AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

103TACD2026

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 by the Appellant against the assessment made in the P21 PAYE/USC Statement of Liability for the tax year 2023 ("the SoL") issued by the Revenue Commissioners ("the Respondent") to the Appellant on 28 August 2025.

2. The SoL computed an income tax underpayment result of €3,226.99 for 2023.

3. On 14 January 2026, the Appellant submitted a Notice of Appeal to the Commission together with a copy of the SoL dated 28 August 2025 and details of the reasons why the appeal was filed more than thirty days after the date of issue of the SoL. Following requests from the Commission, the Appellant subsequently submitted to the Commission a copy of email correspondence between the parties during the period from 28 August 2025 to 24 September 2025 via the Respondent's secure email service My Enquiries ("MyEnquiries"), details of the reasons for the filing of the appeal outside the thirty-day time frame and clarification of the grounds of appeal contained in her Notice of Appeal.

4. On 21 January 2026, the Commission notified the appeal to the Respondent pursuant to section 949K of the TCA 1997. On 9 February 2026, the Commission received the Respondent's notice of its objection to the Commissioner accepting this appeal, pursuant to section 949L of the TCA 1997. The objection stated the appeal was filed late and the grounds of appeal were outside the jurisdiction of the Commissioner.

5. Following further submissions by the Appellant in response to the Respondent's objection, on 11 March 2026, the Commissioner issued correspondence to both parties confirming acceptance of the appeal and directing both parties to provide Statement of Case ("SoC"). On 20 March 2026, the Appellant requested a short extension to the time limit for the submission of her SoC. The Commission granted the extension requested. On 28 April 2026, the Appellant submitted a SoC to the Commission which built on her Notice of Appeal. On 26 March 2026, the Commission received the Respondent's SoC.

6. The Commissioner has considered all submissions received from both parties to date in making this determination.

7. In accordance with the provisions of section 949U of the TCA 1997 and by agreement with the parties, this appeal is adjudicated and determined without a hearing.

8. The Appellant has indicated that the information contained in this appeal is private. Therefore, this determination will be redacted prior to its publication on the Commission's

website. Publication of this determination is in accordance with section 949AO of the TCA 1997.

Background

9. The Appellant is subject to income tax on her employment income in the tax year 2023. During 2023 the Appellant was employed by [redacted] ("Employer A"). Employer A operated PAYE deductions on the Appellant's employment income. In addition, the Appellant was in receipt of Department of Social Protection ("DSP") illness benefit and maternity benefit during 2023. The Appellant's income during 2023, which is not in dispute, is set out below:

[redacted] employment income	[redacted]
DSP maternity benefit	[redacted]
DSP illness benefit	[redacted]
Total	[redacted]

10. The Respondent made an error when it issued an amended 2023 tax credit certificate to the Appellant on [redacted] November 2023, whereby the Appellant was changed from the "Week1/Month1" basis of tax credit allocation to the "Cumulative" basis. The error was that the Respondent failed to code the Appellant's DSP maternity benefit into the amended tax credit certificate. This error resulted in the amended tax credit certificate overstating the Appellant's available tax credits for Pay As your Earn ("PAYE") purposes. The amended tax credit certificate formed the basis for a revised PAYE Relevant Payment Notification ("RPN") issued by the Respondent to Employer A on [redacted] November 2023. Employer A included the revised RPN detail in its payroll run on [redacted] December 2023. This resulted in a PAYE refund of [redacted] being issued to the Appellant in the payroll run on [redacted] December 2023.

11. On 28 August 2025, the Respondent issued correspondence to the Appellant stating it required, under section 879 of the TCA 1997, that she complete an income tax return for 2023 prior to 1 October 2025. On the same date, the Appellant filed her income tax return for 2023 via the Respondent's online myAccount PAYE service ("MyAccount"). Also on that date, the Respondent issued the SoL for 2023 to the Appellant, on foot of the details included in her income tax return. The SoL computed an income tax underpayment result in the amount of €3,226.99.

12. The details included in the SoL include, *inter alia*, the following:

Income / Taxable Income		[redacted]
Charged as follows:		
[redacted] @ 20%	[redacted]	
[redacted] @ 40%	[redacted]	
Tax Due / Gross Tax Payable		[redacted]
Less:		
Tax Credits:		
Personal Tax Credit	[redacted]	
Employee Tax Credit	[redacted]	
[redacted]	[redacted]	
PAYE (income tax) deducted	[redacted]	
Total tax credits		[redacted]
PAYE Result: Underpayment		€3,226.99
USC Result: Underpayment		€0.01
Final Result: Underpayment		€3,227.00

13. The SoL stated the total underpayment result of €3,227.00 (including the tax underpayment result of €3,226.99 that is under appeal in this case) would be collected by reducing the Appellant's tax credits in four future tax years as follows:

2026	€806.75
2027	€806.75
2028	€806.75
2029	€806.75
Total	€3,227.00

14. On 28 August 2025, the Appellant issued correspondence to the Respondent, via MyEnquiries, stating:

"[…] prelim underpayment of tax for 2023 wo during how this happened? […]" (sic)

15. On 29 August 2025, the Appellant issued further correspondence to the Respondent, via MyEnquiries, querying the underpayment result. In that correspondence, the Appellant stated:

"So I have gotten my statement of liability for 2023 showing as an underpayment of €3227- can someone explain how this mistake happened? I contacted [the Respondent] in 2023 as I was being taxed on a week one basis which ye changed [redacted] *and resulted in me getting refunded tax in my wages* [redacted] *- Why was I refunded tax if it was not owed to me- this is a significant amount of money and the suggestion of reducing my tax credits for 4 years is not ideal given that I don't see how I was fault in this but yet am expected to endure the consequences for 4 years. […]"* (sic)

16. On 24 September 2025, the Respondent replied to the Appellant via MyEnquiries outlining the Appellant's option for appealing the matter to the Commission, and stating:

"[...]

It looks like your Maternity Benefit was not taken into account when you got that refund in 2023. When you were taken off Week1 and issued a cumulative cert, it should have included the maternity benefit but this did not happen. So in essence it was not your fault but the refund you got in your salary you shouldn't have been entitled to.

[...]"

17. On 14 January 2026, the Appellant commenced her appeal by filing a Notice of Appeal with the Commission.

Legislation and Guidelines

18. The legislation relevant to this appeal is set out below.

19. Section 112 of the TCA 1997, entitled "Basis of assessment, persons chargeable and extent of charge", provides:

"(1) Income tax under Schedule E shall be charged for each year of assessment on every person having or exercising an office or employment of profit mentioned in that Schedule, or to whom any annuity, pension or stipend chargeable under that Schedule is payable, in respect of all salaries, fees, wages, perquisites or profits whatever therefrom, and shall be computed on the amount of all such salaries, fees, wages, perquisites or profits whatever therefrom for the year of assessment.

(2)

(a) In this section, "emoluments" means anything assessable to income tax under Schedule E.

[...]

[...].”

20. Section 126 of the TCA 1997, entitled “Tax Treatment of certain benefits payable under the Social Welfare Acts”, provides:

“*(1) In this section -*

‘the Acts’ means the Social Welfare Acts;

‘the Act of 2005’ means the Social Welfare Consolidation Act 2005.

[...]

(2A)

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

(i) maternity benefit,

[...].

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

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

(ii) to be emoluments to which Chapter 4 of Part 42 applies.

[...]

(3)

(a) This subsection shall apply to the following benefits payable under the Acts -

(i) illness benefit,

[...].

(b) Amounts to be paid on foot of the benefits to which this subsection applies [...] shall be deemed -

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

(ii) [...] to be emoluments to which Chapter 4 of Part 42 is applied by section 984.

[...]

[…]"

21. Section 879 of the TCA 1997, entitled "Returns of income", provides:

"(1) In this section, "prescribed" means prescribed by the Revenue Commissioners and, in prescribing forms for the purposes of this section, the Revenue Commissioners shall have regard to the desirability of securing in so far as may be possible that no individual shall be required to make more than one return annually of the sources of the individual's income and the amounts derived from those sources.

(2) Every individual, when required to do so by a notice given to him or her in relation to any year of assessment by an inspector, shall within the time limited by the notice prepare and deliver to the inspector a return in the prescribed form of -

(a) all the sources of his or her income for the year of assessment in relation to which the notice is given;

(b) the amount of income from each source for the year of assessment computed in accordance with subsection (3);

(c) such information, accounts, statements, and further particulars for the purposes of income tax for the year of assessment as may be required by the notice or indicated by the prescribed form.

(3) The amount of income from any source to be included in a return under this section shall be computed in accordance with the Income Tax Acts; […].

(4) *Where a person delivers to any inspector a return in a prescribed form, the person shall be deemed to have been required by a notice under this section to prepare and deliver that return."*

22. Section 960C of the TCA 1997, entitled "Tax to be due and payable to Revenue Commissioners", provides:

"Tax due and payable under the Acts shall be due and payable to the Revenue Commissioners."

23. Chapter 4 of Part 42, being entitled "Collection and recovery of income tax on certain emoluments (PAYE system)", provides for the operation of the PAYE system and consists of sections 983 to 997A of the TCA 1997. The first section within Chapter 4, section 983 of the TCA 1997, entitled "Interpretation", provides:

"In this Chapter, except where the context otherwise requires -

[...]

"emoluments" means anything assessable to income tax under Schedule E, and references to payments of emoluments include references to payments on account of emoluments;

"employee" means any person in receipt of emoluments;

"employer" means any person paying emoluments;

[...]

"tax credits" means personal tax credits and general tax credits;

[…]."

Submissions

Appellant's submissions

24. The Appellant submitted the following grounds of appeal in her Notice of Appeal:

"I feel i am suffering the consequences of an error by Revenue- in relation to them reimbursing tax which I was not due- I queried the over payment and I got the following response from revenue;

[redacted]

[…]

It looks like your Maternity Benefit was not taken into account when you got that refund in 2023. When you were taken off Week1 and issued a cumulative cert, it should have included the maternity benefit but this did not happen. So in essence it was not your fault but the refund you got in your salary you shouldn't have been entitled to.

I am not debating that i was not entitled to it I am debating the fact that my tax credits are now heavily impacted over the next 4 years so revenue can recoup and error made by themselves which has a serious impact on my take home wage and [redacted] *not something I am comfortable with when I did not request that tax back or seek any reliefs fraudulently it appears to be a clerical error which is having a negative impact on my quality of life in the current economic circumstances."* (sic)

25. On 21 January 2026, 10 February 2026, 9 March 2026 and 10 March 2026, the Appellant made submissions to the Commission providing further details of the reasons for the late filing of this appeal and clarifying her grounds of appeal per the Notice of Appeal.

26. In her submission to the Commission dated 10 February 2026, the Appellant stated as follows:

"The statement of liability for 2023 was incorrect as I paid the correct tax as I was meant to then [the Respondent] issued an incorrect RPN to my employer an internal error resulting in me getting a refund of tax and now they want to recoup for their error."

27. In her submission to the Commission dated 10 March 2026, the Appellant stated as follows:

"Im appealing both i paid the tax liability in the first instance it was collected as normal weekly, it was revenue who issued an incorrect RPN to my employer that resulted in the refund of tax to me. I paid the liability and they incorrectly gave it back to me and are now unfairly looking to collect it back again for a second time.

If I am unsuccessful in appealing this which i hope I am not I would like the rate of collection looked at the reduction of my tax credits over a four year period has an significant impact on my take home pay weekly that I have noticed.I and given the current cost of living its just not financially viable for me." (sic)

28. In her SoC, the Appellant stated:

"[…]

***Section 3**: Outline of Relevant Facts*

[…]

Nature of the Underpayment

The Appellant submits that the underpayment in this case is not a typical PAYE underpayment arising gradually over the course of the tax year.

Instead: The underpayment arose directly and solely from a specific and identifiable administrative error by the Respondent on [redacted] November 2023.

Prior to this date:

The PAYE system was operating on a Week 1 basis

Adjustments were being made to account for DSP income had this continued:

The Appellant would not have received the refund

The end-of-year position would have been materially different

Revenue Error as Sole Cause

The Respondent accepts that:

The Appellant was incorrectly moved to a cumulative basis and maternity benefit was omitted from the calculation.

The Appellant submits that:

This was a unilateral action by the Respondent

The Appellant had no involvement in or awareness of this change

The Appellant had no ability to prevent or correct this error

Accordingly: The resulting underpayment is entirely attributable to the Respondent's administrative failure and not to any act or omission of the Appellant.

Operation of PAYE and Reasonable Reliance

The PAYE system is designed such that:

Employees rely on the Respondent to issue correct Revenue Payroll Notifications (RPNs)

Employers are legally obliged to operate PAYE strictly in accordance with those instructions.

The Appellant submits:

Their employer correctly applied the RPN issued

The Appellant reasonably relied on the PAYE system to deduct the correct tax

The Appellant had no reason to believe an error had occurred

Distinction from Standard Liability Cases

The Respondent relies on provisions of the Taxes Consolidation Act 1997, including Sections 112, 126, and 960C.

The Appellant does not dispute that:

Maternity Benefit is taxable

Income tax is due on total income

However, the Appellant submits that:

The application of these provisions must be considered in the context of how the underpayment arose.

This case is distinguishable from standard cases because:

The liability did not arise from under-declaration or omission

The liability did not arise from gradual under-deduction

The liability arose from a discrete, acknowledged error by the Respondent

Proportionality and Fairness in Application

While the Appellant accepts that the Tax Appeals Commission must apply the law, it is submitted that:

The imposition of the full liability on the Appellant, in circumstances where the underpayment arose entirely from a Respondent error, is disproportionate.

The Appellant further submits that:

The Respondent is uniquely responsible for the operation of the PAYE system

The Appellant acted in good faith at all times

There was full transparency of income via DSP reporting

Relief Sought

In light of the above, the Appellant respectfully requests that the Appeal Commissioner gives due weight to the fact that the underpayment arose solely due to a Respondent error. Consider whether it is appropriate that the full liability be imposed on the Appellant in these circumstances and determine the appeal in a manner that reflects the exceptional and discrete nature of the error involved.

Conclusion

This case does not concern whether tax is generally payable on maternity benefit.

Rather, it concerns, whether a taxpayer should bear full responsibility for an underpayment that arose exclusively due to an acknowledged administrative error by the Respondent in the operation of PAYE.

The Appellant respectfully submits that this distinction is fundamental and should be central to the determination of this appeal.

[…]" (emphasis in the original)

Respondent's submissions

29. In its SoC, the Respondent stated:

"[…]

2. Outline of relevant facts

[…]

xxxii. On 28 August 2025, the Respondent wrote to the Appellant and required, under Section 879 TCA 1997, that they complete an income tax return for 2023 prior to 1 October 2025.

xxxiii. On 28 August 2025, the Appellant submitted their PAYE Income Tax Return for 2023 via myAccount.

[...]

5. Summary

i. In 2023 the Appellant was in receipt of the following taxable income sources from DSP:

- *Illness Benefit*
- *Maternity Benefit*

ii. DSP have confirmed to the Respondent that the Appellant received [redacted] in Illness benefit in 2023.

iii. DSP have confirmed to the Respondent that the Appellant received [redacted] in Maternity Benefit in 2023.

iv. In this case, the income the Appellant received from DSP was collected at source through a reduction of their tax credit and rate band allocations in year during 2023.

v. On [redacted] November 2023, the Respondent incorrectly updated the record of the Appellant to cumulative tax basis.

vi. At this time, the Maternity Benefit income from the Appellant was €0 on their record.

vii. As a result of this update, an instruction issued to the employer of the Appellant via RPN [redacted] which saw them utilise the following tax credit and rate band allocations on a cumulative tax basis for the final payroll of the Appellant on [redacted] December 2023.

- *Rate Band = [redacted]*
- *Tax Credits = [redacted]*

viii. As a result of this, the Appellant incorrectly received a refund of income tax of [redacted] through their final payroll on [redacted] December 2023.

ix. *If RPN [redacted] had issued on a Week1 basis, the Appellant would have had an income tax deduction of €297.57 in the final payment received by them in 2023. A calculation of this is included below for completeness*

[redacted]

Net tax due = €297.57

x. *Following correspondence from the Respondent on 28 August 2025, the Appellant completed their PAYE Income Tax Return for 2023 on that date.*

xi. *When completing the return, the Appellant confirmed their income on record from DSP and their PAYE employment.*

xii. *On 29 August 2025, a Statement of Liability issued to the Appellant for 2023 which confirmed an underpayment of €3,227.00.*

xiii. *To mitigate against any hardship to the Appellant in this matter, the Respondent will collect the underpayment on record for 2023 over an extended four-year period, commencing in 2026, as follows:*

- *2026 = €806.75*
- *2027 = €806.75*
- *2028 = €806.75*
- *2029 = €806.75*

xiv. *This equates to approximately €67.22 per month, or €15.51 per week.*

xv. *The Respondent is sympathetic to the Appellant's situation and apologises for the sequence of events that led to the underpayment materialising in this matter.*

xvi. *The liability in this matter is due in accordance with the legislation under Section 960C TCA 1997.*

xvii. *The Appellant has not demonstrated a legislative basis for why the liability should not stand.*

[…]" (sic) (emphasis in the original)

Material Facts

30. Having considered the submissions made by both parties to this appeal to date, the Commissioner makes the following findings of material fact, which are not in dispute in this appeal:

30.1. The Appellant is an individual who is subject to income tax on her employment and DSP benefit income in 2023.

30.2. The Appellant was employed by Employer A in 2023, and income tax was deducted at source via Employer A's operation of the PAYE system.

30.3. During 2023, the Appellant's correct gross income is as follows:

Employer A – salary	[redacted]
DSP maternity benefit	[redacted]
DSP illness benefit	[redacted]
Total	[redacted]

30.4. On [redacted] November 2023, the Respondent issued an amended tax credit certificate to the Appellant whereby the Appellant's tax credits were changed from being allocated on a "Week1/Month1" basis to being allocated on a "Cumulative" basis.

30.5. Due to an error by the Respondent, the amended tax credit certificate for the Appellant, issued by the Respondent on [redacted] November 2023, did not code in an adjustment for the taxable DSP maternity benefit received by the Appellant during 2023.

30.6. As a result of the Respondent's error, the amended tax credit certificate for the Appellant, issued on [redacted] November 2023, overstated the Appellant's available tax credits for the remainder of the tax year 2023.

30.7. On foot of the amended tax credit certificate for the Appellant, an updated RPN was issued by the Respondent to Employer A on [redacted] November 2023 and Employer A used the detail provided in that RPN when processing its [redacted] December 2023 payroll in respect of the Appellant.

30.8. When the [redacted] December 2023 payroll was processed by Employer A, using the details in the RPN issued by the Respondent on [redacted] November 2023, an income tax refund in the amount of [redacted] was computed and issued by Employer A to the Appellant.

30.9. Employer A correctly operated the PAYE system on the [redacted] December 2023 payroll for the Appellant, based on the updated RPN that had been issued by the Respondent to Employer A on [redacted] November 2023.

30.10. On 8 January 2024, the Respondent received an update report from the DSP confirming that the Appellant had received DSP Maternity Benefit of [redacted] in 2023.

30.11. On 28 August 2025, the Respondent issued correspondence to the Appellant requiring her to submit an income tax return for 2023 by 1 October 2025, in accordance with section 879 of the TCA 1997.

30.12. On 28 August 2025, following receipt of the Respondent's correspondence of the same date, the Appellant filed her 2023 income tax return with the Respondent via MyAccount.

30.13. The Appellant correctly returned the following gross income in her 2023 tax return filed on 28 August 2025 via MyAccount:

Employer A – salary	[redacted]
DSP maternity benefit	[redacted]
DSP illness benefit	[redacted]
Total	[redacted]

30.14. On 28 August 2025, following receipt of the Appellant's 2023 income tax return via MyAccount, the Respondent issued the SoL.

30.15. The SoL computed the total underpayment for 2023 as €3,227.00, consisting of an income tax underpayment result of €3,226.99 and a Universal Social Charge ("USC") underpayment result of €0.01.

30.16. The SoL stated that the total underpayment result of €3,227.00 will be collected by reduction of the Appellant's tax credits in four future tax years as follows:

2026	€806.75
2027	€806.75
2028	€806.75
2029	€806.75
Total	€3,227.00

30.17. On 28 August 2025 and 29 August 2025, the Appellant issued correspondence to the Respondent via MyEnquiries querying the income tax underpayment result of €3,226.99 as computed in the SoL.

30.18. On 24 September 2025, the Respondent replied to the Appellant's queries via MyEnquiries confirming the amount of the income tax underpayment result per the SoL and stating that the underpayment arose as a result of an error by the Respondent. This correspondence also outlined the Appellant's option to appeal to the Commission.

30.19. On 14 January 2026, the Appellant lodged an appeal with the Commission by filing the Notice of Appeal.

30.20. Per the grounds of appeal stated in the Notice of Appeal, the Appellant is appealing the income tax underpayment result of €3,226.99 and the reduction in the Appellant's tax credits for the tax years 2026 to 2029 inclusive as the income tax underpayment result arose solely due to the Respondent's error.

30.21. There is no dispute between the parties regarding the sources of taxable income and the quantum of each of those sources as included in the SoL.

30.22. There is no dispute between the parties regarding the tax credits and the quantum of those tax credits as included in the SoL.

Analysis

Burden of proof in tax appeals

31. The appropriate starting point for this analysis is to confirm that in a tax appeal before the Commission, the burden of proof rests on the Appellant, who must prove that, on the balance of probabilities, the assessment to tax or the decision of the Respondent, as relevant, is incorrect.

32. This proposition is now well established by case law. For example, in the High Court case of *Menolly Homes Ltd v Appeal Commissioners and Revenue Commissioners* [2010] IEHC 49 ("*Menolly Homes*"), at paragraph 22, Charleton J. stated:

> *"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."*

33. Furthermore, Charleton J. stated at paragraph 12 of his judgment in *Menolly Homes:*

> *"Revenue law has no equity. Taxation does not arise by virtue of civic responsibility but through legislation. Tax is not payable unless the circumstances of liability are defined, and the rate measured, by statute […]"*

34. The Court of Appeal has affirmed this position recently in the case of *JSS and Others v A Tax Appeal Commissioner* [2025] IECA 96, where, at paragraph 34, McDonald J. stated:

> *"[…] the taxpayer bears the burden of demonstrating that a tax assessment is wrong."*

Charge to income tax

35. Section 112 of the TCA 1997 provides the basis of the charge to income tax for individuals who are employees, on the income derived from employment, under what is referred to as "Schedule E". Section 112(1) of the TCA 1997 provides:

> *"Income tax under Schedule E <u>shall</u> be charged for each year of assessment on every person having or exercising an office or employment of profit mentioned in that Schedule, or to whom any annuity, pension or stipend chargeable under that Schedule is payable, in respect of all salaries, fees, wages, perquisites or profits whatever therefrom, and <u>shall</u> be computed on the amount of all such salaries, fees, wages, perquisites or profits whatever therefrom for the year of assessment."* (emphasis added)

36. Section 126(2A)(b) of the TCA 1997 provides that DSP maternity benefit *"<u>shall</u> be deemed […] to be profits or gains arising or accruing from an employment (and accordingly tax under Schedule E <u>shall</u> be charged on every person to whom any such benefit is payable in respect of amounts to be paid on foot of such benefits, and tax so chargeable <u>shall</u> be computed under section 112(1)"* of the TCA 1997 (emphasis added).

37. Section 126(3)(b) of the TCA 1997 provides that DSP illness benefit *"<u>shall</u> be deemed […] to be profits or gains arising or accruing from an employment (and accordingly tax under Schedule E <u>shall</u> be charged on every person to whom any such benefit is payable in respect of amounts to be paid on foot of such benefits, and tax so chargeable <u>shall</u> be computed under section 112(1)"* of the TCA 1997 (emphasis added).

38. Section 960C of the TCA 1997 provides:

    "Tax due and payable under the Acts <u>shall</u> be due and payable to the Revenue Commissioners." (emphasis added)

39. Therefore, in accordance with the provisions of sections 112 and 126 of the TCA 1997, the Appellant is chargeable to income tax in 2023, under Schedule E, on the gross employment income earned from Employer A, as well as the DSP maternity benefit and the DSP illness benefit payable to her during that year. Furthermore, the Commissioner notes that the tax liability arising on these three income sources is *"due and payable"* to the Respondent, in accordance with the provisions of section 960C of the TCA 1997.

40. There is no dispute between the parties regarding the Appellant's three sources of income and the quantum of the gross income from each of these sources, as included in the SoL. The Appellant has not disputed that the three sources of income are subject to income tax. The Commissioner has found as a material fact, not disputed by either party, that the Appellant's taxable income from these sources in 2023 was included correctly in the Appellant's income tax return for 2023 as follows:

Employer A – salary	[redacted]
DSP maternity benefit	[redacted]
DSP illness benefit	[redacted]
Total	[redacted]

41. The Commissioner notes the use of the word "*shall"* in sections 112, 126(2A)(b), 126(3)(b) and 960C of the TCA 1997. The Commissioner is satisfied that the use of the word *"shall"* means that each of these provisions is mandatory in nature. The legislation does not

afford any discretion to disapply the charging provisions in any circumstances. There are no exceptions provided in the charging provisions in the legislation. Furthermore, the Commissioner is satisfied that the charging provisions are mandatory even in circumstances where the Respondent made an error in the amended tax credit certificate issued on [redacted] November 2023, The Respondent had submitted it made that error, which then resulted in the incorrect refunding of income tax of [redacted] to the Appellant in the [redacted] December 2023 payroll run by Employer A. Employer A correctly operated the PAYE system in its payroll run on [redacted] December 2023, in accordance with the RPN which had been provided to it by the Respondent. The RPN was issued by the Respondent on foot of the incorrect amended tax credit certificate dated [redacted] November 2023. It was the information in the RPN itself that was incorrect, not Employer A's processing of that RPN in its [redacted] December 2023 payroll.

42. The Commissioner concludes the three sources of income and the quantum of the gross income from each of these three sources, as included in the SoL, are correct.

43. Furthermore, the Commissioner has found as a material fact that there is no dispute between the parties regarding the tax credits and the quantum of those tax credits, as included in the SoL.

44. The Commissioner is satisfied that the SoL contains a correct computation of the Appellant's income tax liability for 2023. Consequently, the Commissioner is satisfied that the income tax underpayment result of €3,226.99, per the SoL, is correct.

Jurisdiction of the Appeal Commissioner

45. The Commissioner notes the Appellant's prompt response to the Respondent's request to file an income tax return for 2023 and her prompt and proactive efforts to understand how the income tax underpayment result in 2023 had arisen by contacting the Respondent without delay. The Commissioner notes the Appellant's submissions that the income tax underpayment result arose solely due to the error of the Respondent and that she was not at fault in relation to this matter. The Respondent has confirmed in its submissions to the Commission that it made the error which led to a PAYE refund being made through the [redacted] December 2023 payroll run by Employer A and, consequently, to the income tax underpayment result per the SoL.

46. It is appropriate at this point for the Commissioner to summarise the scope of the Appeal Commissioner's jurisdiction in tax appeals. In *Lee v Revenue Commissioners* [2021] IECA 18 *("Lee")*, the Court of Appeal made clear that the function of the Appeal

Commissioner is to determine by reference to applicable legislation the correct amount of tax owed. At paragraph 20, Murray J. stated:

> *"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."*

47. In *Lee*, Murray J. continued at paragraph 76:

> *"[…] the Commissioners are restricted to inquiring into, and making findings as to, those issues of fact and law that are relevant to the statutory charge to tax. Their essential function is to look at the facts and statutes and see if the assessment has been properly prepared in accordance with those statutes."*

48. The Commissioner's determination in this appeal is made within the confines of the powers conferred on her under Part 40A of the TCA 1997, entitled "Appeals to Appeals Commissioners". The Commissioner's statutory role is limited to considering the assessment and the charge to tax. Where the assessment and the charge to tax are in accordance with the relevant tax legislation, as the Commissioner has found to be the case here, she cannot set aside the assessment.

49. The Commissioner does not have equitable jurisdiction to consider the issues raised in the Appellant's submissions regarding unfairness, disproportionality, or administrative error by the Respondent where the Appellant was unaware of that error and was relying on the operation of the PAYE system to ensure the correct income tax was deducted at source. The Commissioner acknowledges that, based on the submissions before her, the income tax underpayment result has arisen solely due to the Respondent's error and not through any act or omission on the part of the Appellant.

50. The Commissioner empathises with the Appellant's difficulties as outlined in this appeal. However, the Commissioner is satisfied that she does not have jurisdiction to set aside an assessment issued by the Respondent, where that assessment has been made in accordance with the tax legislation, on the basis that the income tax underpayment computed in that assessment arose solely due to an error by the Respondent and through no fault of the Appellant. The Commissioner does not have jurisdiction to deal with complaints regarding the Respondent's customer service.

51. The Commissioner notes the Respondent's statement in the SoL that the total underpayment result for 2023 (€3,227.00), including the income tax underpayment result (€3,226.99) under appeal, will be collected by reduction of the Appellant's tax credits in the four tax years from 2026 to 2029 inclusive. The Commissioner further notes that the payment of a tax underpayment result in this way, effectively by instalments over a period of four years, is made pursuant to an extra-statutory concession operated by the Respondent. This method of settling an underpayment of income tax is not provided for within tax legislation. Therefore, the Commissioner cannot make any determination in relation to this extra-statutory payment arrangement. It is open to the Appellant to discuss payment arrangements with the Respondent directly with a view to agreeing an alternative schedule. Any such discussion and alternative payment arrangement would be outside the remit and jurisdiction of the Commissioner.

Conclusions

52. Having considered the relevant legislation and the submissions from both parties, the Commissioner concludes as follows:

52.1. 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 or a decision of the Respondent is incorrect. For the reasons set out in the analysis above, the Commissioner is satisfied that the Appellant has not discharged the burden of proving that, on the balance of probabilities, the SoL issued by the Respondent on 28 August 2025 was not correct.

52.2. Pursuant to the charging legislation, the Appellant is chargeable to income tax on the gross employment income arising from her employment with Employer A, and the DSP maternity and illness benefits payable to her during 2023. The Appellant returned the correct employment and DSP benefit income in her 2023 income tax return. The Appellant claimed the correct gross tax credits in her 2023 income tax return.

52.3. The Respondent made an error in the amended tax credit certificate it issued to the Appellant on [redacted] November 2023, such that the Appellant's tax credits were overstated. On foot of that amended tax credit certificate, an incorrect RPN was issued by the Respondent to Employer A for PAYE purposes. Employer A operated PAYE in accordance with this RPN in its [redacted] December 2023 payroll. This resulted in an under-deduction of PAYE in the [redacted] December 2023 payroll. This under-deduction of PAYE occurred through no fault on the part of the Appellant or Employer A. Consequently, when the Appellant filed her income tax return for 2023, a total underpayment result of €3,227.00 was computed in the SoL issued by the Respondent on 28 August 2025. The underpayment result consists of an income tax underpayment of €3,226.99 and a USC underpayment of €0.01. While the income tax underpayment result under appeal is significant, there is no basis in the tax legislation to eliminate or reduce the charge to income tax in the circumstances.

52.4. The Commissioner does not have discretion to disapply the charge to income tax arising pursuant to the relevant tax legislation, where the Respondent made an error which then resulted in incorrect PAYE deductions via Employer A's payroll.

52.5. The Commissioner does not have jurisdiction to set aside the SoL issued by the Respondent on 28 August 2025 where the total underpayment result in that SoL, including the income tax underpayment result under appeal here, arose from the Respondent's error.

53. The Commissioner notes the Respondent has offered to spread the collection of the total underpayment result in the SoL by way of reduction in the Appellant's personal tax credits over four tax years from 2026 to 2029 inclusive. This offer was made pursuant to an extra-statutory concession. The Commissioner has no jurisdiction in relation to this extra-statutory collection method put forward by the Respondent.

Determination

54. As such and for all the reasons set out above, the Commissioner determines that this appeal is denied. Therefore, the SoL issued by the Respondent to the Appellant on 28 August 2025, computing an income tax underpayment result of €3,226.99 and a total underpayment result of €3,227.00, shall stand.

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

Notification

56. This determination complies with the notification requirements set out in section 949AJ of the TCA 1997, in particular section 949AJ(5) and section 949AJ(6) of the TCA 1997. For the avoidance of doubt, the parties are hereby notified of the determination under section 949AJ of the TCA 1997 and in particular the matters as required in section 949AJ(6) of the TCA 1997. This notification under section 949AJ of the TCA 1997 is being sent via digital email communication **only** (unless the Appellant opted for postal communication

and communicated that option to the Commission). The parties will not receive any other notification of this determination by any other methods of communication.

Appeal

57. 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.

Suzanne Carter
Appeal Commissioner
13 July 2026