



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

Between

224TACD2025

[REDACTED]

Appellant

and

The Revenue Commissioners

Respondent

Determination

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Introduction

1. This is an appeal to the Tax Appeals Commission (“the Commission”) brought by [REDACTED] [REDACTED] (“the Appellant”) under section 949I of the Taxes Consolidation Act 1997 (“the TCA 1997”), in relation to a Notice of Amended Assessment to income tax for the tax year 2021 (“the Amended Assessment”) issued by the Revenue Commissioners (“the Respondent”) on 21 March 2025.
2. On 24 June 2025, the Commission notified the Appellant and the Respondent that the Commissioner intended to adjudicate on this appeal without a hearing and informed the parties that they could request a hearing within 21 days of that notification. Neither of the parties has objected or requested a hearing. Accordingly, this appeal is adjudicated without a hearing, under section 949U of the TCA 1997.

Background

3. On 21 March 2025, the Respondent issued the Amended Assessment to the Appellant, which showed a balance payable in the amount of €4,518.00. The liability arose in circumstances where the Respondent amended the Appellant’s income tax return for the tax year 2021 by removing credits for tax deducted, under section 997A of the TCA 1997.
4. On 21 April 2025, the Appellant submitted a Notice of Appeal to the Commission, which enclosed a copy of the Amended Assessment. On 3 June 2025, the Appellant submitted a Statement of Case and on 19 June 2025, the Respondent submitted a Statement of Case. The Commissioner has considered all of the documentation submitted by the parties in this appeal.

Legislation and Guidelines

5. The legislation relevant to this appeal is as follows:
6. Section 997A of the TCA 1997 provides:

“(1) (a) In this section -

'control' has the same meaning as in section 432;

'ordinary share capital', in relation to a company, means all the issued share capital (by whatever name called) of the company.

(b) For the purposes of this section -

(i) a person shall have a material interest in a company if the person, either on the person's own or with any one or more connected persons, or if any person

connected with the person with or without any such other connected persons, is the beneficial owner of, or is able, directly or through the medium of other companies or by any other indirect means, to control, more than 15 per cent of the ordinary share capital of the company, and

(ii) the question of whether a person is connected with another person shall be determined in accordance with section 10.

(2) This section applies to a person to who, in relation to a company (hereafter in this section referred to as 'the company'), has a material interest in the company.

(3) Notwithstanding any other provision of the Income Tax Acts or the regulations made under this Chapter, no credit for tax deducted from the emoluments paid by the company to a person to whom this section applies shall be given against the amount of tax chargeable in any assessment raised on the person or in any statement of liability sent to the person under Regulation 28 of the Income Tax (Employments) Regulations 2018 (S.I. No. 345 of 2018) unless there is documentary evidence to show that the tax deducted has been remitted by the company to the Collector-General in accordance with the provisions of those regulations.

(4) Where the company remits tax to the Collector-General which has been deducted from emoluments paid by the company in a year of assessment, the tax remitted for that year of assessment shall be treated as having been deducted from emoluments paid to persons other than persons to whom this section applies in priority to tax deducted from persons to whom this section applies.

(5) Where, in accordance with subsection (4), tax remitted to the Collector-General by the company is to be treated as having been deducted from emoluments paid by the company to persons to whom this section applies, the tax to be so treated shall, if there is more than one such person, be treated as having been deducted from the emoluments paid to each such person in the same proportion as the emoluments paid to the person bears to the aggregate amount of emoluments paid by the company to all such persons.

(6) Where, in accordance with subsection (5), the tax to be treated as having been deducted from the emoluments paid to each person to whom this section applies exceeds the actual amount of tax deducted from the emoluments of each person, then the amount of credit to be given for tax deducted from those emoluments shall not exceed the actual amount of tax so deducted.

(7) Notwithstanding section 960G and for the purposes of the application of this section, where a company has an obligation to remit any amount by virtue of the provisions of -

(a) the Social Welfare Consolidation Act 2005 and regulations made under that Act, as respects employment contributions,

(b) Part 18D and regulations made under that Part, as respects universal social charge, and

(c) this Chapter and regulations made under this Chapter, as respects income tax, any amount remitted by the company for a year of assessment shall be set -

(i) firstly against employment contributions,

(ii) secondly against universal social charge, and

(iii) lastly against income tax.

(8) A person aggrieved by a decision of the Revenue Commissioners in relation to a claim by that person for credit for tax deducted from emoluments, in so far as the decision was made by reference to any provision of this section, may appeal that decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of that decision.”

Submissions

Appellant

7. In ■■■ Notice of Appeal, the Appellant submitted:

“I am writing to formally appeal the Notice of Amended Tax Assessment issued to me, which requires payment of €4,500 for the tax year 2021. I respectfully request that this amount to be written off due to the following circumstances:

1. Lack of Awareness and Expectation of Assessment:

I was unaware of any outstanding tax liabilities for 2021. I had anticipated that any tax due would have been assessed and communicated to me promptly. The current notice, received nearly three and a half years later, would cause significant financial distress.

2. Current Financial Hardship:

My current weekly income is approximately ■■■ euros per week which is just above the minimum wage. This modest income is allocated towards essential living expenses, leaving no capacity to settle the €4,500 demand without severe hardship.

3. Potential Revenue Processing Oversight:

It is my understanding that the tax officer assigned to my case in 2021 may not have processed my tax affairs accurately. I believe this oversight has contributed to the current situation, which is beyond my control."

8. In [REDACTED] Statement of Case, the Appellant submitted (among other things):

"It would be beyond difficult to be faced with this kind of notice four and a half years after the fact - particularly when there was no indication at the time that anything was outstanding. Being made aware of such a significant amount so long after the relevant year has passed is very challenging."

Respondent

9. In its Statement of Case, the Respondent submitted (among other things):

"The Appellant is appealing Revenue's decision to amend their 2021 Income Tax return which resulted in a tax liability of €4,518.56.

Revenue amended the Appellant's return to remove the PAYE and USC paid which resulted in the liability being assessed. The Appellant is a proprietary director of [REDACTED] and there are monies owing on the deemed returns for the 2021 tax year.

The legislation covering this matter is Section 997A, subsections 1 to 4 of the TCA 1997 [...]

The Appellant owns more than 15% of the shares in the Company and as the tax deducted has not been remitted by the company to the Collector-General, Revenue is precluded by legislation for allowing credit for the tax deducted from the emoluments paid by the company to the Appellant."

Material Facts

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

10.1. On 21 March 2025, the Respondent issued the Amended Assessment, which showed an income tax liability in the amount of €4,518.00.

10.2. On 21 April 2025, the Appellant submitted a Notice of Appeal to the Commission.

- 10.3. The Appellant did not contest the amount of the income tax liability itself and no evidence was presented to the Commissioner to show that the amount assessed was incorrect.

Analysis

11. This appeal relates to a Notice of Amended Assessment issued by the Respondent on 21 March 2025 for the tax year 2021. In an appeal before the Commission, the burden of proof rests on the Appellant. In the High Court case of *Menolly Homes Ltd v Appeal Commissioners and another* [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. The Court of Appeal recently confirmed this position in *JSS, JSJ, TS, DS and PS v A Tax Appeal Commissioner* [2025] IECA 96, in which McDonald J. stated at paragraph 34 that:

“the taxpayer bears the burden of demonstrating that a tax assessment is wrong.”

13. In this appeal, the Respondent stated that it issued the Amended Assessment to remove credits for tax deducted in circumstances where the tax deducted had not been paid to the Collector General, under section 997A of the TCA 1997.

14. Turning then to the grounds for appeal, the Appellant submitted that [REDACTED] was unaware of [REDACTED] tax liabilities for 2021 and would have expected any tax due to be assessed and communicated promptly. The Appellant stated that it would cause [REDACTED] significant financial hardship to incur such a liability now. The Commissioner acknowledges the Appellant's submission and appreciates that the Appellant considers that it is difficult and challenging to be required now to repay the amount assessed. Nonetheless, the Commissioner has no jurisdiction to consider allegations of unfairness on the part of the Respondent. The Commissioner's jurisdiction *“is limited to determining whether an assessment correctly charges the relevant taxpayer in accordance with the relevant provisions of the TCA”*, as confirmed by the Court of Appeal in *Lee v Revenue Commissioners* [2021] IECA 18.

15. In addition, the Appellant submitted that [REDACTED] believed that the Respondent may not have processed [REDACTED] tax affairs correctly. However, the Appellant did not elaborate upon this assertion and presented no supporting evidence to show that the amount assessed was incorrect.

16. The Commissioner observes that while the Appellant made a general assertion that ■ tax affairs may not have been processed correctly, the Appellant did not contest the amount of the income tax liability itself. More fundamentally, no evidence was presented to the Commissioner to show that the income tax liability assessed in the amount of €4,518.00 was incorrect. The Commissioner has found these to be material facts.
17. As noted above, in an appeal before the Commission, the burden of proof rests on the Appellant, who must prove on the balance of probabilities that an assessment to tax is incorrect. The Appellant has presented no evidence to satisfy the Commissioner that the Amended Assessment was wrong in this case. Consequently, the Commissioner finds that the Appellant has not established that the amount assessed is not payable.
18. Finally, the Commissioner notes that the Appellant requested that the amount assessed be “written off” due to the circumstances outlined in ■ Notice of Appeal. However, the legislation does not confer any discretion or authority on the Commissioner to reduce the amount assessed on account of mitigating circumstances.
19. The Commissioner appreciates that this decision will be disappointing for the Appellant and acknowledges the circumstances outlined on appeal. The Appellant was entitled to check whether ■ legal rights were correctly applied.

Determination

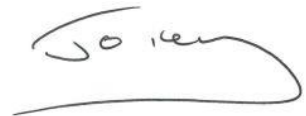
20. For the reasons set out above, the Commissioner determines that the Appellant has not succeeded in showing that the Amended Assessment is wrong and that the tax is not payable, and accordingly the Amended Assessment stands.
21. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular sections 949AK 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

22. 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

23. 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 'Jo Kenny', with a long horizontal flourish extending to the right.

Jo Kenny
Appeal Commissioner
12 August 2025