA 1997, quoted above, provides for relief *“in respect of contributions to a PRSA”*. It does not state that payments to brokers qualify for relief. Furthermore, section 787A(1) defines *“additional voluntary PRSA contributions”* as contributions made by an employee to a PRSA, and does not include payments to third party brokers. The Appellant has not pointed to any provision of the TCA 1997 which provides for the granting of relief on such payments.
14. This appeal concerns a claimed relief for taxation, and therefore the Commissioner is satisfied that the principles enunciated by Kennedy CJ at page 766 of *Revenue Commissioners v Doorley* [1933] IR 750 are applicable:

“Now the exemption from tax, with which we are immediately concerned, is governed by the same considerations. If it is clear that a tax is imposed by the Act under consideration, then exemption from that tax must be given expressly and in clear and unambiguous terms, within the letter of the statute as interpreted with the assistance of the ordinary canons for the interpretation of statutes. This arises from the nature of the subject-matter under consideration and is complementary to what I have already said in its regard. The Court is not, by greater indulgence in delimiting the area of exemptions, to enlarge their operation beyond what the statute, clearly and without doubt and in express terms, except for some good reason from the burden of a tax thereby imposed generally on that description of subject-matter. As the imposition of, so the exemption from, the tax must be brought within the letter of the taxing Act as interpreted by the established canons of construction so far as possible”.

15. Therefore, it is necessary for the Appellant to show that the claimed exemption from tax was “*given expressly and in clear and unambiguous terms*”. However, as explained above, the Commissioner is satisfied that the TCA 1997 does not provide for relief on payments to third party brokers. Consequently, it follows that the Appellant is not entitled to the relief sought and that the Respondent was correct to refuse his claim.
16. The Appellant has claimed that the Respondent's refusal to accept his claim is discriminatory. However, it is clear that the Commission does not have jurisdiction to consider arguments based on equitable grounds or that address matters of policy. The Commission's jurisdiction is limited to interpreting and applying the provisions of the Tax Acts; *Lee v Revenue Commissioners* [2021] IECA 18. Additionally, while the Appellant has stated that the Respondent “*allows tax relief on fees paid to brokers/AVC providers when payments are made from salary*”, the Respondent has explained in its correspondence with him that relief is granted on the full contribution to the PRSA, irrespective of whether or not the pension provider deducts fees from the fund. This does not mean that relief is allowable on payments made directly to the provider or a broker.
17. In conclusion, the Appellant has not demonstrated that the Respondent incorrectly refused his claim for relief on his payment of a fee to a third party broker, and the Commissioner is satisfied that the payment does not attract relief under the TCA 1997. Therefore, the appeal is unsuccessful.

Determination

18. 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 claim for relief of income tax in respect of a payment of €400 made to a broker to set up his AVC account.

19. 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

20. 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

21. 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
17 June 2025