



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

02TACD2026

Between

Eileen Knight

Appellant

and

The Revenue Commissioners

Respondent

Determination

Introduction

1. This is an appeal to the Tax Appeals Commission (“the Commission”) by Eileen Knight (“the Appellant”) against a decision of the Revenue Commissioners (“the Respondent”) to refuse claims for repayment of income tax for the tax years 2013 to 2019 inclusive (“the Relevant Years”), on the ground that the claims were made outside the statutory timeframe.
2. The appeal proceeded by way of a remote hearing in public on 7 October 2025.

Background

3. Since 2013, the Appellant has been in receipt of pension annuity income from a third-party provider (“the Provider”).
4. The Provider deducted tax at source before making payments to the Appellant. The Appellant only became aware of this in 2024.
5. In October 2024, the Appellant contacted the Respondent to query whether tax had been deducted at source by the Provider.

6. Having established that the Provider had deducted tax at source before making payments to her, the Appellant sought repayment of that tax on the basis that it should not have been deducted, as she was not tax resident in Ireland.
7. The Respondent allowed the claims for repayment of tax for the tax years 2020 to 2024 (inclusive).
8. By correspondence dated 13 February 2025, the Respondent notified the Appellant that it had refused her claims for repayment of tax for the Relevant Years, on the basis that the claims were not made within the statutory four-year time limit.
9. The Appellant, aggrieved by the Respondent's decision to refuse her claims for repayment of tax for the Relevant Years, appealed to the Commission.
10. The Appellant submitted a notice of appeal and accompanying documentation in support of her appeal. In addition, the Appellant submitted a statement of case, and the Respondent submitted a statement of case.

Legislation

11. The legislation relevant to the substantive issue in this appeal is set out below.
12. Section 865 of the Taxes Consolidation Act, 1997, as amended ("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.

[...]"

Evidence and Submissions

Appellant's oral evidence

13. The Appellant gave sworn oral testimony on factual matters at the hearing.
14. The oral evidence given by the Appellant was consistent with the information contained in her notice of appeal and statement of case, extracts of which are reproduced below.
15. The Commissioner found the Appellant to be credible.

Appellant's submissions

16. In the grounds of her notice of appeal, the Appellant submitted, among other things, as follows:

"I moved to England in 2003, in 2008 I moved to Australia, in 2017 I moved to Spain.

I was registered and paid tax in those countries, I'm still registered and pay tax in Spain, where I currently live.

I recently found out that [the Provider] from which I receive a monthly income had been incorrectly stopping tax on the payment and sending it to [the Respondent].

I have claimed back the tax from 2021 – 2023, but was informed by [the Respondent] I needed to contact your department for the years prior to 2021."

17. In her statement of case, the Appellant submitted, among other things, as follows:

"Having been born and lived in Ireland all of my life, in 2002 I left Ireland and moved to England, then Australia and am now living in Spain.

I have always paid tax in whichever country I was/am resident.

In 2013 an insurance policy I had, matured and started to pay an annuity. I did not know at the time but [the Provider] were withholding Irish tax at the higher rate. It seems that even though they were withholding the tax they did not pay said taxes to [the Respondent] as they were not in possession of my PRSI number.

It was not until 2024 that I discovered this error on behalf of [the Provider], after which time they stopped withholding the tax.

After much toing and froing between [the Respondent] and [the Provider], [the Provider] released the withheld tax dating back to 2013 to the Revenue.

[The Respondent] then eventually refunded the 2021 to 2024 portion of the tax I had paid.

However, as much of the tax they received from [the Provider] was over the 4 years limit, [the Respondent] advised me to raise a claim through the [the Commission]. [The Respondent] advised this because although the tax was incorrectly withheld under the PAYE system and paid incorrectly, they had no authority to refund tax from over 4 years.

As I was not resident in Ireland for the period 2013 - 2020 I was not liable for tax in Ireland, yet the taxes were withheld and eventually paid to [the Respondent]. Therefore, I request a refund for those taxes.”

18. The Appellant’s oral submissions were consistent with the information contained in her notice of appeal and statement of case. During the hearing, the Appellant also raised the issue of whether the late remittance of the tax by the Provider to the Respondent in 2024 had any bearing on the matter.

Respondent’s submissions

19. In the Respondent’s statement of case, the Respondent submitted, among other things, as follows:

“The Appellant was in receipt of pension annuity payments from [the Provider] from 2013 to 2024.

From 2013 to 2020 the Appellant was taxed on this income in Ireland, despite being non-resident in Ireland.

...

Section 865(4) of the TCA 1997 specifies that a claim for repayment of tax shall not be allowed unless it is made within 4 years after the end of the chargeable period to which the claim relates. The use of ‘shall’ in section 865(4) TCA 1997 indicates there is no discretion in applying this 4-year time limit. The wording does not provide for any extenuating circumstances that would allow the 4-year rule to be mitigated.

...

The Respondent sympathises with the Appellant in this matter, owing to the considerable sum they would have received, if they made a timely claim within the designated time periods. However, the Respondent must in all cases act in accordance with the prescribed legislation.

In this case, the Respondent has acted at all times in accordance with the prescribed legislation and is satisfied that the Appellant did not make a valid claim within the specified time periods, for their claim to be allowable for [the Relevant Years].

The Respondent respectfully submits that this appeal must fail as the Appellant has not offered a valid legislative argument as to why they are entitled to claim a refund for [the Relevant Years], outside of the established 4-year statutory time period.”

20. The oral submissions made by the Respondent’s officer were consistent with the information contained in its statement of case.

Material Facts

21. Having considered the documentation submitted, and having heard the Appellant’s evidence and the submissions of the parties at the hearing, the Commissioner makes the following findings of material fact:

21.1. The Appellant was not tax resident in Ireland during the Relevant Years.

21.2. Since 2013, the Appellant has been in receipt of pension annuity income from the Provider.

21.3. The Provider deducted tax at source before making payments to the Appellant, during and in relation to the Relevant Years.

21.4. The Appellant made claims for repayment of tax for the Relevant Years on or about 15 October 2024.

21.5. By correspondence dated 13 February 2025, the Respondent notified the Appellant that it had refused her claims for repayment of tax for the Relevant Years, on the basis that the claims were not made within the statutory four-year time limit.

21.6. The claims for repayment of tax for the Relevant Years were made outside the four-year time limit prescribed in section 865(4) of the TCA 1997.

Analysis

Burden of proof

22. The burden of proof in this appeal rests on the Appellant, who must establish that the Respondent erred in refusing her claims for repayment of tax for the Relevant Years. This is the sole issue for determination in this appeal.

23. The other matters referred to in the extracts of the information before the Commissioner, as reproduced above, do not form part of this appeal.

24. 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.”

25. The standard of proof applicable in this appeal is the balance of probabilities.

Substantive issue

26. 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)

27. Section 865(4) of the TCA 1997 has mandatory effect and affords no discretion or exception by which the four-year rule could be mitigated, even where extenuating circumstances arise.

28. In this appeal, the Appellant’s claims for repayment of tax relate to the Relevant Years, being the tax years 2013 to 2019 inclusive.

29. For the Relevant Years, a claim for repayment of tax must have been made on or before the following dates:

<u>Tax Year</u>	<u>Statutory Deadline</u>
2013	31 December 2017
2014	31 December 2018
2015	31 December 2019
2016	31 December 2020
2017	31 December 2021
2018	31 December 2022
2019	31 December 2023

30. Having regard to those dates, the Commissioner is satisfied that the Appellant’s claims relating to those years fell outside the four-year time limit prescribed in section 865(4) of the TCA 1997, as the claims were not made until October 2024.

31. That remains the position, notwithstanding that the tax deducted in relation to the Relevant Years by the Provider was not remitted to the Respondent until after the statutory deadlines for making a claim for repayment of tax had passed.
32. The Commissioner recognises that the Appellant's circumstances are unfortunate. However, 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.
33. Consequently, as the Commissioner is satisfied that the Respondent correctly interpreted and applied section 865(4) of the TCA 1997 when refusing the Appellant's claims for repayment of tax, it follows that the appeal cannot succeed.

Determination

34. Having considered the evidence adduced and 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 her claims for repayment of tax for the Relevant Years.
35. The Respondent's decision of 13 February 2025 shall stand.
36. This appeal is determined in accordance with Part 40A of the TCA 1997 and in particular section 949AL thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.
37. 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

38. 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

39. 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, consisting of a long, sweeping horizontal line followed by the name 'Conor Walsh' written in a cursive style.

Conor Walsh
Appeal Commissioner
8 December 2025