



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

234TACD2025

Between

[REDACTED]

Appellant

and

The Revenue Commissioners

Respondent

Determination

Introduction

1. This is an appeal to the Tax Appeals Commission (“the Commission”) by [REDACTED] (“the Appellant”) against a decision of the Revenue Commissioners (“the Respondent”) to refuse a claim for a repayment of income tax in the amount of €15,632.64 for the 2013 tax year, on the ground that the claim was made outside the statutory timeframe.
2. The Commission notified the Appellant and the Respondent that the Appeal Commissioners 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 did so. Accordingly, this appeal is adjudicated without a hearing, in accordance with section 949U of the Taxes Consolidation Act, 1997, as amended (“the TCA 1997”).
3. When notifying the parties that the Appeal Commissioners intended to adjudicate on this appeal without a hearing, the parties were also afforded an opportunity to provide any further documentation. Neither party did so.

Background

4. In March 2024, the Appellant filed his income tax return for the 2013 tax year. The return showed an overpayment in the amount of €15,632.64, which the Appellant sought a repayment of. The Commission did not receive a copy of the filed return.
5. By correspondence dated 6 December 2024, the Respondent notified the Appellant that it had refused his claim for a repayment of tax, on the basis that the claim was not made within the statutory four-year time limit. That correspondence also informed the Appellant that he had a right of appeal to the Commission.
6. The Appellant, aggrieved by the Respondent's decision dated 6 December 2024, appealed to the Commission on 16 January 2025.
7. Section 865(7) of the TCA 1997 provides that an appeal of this nature may be made within 30 days after the date of the Respondent's decision. Accordingly, the appeal was filed late.
8. Section 949O of the TCA 1997 allows the Commission to accept a late appeal in extenuating circumstances relating to absence, sickness or other reasonable cause, where the appeal is made thereafter without unreasonable delay. There are additional requirements to be met where an appeal is made more than 12 months late, but those requirements are not relevant to this appeal.
9. Having considered the Appellant's explanation for the delay, along with supporting documentation to substantiate his position, the Appeal Commissioner ("the Commissioner") is satisfied that it is appropriate to consider and determine the substantive appeal, notwithstanding that it was made late. The Commissioner notes that the Respondent did not object to the Commission accepting the Appellant's late appeal.
10. The Appellant submitted a notice of appeal and accompanying documentation in support of his appeal. In addition, the Appellant submitted a statement of case, and the Respondent also submitted a statement of case. The Commissioner has considered all the documentation submitted by the parties.

Legislation

11. The legislation relevant to this appeal is set out below.
12. Section 865 of the TCA 1997 provides, among other things, as follows:

"(1) (a) In this section and section 865A -

'Acts' means the Tax Acts, the Capital Gains Tax Acts, Part 4A, Part 18A, Part 18C, Part 18D, Part 22A and Part 22B and instruments made thereunder;

'chargeable period' has the meaning assigned to it by section 321;

'tax' means any income tax, corporation tax, capital gains tax, income levy, domicile levy, universal social charge, residential zoned land tax or vacant homes tax or IIR top-up tax, UTPR top-up tax or domestic top-up tax (each within the meaning of Part 4A) and includes -

- (i) any interest, surcharge or penalty relating to any such tax, levy or charge,*
- (ii) any sum arising from the withdrawal or clawback of a relief or an exemption relating to any such tax, levy or charge,*
- (iii) any sum required to be deducted or withheld by any person and paid or remitted to the Revenue Commissioners or the Collector-General, as the case may be, and*
- (iv) any amount paid on account of any such tax, levy or charge or paid in respect of any such tax, levy or charge;*

'valid claim' shall be construed in accordance with paragraph (b).

(b) For the purposes of subsection (3) -

- (i) where a person furnishes a statement or return which is required to be delivered by the person in accordance with any provision of the Acts for a chargeable period, such a statement or return shall be treated as a valid claim in relation to a repayment of tax where -*
 - (I) all the information which the Revenue Commissioners may reasonably require to enable them determine if and to what extent a repayment of tax is due to the person for that chargeable period is contained in the statement or return, and*
 - (II) the repayment treated as claimed, if due -*

- (A) *would arise out of the assessment to tax, made at the time the statement or return was furnished, on foot of the statement or return, or*
 - (B) *would have arisen out of the assessment to tax, that would have been made at the time the statement or return was furnished, on foot of the statement or return if an assessment to tax had been made at that time,*
- (ii) *where all information which the Revenue Commissioners may reasonably require, to enable them determine if and to what extent a repayment of tax is due to a person for a chargeable period, is not contained in such a statement or return as is referred to in subparagraph (i), a claim to repayment of tax by that person for that chargeable period shall be treated as a valid claim when that information has been furnished by the person, and*
- (iii) *...*
- (2) *Subject to the provisions of this section, where a person has, in respect of a chargeable period, paid, whether directly or by deduction, an amount of tax which is not due from that person or which, but for an error or mistake in a return or statement made by the person for the purposes of an assessment to tax, would not have been due from the person, the person shall be entitled to repayment of the tax so paid.*
- ...*
- (3) *A repayment of tax shall not be due under subsection (2) unless a valid claim has been made to the Revenue Commissioners for that purpose.*
- ...*
- (4) *Subject to subsection (5), a claim for repayment of tax under the Acts for any chargeable period shall not be allowed unless it is made -*
 - (a) *in the case of claims made on or before 31 December 2004, under any provision of the Acts other than subsection (2), in relation to any chargeable period ending on or before 31 December 2002, within 10 years,*

(b) in the case of claims made on or after 1 January 2005 in relation to any chargeable period referred to in paragraph (a), within 4 years, and

(c) in the case of claims made -

*(i) under subsection (2) and not under any other provision of the Acts,
or*

(ii) in relation to any chargeable period beginning on or after 1 January 2003,

within 4 years,

after the end of the chargeable period to which the claim relates.

[...]"

Submissions

Appellant

13. In the grounds of his notice of appeal, among other things, the Appellant submitted:

"I am refer [sic] to Notice Number [REDACTED], Letter from Revenue dated 06 Dec 2024, Late Claim For Repayment of Tax, and wish to appeal the decision of Revenue not to repay the amount of overpaid tax for income tax for the period 01/01/2013 to 31/12/2013. The Notice of Amended Assessment previously received from Revenue, confirms a balance of overpaid tax of €15,632.64 for this period.

This amount is part of a total of €42,415.37 approx which was overpaid to Revenue for the years 2012, 2013, 2014 where I was set up as self-employed [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

The letter from Revenue referred to states: 'a Claim for repayment of tax for a chargeable period shall not be allowed unless it is made within 4 years after the end of that chargeable period. As your claim for the repayment of the overpayment of tax below was not made within the relevant 4 year period, I am precluded from repaying the tax'.

The year referred to is 2013. I was only charged for payment of the amount for 2013 in 2023, when money was extracted from my account, and thus I was only able to make a claim for a refund after 2023 when the amount was paid, which is within 4 years.”

14. In his statement of case, among other things, the Appellant also submitted:

“A Notice of Attachment was issued in 2023 to AIB for Revenue to take payment to the value of €15,632.64 which was outlined in the Notice of Assessment for 2013 issued shortly prior to that. I was then in contact with Revenue where I was advised the way to rectify the situation was to file a tax return via ROS for the 2013 tax year, which would be reviewed and a refund then issued. I filed a return for 2013 and a Notice of Amended Assessment was issued by Revenue, confirming a balance of overpaid tax of €15,632.64 for this period. I then received a letter from Revenue stating Revenue would not repay the overpaid tax for 2013.”

Respondent

15. In the Respondent's statement of case, among other things, the Respondent submitted:

“The appellant registered for IT in 2011. He filed returns for 2016, 2018 & 2019. He did not file returns for 2015 and 2017 despite numerous requests. Inspectors' estimates were raised for 2015 & 2017 based on profit filed by the appellant for 2016 as this was in line with payments received per reported 46Gs. Inspectors Estimates also raised for 2011 to 2014 inclusive. The estimates for 2012 to 2014 were based on the income as declared on the 2016 46G and the 2011 estimate was based on Dept of Social Welfare payments received.

Upon receipt of final demands and an attachment order placed on his bank account, the appellant filed F11s in March 2024 for 2013, 2014, 2015 & 2017 and began to engage with Revenue.

Refund is claimed for 2013 but the repayment claim is refused as it is outside the 4-year time limit.”

Material Facts

16. Having considered the documentation submitted, the Commissioner makes the following findings of material fact:

16.1. The Appellant registered for income tax in 2011.

- 16.2. The Appellant is a chargeable person in respect of the 2013 tax year.
- 16.3. Prior to the Appellant filing his income tax return for the 2013 tax year in 2024, the Respondent had estimated the quantum of income tax owed by the Appellant in respect of the 2013 tax year. In addition, the Respondent served a notice of attachment on a financial institution with which the Appellant held at least one bank account.
- 16.4. In March 2024, the Appellant filed his income tax return for the 2013 tax year. The return showed an overpayment in the amount of €15,632.64, which the Appellant sought a repayment of.
- 16.5. By correspondence dated 6 December 2024, the Respondent notified the Appellant that it had refused his claim for a repayment of tax, on the basis that the claim was not made within the statutory four-year time limit.
- 16.6. On 16 January 2025, the Appellant appealed the Respondent's decision to the Commission.

Analysis

17. The burden of proof in this appeal rests on the Appellant, who must establish that the Respondent erred in refusing his claim for a repayment of tax for the 2013 tax year. This is the sole issue for determination in this appeal.
18. The other matters referred to in the extracts of the information before the Commission, as reproduced above, do not form part of this appeal.
19. In the High Court case of *Menolly Homes Ltd v. Appeal Commissioners and Anor.* [2010] IEHC 49, Charleton J stated at paragraph 22, among other things, 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.”*
20. The standard of proof applicable in this appeal is the balance of probabilities.
21. Section 865(2) of the TCA 1997 provides that a person is entitled to a repayment of tax paid where that tax is not due from that person. However, section 865(4) of the TCA 1997 provides that “a claim for repayment of tax under the Acts for any chargeable period shall not be allowed unless it is made ... within 4 years, after the end of the chargeable period to which the claim relates.” (Emphasis added)

22. Section 865(4) of the TCA 1997 has mandatory effect and contains no discretion or exception by which the four-year rule could be mitigated.
23. In this appeal, the relevant tax year is 2013. Therefore, the claim for a repayment of income tax must have been made on or before 31 December 2017.
24. The Appellant has not disputed that his claim for a repayment of income tax was made in 2024. Rather, he contends that *"I was only charged for payment of the amount for 2013 in 2023, when money was extracted from my account, and thus I was only able to make a claim for a refund after 2023 when the amount was paid, which is within 4 years."*
25. While the Commissioner acknowledges the Appellant's difficult personal circumstances described on appeal, it is not accepted that the Appellant was prevented from making a claim for a repayment of tax for the 2013 tax year, or filing an income tax return for that year, prior to *"when money was extracted from my account"*.
26. What matters for present purposes is when the claim for a repayment of tax was made, not when the payment was made.
27. As outlined above, the four-year time limit is determined by reference to *"the end of the chargeable period to which the claim relates"*. In this case, for the 2013 tax year, the end of the chargeable period was 31 December 2013. Having regard to that date, the Commissioner is satisfied that the Appellant's claim fell outside the four-year time limit prescribed in section 865(4) of the TCA 1997, as the claim was not made on or before 31 December 2017.
28. The Commissioner's jurisdiction is limited to considering and applying tax law, and he has no equitable power or wider discretion to disapply statutory provisions on the ground that he sympathises with an appellant's personal circumstances.
29. Consequently, as the Commissioner is satisfied that the Respondent correctly interpreted and applied section 865(4) when refusing the Appellant's claim for a repayment of tax, it follows that the appeal cannot succeed.

Determination

30. Having considered all the documentation submitted by the parties, for the reasons set out above, the Commissioner determines that the Appellant has not shown, on the balance of probabilities, that the Respondent erred in refusing his claim for a repayment of tax for the 2013 tax year.
31. The Respondent's decision of 6 December 2024 shall stand.

32. This appeal is determined in accordance with Part 40A of 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.
33. The Commissioner recognises that this determination will be disappointing for the Appellant and is empathetic to the personal circumstances described on appeal. The Commissioner is, however, bound to apply the provisions of the legislation.

Notification

34. This determination complies with the notification requirements set out in section 949AJ of the TCA 1997, in particular sections 949AJ(5) and 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

35. 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 'Conor Walsh', with a long, sweeping horizontal stroke above the name.

Conor Walsh
Appeal Commissioner
8 September 2025