AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH

TAX APPEALS COMMISSION

226TACD2025

Between

[redacted]

Appellant

and

THE REVENUE COMMISSIONERS

Respondent

Determination

Contents

Introduction

1. This matter comes before the Tax Appeal Commission (hereinafter the "Commission") as an appeal against a Statement of Liability for the year 2022 issued by the Revenue Commissioners (hereinafter the "Respondent") on 6 November 2024 which showed an underpayment of tax of €6,508.89.

Background

2. [redacted] (hereinafter the "Appellant") is a Pay as You Earn (hereinafter "PAYE") worker who, in 2022, was jointly assessed to tax with her husband [redacted] (hereinafter the "Husband").

3. In 2022, the Appellant elected to be jointly assessed to income tax with her Husband and with the Appellant as the assessable spouse.

4. Prior to the election for the Appellant and her Husband to be jointly assessed to income tax, the Appellant's Husband had been issued with a Revenue Customer Number under which his employment with [redacted] had been registered from 2007 to July 2022 (hereinafter "Employment 1").

5. On 17 September 2021, the Appellant's Husband registered his Personal Public Service Number (hereinafter "PPSN") with the Respondent as part of his *myAccount* registration.

6. On 1 December 2021, the Respondent issued a Tax Credit Certificate to the Appellant's Husband for 2022 in relation to Employment 1. This Tax Credit Certificate was issued under his Customer Number and confirmed a tax credit allocation of €5,050.00 and a standard rate band allocation of €45,800.00 for Employment 1.

7. On application for joint assessment in 2022, the Appellant's Husband was registered using his PPSN and not his Customer Number.

8. On 16 May 2022, the Appellant's Husband changed his employment, having been employed with the same employer since 2007. His new employment (hereinafter "Employment 2") was registered with the Respondent using his PPSN and not the previously used Customer Number. On foot of this registration, a Tax Credit Certificate for 2022 was issued to the Appellant's Husband and his employer in Employment 2 which confirmed an annual tax credit allocation of €3,400.00 and a standard rate band allocation of €36,800.00.

9. As a result, the Appellant's Husband's income in 2022 from Employment 1 was taxed on the basis of the Tax Credit Certificate issued on 1 December 2021 using his Customer

Number. In addition, his income from Employment 2 in 2022 was taxed on the basis of the Tax Credit Certificate issued in May 2022 using his PPSN.

10. The Appellant and her Husband's joint income in 2022 was €187,556.76. This was comprised of:

Appellant's Income 2022	Husband's Income 2022
€33,731.90	€67,739.99 (from Employment 1) €88,084.87 (from Employment 2) Total €155,824.86

11. The following income tax totalling €48,684.33 was paid by the Appellant and her Husband in 2022:

Appellant's Income Tax paid 2022	Husband's Income Tax paid 2022
€6,232.72	€18,777.66 (from Employment 1) €23,673.95 (from Employment 2) Total €42,451.61

12. The following Universal Social Charge totalling €9,187.87 was paid by the Appellant and her Husband in 2022:

Appellant's Universal Social Charge paid 2022	Husband's Universal Social Charge paid 2022
€836.36	€4,033.98 (from Employment 1) €4,317.53 (from Employment 2) Total €8,351.51

13. On 6 November 2024, the Respondent issued a Statement of Liability for 2022 to the Appellant which showed an underpayment of income tax and Universal Social Charge of €6,508.89.

14. The Appellant submitted a Notice of Appeal to the Commission on 13 November 2024 contesting the Statement of Liability for 2022 issued on 6 November 2024.

15. On 23 January 2025, the parties to this appeal were notified of the Commissioner's intention to hold an oral hearing on 24 February 2025.

16. On 23 January 2025, the Appellant wrote to the Commission requesting that this appeal be determined without an oral hearing as follows:

    "Whilst we are grateful to the Commissioner for giving this matter due consideration and scheduling the said hearing, the purpose of this correspondence is to request that this matter is resolved by way of Determination by the Tax Appeals Commissioner based on the evidence furnished to date, rather than by remote hearing. Our rationale for this request is set out below:

    1. We (the appellant) have no further information / evidence to furnish to the Tax Appeals Commissioner for the purposes of this appeal save for what has already been delivered.

    2. To attend this hearing remotely (or otherwise) would necessitate the Appellant taking time out of work which would give rise to difficulties in terms of professional commitments.

    3. We are of the view that the matters at issue are clear and concise and could be resolved by way of Determination rather than necessitating all parties' attendance at hearing.

    4. We note with thanks that the Respondent has indicated in their Statement of Case that they assent to the matter being determined without a hearing date. It was an omission on the Appellant's part not to state likewise in her Statement of Case."

17. On 24 January 2025, the Commission wrote to the parties informing them that this appeal would, on foot of the Appellant's request, be determined 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.

Legislation and Guidelines

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

Section 15 of the TCA 1997 – "*Rate of charge*" – as in force from 1 January 2022 to 31 December 2022:

(1)Subject to subsection (2), income tax shall be charged for each year of assessment at the rate of tax specified in the Table to this section as the standard rate.

(2)Where a person who is charged to income tax for any year of assessment is an individual (other than an individual acting in a fiduciary or representative capacity), such individual shall, notwithstanding anything in the Income Tax Acts but subject to section 16(2), be charged to tax on such individual's taxable income -

(a)in a case in which such individual is assessed to tax otherwise than in accordance with section 1017 or 1031C and is not an individual referred to in paragraph (b), at the rates specified in Part 1 of the Table to this section, or

(b)in a case in which the individual is assessed to tax otherwise than in accordance with section 1017 or 1031C and is entitled to a reduction of tax provided for in section 462B, at the rates specified in Part 2 of the Table to this section, or

(c)subject to subsections (3) and (5), in a case in which such individual is assessed to tax in accordance with section 1017 or 1031C, at the rates specified in Part 3 of the Table to this section,

and the rates in each Part of that Table shall be known respectively by the description specified in column (3) in each such Part opposite the mention of the rate or rates, as the case may be, in column (2) of that Part.

(3)Subject to subsections (4) and (5) -

(a)where an individual is charged to tax for a year of assessment in accordance with section 1017 or 1031C, and

(b)both the individual and his or her spouse or civil partner are each in receipt of income in respect of which the individual is chargeable to tax in accordance with that section,

the part of his or her taxable income chargeable to tax at the standard rate specified in column (1) of Part 3 of the Table to this section shall be increased by an amount which is the lesser of -

(i)€27,800, and

(ii)the specified income of the individual or the specified income of the individual's spouse or civil partner, whichever is the lesser.

(4)For the purposes of subsection (3), "specified income" means total income after deducting from such income any deduction attributable to a specific source of income and any relevant interest within the meaning of Chapter 4 of Part 8.

(5)Where all or any part of an increase under subsection (3) in the amount of an individual's taxable income chargeable to income tax at the standard rate is attributable to emoluments from which tax is deductible in accordance with the provisions of Chapter 4 of Part 42 and any regulations made thereunder, then, the full amount of the increase, or that part of the increase, as may be appropriate in the circumstances, shall only be used in accordance with the provisions of that Chapter and those regulations in calculating the amount of tax to be deducted from those emoluments.

Table

Part 1

Part of taxable income *(1)*	*Rate of tax* *(2)*	*Description of rate* *(3)*
The first €36,800	*20 per cent*	*the standard rate*
The remainder	*40 per cent*	*The higher rate*

Part 2

Part of taxable income *(1)*	*Rate of tax* *(2)*	*Description of rate* *(3)*
The first €40,800	*20 per cent*	*the standard rate*
The remainder	*40 per cent*	*The higher rate*

Part 3

Part of taxable income *(1)*	*Rate of tax* *(2)*	*Description of rate* *(3)*
The first €45,800	*20 per cent*	*the standard rate*
The remainder	*40 per cent*	*The higher rate*

<u>Section 112(1) of the TCA 1997 – "*Basis of assessment, persons chargeable and extent of charge*":</u>

> "*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.*"

<u>Section 461 of the TCA 1997 – "*Basic personal tax credit*" – as in force from 1 January 2022 to 31 December 2022:</u>

> *"In relation to any year of assessment, an individual shall be entitled to a tax credit (to be known as the 'basic personal tax credit') of -*
>
> > *(a)€4,000, in a case in which the claimant is a married person or a civil partner who -*
> >
> > > *(i)is assessed to tax for the year of assessment in accordance with section 1017 or 1031C, as the case may be, or*
> > >
> > > *(ii)proves that his or her spouse or civil partner is not living with him or her but is wholly or mainly maintained by him or her for the year of assessment and that the claimant is not entitled, in computing his or her income for tax purposes for that year, to make any deduction in respect of the sums paid by him or her for the maintenance of his or her spouse or civil partner,*
> >
> > *(b)€4,000, in a case in which the claimant in the year of assessment is a widowed person or surviving civil partner, other than a person to whom*

paragraph (a) applies, whose spouse or civil partner has died in the year of assessment, and

(c)€2,000, in the case of any other claimant."

<u>Section 472 of the TCA 1997 – "*Employee allowance*" – as in force from 1 January 2022 to 31 December 2022:</u>

...

(4)Where, for any year of assessment, a claimant proves that his or her total income for the year consists in whole or in part of emoluments (including, in a case where the claimant is a married person assessed to tax in accordance with section 1017, or a civil partner assessed to tax in accordance with section 1031C, any emoluments of the claimant's spouse or civil partner deemed to be income of the claimant by that section for the purposes referred to in that section) the claimant shall be entitled to a tax credit (to be known as the 'employee tax credit') of -

(a)where the emoluments (but not including, in the case where the claimant is a married person or a civil partner so assessed, the emoluments, if any, of the claimant's spouse or civil partner) arise to the claimant, the lesser of an amount equal to the appropriate percentage of the emoluments and €1,700, and

(b)where, in a case where the claimant is a married person or a civil partner so assessed, the emoluments arise to the claimant's spouse or civil partner, the lesser of an amount equal to the appropriate percentage of the emoluments and €1,700.

…"

<u>Section 561AN of the TCA 1997 – "*Rate of charge*" – as in force from 1 January 2022 to 31 December 2022:</u>

"(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 €21,295 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 2023 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

Part of aggregate income *(1)*	*Rate of universal social charge* *(2)*
The first €12,012	*0.5 per cent*
The next €9,283	*2 per cent*
The next €48,749	*€4.5 per cent*
The remainder	*8 per cent*

Part 2

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

”

Section 1017 of the TCA 1997 – “*Assessment of husband in respect of income of both spouses”*:

(1)Where in the case of a husband and wife an election under section 1018 to be assessed to tax in accordance with this section has effect for a year of assessment—

(a)the husband shall be assessed and charged to income tax, not only in respect of his total income (if any) for that year, but also in respect of his wife's total income (if any) for any part of that year of assessment during which she is living with him, and for this purpose and for the purposes of the Income Tax Acts that last-mentioned income shall be deemed to be his income,

(b)the question whether there is any income of the wife chargeable to tax for any year of assessment and, if so, what is to be taken to be the amount of that income for tax purposes shall not be affected by this section, and

(c)any tax to be assessed in respect of any income which under this section is deemed to be income of a woman's husband shall, instead of being assessed on her, or on her trustees, guardian or committee, or on her executors or administrators, be assessable on him or, in the appropriate cases, on his executors or administrators.

(2)Any relief from income tax authorised by any provision of the Income Tax Acts to be granted to a husband by reference to the income or profits or gains or losses of his wife or by reference to any payment made by her shall be granted to a husband for a year of assessment only if he is assessed to tax for that year in accordance with this section.

(3)Subject to subsection (4), for a year of assessment prior to the current year of assessment in which this section applies as a consequence of—

(a)an election made (including an election deemed to have been duly made) under section 1018,

(b)an election made under section 1019(2)(a)(ii), or

(c)section 1019(4)(a),

a husband or a wife who is not assessed under this section may elect to be so assessed and such election shall apply in place of any earlier election or deemed election for that year of assessment.

(4)Subsection (3) shall not apply where the husband or the wife is a chargeable person (within the meaning of section 959A)."

Section 1018 of the TCA 1997 – "*election for assessment under section 1017"*:

(1)A husband and his wife, where the wife is living with the husband, may at any time during a year of assessment, by notice in writing given to the inspector, jointly elect to be assessed to income tax for that year of assessment in accordance with section 1017 and, where such election is made, the income of the husband and the income of the wife shall be assessed to tax for that year in accordance with that section.

(2)Where an election is made under subsection (1) in respect of a year of assessment, the election shall have effect for that year and for each subsequent year of assessment.

(3)Notwithstanding subsections (1) and (2), either the husband or the wife may, in relation to a year of assessment, by notice in writing given to the inspector before the

end of the year, withdraw the election in respect of that year and, on the giving of that notice, the election shall not have effect for that year or for any subsequent year of assessment.

(4) (a)A husband and his wife, where the wife is living with the husband and where an election under subsection (1) has not been made by them for a year of assessment (or for any prior year of assessment) shall be deemed to have duly elected to be assessed to tax in accordance with section 1017 for that year unless before the end of that year either of them gives notice in writing to the inspector that he or she wishes to be assessed to tax for that year as a single person in accordance with section 1016.

(b)Where a husband or his wife has duly given notice under paragraph (a), that paragraph shall not apply in relation to that husband and wife for the year of assessment for which the notice was given or for any subsequent year of assessment until the year of assessment in which the notice is withdrawn, by the person who gave it, by further notice in writing to the inspector."

Section 1019 of the TCA 1997 – "*Assessment of wife in respect of income of both spouses"*:

"(1)In this section—

"the basis year", in relation to a husband and wife, means the year of marriage or, if earlier, the latest year of assessment preceding that year of marriage for which details of the total incomes of both the husband and the wife are available to the inspector at the time they first elect, or are first deemed to have duly elected, to be assessed to tax in accordance with section 1017;

"year of marriage", in relation to a husband and wife, means the year of assessment in which their marriage took place.

(2)Subsection (3) shall apply for a year of assessment where, in the case of a husband and wife who are living together—

(a) (i)an election (including an election deemed to have been duly made) by the husband and wife to be assessed to income tax in accordance with section 1017 has effect in relation to the year of assessment, and

(ii)the husband and the wife by notice in writing jointly given to the inspector before 1 April in the year of assessment elect that the wife should be assessed to income tax in accordance with section 1017,

or

(b) *(i)the year of marriage is the year 1993-94 or a subsequent year of assessment,*

(ii)not having made an election under section 1018(1) to be assessed to income tax in accordance with section 1017, the husband and wife have been deemed for that year of assessment, in accordance with section 1018(4), to have duly made such an election, but have not made an election in accordance with paragraph (a)(ii) for that year, and

(iii)the inspector, to the best of his or her knowledge and belief, considers that the total income of the wife for the basis year exceeded the total income of her husband for that basis year.

(3)Where this subsection applies for a year of assessment, the wife shall be assessed to income tax in accordance with section 1017 for that year, and accordingly references in section 1017 or in any other provision of the Income Tax Acts, however expressed—

(a)to a husband being assessed, assessed and charged or chargeable to income tax for a year of assessment in respect of his own total income (if any) and his wife's total income (if any), and

(b)to income of a wife being deemed for income tax purposes to be that of her husband,

shall, subject to this section and the modifications set out in subsection (6) and any other necessary modifications, be construed respectively for that year of assessment as references—

(i)to a wife being assessed, assessed and charged or chargeable to income tax in respect of her own total income (if any) and her husband's total income (if any), and

(ii)to the income of a husband being deemed for income tax purposes to be that of his wife.

(4) *(a)Where in accordance with subsection (3) a wife is by virtue of subsection (2)(b) to be assessed and charged to income tax in respect of her total income (if any) and her husband's total income (if any) for a year of assessment—*

(i)in the absence of a notice given in accordance with subsection (1) or (4)(a) of section 1018 or an application made under section 1023, the

wife shall be so assessed and charged for each subsequent year of assessment, and

(ii)any such charge shall apply and continue to apply notwithstanding that her husband's total income for the basis year may have exceeded her total income for that year.

(b)Where a notice under section 1018(4)(a) or an application under section 1023 is withdrawn and, but for the giving of such a notice or the making of such an application in the first instance, a wife would have been assessed to income tax in respect of her own total income (if any) and the total income (if any) of her husband for the year of assessment in which the notice was given or the application was made, as may be appropriate, then, in the absence of an election made in accordance with section 1018(1) (not being such an election deemed to have been duly made in accordance with section 1018(4)), the wife shall be so assessed to income tax for the year of assessment in which that notice or application is withdrawn and for each subsequent year of assessment.

(5)Where an election is made in accordance with subsection (2)(a)(ii) for a year of assessment, the election shall have effect for that year and each subsequent year of assessment unless it is withdrawn by further notice in writing given jointly by the husband and the wife to the inspector before 1 April in a year of assessment and the election shall not then have effect for the year for which the further notice is given or for any subsequent year of assessment..”

Submissions

Appellant's Submissions

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

“I am not sure why we have an underpayment for the year 2022. I, [redacted]*, did not work for 8 months of the year 2022 and did not claim any benefits during that time. My husband,* [redacted] *continued to work as normal.*”

20. The Appellant submitted the following in her Statement of Case:

“***Matter under dispute***

My husband and I are PAYE workers. In the latter quarter of 2024, whilst in the process of claiming tax back on medical expenses for 2022, it came to my attention that our

Statement of Liability for that year indicated an underpayment of €6,508.89 income tax.

Relevant Facts

I could not understand why this was the position and was quite concerned. In 2022 I did not work for 8 months, during which time I did not claim any welfare benefits. During the months which I did work in 2022, it was my understanding that income tax was deducted from my salary and my husband's salary in the usual way. I made inquiries with the Revenue in this regard and was advised by PAYE Service for Compliance on 16 December 2024 that:

> *"Your liability is based on both you and your spouse's income. This doesn't just include your income alone. You had updated your civil status in which would update your records overall to joint assessment for 2022. Between you & your spouse there is a taxable income of €187,556.76. As you were hitting the forty percent bracket, you would have been liable for tax at 40%. Based on the payroll submissions by both you & your spouse's employers the underpayment appears correct".*

I was alarmed by this response. How could a liability be incurred in this regard when we pay our taxes on a PAYE basis? This liability caused untold stress to my husband and me, particularly in the run up to Christmas. We have 4 children, all of whom still live at home, 3 of whom are students and one who is seeking employment. On 17 December 2024 I received a call from the Revenue. The purpose of this call was to assure me that the said tax liability would not have to be paid off as a lump sum but could be paid off over a number of years. I was also advised by email on 18 December 2024 that the reason for this liability is because:

> *"Your spouse, [redacted], had a Revenue issued customer number which was used for his employment with [redacted] until this employment was ceased as of 26 July 2022. [redacted]'s new employment was registered as of 16 May 2022 using the PPSN number issued to him by the Department of Social Protection. [redacted] contacted Revenue's PAYE Helpline on 16 December 2022 to advise of his PPSN and request his records be updated to reflect this. Your records were updated to reflect [redacted]'s updated PPSN on 26 January 2023 and an amended Tax Credit Certificate was issued to reflect this. As [redacted] had the benefit of 2 sets of credits and rate bands for the 2022 period, this resulted in the underpayment on record for 2022. Revenue were not made aware of this*

matter until [redacted] contacted Revenue on 16 December 2022, as such Revenue were unable to update [redacted]'s records prior to this.

As discussed, the underpayment can be collected via credit reduction over 4 years to minimise any hardship caused. This would result in a reduction of:

· 2025 - €1,594.20

· 2026 - €1,594.19

· 2027 - €1,594.19

· 2028 - €1,594.19

***Basis of Appeal**:*

My response to this correspondence dated 18 December 2024 is set out below and is the basis of this appeal:

"I note the anomaly arising in respect of [redacted]'s Customer Number and PPS number. This anomaly has arisen through no act or omission on [redacted]'s or my part. The responsibility for this anomaly rests with the Revenue. It was [redacted] who brought it to the Revenue's attention. In the circumstances, we consider it unjust and unreasonable for you to apply credit reductions to our income for the next 4 years so that this underpayment can be rectified. We are effectively being penalised for your office's inefficiencies. This "hardship" is a significant one and is not of our doing. The responsibility for calculating tax liabilities for PAYE workers rests with the Government / the Revenue. There cannot be an expectation that if your office errs in fulfilling its statutory function, the PAYE worker will step in to rectify matters to his / her financial detriment/inconvenience. We would expect this underpayment to either be written off given it arises as a consequence of inefficiencies at your end, or alternatively paid off over a much lengthier period. Please do not apply the credit reductions which you have outlined in your message until the Appeal process is complete. Finally, your office should note that this issue has caused untold worry and anxiety within my family. Your office must learn to appreciate the impact its inefficiencies have on taxpayers. To receive this type of notification at any time is dreadful but to receive it in the run up to Christmas is quite unforgivable. I await your office's response to the issues I have raised, to include steps which will be taken so as to avoid this ever happening again to any other tax paying citizen".

In reply I was advised by the Revenue's PAYE Appeals team on 19 December 2024 that:

> *"There will be no reduction of your tax credits until the appeal process has concluded in respect of this matter. Our office will review the points raised by you in your recent correspondence and I do sincerely apologise for any worry the underpayment has caused in this instance. Finally, I can confirm our office will be complying with the recent Tax Appeals Commission direction to submit a Statement of Case for the matter under appeal"*

In addition to the above information, please also note my husband makes the following points in support of this appeal:

> *Contrary to what the revenue has indicated, the issue in respect of the PPS numbers arose while he was still employed by [redacted] (where he had been employed for over 12 years at the time) as he noticed his PPS Number had changed in and around 2016 when looking at pay slips. He has no knowledge as to why or who instigated the change in his PPS number, but it certainly had nothing to do with him. He contacted [redacted] payroll at the time who indicated that they had been advised that he had been issued with a new PPS number.*
>
> *In April 2023 [redacted] received a letter from the revenue's Local Property Tax Office demanding payment of local property tax. This was despite the fact that he had been paying the local property tax at source via his employers [redacted] and [redacted]. He was advised by the revenue to ignore the letter. At no time did anyone in the Revenue mention anything to [redacted] about income tax underpayments. Of note, [redacted] also contacted the Department of Social Welfare to complain about the fact that his PPS number had changed, advising that this was resulting in significant issues for him with the revenue.*
>
> *In April 2024 [redacted] received another letter from the revenue again indicating that we had not met our Property Tax payment obligations. A copy of the letter is attached along with handwritten notes made by [redacted] at the time outlining the advice he was given over the phone by the revenue in respect of same. You will note the references therein to "glitch in system", "underlying issues still not resolved" and the references to 2 different PPS numbers. This letter was sent to [redacted] despite his previous correspondence with the Revenue as mentioned above, advising that our local property tax was paid at source. [redacted] was again advised that this letter was sent to him due to the PPS numbers anomaly, and in fact on this occasion he was advised that the issue dated back to 2015, and*

that there was an error in the Revenue's system. He was advised that a letter would issue advising him to ignore the payment demand. We still await same. Again, at no point was [redacted] *advised of any issues regarding income tax payments.*

The afore-mentioned points are indicative of the ongoing issues arising for us as a consequence of inefficiencies within the Revenue and/or Dept of Social Protection. It is clear that departments within the Revenue (and government in general) are not linked and do not speak to each other digitally or otherwise. There is no joined up thinking resulting in confusion and unwarranted payment demands for the taxpayer.

Please be mindful that this chain of events has caused us significant worry in terms of our credit rating and whether this would result in issues for us down the line should we require loans for our children's education, home adaptations and so on, not to mention the financial difficulties in terms of the expectation that we will pay the underpayment back. This is unreasonable, unfair and unjust.

Please note that the income tax underpayment for 2022 only came to our attention by chance. We acted upon it immediately by contacting the revenue office online and The Tax Appeals Commission. We should not have had to be burdened with this worry and stress, particularly the week before Christmas. It has caused worry and anxiety and undoubtedly contributed to my recent illness. The issuing / changing of Customer Numbers / PPS numbers is a matter for the Revenue and/or Dept of Social Protection, not the tax paying citizen. Tax implications / underpayments / anomalies arising as a result should not be the tax paying citizen's burden or responsibility."

Respondent's Submissions

21. The Respondent submitted the following "Outline of Relevant Facts" in its Statement of Case:

"***Outline of relevant facts***

The Appellant was married and taxed under joint assessment with her spouse for 2022.

The Respondent can confirm that the Appellant was the assessable spouse for 2022.

The circumstances of how the underpayment materialised in this matter are unfortunate, but the Respondent will address this aspect in full as part of its submission.

Revenue Customer Number

The Appellant's spouse was previously issued with a Revenue generated customer number (similar to PPSN). As a result of this his employments and personal information were recorded on the record of the Respondent under his customer number and not his PPSN. The Respondent would note that the marriage for the Appellant and her spouse was recorded under his customer number and not his PPSN.

Registration of PPSN for myAccount

The Respondent would note that the Appellant's spouse registered his PPSN with Revenue as part of his myAccount registration on 17 September 2021. This ensured a record was created under his PPSN separate to the record already in place under his customer number.

Employment Change 2022

The Appellant's spouse was an employee of [redacted] *from 2007 through to 26 July 2022 and this employment was recorded under his customer number.*

The spouse of the Appellant commenced in a new role with [redacted] *on 16 May 2022. This employment was registered on Revenue records with the Appellants spouse,s PPSN and not the previously utilised Revenue customer number.*

A Tax Credit Certificate for 2022 issued to the Appellants spouse in advance of this year under his customer number on 1 December 2021. This document confirmed a tax credit allocation of €5,050.00 and a rate band allocation of €45,800.00 for his [redacted] *employment in 2022. A Revenue Payroll Notification (RPN) issued to* [redacted] *in advance of 2022 which confirmed the allocations in advance of 2022.*

2022 Underpayment Background

The spouse of the Appellant provided his new employer with his PPSN when he started employment with this company in May 2022. [redacted] *notified the Respondent of this employment on 25 May 2022. Following this update, the Respondent issued the spouse of the Appellant a Tax Credit Certificate for 2022, which confirmed an annual tax credit allocation of €3,400.00 and a rate band allocation of €36,800.00.*

The Respondent can confirm as the employment with [redacted] *was registered under the PPSN of the Appellants spouse, this meant he was taxed as* *a single individual with the full benefit of single persons tax credits for this period and his other employment income in 2023 under the Revenue issued customer number was not taken into consideration by* [redacted] *in their deductions for the remainder of 2022.*

The Respondent issued RPN number 1 to [redacted] *on 25 May 2022, which they utilised when operating the payroll of the Appellants spouse for the remainder of 2022. As a result, the spouse of the Appellant received the benefit of additional allowances in year which ensured the full tax due on his employment income was not collected in 2022.*

…

Customer Number Merged with PPSN

The Appellant's spouse contacted the Respondent on 16 December 2022 in relation to their record, at which time the issue around the customer number and PPSN was identified.

Following a review of this matter, the Respondent updated the Appellant's record ensured all information and relationships previously held under his customer number were merged with his PPSN.

The Respondent can confirm all information proper to the Appellants spouse is now contained under his PPSN and his previously used customer number is no longer in operation.

Summary of 2022 Underpayment

The Respondent was not previously aware that the spouse of the Appellant was using both his customer number and his PPSN in 2022. As a result of this the spouse of the Appellant was in receipt of additional allocations and was deducted less income tax and Universal Social Charge (USC).

The Respondent can confirm the Appellant's spouse was taxed under joint assessment under his customer number for the period 1 January 2022 – 26 July 2022 specifically for his [redacted] *employment. He therefore received the both the married tax credits and additional rate band on foot of his marriage for this period.*

The Respondent would further note the Appellant was taxed as a single person for the period 16 May 2022 – 31 December 2022 for the employment setup under his PPSN. Therefore, he received of additional allowances for this period for his employment with [redacted]*, while his previous earnings in 2022 with* [redacted] *were not taken into consideration when processing his* [redacted] *income during 2022.*

Following a successful merge of the Appellants spouse's customer number with his PPSN, all employment income was now recorded under his PPSN for 2022.

As a result, his 2022 Statement of Liability included his combined employment income, and his resulting liability was calculated based on the credits and rate bands available in 2022.

A Statement of Liability issued to the Appellant and her spouse on 6 November 2024 confirming an underpayment of €6,508.89, and a demand for payment was issued. The Respondent contacted the Appellant to confirm the demand has been removed and the underpayment would instead be collected by a reduction of their tax credits going forward.

The Respondent is acutely aware of the unusual nature of this matter and is therefore open to extending the tax credit collection mechanism over an extended period to ease any financial hardship in this matter."

Material Facts

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

    22.1. The Appellant is a PAYE worker who, in 2022, was jointly assessed to tax with her Husband.

    22.2. In 2022, the Appellant elected to be jointly assessed to income tax with her Husband with the Appellant as the assessable spouse pursuant to the provisions of section 1017, 1018 and 1019 of the TCA 1997.

    22.3. Prior to the election for the Appellant and her Husband to be jointly assessed to income tax, the Appellant's Husband had been issued with a Revenue Customer Number under which Employment 1 had been registered from 2007 to July 2022.

    22.4. On 17 September 2021, the Appellant's Husband registered his PPSN with the Respondent as part of his *myAccount* registration.

    22.5. On 1 December 2021, the Respondent issued a Tax Credit Certificate to the Appellant's Husband for 2022 in relation to Employment 1. This Tax Credit Certificate was issued under his Customer Number and confirmed a tax credit allocation of €5,050.00 and a rate band allocation of €45,800.00 for Employment 1.

22.6. On application for joint assessment in 2022, the Appellant's Husband was registered using his PPSN and not his Customer Number.

22.7. On 16 May 2022, the Appellant's Husband changed his employment having been employed with the same employer since 2007. Employment 2 was registered with the Respondent using his PPSN and not the previously used Customer Number.

22.8. On foot of this registration, a Tax Credit Certificate for 2022 was issued to the Appellant's Husband which confirmed an annual tax credit allocation of €3,400.00 and a rate band allocation of €36,800.00.

22.9. The Appellant's Husband's income in 2022 from Employment 1 was taxed on the basis of the Tax Credit Certificate issued on 1 December 2021 using his Customer Number and his income from Employment 2 was taxed on the basis of the Tax Credit Certificate issued in May 2022 using his PPSN.

23. The Appellant and her Husband's joint income in 2022 was €187,556.76. This was comprised of:

Appellant's Income 2022	Husband's Income 2022
€33,731.90	€67,739.99 (from Employment 1) €88,084.87 (from Employment 2) Total €155,824.86

24. The following income tax totalling €48,684.33 was paid by the Appellant and her Husband in 2022:

Appellant's Income Tax paid 2022	Husband's Income Tax paid 2022
€6,232.72	€18,777.66 (from Employment 1) €23,673.95 (from Employment 2)

	Total €42,451.61

25. The following Universal Social Charge totalling €9,187.87 was paid by the Appellant and her Husband in 2022:

Appellant's Universal Social Charge paid 2022	Husband's Universal Social Charge paid 2022
€836.36	€4,033.98 (from Employment 1) €4,317.53 (from Employment 2) Total €8,351.51

25.1. On 6 November 2024, the Respondent issued a Statement of Liability for 2022 to the Appellant which showed an underpayment of income tax and Universal Social Charge totalling €6,508.89. This was comprised of an underpayment of income tax of €4,663.17 and an underpayment of Universal Social Charge of €1,845.72.

25.2. The Appellant submitted a Notice of Appeal to the Commission on 13 November 2024.

Analysis

26. 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 (hereinafter "*Menolly"*), 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*."

27. 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."

28. There is no dispute, and the Commissioner has found as a material fact, that the Appellant and her Husband elected to be jointly assessed to income tax for 2022 pursuant to the provisions of sections 1017, 1018 and 1019 of the TCA 1997.

29. All of the income received by the Appellant and her Husband was a result of salaries from an employment and is, therefore, subject to income tax under Schedule E pursuant to the provisions of section 112 of the TCA 1997.

30. There also is no dispute between the parties, and the Commissioner has found as a material fact, that the Appellant and her Husband's joint income in 2022 was €187,556.76.

31. As a result, the Appellant and her Husband's income of €187,556.76 in 2022 was subject to income tax under Schedule E.

32. Section 15 of the TCA 1997, as was in force from 1 January 2022 to 31 December 2022, provided that for a married couple who were jointly assessed to income tax the standard rate band which was applicable where both parties were in receipt of income was €73,600. This meant that the first €73,600 of income was assessed to tax at 20% with the remainder being assessed to tax at 40%.

33. In 2022, the following tax credits totalling €6,955.20 were available to the Appellant and her Husband who were jointly assessed to income tax pursuant to the provisions of sections 461 and 472 of the TCA 1997:

    33.1. Personal Tax Credits of €3,400 in total;

    33.2. Employee Tax Credits of €1,700 each where both parties were in employment;

    33.3. Health Expenses of €155.20.

34. It is not in dispute between the parties, and the Commissioner has already found as a material fact, that the Appellant and her Husband paid €48,684.33 in income tax in 2022.

35. As a result, the following income tax calculation applies to the Appellant as the assessable spouse for 2022:

Gross income liable to PAYE	€187,556.76
PAYE due @ 20% (first €73,600)	€14,720.00

PAYE due @ 40% (remainder)	€45,582.70
PAYE Due	€60,302.70
Less tax credits Less tax paid	€6,955.20 €48,684.33
Underpayment of income tax	**€4,663.17**

36. Section 531AN of the TCA 1997, as was in force from 1 January 2022 to 31 December 2022, provided that the following rates of Universal Social Charge applied to an individual's aggregate income:

Part of aggregate income *(1)*	*Rate of universal social charge* *(2)*
The first €12,012	*0.5 per cent*
The next €9,283	*2 per cent*
The next €48,749	*€4.5 per cent*
The remainder	*8 per cent*

37. It is not in dispute between the parties, and the Commissioner has already found as a material fact, that the Appellant and her Husband paid Universal Social Charge totalling €9,187.87 in 2022 as follows:

Appellant's Universal Social Charge paid 2022	Husband's Universal Social Charge paid 2022
€836.36	€4,033.98 (from Employment 1) €4,317.53 (from Employment 2) Total €8,351.51

38. As a result, the following Universal Social Charge calculation applies to the Appellant, as the assessable spouse, for 2022:

Gross income liable to USC	**€167,016.53**
USC due @ 0.5%	€60.06
USC due @ 2%	€185.66
USC due @ 4.5%	€2,193.71
USC due @ 8%	€7,757.80
Total USC due	€10,197.23
Less USC paid	€8,351.51
USC Underpayment	**€1,845.72**

39. It must therefore follow that the Appellant and her Husband have under paid the total amount of €6,508.89 in income tax and Universal Social Charge for 2022.

40. This is an unfortunate situation which has arisen due to the use by the Appellant's Husband of both a Customer Number and a PPSN in 2022, the issuing of two Tax Credit Certificates with the resulting application of incorrect tax credits. The Commissioner accepts that both the Appellant and her Husband are employees and that they pay their taxes through the Pay As You Earn system.

41. The Commissioner notes that the Appellant has made various observations in her submissions 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."

42. 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.

43. 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]

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

[1] At paragraph 64

"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…"

45. 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 observations which do not relate to the charges to income tax and to Universal Social Charge for 2022.

Determination

46. For the reasons set out above, the Commissioner determines that the Appellant has not discharged the burden of proof to establish that the contested amounts of income tax and Universal Social Charge were not payable.

47. As a result, the Commissioner determines that the Appellant has not succeeded in her appeal and determines that the underpayment of income tax and of Universal Social Charge of €6,508.89 contained in the Statement of Liability for the tax year 2022 issued by the Respondent to the Appellant on 6 November 2024 shall stand.

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

Notification

49. 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

50. 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
12 August 2025