



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

Between

218TACD2025



Appellant

and

THE REVENUE COMMISSIONERS

Respondent

Determination

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Introduction

1. This appeal comes before the Tax Appeals Commission (hereinafter the "Commission") against a Statement of Liability for the tax year 2024 issued by the Revenue Commissioners (hereinafter the "Respondent") on 1 April 2025.
2. The amount of tax in dispute is €697.76.

Background

3. [REDACTED] (hereinafter the "Appellant") is a retired Civil Servant who is jointly assessed to income tax with his spouse. During 2024 the Appellant turned 70 years of age.
4. On 11 December 2023, the Respondent issued a Tax Credit and Universal Social Charge (hereinafter "USC") Certificate to the Appellant for 2024. This certificate confirmed that the reduced rate USC, provided for under section 531AN of the Taxes Consolidation Act 1997 (hereinafter the "TCA 1997"), was applicable as the Appellant was due to turn 70 during the course of 2024.
5. On 27 November 2024, the Respondent undertook an "in year review" of the Appellant's revenue record which established that the Appellant's income for 2024 would exceed €60,000.
6. As a result of the "in year review", the Respondent issued an Amended Tax Credit and USC Certificate to the Appellant on 27 November 2024 which removed the reduced rate of USC provided for under section 531AN of the TCA 1997.
7. A Preliminary End of Year Statement for 2024 was issued by the Respondent to the Appellant which showed an underpayment of USC in the amount of €697.76.
8. The Appellant engaged in correspondence with the Respondent between 6 February 2025 and 1 April 2025 when the Appellant submitted his 2024 income tax return to the Respondent.
9. The Appellant's 2024 income tax return established that the Appellant's income for 2024 was €60,647.48 and his spouse's income was €8,909.34.
10. On 1 April 2025, the Respondent issued a Statement of Liability for 2024 to the Appellant which confirmed that the Appellant had, during 2024, paid USC in the amount of €1,032.76 and that an underpayment of USC for 2024 in the amount of €697.76 arose.
11. The Appellant submitted a Notice of Appeal to the Commission on 10 April 2025.

12. On 19 June 2025, the Commission wrote to the parties informing them of a date for the oral hearing of this appeal.
13. On 26 June 2025, the parties, having discussed the matter with each other, requested that the Commissioner determine this appeal without an oral hearing pursuant to the provisions of section 949U of the TCA 1997.
14. On 7 July 2025, the Commission wrote to the parties in this appeal confirming to them that the Commissioner would determine this appeal without an oral hearing pursuant to the provisions of section 949U of the TCA 1997.

Legislation and Guidelines

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

Section 531AN of the TCA 1997 (as in force from 1 January 2024 to 31 December 2024) entitled "Rate of Charge":

(1) For each tax year an individual shall be charged to universal social charge on his or her aggregate income for the tax year -

(a) at the rate specified in column (2) of Part 1 of the Table to this section corresponding to the part of aggregate income specified in column (1) of Part 1 of that Table" where the individual is -

(i) aged under 70 years, or

(ii) aged 70 years or over at any time during the tax year and has aggregate income that exceeds €60,000,

or

(b) at the rate specified in column (2) of Part 2 of the Table to this section corresponding to the part of aggregate income specified in column (1) of Part 2 of that Table where the individual is aged 70 years or over at any time during the tax year and has aggregate income that does not exceed €60,000.

(2) Notwithstanding subsection (1) and the Table to this section, where an individual has relevant income that exceeds €100,000, the individual shall, instead of being charged to universal social charge on the amount of the excess at the rate provided for in column (2) of Part 1 of that Table, be charged on the amount of that excess at the rate of 11 per cent.

(2A) For the purposes of subsection (2), relevant income shall not include any amount in respect of which an individual is chargeable to tax under Schedule E in accordance with section 128(2).

(3) Notwithstanding subsection (1) and the Table to this section, where an individual is in receipt of aggregate income which does not exceed €60,000, is aged under 70 years and has full eligibility for services under Part IV of the Health Act 1970, by virtue of sections 45 and 45A of that Act or Council Regulation (EC) No. 883/2004 of 29 April 2004, the individual shall, instead of being charged to universal social charge on the part of aggregate income for the tax year concerned that exceeds €25,760 at the rate provided for in column (2) of Part 1 of that Table, be charged on the amount of the excess at the rate of 2 per cent.

(3A) Where an individual is chargeable to income tax under Case IV of Schedule D in respect of an encashment amount, or a deemed encashment amount, as the case may be, under section 787TA, then -

(a) notwithstanding subsection (1) and the Table to this section, the individual shall be charged to universal social charge for the tax year in which the income tax is charged on the full amount so charged to income tax at the rate of 2 per cent, and

(b) the amount so chargeable to income tax shall not be regarded as relevant income for the purposes of subsection (2).

(4) Subsection (3) shall cease to have effect for the tax year 2026 and subsequent tax years.

(5) Subject to subsection (7), where relevant emoluments are paid on 31 December in a tax year or, if that year is a leap year, on 30 or 31 December in that year (referred to in this section as the 'relevant date') to an individual who is paid weekly or fortnightly, the part of aggregate income specified in column (1) of Part 1 or column (1) of Part 2, as appropriate, of the Table to this section shall be increased by the greater of -

(a) where the individual is paid weekly, one-fifty second of the amounts referred to in the appropriate column, and

(b) where the individual is paid fortnightly, one-twenty sixth of the amounts referred to in the appropriate column,

but where the relevant emoluments paid on the relevant date is less than the increase provided in paragraph (a) or (b), as appropriate, the increase in the part of the aggregate income shall be limited to the amount of the relevant emoluments.

(6) Where subsection (5) applies in respect of an individual, each amount of aggregate income referred to in subsections (1) and (3) and section 531AM(2) shall be increased by the greater of -

(a) where the individual is paid weekly, one-fifty second of the amount, and

(b) where the individual is paid fortnightly, one-twenty sixth of the amount,

but where the amount of the relevant emoluments paid on the relevant date is less than the increase provided in paragraph (a) or (b), as appropriate, the increase shall be limited to the amount of the relevant emoluments.

(7) Subsection (5) shall not apply where -

(a) the normal day on which relevant emoluments are paid to an individual during a tax year changes either during that year or the preceding year, or

(b) a payment of relevant emoluments occurs on a relevant date and that date is not the normal day on which relevant emoluments are paid to an individual.

(8) A reference in subsection (7) to the normal day is a reference to the day during the weekly or fortnightly cycle, as the case may be, on which relevant emoluments are paid to the individual concerned.

Table

Part 1

<i>Part of aggregate income (1)</i>	<i>Rate of universal social charge (2)</i>
<i>The first €12,012</i>	<i>0.5 per cent</i>
<i>The next €13,748</i>	<i>2 per cent</i>
<i>The next €44,284</i>	<i>4 per cent</i>
<i>The remainder</i>	<i>8 per cent</i>

Part 2

<i>Part of aggregate income (1)</i>	<i>Rate of universal social charge (2)</i>
<i>The first €12,012</i>	<i>0.5 per cent</i>
<i>The remainder</i>	<i>2 per cent</i>

Submissions

Appellant's Submissions

16. The Appellant submitted the following by way of background in his Notice of Appeal:

"I am appealing against an assessment of an underpayment of USC for 2024 as set out in my PAYE/USC Statement of Liability for the Tax Year 2024 dated 1 April 2025.

I am a retired civil servant and my sole source of income is my civil service pension. I reached the age of 70 years on 26 August, 2024.

When I logged into myAccount on Revenue.ie on 6 February 2025 with a view to making a claim for health expenses for 2024, I was dismayed to discover that a Preliminary End of Year Statement for 2024 (which is no longer on the record) indicated that I had underpaid USC by €697.76. I immediately contacted my payroll provider, the National Shared Services Office, seeking an explanation as to how the underpayment arose. The NSSO advised me that they acted strictly on instructions from Revenue and that I should contact Revenue.

I duly emailed Revenue on 7 February (via myAccount) and, following the issue of two reminders, I eventually received a reply on 27 March. The full exchange of emails with Revenue ending with their email dated 3 April is appended for information.

In brief, Revenue determined in December 2023 that, as I would turn 70 in 2024, I was entitled to a reduced rate of USC in 2024 based on my income of €58,004 in 2023; and they instructed the NSSO accordingly. As it transpired, my income amounted to €60,647 for the year and, as this exceeded the threshold of €60,000, the reduced rate was not applicable and my liability was recalculated using the normal rates of USC. As

Revenue could not have predicted that my income for 2024 would exceed €60,000, they could not have instructed the NSSO to deduct my USC at the normal rates. In a subsequent email dated 27 March, Revenue said that the Tax Credit Certificate issued to me on 11 December 2023 provided information regarding my USC rate band for 2024 and, if the information in the Certificate was not accurate, details should have been updated by informing Revenue of changes required. A further Revenue email dated 28 March pointed out, among other things, that it is my responsibility to ensure that my tax affairs are in order at the end of each tax year and that it is not possible for Revenue to estimate my income for each tax year.”

17. The Appellant submitted the following Ground of Appeal in his Notice of Appeal:

“1. It is unrealistic and unreasonable for Revenue to expect that an ordinary taxpayer like me would be familiar with or understand the intricacies and details (rates, bands, exemptions, exceptions, categories, etc.) of the income tax and USC system. In fact, since my retirement in 2010, I pay only limited attention to my annual Tax Certificate and rely on the experts, ie Revenue, to get it right (which in fairness they almost invariably do). Indeed, I was not aware that there was a reduced rate of USC for over-70's, let alone that it only applied if income was less than €60,000. So, even if I had pored over the Tax Credit and USC Certificate dated 11 December 2023 at that time, I would not (and could not reasonably have been expected to) have comprehended the ramifications of the information regarding the "Allocation of your USC Rate Bands". This merely indicated that the first €12,012 would be chargeable at 0.5%, and at 2% for income above that amount. Nowhere on this Certificate did it advise that I was being given the benefit of a reduced rate of USC applicable to over-70s with an income below €60,000.

2. Revenue took the initiative to instruct the NSSO to apply the over-70's reduced rate of USC to my income in 2024. It is a matter of fact that I reached 70 during 2024 but, when instructing the NSSO to apply the reduced rate, Revenue in effect estimated or predicted (erroneously as it transpired) that my income would not exceed €60,000 in 2024. I had no input whatsoever into that process; I did not make any application for the over-70's relief; and, as I have already indicated, I was completely unaware of the arrangements applicable to over-70's.

3. Revenue have on record full details of my income over the years since my retirement. Those records show my income as €54,118 in 2021, €56,210 in 2022 and €58,004 in 2023, rising to €60,647 in 2024. It is evident that my pension was not static but was increasing year on year. These were standard civil service pension increases,

as indeed were the increases that were applied during 2024. It was imprudent and erroneous for Revenue to instruct the NSSO to apply the reduced rate of USC in 2024 based on my 2023 income.

4. Revenue have said that they could not have predicted that my income would exceed €60,000 in 2024 and so could not have instructed the NSSO to deduct USC at the normal rate. But, neither could they have predicted that my income would be less than €60,000 - which is exactly what they did by instructing the NSSO to apply the reduced rates. In my view, the more prudent course of action would have been to apply the normal rates of USC and make a refund to me at the end of the year if it transpired that my income did not exceed the threshold. Best practice would suggest that the more prudent course of action should have been taken.

5. Revenue's error gave rise to the underpayment of USC. It would be inequitable, unfair and unjust that I should now have to pay for this error, especially given that I have no culpability whatsoever. Revenue have not even acknowledged their error.

6. If the normal rates of USC had been applied and deducted from my fortnightly pension on an ongoing basis during the course of 2024, I would have had no issue. What I do take issue with is the raising of an underpayment at the end of the year which arose due to Revenue's error.

7. There is a degree of high-handedness and arrogance about the Revenue position: they made a mistake that resulted in an underpayment but I am expected to pay up anyway.

8. In the circumstances, I believe there is a strong and compelling case to write off the USC underpayment.

9. I have appended copies of the following documents in connection with my appeal:

(a) Tax Credit and Universal Social Charge Certificate 2024 dated 11 December 2023;

(b) PAYE/USC Statement of Liability for the Tax Year 2024 dated 1 April 2025;

(c) email exchanges between myself and Revenue starting with mine dated 7 February 2025 and ending with Revenue's dated 3 April 2025."

18. The Appellant submitted the following in his Statement of Case:

1. I am appealing against an assessment of an underpayment of USC for 2024 as set out in my PAYE/USC Statement of Liability for the Tax Year 2024 dated 1 April 2025, and Revenue's intention to recover it from me. The sum involved is €697.76.

2. I am a retired civil servant and my sole source of income is my civil service pension. I have always been a compliant taxpayer. I reached the age of 70 years on 26 August, 2024.

3. When I logged into myAccount on Revenue.ie on 6 February 2025 with a view to making a claim for health expenses for 2024, I was dismayed to discover that a Preliminary End of Year Statement for 2024 (which is no longer on the record and had not been brought to my attention) indicated that I had underpaid USC by €697.76. I immediately contacted my payroll provider, the National Shared Services Office, seeking an explanation as to how the underpayment arose. The NSSO advised me that they acted strictly on instructions from Revenue and that I should contact Revenue.

4. I duly emailed Revenue on 7 February (via myAccount) and, following the issue of two reminders, I eventually received a reply on 27 March (almost seven weeks after my initial enquiry). There followed a series of email exchanges with Revenue ending with their email dated 3 April. It is noteworthy that I received six emails from Revenue during this period, each of them signed by a different Revenue official. In brief, Revenue determined in December 2023 that, as I would turn 70 in 2024, I was entitled to a reduced rate of USC in 2024 based on my income of €58,004 in 2023; and they instructed the NSSO accordingly. As it transpired, my income amounted to €60,647 for the year and, as this exceeded the threshold of €60,000 to benefit from the reduced rate, the reduced rate was not applicable to me and my liability was recalculated using the normal rates of USC. Revenue say that, as they could not have predicted that my income for 2024 would exceed €60,000, they could not have instructed the NSSO to deduct my USC at the normal rates. Revenue also say that the Tax Credit Certificate issued to me on 11 December 2023 provided information regarding my USC rate band for 2024 and, if the information in the Certificate was not accurate, details should have been updated by informing Revenue of changes required. Further, Revenue also pointed out, among other things, that it is my responsibility to ensure that my tax affairs are in order at the end of each tax year and that it is not possible for Revenue to estimate my income for each tax year.

5. I consider that it is unrealistic and unreasonable for Revenue to expect that an ordinary taxpayer like me would be familiar with or understand the intricacies and

details (rates, bands, exemptions, exceptions, categories, etc.) of the income tax and USC system. In fact, since my retirement in 2010, I pay only limited attention to my annual Tax Certificate and rely on the experts, i.e. Revenue, to get it right (which in fairness they almost invariably do). "

6. I was not aware that there was a reduced rate of USC for over-70's, let alone that it only applied if income was less than €60,000. So, even if I had pored over the Tax Credit and USC Certificate dated 11 December 2023 at that time, I would not (and could not reasonably have been expected to) have comprehended the ramifications of the information regarding the "Allocation of your USC Rate Bands". This merely indicated that the first €12,012 would be chargeable at 0.5%, and at 2% for income above that amount. Nowhere on this Certificate did it advise that I was being given the benefit of a reduced rate of USC applicable to over-70s with an income below €60,000.

7. Revenue took the initiative to instruct the NSSO to apply the over-70's reduced rate of USC to my income in 2024. It is a matter of fact that I reached 70 during 2024 but, when instructing the NSSO to apply the reduced rate, Revenue in effect estimated or predicted (erroneously as it transpired) that my income would not exceed €60,000 in 2024. I had no input whatsoever into that process; I did not make any application for the over-70's relief; and, as I have already indicated, I was completely unaware of the arrangements applicable to over-70's.

8. Revenue have on record full details of my income over the years since my retirement. Those records show my income as €54,118 in 2021, €56,210 in 2022 and €58,004 in 2023, rising to €60,647 in 2024. It is evident that my pension was not static but was increasing year on year. These were standard civil service pension increases, as indeed were the increases that were applied during 2024. It was imprudent and erroneous for Revenue to instruct the NSSO to apply the reduced rate of USC in 2024 based on my 2023 income.

9. Revenue have said that they could not have predicted that my income would exceed €60,000 in 2024 and so could not have instructed the NSSO to deduct USC at the normal rate. But, neither could they have predicted that my income would be under €60,000 - which is exactly what they did by instructing the NSSO to apply the reduced rates. In my view, the more prudent course of action would have been to apply the normal rates of USC and make a refund to me at the end of the year if it transpired that my income did not exceed the threshold. Best practice would suggest that the more prudent course of action should have been taken.

10. Revenue's error, and not any action on my part, gave rise to the USC underpayment. It would be inequitable, unfair and unjust that I should now have to pay for this error, especially given that I have no culpability whatsoever. Revenue have not even acknowledged their error. In fact, they did not even bring the underpayment to my attention via email or some other means. It was only when I logged into myAccount on 6 February 2025 that I became aware of the underpayment.

11. The 2024 PAYE/USC Statement of Liability dated 1 April 2025 indicates that the underpayment will be collected by reducing my tax credits over the following 4 years. This was the first time that reference was made to a phased recovery. It had not been mentioned at any time during the course of my email exchanges with Revenue.

12. If the normal rates of USC had been applied and deducted from my fortnightly pension on an ongoing basis during the course of 2024, I would have had no issue. What I do take issue with is the raising of an underpayment at the end of the year which arose due to Revenue's error.

13. The whole saga smacks of maladministration. I'm not suggesting any male fides on Revenue's part: they simply got it wrong and should stand up and take responsibility for their mistake.

14. It seems to me that Revenue misapplied the relevant statutory provision governing USC by initially giving me the benefit of the reduced rate applicable to over-70's with income not exceeding €60,000. They then sought to retrieve the situation by issuing an amended Tax Credit and USC Certificate on 27 November 2024 which, although I cannot be sure, was not brought to my attention at the time. In any event, neither this Certificate, nor the initial one issued on 11 December 2023, contained any specific reference to the reduced rate of USC applicable to over-70's or to an income threshold of €60,000. To suggest that the initial Certificate made clear to me that the reduced rate would be applied in my case in 2024 is misleading.

15. In the circumstances, I believe there is a strong and compelling case to write off the USC underpayment.

16. The following documents have already been supplied with my Notice of Appeal:

(a) Tax Credit and Universal Social Charge Certificate 2024 dated 11 December 2023;

(b) PAYE/USC Statement of Liability for the Tax Year 2024 dated 1 April 2025;

(c) email exchanges between myself and Revenue starting with mine dated 7 February 2025 and ending with Revenue's dated 3 April 2025."

Respondent's Submissions

19. The Respondent submitted the following summary in its Statement of Case:

"

- i. The matter under appeal is whether the Appellant should be liable to discharge the USC underpayment which arose on their record in 2024.*
- ii. The Respondent has reviewed the submissions received from the Appellant in this matter and notes that no valid legislative argument has been submitted by the Appellant as to why their USC liability should be waived in this instance.*
- iii. Instead, the Appellant has sought to question the management of their tax affairs, which as previously noted is not an appealable matter within the confines of the TCA 1997.*
- iv. The Respondent does accept the Appellant may not have wished to have availed of the reduced rate of USC during 2024, but nevertheless the Appellant had the benefit of this reduced rate in their occupational pension deductions throughout 2024.*
- v. Once the Appellant submitted their 2024 PAYE Income Tax Return and confirmed their income chargeable to USC exceeded €60,000, an underpayment materialised as confirmed in their 2024 Statement of Liability.*
- vi. To mitigate against any hardship to the Appellant in this matter, the Respondent will collect the underpayment on record for 2024 over an extended four-year period.*
- vii. This underpayment is being collected from the Appellant through a reduction of their tax credits from 2026-2029 as follows:*

2026 €149.44 per year

2027 €149.44 per year

2028 €149.44 per year

2029 €149.44 per year
- viii. This equates to approximately €12.45 per month or €2.87 per week.*

- ix. *The Respondent has acted at all times in accordance with the prescribed legislation in this case and is satisfied that the final taxation position for the Appellant in 2024 is correct based on all information held on record.*
- x. *The Respondent respectfully submits that this appeal must fail as the Appellant has not offered a valid legislative argument in their appeal submission on why they should have their USC underpayment for 2024 waived in this matter.”*

Material Facts

20. The material facts are not in dispute in this appeal and the Commissioner accepts same as material facts:

- 20.1. The Appellant is a retired Civil Servant who is jointly assessed to income tax with his spouse.
- 20.2. During 2024 the Appellant turned 70 years of age.
- 20.3. On 11 December 2023, the Respondent issued a Tax Credit and USC Certificate to the Appellant for 2024. This certificate confirmed that the reduced rate USC, provided for under section 531AN of the TCA 1997, was applicable as the Appellant was due to turn 70 during the course of 2024.
- 20.4. On 27 November 2024, the Respondent undertook an “in year review” of the Appellant’s revenue record which established that the Appellant’s income for 2024 would exceed €60,000.
- 20.5. As a result of the “in year review”, the Respondent issued an Amended Tax Credit and USC Certificate to the Appellant on 27 November 2024 which removed the reduced rate of USC provided for under section 531AN of the TCA 1997.
- 20.6. A Preliminary End of Year Statement for 2024 was issued by the Respondent to the Appellant which showed an underpayment of USC in the amount of €697.76.
- 20.7. The Appellant engaged in correspondence with the Respondent between 6 February 2025 and 1 April 2025 when the Appellant submitted his 2024 income tax return to the Respondent.
- 20.8. The Appellant’s 2024 income tax return established that the Appellant’s income for 2024 was €60,647.48 and his spouse’s income was €8,909.34.
- 20.9. On 1 April 2025, the Respondent issued a Statement of Liability for 2024 to the Appellant which confirmed that the Appellant had, during 2024, paid USC in the

amount of €1,032.76 and that an underpayment of USC for 2024 in the amount of €697.76 arose.

20.10. The Appellant submitted a Notice of Appeal to the Commission on 10 April 2025.

Analysis

21. As with all appeals before the Commission the burden of proof lies with the Appellant. As confirmed in *Menolly Homes v Appeal Commissioners* [2010] IEHC 49, the burden of proof is, as in all taxation appeals, on the taxpayer. As confirmed in that case by Charleton J at paragraph 22:-

“This is not a plenary civil hearing. It is an enquiry by the Appeal Commissioner as to whether the taxpayer has shown that the tax is not payable.”

22. The Commissioner has considered the submissions made on behalf of both parties along with the relevant legislation and the material facts.

23. In the judgment of the High Court in *Perrigo Pharma International Designated Activity Company v McNamara, the Revenue Commissioners, Minister for Finance, Ireland and the Attorney General* [2020] IEHC 552 (hereinafter “*Perrigo*”), McDonald J, reviewed the most up to date jurisprudence and summarised the fundamental principles of statutory interpretation at paragraph 74 as follows:

“The principles to be applied in interpreting any statutory provision are well settled. They were described in some detail by McKechnie J. in the Supreme Court in Dunnes Stores v. The Revenue Commissioners [2019] IESC 50 at paras. 63 to 72 and were reaffirmed recently in Bookfinders Ltd v. The Revenue Commissioner [2020] IESC 60. Based on the judgment of McKechnie J., the relevant principles can be summarised as follows:

(a) If the words of the statutory provision are plain and their meaning is self-evident, then, save for compelling reasons to be found within the Act as a whole, the ordinary, basic and natural meaning of the words should prevail;

(b) Nonetheless, even with this approach, the meaning of the words used in the statutory provision must be seen in context. McKechnie J. (at para. 63) said that: “... context is critical: both immediate and proximate, certainly within the Act as a whole, but in some circumstances perhaps even further than that”;

(c) Where the meaning is not clear but is imprecise or ambiguous, further rules of construction come into play. In such circumstances, a purposive interpretation is permissible;

(d) Whatever approach is taken, each word or phrase used in the statute should be given a meaning as it is presumed that the Oireachtas did not intend to use surplusage or to use words or phrases without meaning.

(e) In the case of taxation statutes, if there is ambiguity in a statutory provision, the word should be construed strictly so as to prevent a fresh imposition of liability from being created unfairly by the use of oblique or slack language;

(f) Nonetheless, even in the case of a taxation statute, if a literal interpretation of the provision would lead to an absurdity (in the sense of failing to reflect what otherwise is the true intention of the legislature apparent from the Act as a whole) then a literal interpretation will be rejected.

(g) Although the issue did not arise in Dunnes Stores v. The Revenue Commissioners, there is one further principle which must be borne in mind in the context of taxation statute. That relates to provisions which provide for relief or exemption from taxation. This was addressed by the Supreme Court in Revenue Commissioners v. Doorley [1933] I.R. 750 where Kennedy C.J. said at p. 766:

“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”.

24. Section 531AN of the TCA 1997 provides as follows:

“(1) For each tax year an individual shall be charged to universal social charge on his or her aggregate income for the tax year—

(a) at the rate specified in column (2) of Part 1 of the Table to this section corresponding to the part of aggregate income specified in column (1) of Part 1 of that Table where the individual is—

(i) aged under 70 years, or

(ii) aged 70 years or over at any time during the tax year and has aggregate income that exceeds €60,000,

or

(b) at the rate specified in column (2) of Part 2 of the Table to this section corresponding to the part of aggregate income specified in column (1) of Part 2 of that Table where the individual is aged 70 years or over at any time during the tax year and has aggregate income that does not exceed €60,000.”

25. Having regard to the principles of statutory interpretation affirmed by McDonald J in *Perrigo*, the Commissioner finds that the words of the statutory provision contained in section 531AN(1) of the TCA 1997 are plain and their meaning is self-evident. The Commissioner finds that applying the ordinary, basic and natural meaning of the words of that section means that an individual who is (i) aged under 70 years of age or (ii) aged over 70 years of age and has an aggregate income in excess of €60,000 is charged to the rates of USC in Part 1 of the Table set out in that section.

26. The Commissioner has already found as a material fact that the 2024 income tax return submitted to the Respondent established that the Appellant’s income for 2024 was €60,647.48 and his spouse’s income was €8,909.34. Therefore, the Appellant’s income in 2024 was in excess of €60,000.00.

27. Part 1 of the Table set out in section 531AN of the TCA 1997 provides that, in 2024, for persons with incomes in excess of €60,000.00 for 2024, the relevant charges to USC were as follows:

Table

Part 1

<i>Part of aggregate income (1)</i>	<i>Rate of universal social charge (2)</i>
<i>The first €12,012</i>	<i>0.5 per cent</i>
<i>The next €13,748</i>	<i>2 per cent</i>
<i>The next €44,284</i>	<i>4 per cent</i>
<i>The remainder</i>	<i>8 per cent</i>

28. As the Appellant's income in 2024 was in excess of €60,000, it therefore follows that the Appellant's liability to USC for 2024 is calculated as follows:

<i>Part of Aggregate Income (1)</i>	<i>Rate of Universal Social Charge (2)</i>	<i>Appellant's Universal social Charge liability</i>
The first €12,012	0.5 per cent	€ 60.06
The next €13,748	2 per cent	€ 274.96
The balance of €34,887.48	4 percent	€1,395.50
Total liability to USC for 2024		€1,730.52

29. As €1,032.76 in USC had already been returned to the Respondent, an underpayment of €697.76 by the Appellant arises for 2024.

30. Therefore the Statement of Liability for 2024 issued by the Respondent on 1 April 2025 was correct as to the Appellant's liability to USC.

31. The Commissioner notes that the Appellant has submitted various grounds of appeal which relate to the manner in which the Respondent has handled this matter. It is important to note that the functions of an Appeal Commissioner are set out in section 6

of the Finance (Tax Appeals) Act 2015 (hereinafter the “2015 Act” and include (1) the functions assigned to them by the 2015 Act and the Taxation Acts and (2) the performance of the following functions in relation to the Taxation Acts:

“(a) deciding whether or not to accept an appeal,

(b) deciding whether to declare, under section 949N(3) of the TCA 1997, that a refusal to accept an appeal is final,

(c) deciding on the appropriate procedure to be adopted in relation to an adjudication of an appeal,

(d) giving directions to the parties to an appeal,

(e) fixing dates, times and places for the hearing of appeals,

(f) hearing an appeal where the Commissioners have decided that a hearing is the appropriate method of adjudicating on the appeal,

(g) determining appeals,

(h) providing written determinations,

(i) publishing determinations,

(j) stating and signing cases stated for the opinion of the High Court,

(k) establishing and maintaining efficient and effective systems and procedures so as to secure the processing, adjudication and determination of appeals in a timely and effective manner, and

(l) doing all such other things as they consider conducive to the resolution of disputes between appellants and the Revenue Commissioners and the establishment of the correct liability to tax of appellants.”

32. In addition, the Commissioner notes the scope of the jurisdiction of an Appeal Commissioner has been set out in a number of cases decided by the Courts, namely; *Lee v Revenue Commissioners* [2021] IECA18 (hereinafter “*Lee*”), *Stanley v The Revenue Commissioners* [2017] IECA 279, *The State (Whelan) v Smidic* [1938] IR 626, *Menolly Homes Ltd. v The Appeal Commissioners* [2010] IEHC 49 and *the State (Calcul International Ltd.) v The Appeal Commissioners* III ITR 577.

33. Murray J in *Lee* held as follows:

*"From the definition of the appeal, to the grounds of appeal enabled by the Act, to the orders the Appeal Commissioners can make at the conclusion of the proceedings, and the powers vested in them to obtain their statutory objective, their jurisdiction is focussed on the assessment and the charge. The 'incidental questions' which the case law acknowledges as falling within the Commissioners' jurisdiction are questions that are 'incidental' to the determination of whether the assessment properly reflects the statutory charge to tax having regard to the relevant provisions of the TCA, not to the distinct issue of whether as a matter of public law or private law there are additional facts and/or other legal principles which preclude enforcement of that assessment."*¹

34. In addition, the Commissioner notes that at paragraph 12 of *Menolly*, Charleton J stated that:

"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..."

35. Therefore, as a result of the above, the role of the Commissioner is to focus on the assessment and the charge to tax. The Commissioner has no statutory authority to review the conduct of the Respondent nor does the Commissioner have the jurisdiction to consider matters of equity. The Commissioner, therefore, makes no comment or finding in relation to the Appellant's Grounds of Appeal which do not relate to the charge to USC for 2024.

Determination

36. For the reasons set out above, the Commissioner determines that the Appellant has not discharged the burden of proof to establish that the contested amount of USC was not payable.

37. As a result, the Commissioner determines that the Appellant has not succeeded in his appeal and determines that the underpayment of USC of €697.76 contained in the Statement of Liability for the tax year 2024 issued by the Respondent to the Appellant on 1 April 2025 shall stand.

38. This Appeal is determined in accordance with Part 40A of the Taxes Consolidation Act 1997 (hereinafter the "TCA 1997") and in particular sections 949AL and 949U thereof.

¹ At paragraph 64

This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

Notification

39. 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

40. 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.



Clare O'Driscoll
Appeal Commissioner
31 July 2025