



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

Between

212TACD2025



Appellant

and

THE REVENUE COMMISSIONERS

Respondent

Determination

Contents

Introduction	3
Background.....	3
Legislation and Guidelines	5
Submissions	6
Appellant's Submissions.....	6
Respondent's Submissions	8
Material Facts	9
Analysis	11
Determination	13
Notification	14
Appeal	14

Introduction

1. This matter comes before the Tax Appeal Commission (hereinafter the “Commission”) as an appeal against a Statement of Liability for the year 2023 issued by the Revenue Commissioners (hereinafter the “Respondent”) on 22 October 2024 which showed an underpayment of tax for 2023 of €1,923.06.

Background

2. [REDACTED] (hereinafter the “Appellant”) is a taxpayer.
3. On 2 August 2022, the Appellant became entitled to the State Contributory Pension, however, the Appellant did not claim her entitlement to the State Contributory Pension until 23 February 2023.
4. As a result of the delayed claim, arrears of €6,930.30 in relation to the State Contributory Pension for 2022 which were due to the Appellant arose.
5. In addition, arrears of €2,011.10 in relation to the State Contributory Pension which were due to the Appellant arose between 1 January 2023 and 23 February 2023.
6. The total arrears for 2022 and 2023 amounted to €8,941.40 which were subsequently paid to the Appellant by the Department of Social Protection in June 2023.
7. The Appellant began receiving regular payments from the Department of Social Protection in relation to the State Contributory Pension in March 2023 and received payments of the State Contributory Pension totalling €15,339.60 relating to 2023.
8. On 12 April 2023, the Respondent received notification from the Department of Social Protection that the Appellant was in receipt of State Contributory Pension payments.
9. On 13 April 2023, the Respondent issued an Amended Tax Credit Certificate to the Appellant which listed income in the amount of €15,226.90 for 2023 in relation to the State Contributory Pension.
10. In addition, the Amended Tax Credit Certificate for 2023 issued on 13 April 2023 reduced the Appellant’s tax credits by €3,045.28 to account for the State Contributory Pension income which the Appellant would be entitled to in 2023.
11. On 13 January 2024, the Respondent received information from the Department of Social Protection which stated that the Appellant had received payments of €22,269.90 in 2023 in relation to the State Contributory Pension.

12. On 27 September 2024, the Appellant submitted an income tax return to the Respondent for 2023 which was processed by the Respondent on 22 October 2024.
13. On 22 October 2024, the Respondent issued the contested Statement of Liability for 2023 which showed an underpayment of tax for 2023 of €1,923.06.
14. The Appellant submitted a Notice of Appeal to the Tax Appeals Commission on 22 November 2024.
15. On 10 February 2025, the Commission wrote to the parties in this appeal informing them that the Commissioner intended to determine this appeal without an oral hearing pursuant to the provisions of section 949U of the Taxes Consolidation Act 1997 (hereinafter the "TCA 1997"). No objection was received from the parties and this appeal has therefore been determined without an oral hearing pursuant to the provisions of section 949U of the TCA 1997.
16. Subsequent to the Commission notifying the Respondent of the Appellant's Notice of Appeal, the Respondent re-engaged with the Department of Social Protection and received confirmation that in 2023 the Appellant had received the following payments:
 - 16.1. €6,930.30 in relation to arrears of the State Contributory Pension of €6,930.30 for 2022; and
 - 16.2. €15,339.60 in relation to the State Contributory Pension for 2023..
17. As a result, on 7 February 2025 the Respondent:
 - 17.1. Issued an Amended Statement of Liability in relation to the year 2022 which showed a receipt of €6,930.30 in relation to the State Contributory Pension; and
 - 17.2. Issued an Amended Statement of Liability in relation to the year 2023 which showed a receipt of €15,339.60 in relation to the State Contributory Pension.
18. The Amended Statement of Liability in relation to 2022 showed an underpayment of tax of €2,772.12.
19. The Amended Statement of Liability in relation to 2023 showed an overpayment of tax of €1,184.25.
20. An offset of the overpayment of €1,184.25 for 2023 against the underpayment of €2,772.12 for 2022 left a balance of tax due by the Appellant of €1,587.87.

21. The Respondent has informed the Commissioner that the balance of tax due by the Appellant of €1,587.87 can be collected from the Appellant through a reduction of her tax credits from 2026 - 2029 as follows:

21.1. 2026 = €396.96 per year

21.2. 2027 = €396.97 per year

21.3. 2028 = €396.97 per year

21.4. 2029 = €396.97 per year

22. This, the Respondent submits, equates to approximately €33.08 per month or €7.63 per week.

Legislation and Guidelines

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

Section 112(1) of the TCA 1997:

“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 126 of the TCA 1997 “Tax treatment of certain benefits payable under Social Welfare acts”:

“... ”

2(a) This subsection shall apply to the following benefits payable under the Acts—

(i) widow’s (contributory) pension,

(ii) orphan’s (contributory) allowance,

(iii) retirement pension, and

(iv) old age (contributory) pension.

(b) Payments of benefits to which this subsection applies shall be deemed to be emoluments to which Chapter 4 of Part 42 applies.

... ”

Section 983 of the TCA 1997 “Interpretation (Chapter 4)”

“In this Chapter, except where the context otherwise requires—

“emoluments” means anything assessable to income tax under Schedule E, and references to payments of emoluments include references to payments on account of emoluments;

...”

Submissions

Appellant’s Submissions

24. The Appellant submitted the following ground of appeal in her Notice of Appeal:

“I am appealing the decision of the Inspector of Taxes.

The Statement of Liability for the tax year 2023 is incorrect in my view, I only worked 8 months of that year and it seems I have been taxed for large pension.”

25. In her Statement of Case, the Appellant submitted that she is contesting the Statement of Liability for the tax year 2023. She stated that:

“My case and focus relate to the taxing of parts of [the Contributory) pension. It also challenges Revenue that I owe €2,390.54 for 2023.

Following a phone call recently with the Revenue, I contacted the Dept of Social Protection and requested a Statement of Social welfare payments which gives details of 2023 payments of which I enclose along with significant S.P. letters.

The Social Protection Statement begins in August to Dec 2022 when I should have begun my Contributory State Pension However, I did not apply until February 2023. Letter from Social Protection 7 March 2023 is the decision from the Dept that I was due the pension at a rate of €265.30 added the Living Alone Allowance of €22 which added up to €287.30.

The first payment of the State Contributory Pension began on the third of March 2023. The Dept informed me that I was due backpay and that they would contact Revenue.

On the 7th June 2023, I was reimbursed by EFT payment the sum of €8,654.10. Please see letter enclosed. The said they would inform Revenue.

In terms of my employment, I was retired by the [REDACTED] on 2nd August 2023. From that date my only income was the State Contributory Pension €287.30 which included living allowance.

I have broken the payments into the different months, that make up the Social Protection payments of €22,352.20. This takes in the living allowance and Christmas bonus. That SP payment includes the reimbursement of €8,654.10. This payment takes in August 2022 to March 2023 and is included in the sum of €22,269.90.

This is where we need to concentrate on my case. I am contesting that the judgement of the office of Revenue in taxing me on my Social Protection Weekly Contributory Pension and Living Alone Allowance which was my only income from August 2023 to December 2023. Twenty two weeks including the Christmas Bonus at €287 which includes Living Alone Allowance. My basic mathematics counts that at €6,601. This payment which I as a worker have paid PRSI all my life should not be taxed as I was not working.

I have broken down the dates as can be seen in the Statement from Social Protection which begins in August 2022.

Social Protection year August to December 2022

...

January to August 2023

...

Retirement 2 August 2023 see letter

Only income August 2023 Contributory Pension + Living Alone Allowance + Christmas Bonus.

...

Here I enclose a set of pay slips recording wages received and tax paid from January to July 2023. These slips show I began paying income tax relating to contributory pension 26th April 2023. The logic I am following that I owe tax for the other weeks backwards from 26 April to Aug 2022 but it should be analysed within the taxable income of €53,950.24 and not on S.P.€60,531.15 as stated on Tax Statement 2023.

I am contesting Revenue for the sum of 2,390.54. I could be wrong but I feel I am owed money from Revenue when all added accordingly. It should also include the small medical refunds.

If none of what I argue is the Revenue's or Tax Commissioners findings, I would like to understand why I who have paid down all the years towards my State Contributory Pension would be taxed when I was actually not earning – not working?."

26. The appellant submitted the following documentation in support of her appeal:
- 26.1. Notice of Appeal;
 - 26.2. Statement of Case;
 - 26.3. Letter from Department of Social Protection dated 19 December 2024 containing statement of social welfare payments from 29 July 2022 to 15 December 2023;
 - 26.4. Letter from the Department of Social Protection dated 7 March 2023;
 - 26.5. Letter from the Department of Social Protection dated 7 June 2023;
 - 26.6. Last pay slip from [REDACTED] dated 26 July 2023;
 - 26.7. Pay slips for 2023;
 - 26.8. Confirmation of retirement from [REDACTED] dated 2 February 2024;
 - 26.9. Wage slips outlining reimbursement of missed wages from [REDACTED];
 - 26.10. Statement of Liability for 2023 issued on 22 October 2024.

Respondent's Submissions

27. The Respondent submitted that payments made by the Department of Social Protection are subject to income tax pursuant to the provisions of section 112 of the TCA 1997.
28. The Respondent submitted that the Department of Social Protection holds an Exclusion Order in respect of taxable payments that it makes under the Social Welfare Acts. As a result, it was submitted, all such payments from the Department of Social Protection continue to be assessed to income tax on an earnings basis of assessment.
29. The Respondent submitted that, following receipt of the appeal submission from the Appellant, it had engaged directly with the Department of Social Protection which confirmed the Appellant received an arrears payment in June 2023 for the period 1 August 2022 – 23 February 2023 in the amount of €8,941.40 in respect of her State Contributory Pension.

30. The Respondent submitted that it had received a breakdown from the Department of Social Protection of the State Contributory Pension arrears amounts paid to the Appellant in June 2023:
- 30.1. for arrears relating to 2022 an amount of €6,930.30; and
 - 30.2. for arrears relating to 2023 an amount of €2,011.10.
31. The Respondent submitted that on 7 February 2025, on foot of the updated information received from the Department of Social Protection, it issued Amended Statements of Liability to the Appellant for the years 2022 and 2023 which reflect the State Contributory Pension paid to the Appellant and which, the Respondent submitted, were chargeable for each year.
32. The Respondent submitted that the Amended Statements of Liability issued on 7 February 2025 reflect the receipt by the Appellant of payments relating to the State Contributory Pension:
- 32.1. for 2022 an amount totalling €6,930.30; and
 - 32.2. for 2023 an amount totalling €15,339.60.
33. The Respondent submitted that the Amended Statements of Liability issued to the Appellant on 7 January 2025 for 2022 and 2023 confirm the following positions:
- 33.1. for 2022 an underpayment of tax of €2,772.12; and
 - 33.2. for 2023 an overpayment of tax of €1,184.25.

Material Facts

34. The material facts are not in dispute in this appeal and the Commissioner accepts the following as material facts:
- 34.1. The Appellant is a taxpayer.
 - 34.2. On 2 August 2022, the Appellant became entitled to the State Contributory Pension, however, the Appellant did not claim her entitlement to the State Contributory Pension until 23 February 2023.
 - 34.3. As a result of the delayed claim, arrears of €6,930.30 in relation to the State Contributory Pension for 2022 which were due to the Appellant arose.

- 34.4. In addition, arrears of €2,011.10 in relation to the State Contributory Pension which were due to the Appellant arose between 1 January 2023 and 23 February 2023.
- 34.5. The total arrears for 2022 and 2023 amounted to €8,941.40 which were subsequently paid to the Appellant by the Department of Social Protection in June 2023.
- 34.6. The Appellant began receiving regular payments from the Department of Social Protection in relation to the State Contributory Pension in March 2023 and received payments of the State Contributory Pension totalling €15,339.60 relating to 2023.
- 34.7. On 12 April 2023, the Respondent received notification from the Department of Social Protection that the Appellant was in receipt of State Contributory Pension payments.
- 34.8. On 13 April 2023, the Respondent issued an Amended Tax Credit Certificate to the Appellant which listed income in the amount of €15,226.90 for 2023 in relation to the Contributory State Pension.
- 34.9. In addition, the Amended Tax Credit Certificate for 2023 issued on 13 April 2023 reduced the Appellant's tax credits by €3,045.28 to account for the State Contributory Pension income which the Appellant would be entitled to in 2023.
- 34.10. On 13 January 2024, the Respondent received information from the Department of Social Protection which stated that the Appellant had received payments of €22,269.90 in 2023 in relation to the State Contributory Pension.
- 34.11. On 27 September 2024, the Appellant submitted an income tax return to the Respondent for 2023 which was processed by the Respondent on 22 October 2024.
- 34.12. On 22 October 2024, the Respondent issued the contested Statement of Liability for 2023 which showed an underpayment of tax for 2023 of €1,923.06.
- 34.13. The Appellant submitted a Notice of Appeal to the Tax Appeals Commission on 22 November 2024.
- 34.14. Subsequent to the Commission notifying the Respondent of the Appellant's Notice of Appeal, the Respondent re-engaged with the Department of Social Protection

and received confirmation that in 2023 the Appellant had received the following payments:

34.14.1. €6,930.30 in relation to arrears of the State Contributory Pension of €6,930.30 for 2022; and

34.14.2. €15,339.60 in relation to the State Contributory Pension for 2023.

34.15. As a result, on 7 February 2025 the Respondent:

34.15.1. Issued an Amended Statement of Liability in relation to the year 2022 which showed a receipt of €6,930.30 in relation to the State Contributory Pension; and

34.15.2. Issued an Amended Statement of Liability in relation to the year 2023 which showed a receipt of €15,339.60 in relation to the State Contributory Pension.

34.16. The Amended Statement of Liability in relation to 2022 showed an underpayment of tax of €2,772.12.

34.17. The Amended Statement of Liability in relation to 2023 showed an overpayment of tax of €1,184.25.

34.18. An offset of the overpayment of €1,184.25 for 2023 against the underpayment of €2,772.12 for 2022 left a balance of tax due by the Appellant of €1,587.87.

34.19. The Respondent has informed the Commissioner that the balance of tax due by the Appellant of €1,587.87 can be collected from the Appellant through a reduction of her tax credits from 2026 - 2029 as follows:

34.19.1. 2026 = €396.96 per year

34.19.2. 2027 = €396.97 per year

34.19.3. 2028 = €396.97 per year

34.19.4. 2029 = €396.97 per year

Analysis

35. Section 112 of the TCA 1997 is the basis for the charge to income tax for employees under what is known as "*Schedule E*" and is entitled "*Basis of assessment, persons chargeable and extent of charge*". 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, and shall be computed on the amount of all such salaries, fees, wages, perquisites or profits whatever therefrom for the year of assessment.”

36. Section 126 of the TCA 1997 is entitled “*Tax treatment of certain benefits payable under Social Welfare Acts*”. Section 126(2) of the TCA 1997 provides that:

“This subsection shall apply to the following benefits payable on or after 1 July 2013 under the Acts—

(iv) old age (contributory) pension,

...

(b) Payments of benefits to which this subsection applies shall be deemed to be emoluments to which Chapter 4 of Part 42 applies.”

37. Section 983 of the TCA 1997 relates to Chapter 4 of Part 42 of the TCA 1997 and defines emoluments as meaning:

“...anything assessable to income tax under Schedule E, and references to payments of emoluments include references to payments on account of emoluments.”

38. Thus, it follows that payments of the State Contributory Pension paid by the Department of Social Protection are emoluments under Schedule E of the TCA 1997 which shall be subject to a charge to income tax pursuant to section 112(1) of the TCA 1997.

39. In addition, 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, and shall be computed on the amount of all such salaries, fees, wages, perquisites or profits whatever therefrom for the year of assessment.” (emphasis added)

40. There is no dispute between the parties, and the Commissioner has found as a material fact, that the Appellant:

40.1. became entitled to the State Contributory Pension on 2 August 2022; but

- 40.2. did not claim her entitlement to the State Contributory Pension until 23 February 2023.
41. In addition, there is no dispute between the parties, and the Commissioner has found as a material fact, that as a result of the delayed claim, arrears of €6,930.30 in relation to the State Contributory Pension for 2022 which were due to the Appellant arose.
42. There is no dispute between the parties that the Appellant began receiving regular payments from the Department of Social Protection in relation to the State Contributory Pension in March 2023 and received payments of the State Contributory Pension totalling €15,339.60 relating to 2023.
43. As the Appellant became entitled to the State Contributory Pension on 2 August 2022, it follows that the income tax on the arrears which arose for 2022 fall to be computed as if they were received in 2022 as set out in section 112(1) of the TCA 1997 despite the fact that Appellant did not claim her entitlement to the State Contributory Pension until 23 February 2023 and did not receive those payments relating to 2022 until June 2023.
44. In addition, it follows that the income tax on the payment of the State Contributory Pension which the Appellant received for 2023 fall to be computed as part of the Appellant's emoluments for 2023.
45. As a result of the above, the Commissioner finds that the taxable income amount included in the Amended Statement of Liability for 2022 issued by the Respondent on 7 February 2025 of €6,930.30 relating to the State Contributory Pension was correct and that the underpayment of tax amount of €2,772.12 contained in the Amended Statement of Liability for 2022 was also correct.
46. In addition, the Commissioner finds that the taxable income amount included in the Amended Statement of Liability for 2023 issued by the Respondent on 7 February 2025 of €15,339.60 relating to the State Contributory Pension was correct and that the overpayment of tax amount of €1,184.25 contained in the Amended Statement of Liability for 2023 was also correct.
47. It therefore follows that the balance of tax due to be paid by the Appellant is €1,587.87.

Determination

48. Having considered the facts and circumstances of this appeal, together with the submissions from both parties, the Commissioner determines that:

- 48.1. the Statement of Liability issued by the Respondent on 7 February 2025 for 2022 which contains an underpayment of tax of €2,772.12 shall stand;
- 48.2. the Statement of Liability issued by the Respondent on 7 February 2025 for 2023 which contains an overpayment of tax of €1,184.25 shall stand;
- 48.3. the balance of tax due to be paid by the Appellant is €1,587.87.
49. For completeness, the Commissioner determines that the Statement of Liability for 2023 issued by the Respondent on 22 October 2024 shall not stand and shall be replaced by the Statement of Liability for 2023 issued by the Respondent on 7 February 2025.
50. The Commissioner notes that the Respondent has indicated that, should the Appellant so wish, the balance of tax due of €1,587.87 can be collected from the Appellant through a reduction of her tax credits from 2026 - 2029 as follows:
- 50.1. 2026 = €396.96 per year
- 50.2. 2027 = €396.97 per year
- 50.3. 2028 = €396.97 per year
- 50.4. 2029 = €396.97 per year
51. This Appeal is determined in accordance with Part 40A of the TCA 1997 in particular section 949AK and section 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

52. 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

53. 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 'Clare O'Driscoll', with a stylized, cursive script.

Clare O'Driscoll
Appeal Commissioner
17 July 2025