



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

214TACD2025

Between



Appellant

and

The Revenue Commissioners

Respondent

Determination

Contents

Introduction	3
Background.....	3
Evidence of the Appellant	4
Legislation and Guidelines	4
Submissions	5
Appellant	5
Respondent.....	5
Material Facts	5
Analysis	6
Determination	7
Notification	8
Appeal	8

Introduction

1. This Determination concerns the appeal of the Appellant to the Tax Appeals Commission (“the Commission”) of a PAYE/USC Statement of Liability for the year 2020, issued by the Revenue Commissioners (“the Respondent”) on 24 January 2025. Pursuant to this Statement of Liability, the Respondent assessed the Appellant as having made an underpayment of tax for 2020 in the amount of €800. This underpayment arises from the decision of the Respondent to withdraw relief claimed by the Appellant under section 473A of the Taxes Consolidation Act 1997 (“the TCA 1997”) for tuition fees that he paid in 2018 respect of his third level education for the academic year 2018/19.
2. This appeal is made to the Commission under section 949I of the TCA 1997. In accordance with the wishes of the parties, this appeal proceeded by way of oral hearing on 14 July 2025.

Background

3. The facts relevant to this appeal were not in dispute. On 4 November 2024, the Appellant’s tax agent submitted an income tax return for the year 2020. In this return, the Appellant made a claim for relief in respect of tuition fees incurred in respect of his third level education.
4. On 6 November 2024, the Respondent wrote to the Appellant requesting documentation supporting his claim for this relief. The Appellant replied to this correspondence on the same date, providing receipts for fees paid to the University of Limerick. These receipts indicated that the claim was made in respect of a postgraduate course which began in September 2018 and ended in September 2019.
5. Having received this information, the Respondent decided to refuse the Appellant’s claim for relief for the year 2020 in respect of tuition fees previously incurred. This refusal was reflected in the appealed PAYE/USC Statement of Liability, under which the Appellant was held to have underpaid tax for the year 2020 in the amount of €800.
6. The Respondent’s reason for refusing the Appellant’s claim was expressed in correspondence of 23 January 2025. The reason given was that the tuition fees in question were incurred in respect of a course that took place over the period 2018/2019 and therefore could not form the basis of a claim for relief under section 473A of the TCA 1997 for the year 2020.
7. The Appellant appealed the PAYE/USC Statement of Liability for 2020 by way of Notice of Appeal delivered to the Commission on 30 January 2025.

Evidence of the Appellant

8. In oral evidence given at the appeal hearing, the Appellant stated that he began his year-long course in the University of Limerick in September 2018. He stated that he paid his tuition fees prior to the course beginning.
9. The Appellant stated that having completed his course in the University of Limerick in September 2019, he began employed work later that same year.
10. The Appellant initially considered making a claim for relief under section 473A of the TCA 1997 in respect of the year 2019. However, in December 2019 he decided not to proceed with such a claim after he discussed the matter over the phone with a representative of the Respondent. The Appellant made this decision in circumstances where he did not stand to benefit from for a claim made under section 473A of the TCA 1997 for 2019 given his level of income in that year. The Appellant said that he discussed the prospect of having the relief held over so that it could instead be applied to the year 2020, when his income was expected to be greater. The Appellant said that he was told by the Respondent's representative that this could be done and that he could make his claim for relief for the year 2020.
11. The Appellant duly made a claim for relief in his return for 2020 in respect of the tuition fees that he incurred in 2018 for his course in the University of Limerick that took place over the academic year 2018/2019.

Legislation and Guidelines

12. Section 473A of the TCA 1997 is entitled "*Relief for fees paid for third level education etc*". S473A(1) defines, *inter alia*, "academic year" in the following terms:-

"'academic year', in relation to an approved course, means a year of study commencing on a date not earlier than the 1st day of August in a year of assessment".

13. Section 473A(1) of the TCA 1997 also defines "qualifying fees" in the following terms:-

"'qualifying fees', in relation to an approved course and an academic year, means the amount of fees chargeable in respect of tuition to be provided in relation to that course in that year which, with the consent of the Minister for Finance, the Minister approves of for the purposes of this section."

14. Section 473A(2) of the TCA 1997 provides:-

"Subject to this section, where an individual for a year of assessment proves that he or she has, made a payment in respect of qualifying fees in respect of an approved

course for the academic year in relation to that course commencing in that year of assessment, the income tax to be charged on the individual for that year of assessment, other than in accordance with section 16(2), shall be reduced by an amount which is the lesser of—

(a) the amount equal to the appropriate percentage of the aggregate of all such payments proved to be so made, and

(b) the amount which reduces that income tax to nil.”

Submissions

Appellant

15. The Appellant submitted that the decision of the Respondent to refuse his claim under section 473A of the TCA 1997 was unfair and inequitable in light of the fact that he had been informed over the phone by its own representative that relief under this provision could be claimed in respect of the year 2020. The Appellant submitted that the Respondent should, in light of what was said to him by its representative, be estopped from seeking repayment of the amount of €800, this being the amount found in the Statement of Liability under appeal to have been underpaid by him.

Respondent

16. It was submitted on behalf of the Respondent that section 473A of the TCA 1997 did not allow for the Appellant to seek relief in respect of the tuition fees paid by him prior to August 2018 for the tax year 2020. This was so, the Respondent contended, on the grounds that under section 473A(2) of the TCA 1997 the income tax relief was only available in respect of the year of assessment in which the “*qualifying fees*” were paid by the person seeking relief.

Material Facts

17. The facts material to this appeal are as follows:-

- the Appellant is a former student who undertook a year-long postgraduate course in the University of Limerick, which began in September 2018 and ended in September 2019;
- the Appellant paid his tuition fees for the postgraduate course prior to commencing his studies in September 2018;

- on or about December 2019, the Appellant had a phone call with a representative of the Respondent. In this phone call the Appellant discussed seeking to have relief in respect of the tuition fees paid by him in 2018 applied to the year 2020;
- on 4 November 2024, the Appellant's agent submitted an income tax return on the Appellant's behalf for the year 2020. In this return, relief was claimed for the tuition fees paid by the Appellant in 2018 in respect of his postgraduate course running over the academic year 2018/2019;
- on 24 January 2025, the Respondent issued a PAYE/USC Statement of Liability to the Appellant in which it refused relief for the tuition fees previously claimed in respect of the year 2020. The result of this refusal was that the Appellant was found to have underpaid tax for that year in the amount of €800.

Analysis

18. It is necessary at this point to state that in exercising their function, an Appeal Commissioner of the Commission is bound to follow relevant legislation that has been passed by the Oireachtas and made into law. An Appeal Commissioner has no power to depart from or disapply legislation in individual cases on the grounds of fairness or equity. That this is so as a matter of law is clear from the judgment of the Court of Appeal in *Lee v Revenue Commissioners* [2021] IECA 18. There, the Court examined the nature of an Appeal Commissioner's function in detail and held that, in the context of an appeal of an assessment, their task was confined to quantifying the correct amount of tax owed, if any, by reference to the terms of relevant statute. The Appeal Commissioner observes that under section 997 of the TCA 1997, a PAYE/USC Statement of Liability may be treated as if it were an assessment raised on an employee.
19. In performing the function described above, the Appeal Commissioner notes that the proper method of statutory interpretation has been set out in a variety of judgments of the courts, most recently in cases such as *Perrigo Pharma International Activity Company v McNamara & Ors* [2020] IEHC 152 and *Heather Hill DAC v Revenue Commissioners* [2022] IESC 43. For the purposes of this Determination, it is sufficient to observe that, as Murray J made clear in his judgment for the Supreme Court in *Heather Hill v Revenue Commissioners* [2022] IESC 43, the primary tool for interpreting the meaning of legislation is the plain meaning of the wording used, taken in context.
20. The question that arises in this appeal is whether the Appellant was entitled to relief for the year 2020 in respect of qualifying fees incurred in 2018 in relation to a postgraduate course that took place over the academic year 2018/2019. Deciding this involves

interpreting the meaning of section 473A of the TCA 1997, in particular subsection 2 thereof.

21. It is clear to the Appeal Commissioner that the wording of section 473A(2) of the TCA 1997 precludes the allowance of a claim for relief from income tax based on a person having incurred “qualifying fees” in a year preceding that in respect of which the claim is made. This is so because section 473A(2) requires, firstly, that a person prove that they have incurred such fees in relation to a course the academic year for which begins in “*that year of assessment*” (i.e. the year in respect of which the claim is made). Having proved this, that person is then entitled to have their income tax reduced by a prescribed amount “*for that year of assessment*”. Thus, the wording clearly does not envisage or allow for claims being made in relation to years other than the year in respect of which the fees in question have been incurred. In reaching this conclusion the Appeal Commissioner has had regard to the plain and ordinary meaning of the wording used in section 473A of the TCA 1997, as is required pursuant to the case law specified in paragraph 19 of this Determination.
22. The consequence of this finding of the Appeal Commissioner regarding the meaning of section 473A of the TCA 1997 is that the appealed PAYE/USC Statement of Liability must be held to be correct and must stand. In so determining, the Appeal Commission wishes to reiterate that he is not empowered to decide this appeal in favour of the Appellant on the grounds of purported unfairness in the operation of the scheme for relief in respect of tuitions fees incurred, or on the grounds that the Respondent should be estopped from refusing the claim because of statements made by its representative over the phone in December 2019. Were the Appeal Commissioner to decide the appeal in the Appellant’s favour on such grounds, he would be exceeding the bounds of his jurisdiction as described by the Court of Appeal in the aforementioned judgment in *Lee v Revenue Commissioners*.

Determination

23. The Appeal Commissioner determines that the Respondent’s PAYE/USC Statement of Liability of 24 January 2025, in which it found the Appellant to have made an underpayment of income tax for the year 2020 in the amount of €800, is correct and must stand.
24. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular sections 949AK thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

Notification

25. 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

26. 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.



Conor O'Higgins
Appeal Commissioner
24 July 2025