



AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

09TACD2026

Between

████████████████████

Appellant

and

The Revenue Commissioners

Respondent

Determination

Introduction

1. This is an appeal to the Tax Appeals Commission (“the Commission”) by ██████████ (“the Appellant”) against a decision of the Revenue Commissioners (“the Respondent”) to refuse a claim for repayment of tax in the amount of €5,503.38 for the tax year 2018 (“the Relevant Year”), on the ground that the claim was made outside the statutory timeframe.
2. The appeal was submitted by the Appellant’s spouse, with whom he is jointly assessed for income tax purposes.
3. The Commission notified the Appellant and the Respondent that the Appeal Commissioner (“the Commissioner”) intended to adjudicate on this appeal without a hearing and informed the parties that they could request a hearing within 21 days of that notification. Neither of the parties 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”).

4. When notifying the parties that the Commissioner intended to adjudicate on this appeal without a hearing, the parties were also afforded an opportunity to provide any further documentation. Neither party submitted any additional documentation.

Background

5. On 2 May 2025, the Appellant filed his income tax return for the Relevant Year. The return showed an overpayment in the amount of €5,503.38. The Respondent considered the filed return to constitute a claim for repayment of tax in that amount.
6. By correspondence dated 7 May 2025, the Respondent notified the Appellant that it had refused his claim for 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.
7. The Appellant appealed to the Commission on 7 July 2025.
8. 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.
9. Section 949O of the TCA 1997 allows the Commissioner to accept a late appeal where he is satisfied that the Appellant was "*prevented by absence, sickness or other reasonable cause*" from making the appeal in time, 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.
10. Having considered the Appellant's explanation for the delay, along with supporting documentation to substantiate the position, 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.
11. 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.

Legislation

12. The legislation relevant to the substantive issue in this appeal is set out below.
13. 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

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

"The reason it took so many years to sort [the Relevant Year's] tax return was because my husband and I are jointly assessed. He kept getting the communication about the outstanding tax return but when I logged into my Revenue.ie account, no communication came up.

The time I had my business in [the Relevant Year] was so short lived I had forgotten I even had an ROS.ie account. As I have always been a PAYE tax payer (as you'll see from my records) it was something completely not used to and had no experience of having to be responsible for my own tax return.

[The Relevant Year] was a year of large personal financial loss so to have paid 5,500 euro more than was necessary to only find out in 2025 after the 4 year cut off to reclaim is really hard to accept. Had we learned of the overpayment within the 4 year after 2018 I would of course processed a repayment request.

We are a family of 4 soon to be 5 with both adults paying significant tax each year. All I am asking in this appeal is to release the overpayment of tax from 2018 to provide for our growing young family.

...

We are not a large corporation but simply individual tax payers looking for a repayment of tax paid which we only became aware of recently.

I hope you can understand how far that repayment of 5,500 would help our family.”

15. In his statement of case, the Appellant submitted, among other things, as follows:

“I made a claim for over payment of tax for [the Relevant Year].

The clam was rejected as it was past the threshold of 4 years allowed to reclaim. However, I was not made aware of the overpayment until May 7th 2025. Three years past the deadline for making a claim.

I was briefly an ROS customer in 2018 for a self employed endeavour which after a number of months pursuing I made the decision it was not economically viable and returned to PAYE work by the end of 2018.

I therefore ceased to use ROS.ie and did not get the communications around completing my self assessed tax returns.

As a PAYE user for majority of my professional life, the ROS.ie system was unknown to me and from my limited understanding of PAYE I wasn't aware there was any onus on me to complete a self assessed tax return for 2018 as I had already returned to the PAYE system and I knew there had been no profit made from the self employed endeavor [sic], only a significant loss.

I made the claim request to for the overpayment when I was made aware of it. How could I have made a claim before December 2022 when completely unaware of it being a possibility??

I understand theoretically the claim should have been made by December 2022 and as a result is statute barred. However I am requesting an exception be made because of the timelines in question when learning of the overpayment.”

Respondent

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

“Outline of relevant facts

- *Appellants jointly assessed with spouse. The spouse was registered as a chargeable person from the 26th of April 2018.*

- *Income Tax return for [the Relevant Year] was on the 2nd May 2025*
- *Refund for Income Tax [for the Relevant Year] was disapproved by [the Respondent] in accordance with section 865(4) TCA 1997 on the 7th May 2025 ...” (Emphasis in original)*

Material Facts

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

- 17.1. On 2 May 2025, the Appellant filed his income tax return for the Relevant Year. The return showed an overpayment in the amount of €5,503.38.
- 17.2. The Respondent considered the filed return to constitute a claim for a repayment of tax in that amount.
- 17.3. By correspondence dated 7 May 2025, the Respondent notified the Appellant that it had refused his claim for repayment of tax, on the basis that the claim was not made within the statutory four-year time limit.
- 17.4. The claim for repayment of tax for the Relevant Year was made on 2 May 2025, more than four years after the end of that year.
- 17.5. On 7 July 2025, the Appellant submitted an appeal to the Commission against the Respondent’s decision.

Analysis

Burden of proof

18. The burden of proof in this appeal rests on the Appellant, who must establish that the Respondent erred in refusing his claim for repayment of tax for the Relevant Year. This is the sole issue for determination in 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.

Substantive issue

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 affords no discretion or exception by which the four-year rule could be mitigated, even where extenuating circumstances arise. This remains the position where a taxpayer is unaware of the deadline, which is the situation in the present case.
23. In this appeal, the Appellant’s claim for repayment of tax relate to the Relevant Year, being the tax year 2018. The Commissioner has found as a material finding of fact that the Appellant’s claim for repayment of tax for the Relevant Year was made on 2 May 2025.
24. 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 Relevant Year, the end of the chargeable period was 31 December 2018. 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 2022.
25. 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.
26. 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

27. Having considered all the documentation submitted by the parties, for the reason 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 Relevant Year.

28. The Respondent's decision of 7 May 2025 shall stand.
29. 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.
30. 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

31. 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

32. 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
7 January 2026