



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

Between

64TACD2025



Appellant

and

THE REVENUE COMMISSIONERS

Respondent

Determination

Contents

Introduction	3
Background.....	3
Legislation and Guidelines	4
Submissions	4
Appellant's Submissions.....	4
Respondent's Submissions	5
Material Facts	5
Analysis	6
Determination	8
Notification	8
Appeal	8

Introduction

1. This matter comes before the Tax Appeal Commission (hereinafter the “Commission”) as an appeal against a Notice of Amended Assessment for the year 2021 issued by the Revenue Commissioners (hereinafter the “Respondent”) on 14 April 2024 which showed an underpayment of tax of €916.30.

Background

2. [REDACTED] (hereinafter the “Appellant”) is a Pay as You Earn (hereinafter “PAYE”) worker who, for the tax year 2021, was jointly assessed to income tax with his wife.
3. On 7 December 2023, the Appellant, through his tax agent, filed an income tax return with the Respondent for the year 2021 which indicated that an overpayment of income tax had been made in the amount of €3,083.26.
4. At the time of filing of the tax return in December 2023, the Appellant had an outstanding liability to Local Property Tax of €236.50 which the Respondent offset against the overpayment of income tax contained in the income tax return filed on behalf of the Appellant for 2021.
5. As a result of the above, the Respondent processed a repayment of €2,703.62 which was issued and paid to the Appellant on 14 February 2024.
6. Subsequent to the repayment being issued to the Appellant, the Respondent received information from the Department of Social Protection (hereinafter the “DSP”) which indicated that in 2021 the Appellant’s wife had been in receipt of payments totalling €4,165. Those payments comprised of payment of Maternity Benefit in the amount of €2,940 and payment of Parent’s Benefit in the amount of €1,225. No income from the DSP had been included in the tax return filed on behalf of the Appellant for 2021.
7. As a result of the information received from the DSP, on 14 April 2024 the Respondent issued a Notice of Amended Assessment to income tax for the year 2021 which included income of €4,165 received by the Appellant’s wife from the DSP in 2021. This resulted in an underpayment of tax for the year 2021 of €916.30.
8. On 8 May 2024, the Appellant submitted a Notice of Appeal to the Commission appealing against the Notice of Amended Assessment issued by the Respondent on 14 April 2024.
9. The remote oral hearing of this appeal took place on 29 January 2025.

Legislation and Guidelines

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

Section 112(1) of the TCA 1997:

“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.”

Section 126 of the TCA 1997 “Tax treatment of certain benefits payable under Social Welfare acts”:

“ ...

2A(a) This subsection shall apply to the following benefits payable on or after 1 July 2013 under the Acts—

(i) maternity benefit,

...

(v) parent’s benefit

...

(b) Amounts to be paid on foot of the benefits to which this subsection applies shall be deemed—

(i) to be profits or gains arising or accruing from an employment (and accordingly tax under Schedule E shall be charged on every person to whom any such benefit is payable in respect of amounts to be paid on foot of such benefits, and tax so chargeable shall be computed under section 112(1)),

...”

Submissions

Appellant’s Submissions

11. At the oral hearing of this appeal, the Appellant accepted that his wife had been on maternity leave from her employment during 2021 and that she had been in receipt of payments from the DSP in 2021, although he was unsure of the amounts.

12. Whilst the Appellant expressed surprise at the fact that the payments received from the DSP had not been included in the income tax return filed on his behalf by his accountant, he accepted that this was the case.
13. In addition, the Appellant accepted that, at the time of filing the tax return for 2021, there had been an outstanding amount of €236.50 owed by him in relation to Local Property Tax.
14. The Appellant expressed frustration that the Respondent had processed and paid a repayment of €2,703.62 in February 2024 and that in April 2024 he had been informed of an underpayment of tax in the amount of €916.30. He stated that, if it is determined that he does in fact owe the Respondent €916.30, this will place him in a difficult financial position.

Respondent's Submissions

15. The Respondent submitted that Maternity Benefit payments and Parent's Benefit payments made by the DSP are subject to income tax. The issue which has arisen in this particular instance, it was submitted, is that the Respondent was not made aware of the payments made by the DSP to the Appellant's wife until after the repayment amount had been processed and paid to the Appellant in February 2024.

Material Facts

16. The material facts are not in dispute in this appeal and the Commissioner accepts same as material facts:
 - 16.1. The Appellant is a PAYE worker.
 - 16.2. For the tax year 2021, the Appellant was jointly assessed to income tax with his wife.
 - 16.3. On 7 December 2023, the Appellant, through his tax agent, filed an income tax return with the Respondent for the year 2021 which indicated that an overpayment of income tax had been made in the amount of €3,083.26.
 - 16.4. At the time of filing of the tax return in December 2023, the Appellant had an outstanding liability to Local Property Tax of €236.50.
 - 16.5. The Respondent offset the outstanding liability to Local Property Tax of €236.50 against the overpayment of income tax contained in the income tax return filed on behalf of the Appellant for 2021.

- 16.6. As a result of the above, the Respondent processed a repayment of €2,703.62 which was issued to the Appellant on 14 February 2024.
- 16.7. In 2021, the Appellant's wife was in receipt of payments from the DSP totalling €4,165 which was comprised of payment of Maternity Benefit in the amount of €2,940 and payment of Parent's Benefit in the amount of €1,225.
- 16.8. No income from the DSP had been included in the tax return filed on behalf of the Appellant for 2021.
- 16.9. On 14 April 2024, the Respondent issued a Notice of Amended Assessment to income tax for the year 2021 which included income of €4,165 received by the Appellant's wife from the DSP in 2021. This resulted in an underpayment of tax for the year 2021 of €916.30.
- 16.10. On 8 May 2024, the Appellant submitted a Notice of Appeal to the Commission appealing against the Notice of Amended Assessment issued by the Respondent on 14 April 2024.

Analysis

17. 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."

18. Section 126 of the TCA 1997 is entitled "*Tax treatment of certain benefits payable under Social Welfare Acts*". Section 126 of the TCA 1997 provides that:

"2A(a) This subsection shall apply to the following benefits payable on or after 1 July 2013 under the Acts—

(i) maternity benefit,

...

(v) parent's benefit

...

(b) Amounts to be paid on foot of the benefits to which this subsection applies shall be deemed—

(i) to be profits or gains arising or accruing from an employment (and accordingly tax under Schedule E shall be charged on every person to whom any such benefit is payable in respect of amounts to be paid on foot of such benefits, and tax so chargeable shall be computed under section 112(1)),

...”

19. Thus it follows that Maternity Benefit and Parent's Benefit paid by the DSP shall be deemed to be profits or gains arising or accruing from an employment and shall be subject to a charge to income tax pursuant to section 112(1) of the TCA 1997.
20. There is no dispute between the parties, and the Commissioner has found as a material fact, that in 2021 the Appellant's wife was in receipt of payments from the DSP of €4,165 which was comprised of Maternity Benefit in the amount of €2,940 and of Parent's Benefit of €1,225.
21. It is also not in dispute between the parties that the payments totalling €4,165 from the DSP in 2021 to the Appellant's wife were not included in the income tax return filed on behalf of the Appellant.
22. The Commissioner can understand the frustration expressed by the Appellant that he had, on the one hand, been issued with a repayment of tax of €2,703.62 on 14 February 2024 and, on the other hand, he had been issued with a demand for an underpayment of tax of €916.30 on 14 April 2024. However, it is the case that the payments received by the Appellant's wife from the DSP in 2021 had not been disclosed to the Respondent at the time of the income tax return being filed on behalf of the Appellant in December 2023.
23. At the oral hearing, the Commissioner asked the Respondent to confirm that, if the payments to the Appellant's wife from the DSP in 2021 had been included in the income tax return filed on behalf of the Appellant, the original repayment amount would have been reduced by €916.30. The Respondent confirmed that this would have been the case.
24. As a result of the above, the Commissioner must find that the Notice of Amended Assessment to income tax for 2021 raised by the Respondent on 14 April 2024 was correct.

Determination

25. Having considered the facts and circumstances of this appeal, together with the submissions from both parties, the Commissioner determines that the Appellant has not succeeded in establishing that the underpayment of tax in the amount of €916.30 contained in the Notice of Amended Assessment raised by the Respondent on 14 April 2024 was incorrect.
26. This is an unfortunate situation which may be explained by the payments from the DSP to the Appellant's wife in 2021 not being included in the income tax return filed on behalf of the Appellant.
27. It is understandable that the Appellant will be disappointed with the outcome of his appeal. The Appellant was correct to check to see whether his legal rights were correctly applied.
28. This Appeal is determined in accordance with Part 40A of the TCA 1997 in particular section 949AK thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

Notification

29. 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

30. 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
19 February 2025