AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

102TACD2026

Between

[redacted]

Appellant

and

The Revenue Commissioners

Respondent

Determination

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Introduction

1. This is an appeal to the Tax Appeals Commission ("the Commission") pursuant to and in accordance with the provisions of section 949I of the Taxes Consolidation Act 1997 ("the TCA 1997") brought on behalf of the Appellant in relation to a Value Added Tax ("VAT") Notice of Assessment ("the assessment") issued by the Respondent on 13 March 2024, for the period 1 January 2011 to 30 June 2014 ("the relevant period"). The assessment at issue is in the amount of €19,342.

2. The appeal also relates to a decision of the Respondent to refuse the Appellant's claim for a repayment of VAT ("the Respondent's decision"), in accordance with section 99 Value-Added Tax Consolidation Act 2010 ("VATCA 2010"). In accordance with section 949L TCA 1997, on 19 October 2025, the Respondent objected to the acceptance of this part of the Appellant's appeal on the basis that on 21 April 2021, it made its decision and hence, the Appellant's appeal is a late appeal, and he has not complied with the requirements of section 949O TCA 1997. The Appellant disputed that the Respondent made its decision to refuse his claim for repayment of VAT on 21 April 2021, but cites a later date as the relevant date of decision, namely 3 September 2025, and that the claim for repayment of VAT related not to the Appellant but rather to the Appellant's company, [redacted] ("the company").

3. The Commissioner intends to deal with both the question of the acceptance of the Appellant's appeal in relation to the Respondent's decision and the determination of the assessment at issue herein in this Determination.

4. On 9 September 2025, the Appellant duly appealed to the Commission by submitting a Notice of Appeal. On 15 December 2025, in accordance with section 949Q TCA 1997, the Appellant and the Respondent each submitted a Statement of Case. Thereafter, various written submissions were lodged by the parties in relation to the issues arising in this appeal, namely the objection to the acceptance of the Appellant's appeal in relation to the Respondent's decision and the assessment.

5. By agreement, this appeal is determined without a hearing in accordance with the provisions of section 949U TCA 1997. In his Statement of Case, the Appellant indicated that if a hearing of the appeal was required, he did not want it to proceed in private, but rather, he opted for a public hearing. Therefore, this Determination will not be redacted prior to its publication, in accordance with section 949AO of the TCA 1997.

Background

6. On 9 February 2026, the Commissioner wrote to the parties to indicate that she intended to hold a Case Management Conference ("CMC") to progress the matters under appeal. The Commissioner stated as follows:

> *"……………..*
>
> *In order to progress this appeal in an orderly manner and to consider the various matters raised by the Appellant and [the Respondent], the Commissioner considers it prudent to hold a remote Case Management Conference ("CMC") in accordance with section 949T of the Taxes Consolidation Act 1997 ("TCA 1997"). This will allow the Commissioner an opportunity to review the conduct of the proceedings and the actions that have been taken or that remain to be taken; to clarify any matters raised by the parties or by the Appeal Commissioners; and to give all such directions as appear to them to be necessary or desirable for the purpose of securing the completion of the proceedings in an expeditious and fair manner.*
>
> *A CMC will provide the Commissioner and the parties an opportunity to consider the following matters:*
>
> 1. *Whether a preliminary hearing should be held in relation to the statutory time limits applicable in this appeal;*
> 2. *The objection by [the Respondent] to the acceptance of the Appellant's appeal relating to its decision dated 21 April 2021;*
> 3. *Whether the transcript of the* [redacted] *is relevant in this appeal.*
>
> *…………………………."*

7. On 4 March 2026, a CMC was held by the Commissioner and the parties made submissions in respect of the matters at 1-3 in the preceding paragraph. Consequent to the CMC, on 6 March 2026, the Commissioner wrote to the parties and issued various directions in accordance with section 949E TCA 1997 in order to progress the appeal. The Commissioner notified the parties that she intended to hold a preliminary hearing in respect of the applicability of the statutory time limit and the objection raised by the Respondent to the acceptance of the part of the Appellant's appeal in relation to the Respondent's decision.

8. On 10 March 2026, the parties were notified by the Commission that a CMC would take place to hear the preliminary arguments.

9. On 7 April 2026, the Appellant wrote to the Commission to remind the Commissioner that the Respondent had failed to comply with the Commissioner's direction that:

   "*on or before close of business on 3 April 2026, the Respondent shall file written legal submissions and supporting documentation, in relation to the objection to acceptance of part of the appeal*."

10. On 7 April 2026, in response to correspondence from the Commissioner seeking an explanation, the Respondent applied for an extension of time to 20 April 2026, to file its submissions.

11. On 9 April 2026, the Commissioner wrote to the Respondent granting the extension of time to file its submissions. The Commissioner stated that:

   "…………………..

   The Commissioner notes that [the Respondent] require an extension of time to Monday, 20 April 2026, to file its legal submissions. This Commissioner has no choice but to grant the extension as otherwise the Appellant will not be in a position to understand [the Respondent] position. The Commissioner notes that there are no compelling reasons proffered for the required extension.

   ………………"

12. On 14 April 2026, the Appellant filed his submissions in relation to the Respondent's objection to the acceptance of his appeal in relation to the Respondent's decision.

13. On 17 April 2026, the Respondent wrote to the Appellant and the Commission to state that:

   "*I am instructed that [the Respondent] wish to withdraw the following assessments, raised on 13 March 2024:*

   …………….

   Given the above confirmation of withdrawal of the assessments, I look forward to confirmation that this aspect of the appeal is at an end and that TAC has closed its file with respect to these assessments. For the avoidance of any confusion, these assessments relate to the first set of directions, dealing with assessments outside the 4-year statutory time period, as outlined in TAC's below correspondence dated 6 March 2026.

   Please note that [the Respondent] maintains its position with respect to the Appellant's repayment claims totalling €2,617, as refused in [the Respondent] letter of 21 April

2021 and for which, [the Respondent] says, the Appellant is out of time in which to bring his appeal. For the avoidance of doubt, this relates to the second set of directions, as outlined in TAC's correspondence of 6 March 2026. I note that that as the Appellant bears the burden of proof with respect to this aspect of the appeal, the Appellant filed submissions on this issue on 14 April 2026. I look forward to confirmation that [the Respondent] is to file its replying submissions 2 weeks from when the Appellant's submissions were filed; Tuesday, 28 April 2026.

14. On 17 April 2026, the Appellant replied to the Respondent's correspondence as follows:

"……………..

In light of the withdrawal of the assessment by the Respondent after substantial preparation and expense incurred by the Appellant, the Appellant reserves all rights regarding an application for costs, wasted costs, expenses and complaint arising from the conduct of these proceedings.

This is in view of the exceptional illegal nature of the Respondent's conduct.

TAC is reminded that that the Respondent put the Appellant through [redacted] *which lasted over six years in circumstances where, on their own admission, they failed to comply with Irish and European law in several respects, namely:*

…………………...

6. Despite the 4-year rule they issued a Notice of Assessment without having a scintilla of evidence of fraud or neglect.

7. They maintained in a CMC that they were relying on fraud and neglect. This is despite the fact that they had never raised this issue before.

8. They failed to comply with directions from TAC to file submissions within a 4-week period.

9. When it was put to them that they had failed to comply with a direction they sought an additional 2-week extension to re-construct a case retrospectively.

10. They then withdrew their case at the last minute.

They now state that they intend to continue with their objection to part of the Appellant's appeal.

……………………...

The Appellant will now be writing to the Respondent advising them of his intention to seek substantial damages for their conduct [redacted] *the issue of an invalid Notice of Assessment and their behaviour in the TAC appeal.*

………."

15. On 27 April 2026, consequent to the correspondence from the parties in relation to the Respondent's request to withdraw the assessment, the Commissioner wrote to the parties as follows:

"*………...*

__Notices of Assessment to VAT dated 13 March 2024 totalling €19,342__

The Commissioner notes in its correspondence that [the Respondent] state: "I am instructed that [the Respondent] wish to withdraw the following assessments, raised on 13 March 2024:….Given the above confirmation of withdrawal of the assessments, I look forward to confirmation that this aspect of the appeal is at an end and that TAC has closed its file with respect to these assessments."

The Commissioner is satisfied that the only way that an appeal process can end is in the manner set out by the Taxes Consolidation Act 1997 ("TCA 1997") namely, by the withdrawal of an appeal by the taxpayer, by the parties coming to an agreement in writing or by the determination of the Appeal Commissioner or Court on further appeal.

Section 949G TCA 1997 provides for the withdrawal and dismissal of appeals and amongst other things states that:

(1) An appellant may withdraw his or her appeal by giving notice in writing in that behalf to the Appeal Commissioners before they make a determination.

(3) Where—

the matters the subject of an appeal have been settled by agreement between the parties before the Appeal Commissioners make a determination,

………………………

then, in each case, the appeal shall, subject to subsection (4), be treated as if it has been dismissed by the Appeal Commissioners"

In light of the correspondence from [the Respondent], the Commissioner assumes that [the Respondent] is now offering no evidence to support its entitlement to raise the assessments outside of the 4-year period and hence, the assessments are reduced to *zero (€0). It does not appear to the Commissioner that there are powers in the TCA to permit [the Respondent] to withdraw an assessment of an appeal.*

Therefore, the Commissioner would be grateful if the Appellant could please confirm that he is withdrawing his appeal in relation to the VAT assessment or that the appeal has settled between the parties on the basis that no tax is due for the periods in the amount of €19,342.

***Please confirm within 5 days of the date of the correspondence** that the appeal is to be withdrawn in respect of the assessments to VAT in the amount of €19,342.*

Award of costs

The Commissioner notes the Appellant's reference to costs being awarded to the Appellant in respect of the conduct of [the Respondent]. Please note that the Commissioner has no powers to make an order in respect of the costs of an appeal before the Tax Appeals Commission ("the Commission") to either party.

……………...

Repayment claim and objection to acceptance of the appeal

The Commissioner observes that this part of the Appellant's appeal remains live. The Commissioner notes that the Appellant has furnished his submissions in respect of the objection and [the Respondent] was directed to file its submissions by Tuesday 28 April 2026. The Commissioner awaits those submissions. Thereafter, the Commissioner will consider both submissions and make a decision in relation to acceptance of the Appellant's appeal in this respect.

In circumstances where [the Respondent] are no longer proceeding with the assessments to VAT, the Commissioner will vacate the Case Management Conference scheduled for 4 June 2026. The Commissioner is satisfied that the question of acceptance of the appeal in relation to the repayment claim can be dealt with having regard to the submissions filed."

16. On 27 April 2026, the Appellant corresponded with the Commission to state that:

"…………...

The Appellant wrote to the Respondent's solicitor on the 17 April to effect the terms of a settlement in relation to the Notice of Assessment dated the 13 March 2024 in view of their inability to proceed.

The Appellant has received no response from the Respondent.

*Accordingly, in the absence of any settlement, **the Appellant is not withdrawing his appeal** and will be seeking a determination from the Commissioner as to whether the said notice is valid or invalid*."

17. On 28 April 2026, the Respondent wrote to the Commission enclosing its submissions in respect of the Appellant's repayment claim and to inform it that:

"…………………

…….. [the Respondent], does not intend to proceed with the defence of the assessment of €19,342 and the applicable assessments are therefore reduced to zero (€0).

…………..

I confirm the Appellant wrote to the RSD on a without prejudice basis on 17 April 2026. To confirm, by way of assistance to the Commission, my client is not agreeable to the terms proposed.

……………"

18. On 29 April 2026, the Commissioner issued to the parties a notice of intention to adjudicate without a hearing in accordance with section 949U TCA 1997. In response, on the same date, the Appellant indicated his agreement to his appeal being adjudicated without a hearing and stated that:

"*………………..*

For the avoidance of doubt, the Appellant did not withdraw his appeal. Rather, the appeal has been maintained throughout, and it is only following the Respondent's decision not to defend the assessments that the matter has reached this position. The Notice of Assessment was invalid as it could only be allowed if there was fraud or neglect, neither of which the Respondent could prove, and neither of which existed at the time the assessment was issued. In the absence of fraud or neglect [the Respondent] acted illegally in issuing such assessments. That is the law. They cannot say "we were entitled to issue the assessment, it's just that we can't prove the fraud or neglect now." That would make an absolute mockery of the statute which was passed to protect taxpayers against this type of behaviour.

…………………."

19. On 1 May 2026, the Appellant filed his written submissions in respect of the Appellant's claim for repayment of VAT and the matter of the acceptance of that part of his appeal.

20. On 7 May 2026, the Respondent wrote to the Appellant and the Commission. The correspondence stated that:

> *"………………………...*
>
> *The Respondent confirms that it does not intend to proceed with the defence of the assessments comprised in the Notice of Assessment dated the 13th March 2024, in sum of €19,342, and is agreeable to the appeal being determined without an oral hearing pursuant to section 949U of the Taxes Consolidation Act, 1997 (as amended) on the basis that those assessments be reduced to nil.*
>
> *For the avoidance of doubt, however, the Respondent does not accept that by agreeing to reduce the assessment to nil it thereby concedes that the assessment was not validly raised or that it was not, at the time that the assessment was raised, entitled to do so beyond the four-year time limit.*
>
> *Rather, the Respondent's position is simply that it is not proceeding with the defence of this appeal and that it is agreeable to the Commission reducing the liability to nil.*
>
> *…………………."*

Legislation and Guidelines

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

22. Section 949A TCA 1997, entitled "Interpretation", provides *inter alia* as follows:

> *"appealable matter" means any matter in respect of which an appeal is authorised by the Acts;*

23. Section 949J TCA 1997, Valid appeal and references in this Part to acceptance of an appeal, provides as follows:-

> *(1) For the purposes of this Part, an appeal shall be a valid appeal if –*
>
> > *(a) it is made in relation to an appealable matter, and*
> >
> > *(b) any conditions that are required (by the provisions of the Acts relevant to the appeal concerned) to be satisfied, before an appeal may be made, are satisfied before it is made.*
>
> *(2) References in this Part to an appeal being accepted by the Appeal Commissioners shall be construed as references to their determining that, for the time being (on the facts and information then available to them) –*

(a) the appeal is a valid appeal, and

(b) there are no grounds for their invoking section 949N(1)(c) as a basis for not proceeding as subsequently mentioned in this subsection,

and, accordingly, that they should proceed to deal with the appeal.

(3) However, any such determination of the Appeal Commissioners may be reversed by them as and when facts and information become available to them that, in their opinion, warrant that course of action.

(4) Subsection (3) shall not affect the operation of section 949N(3) (provision with regard to finality of Appeal Commissioners' refusal to accept an appeal).

24. Section 949N TCA 1997, Refusal to accept an appeal, provides as follows:-

(1) Where the Appeal Commissioners –

(a) are satisfied that an appeal is not a valid appeal,

(b) become aware, having previously formed the view that an appeal was a valid appeal, that it is not a valid appeal, or

(c) are satisfied that an appeal is without substance or foundation

they shall refuse to accept the appeal.

(2) Where the Appeal Commissioners refuse to accept an appeal, they shall notify the parties in writing accordingly stating the reason for the refusal.

(3) Where, in respect of a refusal on their part to accept an appeal, the Appeal Commissioners declare that their decision in that regard is final, then that decision shall be final and conclusive.

(4) For the avoidance of doubt –

(a) references in the preceding subsections to the Appeal Commissioners' refusing to accept an appeal include references to a member or members of staff of the Commission, pursuant to authority granted under section 5(2) of the Finance (Tax Appeals) Act 2015, refusing to accept an appeal, and

(b) the Appeal Commissioners may make a declaration under subsection (3) in respect of a foregoing refusal by a member or members of staff

to accept an appeal as they may make such declaration in respect of such a refusal on their part.

25. Section 949AK TCA 1997, Determinations in relation to assessments, provides as follows:-

(1) *In relation to an appeal against an assessment, the Appeal Commissioners shall, if they consider that –*

(a) *an appellant has, by reason of the assessment, been overcharged, determine that the assessment be reduced accordingly,*

(b) *an appellant has, by reason of the assessment, been undercharged, determine that the assessment be increased accordingly, or*

(c) *neither paragraph (a) nor (b) applies, determine that the assessment stand.*

(2) *If, on an appeal against an assessment that –*

(a) *assesses an amount that is chargeable to tax, and*

(b) *charges tax on the amount assessed,*

the Appeal Commissioners consider that the appellant is overcharged or, as the case may be, undercharged by the assessment, they may, unless the circumstances of the case otherwise require, give as their determination in the matter a determination solely to the effect that the amount chargeable to tax be reduced or increased.

(3) *In relation to an appeal against an assessment on the grounds referred to in section 959AF(2), if the Appeal Commissioners determine that a Revenue officer was precluded from making the assessment or the amendment, as case may be, the Acts (within the meaning of section 959A) shall apply as if the assessment or the amendment had not been made and, accordingly, that assessment or amended assessment shall be void.*

(4) *In relation to an appeal against an assessment on the grounds referred to in section 959AF(2), if the Appeal Commissioners determine that a Revenue officer was not precluded from making the assessment or the amendment, the case may be, that assessment or amended assessment shall stand, but this is without prejudice to the Appeal Commissioners making a determination in*

relation to that assessment or amended assessment on foot of an appeal on grounds other than those referred to in section 959AF(2).

26. Section 949O TCA 1997, entitled "Late Appeals", provides *inter alia* as follows:

(1) The Appeal Commissioners may accept a late appeal where -

(a) they are satisfied that -

(i) the appellant was prevented by absence, sickness or other reasonable cause from making the appeal within the period specified by the Acts for the making of that appeal, and

(ii) the appeal is made thereafter without unreasonable delay,

and

(b) the appeal is made within a period of 12 months after the end of the period specified by the Acts for the making of that appeal.

(2) Notwithstanding the period specified in paragraph (b) of subsection (1) for the making of an appeal, the Appeal Commissioners may accept an appeal made after the end of that period where paragraph (a) of that subsection applies and-

(a) any return that was required to be delivered to the Revenue Commissioners under the Acts has been so delivered, and

(b) the requirement in subsection (3)(a) or (b) (or both as the case may be) has been complied with.

(3) Each of the following is a requirement mentioned in subsection (2)(b) -

(a) where, in the opinion of the Appeal Commissioners, the return referred to in subsection (2)(a) is insufficient to enable the appeal to be determined, such other information as, in the opinion of the Appeal Commissioners, would enable the appeal to be determined by them without undue delay has been provided, and

(b) where an appeal is made against an assessment, any tax charged by the assessment has been paid together with any interest on that tax chargeable under -

(i) section 1080,

(ii) section 159D of the Stamp Duties Consolidation Act 1999,

(iii) *section 103 of the Finance Act 2001,*

(iv) *section 51 of the Capital Acquisitions Tax Consolidation Act 2003,*

(v) *section 114 of the Value-Added Tax Consolidation Act 2010, or*

(vi) *section 149 of the Finance (Local Property Tax) Act 2012, as the case may be, at the time the appeal is made.*

……………………

(5) *Nothing in this section derogates from the functions of the Appeal Commissioners under section 949N.*

27. Section 99 VATCA 2010, General provisions on refund of tax, provides *inter alia* that:

(1) *Subject to subsections (2) and (3), where in relation to a return lodged under Chapter 3 of Part 9 or a claim made in accordance with regulations, it is shown to the satisfaction of the Revenue Commissioners that, as respects any taxable period, the amount of tax (if any) actually paid to the Collector-General in accordance with Chapter 3 of Part 9 together with the amount of tax (if any) which qualified for deduction under Chapter 1 of Part 8 exceeds the tax (if any) which would properly be payable if no deduction were made under Chapter 1 of Part 8, the Commissioners shall refund the amount of the excess less any sums previously refunded under this subsection or repaid under Chapter 1 of Part 8 and may include in the amount refunded any interest which has been paid under section 114.*

……………………………….

(4) *A claim for a refund under this Act may be made only within 4 years after the end of the taxable period to which it relates.*

…………………………….

28. Section 111 VATCA 2010, Assessment of tax, provides *inter alia* that:

(1) *Where, in relation to any period, the inspector of taxes, or such other officer as the Revenue Commissioners may authorise to exercise the powers conferred by this section (in this section referred to as "other officer"), has reason to believe that an amount of tax is due and payable to the Revenue Commissioners by a person in any of the following circumstances.*

………………………..

then, without prejudice to any other action which may be taken, the inspector or other officer—

(i) may, in accordance with regulations but subject to section 113, make an assessment in one sum of—

(I) the total amount of tax, including tax (if any) payable in accordance with section 108C(3), 109A(4) or 91J(10)(b) which in his or her opinion should have been paid,

(II) the total amount of tax (including a nil amount) which in accordance with section 99(1) should have been refunded, or

(III) the total amount of tax (including a nil amount) which in accordance with the order under section 103 should have been refunded,

as the case may be, in respect of such period, and

(ii) may serve a notice on the person specifying—

(I) the total amount of tax so assessed,

(II) the total amount of tax (if any) paid by the person or refunded to the person in relation to such period, and

(III) the total amount so due and payable (referred to subsequently in this section as "the amount due").

29. Section 113 VATCA 2010, Time limits, provides *inter alia* that:

(1) An estimation or assessment of tax under section 110 or 111 may be made at any time not later than 4 years—

(a) after the end of the taxable period to which the estimate or assessment relates, or

(b) if the period for which the estimate or assessment is made consists of 2 or more taxable periods, after the end of the earlier or earliest taxable period within that period.

(2) (a) Subject to paragraphs (b) and (c), in this subsection "neglect" means negligence or a failure to give any notice, to furnish particulars, to make any

return or to produce or furnish any invoice, credit note, debit note, receipt, account, voucher, bank statement, estimate or assessment, statement, information, book, document, record or declaration required to be given, furnished, made or produced by or under this Act or regulations.

…………………

(d) Notwithstanding subsection (1), in a case in which any form of fraud or neglect has been committed by or on behalf of any person in connection with or in relation to tax, an estimate or assessment as referred to in that subsection may be made at any time for any period for which, by reason of the fraud or neglect, tax would otherwise be lost to the Exchequer.

Submissions

Appellant's submissions

30. The Commissioner sets out hereunder a summary of the submissions made by the Appellant:-

"1. In May 2014 [redacted] the book-keeper for the Appellant's company [the company] made a VAT 3 return on behalf of the Company. The Return stated

VAT on Purchases	*€2,800*
Less VAT on Sales	*0*
Amount Claimed	*€2,800*

2. The amount was properly due but was never paid or even queried.

3. From the date upon which the return was made until today's date no explanation was ever given as to why it was not paid.

4. During the audit which commenced on the 2014 [the Respondent] Official conducting the audit, [redacted] wrote several letters of enquiry regarding the VAT periods relating to [the company]. This particular VAT Return for April-March 2014 was never questioned by him nor did he ever make any comment good, bad or indifferent on it.

5. On the 13 June 2019 the Appellant [redacted]

6. [redacted]

……………..

14. On the 13 March 2024 [redacted] *issued a Notice of Assessment to [the Appellant] for €19,342 in respect of VAT. There was no explanation as to how these figures arose or what invoices they referred to or why they arose or why they were different from other figures provided at the trial hearing or in various statements by [the Respondent] officials in the Book of Evidence.*

15. On the 16 March 2024 the Appellant received a letter from [redacted] *the original auditor disallowing VAT claimed in respect of [the Appellant] but there was nothing in the letter in relation to [the company].*

16. On the 3 September 2024 [redacted] *from Fingal wrote a letter to the Appellant in which she stated:*

> [redacted] *I refer to the ongoing audit (civil intervention) into your VAT and Income Tax returns for various periods from 2011-2016. I refer to your correspondence on the 27 November 2024 regarding a final demand for income tax for 2019 and you (sic) request that your VAT claim of €2,800 for March/April 2014 is offset against the outstanding Income Tax liability for 2019.* ***Please note that there is no VAT repayment due to you.***
>
> *You were advised by correspondence on the 16 March 2024 that VAT refunds claimed for the period 1 January 2011 -30 June 2014 were being disallowed."*
>
> *The rest of the letter deals with other periods and matters which are irrelevant.*

17. The letter to which [redacted] *is referring is the letter from* [redacted] *in respect of VAT claimed by [the Appellant] not VAT claimed by [the company].*

18. It is the non-payment of VAT payable due to [the company] for the period March/April 2014 namely €2,800 plus interest that the Appellant claims and is the subject of this appeal.

…………………...

In section 1.1 the Respondent claims that the Appellant's appeal is out of time. It is clearly not out of time. Section 949I TCA 1997 provides that a person who wishes to appeal an appealable matter must give a notice of appeal within 30 days after the date of notice of assessment or the date of ***the decision being appealed*** *or such other* *date specified by the relevant tax code. The decision here was made by [the Respondent] in their letter of the 3 September 2025. The Appellant appealed this [the Respondent] decision and his appeal was acknowledged on the 18 September clearly within the 30 day period.*

The portion of the appeal relating to this [the Respondent] decision is contained in the Appellant's appeal to TAC in the section headed Assessment/Decision 1 it refers to the €19,342 plus interest contained in the Notice of Assessment dated 13 March 2024. In the section Assessment/Decision 2 it refers to a claim for ***interest plus disallowab3. le amounts contained in the letter of the 3 September 2025****. It is [the company] that is referred to not [the Appellant]*

[The Respondent] decision to disallow VAT repayment is not in relation to VAT claimed by [the Appellant]. It is in relation to VAT claimed by [the Appellant] on behalf of [the company].

The Appellant had repeatedly requested the Collector General that the amount of €2,800 due to [the company] be off-set again the income tax of [the Appellant]. The Appellant repeatedly advised the Collector General that the amount was due and owing and that the Appellant had never received any correspondence from [the Respondent] claiming it was not going to be paid.

………………

On the 3 September 2024 [redacted] *from Fingal wrote a letter in which she stated:*

[redacted]

I refer to the ongoing audit (civil intervention) into your VAT and Income Tax returns for various periods from 2011-2016. ***I refer to your correspondence on the 27 November 2024 regarding a final demand for income tax for 2019 and you (sic) request that your VAT claim of €2,800 for March/April 2014 is offset against the outstanding Income Tax liability for 2019****.* ***Please note that there is no VAT repayment due to you.***

You were advised by correspondence on the 16 March 2024 that VAT refunds claimed for the period 1 January 2011 -30 June 2014 were being disallowed."

The rest of the letter deals with other periods and matters which are irrelevant. But this letter from Fingal [the Respondent] is clearly referencing the VAT claimed for [the company] which now, for the very first time, [the Respondent] was saying "there is *no VAT repayment due to you." It is crystal clear she is talking about [the company] VAT claim not [the Appellant].*

This was the very first time it had been indicated to the Appellant that [the Respondent] were not going to pay this amount of €2,800. It was this decision that is being appealed despite the fact that:

(a) No reason was given as to why it was not being paid

(b) No query was ever made about it.

(c) The Appellant was never informed of his right to appeal this decision.

So, it is incorrect for the Respondent to say that the appeal was out of time. The decision was made on the 3 September and the appeal made on the 18 September within the 30 day period.

4. In section 2.1.1. the Respondent writes:

"A decision of the 3rd September 2025 related to VAT for 2011 described as 'Interest plus disallowable amounts contained in their letter of 3/9/25'. No amount is stipulated. The Respondent cannot locate any reference to this issue in the Grounds of Appeal."

The amounts are clearly set out in the Respondent's own letter of the 3 September 2025 as

"your VAT claim for €2,800 for March/April 2014."

The Respondent then claims that they cannot locate any reference to this issue in the Grounds of Appeal. It is clearly referred to in the Notice of Appeal and clearly referenced in the Statement of Case

…………………

[redacted]

On the 13 June 2019, [redacted]

[redacted]

……………………………

[redacted]

A NEW AUDIT

[redacted] *[the Respondent] re-opened the audit after a period of nine years. This is five years beyond the allowed period.*

………………

NOTICE OF ASSESSMENT

Finally, on the 27 March 2024 I received a Notice of Assessment dated the 13 March 2024.

………………..

In order to ensure that I would not be prejudiced before the Tax Appeal Commission I filed an appeal on the 9 April 2024 within the specified time allowed. Therefore, my appeal was valid.

[redacted]

[redacted].

FINGAL [THE RESPONDENT] LETTER 3 SEPTEMBER 2025

They refer to my correspondence of the 27 November 2024 and me asking for an offset of that tax amount and say "Please note that there is no VAT repayment due to you." [redacted] *so accordingly, I contend, that there is no liability owed by me for income tax.*

In paragraph three they say that "As you did not appeal the VAT assessments, the liability has become final and conclusive." This is not true. I did file an appeal on the 9 April 2024 within the specified time. "

…………………………

Submission in relation to the email from [redacted] ***Fingal [The Respondent] on 19 October 2025 re refusal to offset monies due against Income Tax***

On the 12 February 2021 [the Respondent] wrote to say they had extended the audit from 2014-2016 and raised certain queries. I replied to these on the 1 March 2021 and 11 March 2021. On the 21 April 2021 [the Respondent] did send me that letter and I can confirm that I received it. Having received it I responded by letter dated the 26 April 2021.

……………………….

I then enclosed 11 invoices. ***No response was received to this letter.***

……………………………..

The Appellant is grateful to the Respondent for bringing this up as it affords him the opportunity to explain why the said company was dissolved. However, the company was actually dissolved on the 2 May 2018 not 2025

………………..

So, yes, the Company was dissolved by virtue of the deliberate malfeasance of the Respondent.

It is submitted that it is not a valid argument to make that the only entity that can appeal is the company [the company] in circumstances where:

(a) *The Respondent illegally caused the company to be dissolved which denied it its rights to make the claim*

(b) *from the outset the Appellant requested that as full owner of the company he wanted the repayment to be off-set against his personal income tax which the company agreed to.*

(c) *the company by resolution had authorised the Appellant to allow any VAT repayments be offset against his personal income tax inconsideration of a loan made by the Appellant to the company*

(d) *the decision to deny the valid re-payment of €2,800 directly affects the Appellant*

(e) *the refusal to deny the company in the letter of the 3 September 2025 the VAT re-payment was addressed to the Appellant individually. This proves that the Respondent was fully aware that the company had authorised the Appellant to apply for the set-off and that the Respondent was dealing with the re-payment to the exclusion of the company.*

(f) *no decision on the VAT re-payment was ever made by the auditor* [redacted] *The only decision made was by Fingal [the Respondent] directly to the Appellant in the letter of the 3 September 2025.*

7. In section 3.1 the Respondent states:

"By correspondence dated the 21st April 2021, the Appellant was advised that he was not entitled to a VAT refund. That letter advised him of his right to appeal that decision to the Tax Appeals Commission, which he never did."

That correspondence has nothing to do with the claim of €2,800 made by [the company] for the period March-April 2014. In fact, it only deals with periods after that date." (sic)

Respondent's submissions

31. The Commissioner sets out hereunder a summary of the submissions made by the Respondent:-

"…………………

2.1. The Appellant's Notice of Appeal provides as follows :

2.1.1. A decision of the 3rd September 2025 related to VAT for 2011 described as 'Interest plus disallowable amounts contained in their letter of 3/9/25'. No amount is stipulated. The Respondent cannot locate any reference to this issue in the Grounds of Appeal.

2.2. The Appellant's recent submission on this issue makes reference to a limited liability company called [the company] which has been dissolved with the effective date of 2nd May 2025.

……………..

3.1. By correspondence dated the 21st April 2021, the Appellant was advised that he was not entitled to a VAT refund. That letter advised him of his right to appeal that *decision to the Tax Appeals Commission, which he never did. 3.2. Moreover, that correspondence even included a table identifying the relevant periods and amounts:*

Period	*Refund*
July/August 2014	*€380*
September/October 2014	*€1,220*
March/April 2015	*€280*
May/June 2015	*€210*
September/October 2015	*€120*
November/December 2015	*€150*
January/February 2016	*€137*
March/April 2016	*€120*
Total	*€2,617*

3.3. The foregoing decision was never appealed.

3.4. By letter dated the 3rd September 2025, the Appellant was advised that no appeal had been lodged and the decision to refuse his VAT claim was final and conclusive. The operative part of the letter stated as follows: 'Furthermore, before this, you were advised on 21 April 2021, that you were not entitled to a VAT refund under section 99 VAT Act 2010, for the periods 1 July 2014 to 31 August 2016. You were advised that you could appeal this decision to the Tax Appeals Commission and information was provided on how to do this. No appeal was submitted by you, so the decision to refuse these refunds is now final and conclusive.'

3.5. Therefore, the correspondence of the 3rd September 2025 did not communicate a decision; it was a settlement offer letter following a decision communicated to the Appellant on 21st April 2021.

3.6. For the avoidance of doubt, it is also clear that neither the correspondence of the 3rd September 2025 or the 21st April 2021 pertained to a VAT return filed by [the Appellant] for the period March/April 2014. In any event, that company is dissolved and not the Appellant herein.

3.7. Accordingly, the Appellant has not complied with the time limit for appealing the decision of the 21st April 2021.

3.8. The correspondence of [the Respondent] dated the 3rd September 2025 was not an appealable matter, as defined by section 949A TCA or at all.

3.9. It is submitted that there is no valid appeal for the purposes of section 949J(1) TCA or at all.

…………..

4.1. The Appellant did not appeal the decision of the Respondent of the 21 April 2021 wherein the decision to disallow the VAT refund was communicated to him.

4.2. Accordingly, it is respectfully submitted that there is no valid appeal before the Commission.

…………….

Following an examination of records, VAT assessments totalling €19,432.00 were issued to the Appellant on 13/03/2024. The assessments were raised on the basis that the Appellant failed to supply [the Respondent] with valid invoices to support his VAT returns for the periods 01/01/2011 to 30/06/2014 inclusive.

Furthermore, the Appellant was informed on 21/04/2021 that his VAT repayment claims for the periods July/August 2014, September/October 2014, March/April 2015, May/June 2015, September/October 2015, November/December 2015, January/February 2016 and March/April 2016 totalling €2,617.00 had been refused. The appellant was advised of the procedures on how to appeal this decision. No appeal was forthcoming; therefore, the decision to refuse the repayment claims became final and conclusive.

…………"

Material Facts

32. Having read the documentation submitted by the parties in this appeal, the Commissioner makes the following findings of material fact:

32.1. On 13 March 2024, the Respondent raised the assessment for the relevant period in the amount of €19,342.

32.2. The assessment was raised outside of the statutory four-year time limit.

32.3. On 17 April 2026, the Respondent notified the Commissioner that in relation to the assessment, it wished *"to withdraw the following assessments".*

32.4. On 28 April 2026, the Respondent issued correspondence to the Commission stating that it "*does not intend to proceed with the defence of the assessment of €19,342 and the applicable assessments are therefore reduced to zero (€0)".*

32.5. On 9 September 2025, the Appellant appealed to the Commission.

Analysis

Burden of proof

33. The appropriate starting point for the analysis of the issues is to confirm that in an appeal before the Commission, the burden of proof rests on the Appellant, who must prove on the balance of probabilities that an assessment to tax is incorrect. This proposition is now well established by case law, for example in the High Court decision in *Menolly Homes Ltd v Appeal Commissioners and the Revenue Commissioners* [2010] IEHC 49 at paragraph 22, Charleton J. stated 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*".

34. The law regarding the burden of proof and the reasons for it has been reaffirmed in recent subsequent judgments of the High Court, for example in *McNamara v Revenue Commissioners* [2023] IEHC 15 and *Quigley v Revenue Commissioners* [2023] IEHC 244.

35. However, it is notable that when an appeal relates to the interpretation of the law only, Donnelly J. and Butler J. clarified the approach to the burden of proof, in their joint judgment for the Court of Appeal in *Hanrahan v The Revenue Commissioners* [2024] IECA 113 ("*Hanrahan*"). At paragraphs 97-98, the Court of Appeal held that:

> "*97. Where the onus of proof lies can be highly relevant in those cases in which evidential matters are at stake…………….*

98. In the present case however, the issue is not one of ascertaining the facts; the facts themselves are as found in the case stated. The issue here is one of law;....Ultimately when an Appeal Commissioner is asked to apply the law to the agreed facts, the Appeal Commissioner's correct application of the law requires an objective assessment of what the law is and cannot be swayed by a consideration of who bears the burden. If the interpretation of the law is at issue, the Appeal Commissioner must apply any judicial precedent interpreting that provision and in the absence of precedent, apply the appropriate canons of construction, when seeking to achieve the correct interpretation………."

36. As this appeal relates to the Respondent's entitlement to raise an assessment outside of the statutory time limit provided for in section 113 VATCA 2010, the burden of proving that the Respondent was entitled to raise the assessment outside of the statutory four-year time limit permitted by legislation, is on the Respondent.

Statutory interpretation

37. In relation to the relevant decisions applicable to the interpretation of taxation statutes, the Commissioner gratefully adopts the following summary of the relevant principles emerging from the judgment of McKechnie J. in the Supreme Court in *Dunnes Stores v The Revenue Commissioners* [2019] IESC 50 and the judgment of O'Donnell J. in the Supreme Court in *Bookfinders Limited v The Revenue Commissioners* [2020] IESC 60, as helpfully set out by McDonald J. in the High Court in *Perrigo Pharma International Designated Activity Company v McNamara, the Revenue Commissioners, the Minister for Finance, Ireland and the Attorney General* [2020] IEHC 552 ("*Perrigo*") at paragraph 74:

"*The principles to be applied in interpreting any statutory provision are well settled. They were described in some detail by McKechnie J. in the Supreme Court in Dunnes Stores v. The Revenue Commissioners [2019] IESC 50 at paras. 63 to 72 and were reaffirmed recently in Bookfinders Ltd. v The Revenue Commissioner [2020] IESC 60. Based on the judgment of McKechnie J., the relevant principles can be summarised as follows:*

(a) If the words of the statutory provision are plain and their meaning is self-evident, then, save for compelling reasons to be found within the Act as a whole, the ordinary, basic and natural meaning of the words should prevail;

(b) Nonetheless, even with this approach, the meaning of the words used in the statutory provision must be seen in context. McKechnie J. (at para. 63) said that:

"… context is critical: both immediate and proximate, certainly within the Act as a whole, but in some circumstances perhaps even further than that";

……………..."

38. The Commissioner is of the view that in relation to the approach to be taken to statutory interpretation, *Perrigo*, is authoritative in this regard, as it provides an overview and template of all other judgments. It is a clear methodology to assist with interpreting a statute. Therefore, the Commissioner is satisfied that the approach to be taken in relation to the interpretation of the statute is a literal interpretative approach and that the wording in the statute must be given a plain, ordinary or natural meaning as per subparagraph (a) of paragraph 74 of *Perrigo*. In addition, as per the principles enunciated in subparagraph (b) of paragraph 74 of *Perrigo*, context is critical.

39. Furthermore, the Commissioner is mindful of the recent decision in *Heather Hill Management Company CLG & McGoldrick v An Bord Pleanála, Burkeway Homes Limited and the Attorney General* [2022] IESC 43 ("*Heather Hill")* and that the approach to be taken to statutory interpretation must include consideration of the overall context and purpose of the legislative scheme. The Commissioner is mindful of the *dictum* of Murray J. at paragraph 108 of his decision in *Heather Hill*, wherein he stated that:

    "It is also noted that while McKechnie J. envisaged here two stages to an inquiry – words in context and (if there remained ambiguity), purpose- it is now clear that these approaches are properly to be viewed as part of a single continuum rather than as separated fields to be filled in, the second only arising for consideration if the first is inconclusive. To that extent I think that the Attorney General is correct when he submits that the effect of these decisions - and in particular Dunnes Stores and Bookfinders – is that the literal and purposive approaches to statutory interpretation are not hermetically sealed".

40. The purpose of interpretation is to seek clarity from words which are sometimes necessarily, and sometimes avoidably, opaque. However, in either case, the function of the Court or Tribunal is to seek to ascertain the meaning of the words. The general principles of statutory interpretation are tools used for clear understanding of a statutory provision. It is only if, after that process has been concluded, a Court or Tribunal is genuinely in doubt as to the imposition of a liability, that the principle against doubtful penalisation should apply and the text given a strict construction so as to prevent a fresh and unfair imposition of liability by the use of oblique or slack language.

Preliminary issue – the objection to the Appellant's appeal of his claim for repayment of VAT

Jurisdiction of an Appeal Commissioner

41. It is important to set out initially that the Commission is a statutory body created by the Finance (Tax Appeals) Act 2015. As a statutory body, the Commission only has the powers that have been granted to it by the Oireachtas. The powers of the Commission to hear and determine tax appeals are set out in Part 40A TCA 1997. The Commissioner's jurisdiction was considered by the Court of Appeal in the judgment in *Lee v The Revenue Commissioners* [2021] IECA 18 ("*Lee*") where Murray J. opined that:

    "*The Appeal Commissioners are a creature of statute, their functions are limited to those conferred by the TCA, and they enjoy neither an inherent power of any kind, nor a general jurisdiction to enquire into the legal validity of any particular assessment. Insofar as they are said to enjoy any identified function, it must be either rooted in the express language of the TCA or must arise by necessary implication from the terms of that legislation*".

42. Section 949J TCA 1997 provides that an appeal shall be valid if "*it is made in relation to an appealable matter*". Section 949A TCA 1997 defines an "appealable matter" as "*any matter in respect of which an appeal is authorised by the Acts*".

43. Therefore, in order for an appeal to be valid, it must be a matter in respect of which an appeal is authorised by the Tax Acts. The Commissioner does not have a general or residual power to hear appeals into matters where no appeal is authorised by the Tax Acts.

44. The Commissioner notes the Appellant's Notice of Appeal dated 9 September 2025 purporting to appeal both the assessment and the Respondent's decision. In relation to the appeal of the Respondent's decision, the Commissioner observes that the amount of VAT that the claim relates to was not cited in the Appellant's Notice of Appeal, but reference was made on the form to the year 2011. Moreover, the Commissioner notes that there are no references in the Notice of Appeal to an amount of €2,800 or to the company or to the period March/April 2014, and that the Notice of Appeal is in the Appellant's name, as opposed to the name of the company. This is despite the Appellant's submission that: "*It is the non-payment of VAT payable due to [the company] for the period March/April 2014 namely €2,800 plus interest that the Appellant claims and is the subject of this appeal.*" Moreover, the Commissioner notes that under the heading entitled "Ground for Appeal" there are no references to a claim for repayment of VAT and why the Appellant was entitled to same.

45. However, the Commissioner notes that the Appellant does make reference to him indicating an intention to appeal to the Commission on 27 March 2024, and the Commissioner notes that the Appellant stated that on 9 April 2024, he lodged his Notice of Appeal with the Commission. That is a correct statement of fact, in that the Commission had an administrative error with the acceptance of the Appellant's appeal. Consequently, on 9 September 2025, the Appellant lodged a further Notice of Appeal. No issue therefore arises with the substantive matter being a late appeal, as the Appellant lodged his appeal on 9 April 2024, the assessment having been raised on 13 March 2024.

46. On 18 September 2025, in accordance with section 949K TCA 1997, the Commission sent the Appellant's Notice of Appeal to the Respondent. On 19 October 2025, in accordance with section 949L TCA 1997, the Respondent raised an objection to the acceptance of the part of the Appellant's appeal that related to the Respondent's decision. The Respondent's objection stated that:

> "*The appellant has appealed the VAT assessments issued on 13 March 2024 amounting to €19,342.*
>
> *The appellant is also appealing the disallowed VAT claims notified in our letter of 3 September 2025. However, these claims were initially disallowed in our letter of 21 April 2021 and the appellant was advised of how to appeal that decision at that time. I have enclosed a copy of the relevant letter for information.*
>
> *We are therefore objecting to the acceptance of this part of the appeal regarding the disallowed VAT claims which amount to €2,617*."

47. Thereafter, on 21 October 2025, the Commissioner sent the Respondent's objection to the Appellant for comment. On 31 October 2025, the Appellant replied to the objection and stated that:

> *"……………...*
>
> *It is my contention that [the Respondent] were obliged to look at these invoices and to respond to my letter. But, they did nothing. As TAC is aware this is totally contrary to the obligations on [the Respondent] as set out in their own Code of Practice for [the Respondent] Compliance Interventions.*
>
> *Fingal [the Respondent] sent the matter to Sarsfield House and I engaged in extensive correspondence with them advising them that VAT was due to me/my company and should be offset against income tax and* [redacted]

[redacted] *by letter dated 15 September 2022 agreed to review the matter as requested.*

Fingal [the Respondent] periodically sent the file back to Sarsfield House and in one letter to [redacted] *dated 27 November 2024 I wrote as follows: "The VAT rebate was for the period Mar-April 2014 and the amount claimed was €2,800. No explanation has ever been given for this non-payment." This is my evidence that Fingal [the Respondent] did not respond to my letters of the 26 and 30 April 2021.*

In my Appeal to TAC I specifically mention this issue and I believe that it is in the remit of TAC to allow it and that all the correspondence between the parties should be examined before a decision be made as to whether or not it should be allowed to be appealed.

You cannot come and take the taxpayers papers and accounts, refuse to return them or allow them see them, refuse to assist them, refuse to reply to their correspondence, refuse to acknowledge evidence of compliance they send and be allowed make full and final demands regardless. [The Respondent] are obliged to follow their own rules and properly investigate matters and submissions made by taxpayers before sending files for collection. It is a fundamental breach of the rights of the taxpayer and a breach of natural law and justice".

The Notice of Appeal and correspondence dated 21 April 2021 and 3 September 2025

48. The Appellant submitted that the Respondent's decision is referenced in the Appellant's Notice of Appeal wherein it states, "*a claim for interest plus disallowable amounts contained in the letter of the 3 September 2025*". The Appellant submitted that it was the company that was referred to in his Notice of Appeal, not the Appellant himself. The Commissioner notes from the Appellant's submissions that he stated, "*[it] is the non-payment of VAT payable due to [the company] for the period March/April 2014 namely €2,800 plus interest that the Appellant claims and is the subject of this appeal*." The Commissioner sets out hereunder the relevant portion of the Appellant's Notice of Appeal:

Assessment/ Decision 2 *(please complete if you are appealing 2 separate decisions, otherwise go to Section 5)*		
Date of Notice of Assessment/ Decision	03/09/2025	
Which type of tax is being appealed? *(please select multiple types if required)*	Tax 1:	Value Added Tax (VAT)
	Tax 2:	Select Item
	Tax 3:	Select Item
	Tax 4:	Select Item
If you are appealing additional tax, or have selected 'Other' in the previous question, provide additional detail?	Interest plus disallowable amounts contained in their letter of 3/9/25	
What year does the Assessment/ Decision relate to?	2011	
Is a monetary amount being appealed?	Yes	
What amount of tax is being appealed? (If applicable)		

If you are appealing multiple VRT Assessments please complete a separate Notice of Appeal for each VRT Appeal

49. The Commissioner notes from the Appellant's Notice of Appeal that it refers to correspondence from the Respondent dated **3 September 2025**. The Commissioner notes that the correspondence dated 3 September 2025 was addressed to the Appellant himself, as opposed to the company. The correspondence referred to the Appellant's correspondence dated 27 November 2024, wherein the Appellant stated that he requested that "*the VAT claim of €2,800 for March/April 2014 is offset against the outstanding Income Tax liability for 2019*". The relevant portion of the Respondent's correspondence dated 3 September 2025 is as follows:

I refer to your correspondence of 27 November 2024, regarding a final demand for Income Tax 2019 and you request that your VAT claim of €2,800 for March/April 2014 is offset against the outstanding Income Tax liability for 2019. Please note there is no VAT repayment due to you.

You were advised by correspondence on 16 March 2024 that VAT refunds claimed for the period 1 January 2011 – 30 June 2014 were being disallowed. Section 23 VAT assessments totalling €19,342 were raised on 13 March 2024 to account for the VAT claims that had already been repaid. As you did not appeal the VAT assessments, the liability has become final and conclusive. Therefore, the outstanding VAT together with statutory interest, is now due and payable.

Furthermore, before this, you were advised on 21 April 2021, that you were not entitled to a VAT refund, under section 99 VAT Act 2010, for the periods 1 July 2014 to 31 August 2016. You were advised that you could appeal this decision to the Tax Appeals Commission and information was provided on how you could do this. No appeal was submitted by you, so the decision to refuse these refunds is now final and conclusive.

You were also advised, in the same letter, that the deduction (T2 figure) claimed in your return for 1 September 2014 to 31 October 2014 would be reduced to €429 leaving a VAT payable amount of €171. Again, you were advised that you could appeal this decision to the Tax Appeals Commission, but no appeal was submitted by you. A VAT assessment was not raised for the liability due, and I do not intend to raise it at this stage.

50. The Commissioner notes that the correspondence dated **21 April 2021**, from the Respondent advised the Appellant of the Respondent's decision. Again, the Commissioner observes that the correspondence was addressed to the Appellant himself

as opposed to the company. Moreover, the letter advised him of his right to appeal the Respondent's decision to the Commission. The Commissioner observes that this paragraph, in relation to the Appellant's rights of appeal, was absent from the correspondence dated 3 September 2025. The Commissioner notes that the correspondence dated 21 April 2021 included a table identifying the relevant periods and amounts that the correspondence related to. The Commissioner sets out the relevant portions of the correspondence as follows:

> **The deduction you are entitled to for the period 01 September 2014 to 31 October 2014 is €429 leaving VAT Payable for that period of €171. A notice of assessment for that period will issue for that period.**
>
> **You are not entitled to a refund under section 99 Value Added Tax Consolidation Act 2010 for the periods from 1 July 2014 to 31 August 2015 and 1 November 2014 to 31 August 2016.**
>
> **If you wish to appeal against this decision you must do so within the period of 30 days after the date of this decision by completing and submitting a 'Notice of Appeal' form to the Tax Appeals Commission (TAC). The 'Notice of Appeal' form, which is available on the TAC's website www.taxappeals.ie, contains the address to which an appeal is to be sent. You will be required to submit a copy of this decision with your 'Notice of Appeal'. The TAC can be contacted by email at info@taxappeals.ie".**

The decision letter

51. The Commissioner notes that the Respondent objected to the acceptance of the Appellant's appeal on the grounds that the Respondent's decision was communicated to the Appellant by correspondence dated 21 April 2021 and hence, he was out of time to appeal the decision on 9 September 2025.

52. The Commissioner notes from the Appellant's submissions wherein he purported that his appeal related to correspondence that issued from the Respondent dated 3 September 2025, and it was that "decision" of the Respondent that he claimed to appeal. The Commissioner notes he submitted that: "*In May 2014* [redacted] *the book-keeper for the Appellant's company [the company] made a VAT 3 return on behalf of the Company. The Return stated VAT on Purchases €2,800, Less VAT on Sales 0, Amount Claimed €2,800. The amount was properly due but was never paid or even queried………..From the date upon which the return was made until today's date no explanation was ever given as to why it was not paid………It is the non-payment of VAT payable due to [the company] for the period March/April 2014 namely €2,800 plus interest that the Appellant claims and is the subject of this appeal……….Section 949I TCA 1997 provides that a person who wishes to appeal an appealable matter must give a notice of appeal within 30 days after the date of notice of assessment or the date of* ***the decision being appealed*** *or such other date specified by the relevant tax code. The decision here*

was made by [the Respondent] in their letter of the 3 September 2025. The Appellant appealed this [the Respondent] decision and his appeal was acknowledged on the 18 September clearly within the 30 day period."

53. The Commissioner notes that the Respondent stated that the company was dissolved on 2 May 2025. However, the Commissioner notes that in his submissions, the Appellant confirmed that the company was in fact dissolved on 2 May 2018.

54. Having regard to the totality of the documentation and submissions in this appeal, the Commissioner is satisfied that the Respondent's correspondence dated 3 September 2025, advised the Appellant that in respect of his claim for a repayment of VAT, no appeal had been lodged and therefore, the decision to refuse his claim for a repayment of VAT was final and conclusive. Having regard to the wording of the correspondence of the 3 September 2025, the Commissioner is satisfied that that it did not communicate nor did it constitute a decision of the Respondent. Rather, it referred to the correspondence dated 21 April 2021, wherein the Respondent did communicate its decision to the Appellant.

55. The Commissioner is satisfied that the correspondence dated 21 April 2021 was the Respondent's decision in respect of the Appellant's claim for repayment of VAT and it was from that date upon which the Appellant had a right to appeal that decision. The Commissioner is satisfied that there was no appeal of that decision within the 30-day period. Therefore, if it is that decision that is the subject of this appeal, the Commissioner is required to consider the requirements of section 949O TCA 1997 which deals with late appeals.

The company not the Appellant

56. Nevertheless, the Commissioner notes that the Appellant submitted that it was not the Respondent's decision dated 21 April 2021 that was under appeal, but rather the amount of €2,800 that related to the company, and which he stated no decision was ever made by the Respondent in relation to his claim for repayment of VAT in that amount, prior to 3 September 2025. The Appellant contended that the correspondence dated 3 September 2025 purported to be a decision of the Respondent, but the Commissioner has found that not to be the case.

57. The Commissioner has considered the Appellant's Notice of Appeal and the Commissioner is satisfied that the Notice of Appeal was filed in the Appellant's name as opposed to the name of the company. Nowhere in the Notice of Appeal did the company name appear nor did the amount of €2,800 nor the period referred to. Furthermore, the Commissioner is satisfied that all of the correspondence submitted in this appeal that

ensued between the parties, including the correspondence dated 21 April 2021 and 3 September 2025, was issued to the Appellant, in the Appellant's name as opposed to the company name.

58. Hence, the Commissioner is satisfied that the appeal herein was not an appeal of a claim for repayment of VAT relating to the company. The appeal was lodged in the Appellant's name, and no reference was made to the company name in the Notice of Appeal or the Appellant's correspondence replying to the objection raised by the Respondent. Moreover, no correspondence has been submitted by the Appellant that related to a claim by the company for a repayment of VAT or a decision of the Respondent to refuse a claim for repayment of VAT in the amount of €2,800 to the company. The Commissioner notes that neither the correspondence dated 3 September 2025 or 21 April 2021 mentioned a VAT return filed by the company for the period March/April 2014.

59. The Appellant posited in his submissions that the claim for repayment of VAT related to the company in an amount of €2,800 for the period March/April 2014. Section 949I(5) TCA 1997 provides that "*A copy of the notification that was received from [the Respondent] (that is to say, the notification in respect of the matters the subject of the appeal) shall be appended to a notice of appeal."* However, the Commissioner has been presented with no documentary evidence that a claim for that period in that amount, was made by the company. The Commissioner has only been furnished with documentation relating to a claim by the Appellant for repayment of VAT for the periods as set out in the correspondence from the Respondent dated 21 April 2021 and 3 September 2025 addressed to the Appellant.

60. The Commissioner notes the Appellant's submission wherein he stated that "*The submissions made by the Respondent on 28 April 2026 are for the most part largely irrelevant. They, in no way, answer the Appellant's claim for €2,800 due to his company [the company] and display an entire misreading of the appeal issue herein. The appeal is against the decision of [the Respondent] in its letter of the 3 September 2025 to disallow the said VAT re-payment of €2,800 in favour of [the company]. It has nothing to do with VAT repayments to [the Appellant] ……. This was the very first time it had been indicated to the Appellant that [the Respondent] were not going to pay this amount of €2,800. It was this decision that is being appealed*".

61. As stated, the Commissioner does not accept that the correspondence dated 3 September 2025, constitutes a decision of the Respondent capable of being appealed, in accordance with section 949I(5) TCA 1997, but aside from that, the Commissioner is satisfied that this appeal is an appeal of the Appellant's tax affairs and not the tax affairs

of the company. The Appellant's Notice of Appeal makes no reference to the company. The Commissioner is satisfied that the company is a separate and distinct entity to the Appellant and the company would have been entitled to appeal to the Commission if it took issue with a decision of the Respondent. The Commissioner is satisfied that the only appeal before the Commissioner, is an appeal from the Appellant.

The Respondent's decision dated 21 April 2021

62. Whilst the Commissioner notes that the Appellant does not purport to appeal the Respondent's decision dated 21 April 2021, for completeness the Commissioner will consider the application of section 949O TCA 1997 which deals with late appeals, to the facts of this appeal. The Commissioner may only accept the Appellant's appeal if the following conditions are met: the Commissioner is satisfied that the Appellant was prevented by absence, sickness or other reasonable cause from making the appeal within 30 days and made the appeal thereafter without reasonable delay; any outstanding returns have been made; and where an appeal is made against an assessment, any tax charged by the assessment has been paid, together with any interest on that tax chargeable. The last point is not applicable herein as it relates to a claim for repayment of tax.

63. The Appellant's appeal was lodged on 9 September 2025, making this a late appeal of the Respondent's decision, such that the Appellant was required to comply with the requirements of section 949O TCA 1997. The Commissioner finds that there was no evidence adduced by the Appellant that he has complied with the requirements of section 949O TCA 1997 such that he "*was prevented by absence, sickness or other reasonable cause from making the appeal within the period specified by the Acts for the making of that appeal, and the appeal is made thereafter without unreasonable delay*." Therefore, the Commissioner finds that the Appellant's appeal of the Respondent's decision is refused on the basis that the Appellant has not complied with the requirements of section 949O TCA 1997. As stated, the Commissioner has no appeal from the company before her to consider.

64. Hence the Commissioner finds that the portion of the Appellant's appeal relating to the Respondent's decision is invalid and must be refused in accordance with section 949N TCA 1997.

65. This decision is final and conclusive.

Substantive matter – the assessment to VAT in the amount of €19,432.00

66. On 13 March 2024, the Respondent raised the assessment for the relevant period, in the amount of €19,342. The assessment was raised outside of the statutory four-year time limit. This was not in dispute. Rather what was in dispute was the Respondent's entitlement to do so, having regard to the history of the Appellant's tax affairs. The Appellant argued that [redacted] the Respondent could not now proceed to raise an assessment outside of the statutory time limits on the basis of fraud. The Appellant therefore contended that the assessment for the relevant period was invalid.

67. On 17 April 2026, the Respondent issued correspondence to the Commission informing the Commissioner that it wished to withdraw the assessment at issue herein. The Commissioner is satisfied that in accordance with section 949 TCA 1997, there are a number of ways to conclude an appeal, in circumstances where the Commissioner has accepted the appeal as being valid, namely that:

    (1) the appeal is withdrawn by the Appellant;

    (2) an agreement is reached between the parties in relation to the appeal;

    (3) the appeal is dismissed and/or is refused by the Commissioner; or,

    (4) the appeal is determined by the Commissioner.

68. The legislation does not provide a mechanism whereby the Respondent may withdraw an assessment under appeal before the Commission, thus concluding an appellant's appeal. Accordingly, having received the Respondent's correspondence dated 17 April 2026, seeking to withdraw the assessment, the Commissioner wrote to the Respondent requesting that the Respondent outline its powers to withdraw an assessment under appeal before the Commission. On 28 April 2026, in response to the Commissioner's correspondence, the Respondent stated that it was not proceeding with the defence of the assessment and that it was agreeable to the Commission reducing the liability as set out in the assessment to nil. As stated, the burden of proving the Respondent's entitlement to raise an assessment outside of the four-year statutory period provided for in section 113 VATCA 2010, is on the Respondent.

69. Furthermore, the Commissioner notes from the Appellant's correspondence dated 17 April 2026 and 27 April 2026, that he indicated that he was not withdrawing his appeal in light of the information received from the Respondent, and that he required the Commissioner to make a determination of his appeal in accordance with section 949AK

TCA 1997. The Commissioner notes from the correspondence that the parties could not come to an agreement outside of the appeals process.

70. The Commissioner is satisfied that this appeal was not withdrawn by the Appellant in accordance with section 949G(1) TCA 1997 nor has an agreement been reached between the parties before the Commissioner issued a determination, in accordance with section 949G(3)(a) TCA 1997, to permit the Commissioner to treat the appeal as being withdrawn. It is clear from the facts of this appeal, that the appeal has not been withdrawn by the Appellant nor has it been treated as being dismissed by the Commissioner. Section 6 of the Finance (Tax Appeals) Act 2015, in particular, subsection (2)(l) which states that the Commissioner in her functions shall do "*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*".

71. Accordingly, in circumstances where the Respondent did not furnish any evidence to support its entitlement to raise an assessment outside of the four-year statutory time period provided for in section 113 VATCA 2010, the Commissioner must conclude that the Respondent has not discharged the burden of proof to show that it was entitled to do so. The consequence of this finding is that the Commissioner must find that the tax due, on foot of the assessment, should be reduced to nil.

72. Finally, it should be noted that the Commissioner does not have a supervisory jurisdiction over the conduct of the Respondent. In this regard, the Commissioner refers to the recent *dictum* of Mr Justice Quinn in the judgment in *Browne v the Revenue Commissioners* [2024] IEHC 258, wherein Quinn J., when referring to an Appeal Commissioner's jurisdiction and the well-established principles as set out in the *Lee* decision, at paragraph 20 stated that:

> "*In other words, this jurisprudence explains how the function of the Appeal Commissioners is essentially restricted to enquiring into and making findings as to issues of fact and law relevant to the statutory charge to tax and they do not have any quasi inherent powers to declare any aspect of the process or outcome of the Revenue Commissioners void or invalid, akin to the powers the High Court might have in a judicial review hearing*".

73. The Commission's jurisdiction is limited to focussing on "*the assessment and the charge*", as stated by Murray J. at paragraph 64 of the Court of Appeal's judgment in the *Lee* decision. The Commissioner does not have jurisdiction to set aside a decision of the Respondent based on alleged unfairness, breach of legitimate expectation or disproportionality, as such grounds of appeal do not fall within the jurisdiction of an Appeal

Commissioner and thus, do not fall to be determined as part of this appeal. This comes within the jurisdiction and remit of the Courts.

Conclusion

74. The Commissioner is satisfied that the correspondence dated 3 September 2025, does not constitute a decision of the Respondent capable of being appealed, in accordance with section 949I(5) TCA 1997, but aside from that, the Commissioner is satisfied that this appeal herein is an appeal of the Appellant's tax affairs and not the tax affairs of the company. The Appellant's Notice of Appeal makes no reference to the company. The Commissioner is satisfied that the only appeal before the Commissioner, is an appeal from the Appellant. The Commissioner finds that there was no evidence adduced by the Appellant that he has complied with the requirements of section 949O TCA 1997 in relation to the appealing of the Respondent's decision. Therefore, the Commissioner finds that the portion of the Appellant's appeal relating to the Respondent's decision is invalid and must be refused in accordance with section 949N TCA 1997.

75. In circumstances where the Respondent did not furnish any evidence to support its entitlement to raise an assessment outside of the four-year statutory time period provided for in section 113 VATCA 2010, the Commissioner must conclude that the Respondent has not discharged the burden of proof to show that it was entitled to do so. Accordingly, the tax due, on foot of the assessment, shall be reduced to nil.

Determination

76. As such and for the reasons set out above, the Commissioner determines that the Appellant's appeal in relation to the assessment to VAT in the amount of €19,432 has succeeded. Hence, the assessment in the amount of €19,432, for the relevant period, shall be reduced to nil.

77. However, as the Commissioner has found that the part of the Appellant's appeal in relation to the Respondent's decision is not a valid appeal, the acceptance of that part of his appeal is refused in accordance with section 949N TCA 1997. This decision is final and conclusive.

78. This Appeal is determined in accordance with Part 40A TCA 1997, in particular 949U TCA 1997. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) TCA 1997.

Notification

79. This determination complies with the notification requirements set out in section 949AJ TCA 1997, in particular section 949AJ(5) and section 949AJ(6) TCA 1997. For the avoidance of doubt, the parties are hereby notified of the determination under section 949AJ TCA 1997 and in particular the matters as required in section 949AJ(6) TCA 1997. This notification under section 949AJ 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

80. 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 TCA 1997. The Commission has no discretion to accept any request to appeal the determination outside the statutory time limit.

Claire Millrine

Claire Millrine
Appeal Commissioner
8 July 2026