



AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

112TACD2026

Between

[REDACTED]

Appellant

and

The Revenue Commissioners

Respondent

Determination

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Introduction

1. This is a consolidated appeal to the Tax Appeals Commission (“the Commission”) brought by the Appellant under section 949I of the Taxes Consolidation Act 1997 (“the TCA 1997”), against a refusal by the Respondent of a claim made by the Appellant for a repayment of tax in the amount of €8,797.56 for the tax year 2019, on the ground that the Appellant’s claim for a repayment of tax for the tax year 2019 was made outside the statutory timeframe.
2. The appeal proceeded by way of a remote hearing on 17 February 2026. The Appellant represented himself and the Respondent was represented by the two of its case officers.
3. Prior to the hearing, the Appellant notified the Commission that he wished to have his appeal hearing in private. Therefore, the appeal hearing was held in private and this determination will be redacted before its publication on the Commission’s website under section 949AO of the TCA 1997.

Background

4. On 11 December 2024, the Appellant filed an income tax return for the year 2019. A Notice of Assessment issued on 11 December 2024 for the year 2019 showed an overpayment in the amount of €8,797.56.
5. On 6 February 2025, the Respondent refused the Appellant’s claim for a repayment of income tax for the year 2019, on the ground that section 865(4) of the TCA 1997 provides that a claim for repayment of tax for a chargeable period shall not be allowed unless it is made within four years after the end of that chargeable period and the Appellant’s claim was not made within the four-year period.
6. On 11 February 2025, the Appellant submitted a Notice of Appeal to the Commission, with enclosures.
7. On 8 May 2025, the Appellant and the Respondent submitted Statements of Case. On 18 July 2025, the Respondent submitted pre-hearing documentation and on 4 August 2025, the Appellant submitted pre-hearing documentation. On 28 January 2026, the Appellant submitted additional documentation. On 30 June 2026, the Commissioner directed the parties to confirm that they had exchanged their books of documents with one another and invited the parties to submit any additional comments before 22 July 2026. On 8 July 2026 and 22 July 2026 respectively, the Appellant and the Respondent confirmed that they had exchanged their books of documents with one another. On 21 and 23 July 2026, the Appellant submitted additional comments and on 22 July 2026, the

Respondent submitted additional comments. The Commissioner has considered all documentation submitted by the parties in this appeal.

Legislation and Guidelines

8. The legislation relevant to this appeal is as follows:
9. Section 823A of the TCA 1997 provides for relief from income tax for the years of assessment 2012 to 2030 for individuals who are resident in the State but who temporarily carry out the duties of their office or employment in certain relevant states.
10. Section 865 of the TCA 1997 provides (among other things):

“(1) (a) In this section and section 865A –

[...] 'valid claim' shall be construed in accordance with paragraph (b).

(b) For the purposes of subsection (3) -

(i) where a person furnishes a statement or return which is required to be delivered by the person in accordance with any provision of the Acts for a chargeable period, such a statement or return shall be treated as a valid claim in relation to a repayment of tax where -

(I) all the information which the Revenue Commissioners may reasonably require to enable them determine if and to what extent a repayment of tax is due to the person for that chargeable period is contained in the statement or return, and

(II) the repayment treated as claimed, if due -

(A) would arise out of the assessment to tax, made at the time the statement or return was furnished, on foot of the statement or return, or

(B) would have arisen out of the assessment to tax, that would have been made at the time the statement or return was furnished, on foot of the statement or return if an assessment to tax had been made at that time,

(ii) where all information which the Revenue Commissioners may reasonably require, to enable them determine if and to what extent a repayment of tax is due to a person for a chargeable period, is not contained in such a statement or return as is referred to in subparagraph (i), a claim to repayment of tax by

that person for that chargeable period shall be treated as a valid claim when that information has been furnished by the person, and

(iii) to the extent that a claim to repayment of tax for a chargeable period arises from a correlative adjustment, the claim shall not be regarded as a valid claim until the quantum of the correlative adjustment is agreed in writing by the competent authorities of the two Contracting States.

(2) Subject to the provisions of this section, where a person has, in respect of a chargeable period, paid, whether directly or by deduction, an amount of tax which is not due from that person or which, but for an error or mistake in a return or statement made by the person for the purposes of an assessment to tax, would not have been due from the person, the person shall be entitled to repayment of the tax so paid.

[...]

(3) A repayment of tax shall not be due under subsection (2) unless a valid claim has been made to the Revenue Commissioners for that purpose.

[...]

(4) Subject to subsection (5), a claim for repayment of tax under the Acts for any chargeable period shall not be allowed unless it is made—

(a) in the case of claims made on or before 31 December 2004, under any provision of the Acts other than subsection (2), in relation to any chargeable period ending on or before 31 December 2002, within 10 years,

(b) in the case of claims made on or after 1 January 2005 in relation to any chargeable period referred to in paragraph (a), within 4 years, and

(c) in the case of claims made—

*(i) under subsection (2) and not under any other provision of the Acts,
or*

*(ii) in relation to any chargeable period beginning on or after 1 January 2003,
within 4 years,*

after the end of the chargeable period to which the claim relates.”

11. Section 959A of the TCA 1997 provides (among other things):

“In this Part, except where the context otherwise requires –

[...]

"chargeable person" means, as respects a chargeable period, a person who is chargeable to tax for that period, whether on that person's own account or on account of some other person but, as respects income tax, does not include a person to whom subsection (1) of section 959B relates;"

12. Section 959B(1) of the TCA 1997 provides:

"(1) For the purposes of the meaning assigned to 'chargeable person' in section 959A, it does not include a person -

(a) whose only source or sources of income for a tax year is or are sources the income from which consists of emoluments to which Chapter 4 of Part 42 applies, but for this purpose a person who, in addition to such source or sources of income, has another source or other sources of income shall be deemed for the tax year to be a person whose only source or sources of income for the tax year is or are sources the income from which consists of emoluments to which Chapter 4 of Part 42 applies if the income from that other source or those other sources, which does not exceed €5,000 in total -

- (i) is taken into account in determining the amount of his or her tax credits and standard rate cut-off point for the tax year applicable to those emoluments, or*
- (ii) is fully taxed at source under section 261,*

and, for the purposes of deciding whether such income should be taken into account in determining the amount of tax credits and standard rate cut-off point for the tax year, the Revenue Commissioners may have regard to the amount for that, or any previous, tax year of the income of the person from that other source or those other sources before deductions, losses, allowances and other reliefs,

(b) who for the tax year has been excluded by a Revenue officer from the requirements of Chapter 3 by reason of a notice given under section 959N, or

(c) who is chargeable to tax for the tax year by reason only of section 237, 238 or 239, but paragraph (a) shall not apply to a person who is a director or, in the case of a person to whom section 1017 or 1031C applies, whose spouse or civil partner is a director (within the meaning of section 116) of a body corporate other than a body corporate which during a period of 3 years ending on 31 December in the tax year -

- (i) was not entitled to any assets other than cash on hands, or a sum of money on deposit within the meaning of section 895, not exceeding €130,*

- (ii) *did not carry on a trade, business or other activity including the making of investments, and*
- (iii) *did not pay charges on income within the meaning of section 243.”*

13. Section 959I(1) of the TCA 1997 provides:

“959I. Obligation to make a return.

(1) Every chargeable person shall as respects a chargeable period prepare and deliver to the Collector-General on or before the specified return date for the chargeable period a return in the prescribed form.”

Evidence

Appellant’s Evidence

14. The Appellant stated that he made a submission in relation to Foreign Earnings Deduction (“FED”) on 29 December 2023. He said that he did not hear back and made an enquiry with the Respondent in March 2024. The Appellant testified that he received a reply from the Respondent on 2 May 2024, which confirmed that the Appellant’s 2019 return was open and he could return it at his convenience and include a claim for FED. He relayed that when making a claim for FED on 29 December 2023, he followed the Respondent’s guidelines, which do not say anything about submitting calculations. The Appellant stated that he believes that he made a valid claim at that point. He said that he had made many submissions regarding FED before, without any problem.
15. The Appellant testified that he did not have an accountant to take care of 2019. He stated that he obtained an accountant in 2020, who advised him to make a submission for 2019. The Appellant said that he was made redundant in [REDACTED] 2019 and started to work for himself immediately. He testified that: *“It was on the [REDACTED] [REDACTED] 2019 when I registered my own company and I understand that the reason why I had to make tax returns is because I’m a director of that company”*. He stated that it was not a trading company at that stage because he was trying to set it up. The Appellant said that he was not aware that he had to file a return from the date he registered the company and *“being new to this, it was not something that I knew I needed to do”*. The Appellant stated that if there was a problem with making the filing and it had been communicated to him on time, he could have filed the claim.
16. When the Commissioner asked the Appellant whether he had filed an income tax return for 2019 before 11 December 2024, the Appellant replied: *“Not that I’m aware, unless the*

accountant did it, because again, I didn't, I'm not an accountant. I didn't. I've never personally filed a Form 11, I don't believe ... maybe my accountant might have filed some things, but I'm not, you know, I'm not fully aware of that." When the Commissioner asked the Appellant to confirm whether the agent who corresponded with the Respondent in 2023 was the Appellant's agent, the Appellant replied: "yes, so he would have been my accountant from 2020 on...yeah, he would have been my accountant for 2023, yes."

Submissions

Appellant's Submissions

17. The Commissioner sets out below a summary of the submissions made by the Appellant, in the documentation submitted in support of this appeal and at the hearing:
 - 17.1. In December 2023, the Appellant requested a repayment of tax for the year 2019 within the 4 year period, when he provided details of an FED claim for 2019.
 - 17.2. In March 2024, the Appellant requested an update from the Respondent. In May 2024, he received a response from the Respondent with instructions that he could still submit his 2019 assessment. It was clear to the Appellant that the Respondent was allowing his submission based on his 2023 request made within the 4 year timeframe. The Appellant relied on the instructions provided by the Respondent.
 - 17.3. On 6 February 2025, the Appellant received a letter which stated that he did not make the claim within four years. However, this does not take into account that the Appellant had made a request in December 2023 and in 2024 he was instructed to provide his revised submission. The Respondent's decision of 6 February 2025 is contradictory in nature.
 - 17.4. A claim for FED can be made against a rolling 12 month period. The Appellant's claim is for October 2019 - September 2020. If the Appellant had been advised that his claim was not accepted for 2019, then he could have submitted his claim for 2020. Due to the Respondent's communication delays, this option was removed because of the four year rule.
 - 17.5. The Appellant's salary was majorly impacted since 2019, when he was made redundant and started his own business whilst Covid-19 took hold.

Respondent's Submissions

18. The Commissioner sets out below a summary of the submissions made by the Respondent, in the documentation submitted and at the hearing:

- 18.1. On 11 December 2024, the Appellant filed his income tax return for 2019. The return indicated that the Appellant had overpaid tax in the amount of €8,797.56.
- 18.2. The Respondent refused this refund as the return was filed outside the four-year time limit imposed by legislation.
- 18.3. For the 2019 income tax return to be a valid return and any overpayment be available for refund or offset, it would have to be filed within 4 years of the end of the chargeable period, i.e. on or before 31 December 2023.
- 18.4. On [REDACTED] 2022, the Appellant's agent registered the Appellant for income tax. On 18 August 2023, the Appellant's agent asked the Respondent if it was necessary to file an income tax return for 2019. On 22 August 2023, the Respondent replied to ask the Appellant's agent to contact them if the registration was incorrect but received no reply to that enquiry.
- 18.5. On 29 December 2023, the Appellant contacted the Respondent indicating that he believed he qualified for FED in respect of work trips made in 2019 and 2020. The Appellant's submission of 29 December 2023 in respect of FED is not in itself a valid claim. The Respondent did not have the entire picture for his income. The Respondent was not in a position to consider any refund that may be due as the Appellant had not filed his income tax return for 2019.
- 18.6. On 2 May 2024, the Respondent advised the Appellant that he could amend his income tax return through Revenue's Online Service to include FED. The Respondent further advised that the Appellant's 2019 income tax return was outstanding and should be filed at his earliest convenience.
- 18.7. The Appellant was a self-employed individual who was a director from [REDACTED] [REDACTED] 2019. As a director of a limited company, he was required to file an income tax return. In response to the Appellant's query about why this was different to his previous FED submissions, the Respondent stated that the difference was the requirement to file an income tax return and that without a Form 11, it would not be regarded as a valid claim.

Material Facts

19. Having read the documentation submitted in this appeal and having listened to and considered the oral evidence and submissions at the hearing of the appeal, the Commissioner makes the following findings of material fact:

- 19.1. The Appellant was the director of his own company from [REDACTED] 2019.

- 19.2. On 29 December 2023, the Appellant communicated with the Respondent through the Respondent's MyEnquiries online service as follows: *"Hi, in 2019/2020 I made a few trips to countries for work which I believe qualify to claim Foreign Earnings Deduction (FED). Attached are the details of the trips to [REDACTED]. Please let me know if this is sufficient or you need any other information"*. In addition, he enclosed a document listing five trips from October 2019 to February 2020, the departure and return dates of those trips, the destinations, and the total number of days.
- 19.3. On 11 December 2024, the Appellant filed an income tax return for the year 2019.
- 19.4. The Appellant stated that he was not aware of having filed an income tax return for the year 2019 before 11 December 2024 and the Appellant presented no evidence to the Commission of having filed an income tax return for the year 2019 before 11 December 2024.
- 19.5. On 11 December 2024, a Notice of Assessment issued for the year 2019 which showed an overpayment of €8,797.56
- 19.6. On 6 February 2025, the Respondent refused the Appellant's claim for a repayment of tax for the tax year 2019 on the ground that the claim fell outside the four-year time limit.
- 19.7. On 11 February 2025, the Appellant submitted a Notice of Appeal to the Commission.

Analysis

20. This appeal relates to the Respondent's refusal of the Appellant's claim for a repayment of tax in the amount of €8,797.56 for the tax year 2019.

Burden

21. In an appeal before the Commission, the burden of proof rests on the Appellant. In the High Court case of *Menolly Homes Ltd v Appeal Commissioners and The Revenue Commissioners* [2010] IEHC 49, Charleton J stated at paragraph 22 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".

22. The Court of Appeal confirmed this position in *JSS & Ors v A Tax Appeal Commissioner* [2025] IECA 96, in which McDonald J stated at paragraph 34 that:

“the taxpayer bears the burden of demonstrating that a tax assessment is wrong.”

23. Additionally, in *Hanrahan v The Revenue Commissioners* [2024] IECA 113, the Court of Appeal clarified the approach to the burden of proof where an appeal relates to the interpretation of law only, stating:

“Where the onus of proof lies can be highly relevant in those cases in which evidential matters are at stake...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”.

Jurisdiction

24. In this appeal, the Appellant made a number of submissions which relate to the actions or inactions of the Respondent, including stated delays and contradictions in the Respondent’s communications, as well as instructions which are said to have been given to, and relied upon by, the Appellant.
25. It is therefore necessary to state that the Commissioner does not have jurisdiction to set aside a decision of the Respondent based on alleged unfairness and has no supervisory jurisdiction over the processes of the Respondent. Any such allegations could only be addressed by way of Court proceedings. Therefore, if the Appellant took issue with any procedural irregularity in relation to the Respondent, this was a matter for the Courts and not the Commission. The Commissioner’s jurisdiction *“is limited to determining whether an assessment correctly charges the relevant taxpayer in accordance with the relevant provisions of the TCA”*, as confirmed by the Court of Appeal in *Lee v Revenue Commissioners* [2021] IECA 18.
26. The Commissioner will now turn to consider the applicable legislation in this appeal.

Section 865 TCA 1997

27. Section 865(2) of the TCA 1997 provides that a person is entitled to a repayment of tax paid where that tax is not due from that person. However, section 865(4) of the TCA 1997 provides that “*a claim for repayment of tax under the Acts for any chargeable period shall not be allowed unless it is made... within 4 years, after the end of the chargeable period to which the claim relates.*” (emphasis added).
28. In this appeal, the relevant tax year was 2019. Therefore, the claim for a repayment of tax must have been made on or before 31 December 2023.
29. Section 865(3) of the TCA 1997 provides that a repayment of tax shall not be due unless a valid claim has been made to the Respondent for that purpose. Section 865(1) of the TCA 1997 provides that the term “valid claim” is to be construed in accordance with section 865(1)(b) of the TCA 1997.
30. Section 865(1)(b) of the TCA 1997 provides that a statement or return which the taxpayer is required to furnish under the legislation shall be treated as a “valid claim” if it contains all the information which Revenue may reasonably require to determine if and to what extent a repayment is due and a repayment arises or would arise out of an assessment made at the time the statement or return was furnished.

The Appellant's Claim

31. In this case, the Appellant testified that he started to work for himself immediately after being made redundant in [REDACTED] 2019, registered his company on [REDACTED] 2019, and was a director of that company. The Respondent stated that the Appellant was a director of his company from [REDACTED] 2019. Therefore, the Commissioner has found it to be a material fact that the Appellant was a director of his company from [REDACTED] 2019.
32. As a result, the Commissioner is satisfied that the Appellant was a chargeable person under sections 959A and 959B of the TCA 1997 and was therefore required to file an income tax return for 2019 in the prescribed form, under section 959I of the TCA 1997.
33. When the Commissioner asked the Appellant whether he had filed an income tax return for 2019 before 11 December 2024, the Appellant replied: “*Not that I'm aware, unless the accountant did it, because again, I didn't, I'm not an accountant. I didn't. I've never personally filed a Form 11, I don't believe ... maybe my accountant might have filed some things, but I'm not, you know, I'm not fully aware of that.*”

34. For clarity, the Appellant presented no evidence to the Commission of having filed an income tax return before 11 December 2024. Furthermore, no accountant attended the hearing of this appeal on behalf of the Appellant to speak to whether the Appellant had filed an income tax return for 2019 at an earlier date. In that regard, the Commissioner notes that the Appellant confirmed in evidence that he had an accountant from 2020 and that the Appellant did not at any stage dispute the Respondent's submission that the Appellant's agent had registered the Appellant for income tax on [REDACTED] 2022.
35. Consequently, the Commissioner has found it to be a material fact that the Appellant stated that he was not aware of having filed an income tax return for the year 2019 before 11 December 2024 and the Appellant presented no evidence to the Commission of having filed an income tax return for the year 2019 before 11 December 2024.
36. In this appeal, the burden of proof is on the Appellant. Given the above, the Commissioner finds no basis on which to conclude that the Appellant filed an income tax return for 2019 before 11 December 2024.
37. Turning then to the Appellant's submission on his claim for FED, the Commissioner is not satisfied that the Appellant's communication with the Respondent of 29 December 2023 amounts to a "valid claim" for the purposes of section 865 of the TCA 1997.
38. The documentation furnished to the Commission shows that on 29 December 2023, the Appellant communicated with the Respondent through the Respondent's MyEnquiries online service as follows: *"Hi, in 2019/2020 I made a few trips to countries for work which I believe qualify to claim Foreign Earnings Deduction (FED). Attached are the details of the trips to [REDACTED]. Please let me know if this is sufficient or you need any other information"*. In addition, he enclosed a document listing five trips from October 2019 to February 2020, the departure and return dates of those trips, the destinations, and the total number of days. The Commissioner has found these to be material facts.
39. However, the Commissioner is satisfied that this communication does not constitute a statement or return which was required to be furnished in accordance with the legislation and in the prescribed form. Moreover and in any case, having reviewed its content, the Commissioner agrees with the Respondent's submission that this communication did not contain information on the Appellant's income and therefore did not contain all the information which the Respondent might reasonably require to determine whether a repayment of income tax was due to the Appellant.

40. As a result of the above, the Commissioner finds that the Appellant's communication of 29 December 2023 did not satisfy the requirements of section 865(4) of the TCA 1997 to be treated as a "valid claim".
41. For completeness, the Commissioner notes from the documentation presented that on 2 May 2024, the Respondent stated to the Appellant that his income tax return for 2019 was outstanding and asked him to file it, adding that his FED claim could be included. Yet the Commissioner does not consider that the fact the Respondent noted the Appellant's tax return was outstanding and should be filed can establish whether the Appellant made a valid claim under section 865 of the TCA 1997. The Commissioner also notes that under section 823A of the TCA 1997, a claim for FED may be made in respect of a continuous 12 month period. Once more, the Commissioner does not consider this to establish whether the Appellant made a valid claim under section 865 of the TCA 1997. Regarding both of these points, the Appellant made submissions on stated delays and contradictions in the Respondent's communications. As noted earlier, the Commissioner does not have jurisdiction to set aside a decision of the Respondent based on alleged unfairness and has no supervisory jurisdiction over the Respondent's processes.
42. In this appeal, the Appellant filed an income tax return for 2019 on 11 December 2024. Consequently, it is this date that establishes a valid claim for the purposes of section 865(3) of the TCA 1997. Having regard to this date, the Commissioner is satisfied that the Appellant's claim fell outside the four-year time limit prescribed in section 865(4) of the TCA 1997.
43. The Commissioner wishes to acknowledge the Appellant's statement regarding the filing obligation that *"being new to this, it was not something that I knew I needed to do"*, as well as the Appellant's submission on his financial circumstances. However, the use of the word "shall" in section 865(4) of the TCA 1997 indicates an absence of discretion in the application of this provision. The wording of the provision does not provide for extenuating circumstances in which the four-year rule might be mitigated.
44. The Commission is a statutory body created by the Finance (Tax Appeals) Act 2015. As such, 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 of the TCA 1997. The legislation does not afford the Commissioner any discretion to disapply the four-year rule.

45. Previous determinations of the Commission have addressed the matter of repayment in the context of the four-year statutory limitation period. These determinations may be found on the Commission website¹.
46. The Commissioner appreciates that this decision will be disappointing for the Appellant. The Appellant was entitled to check whether the Respondent's refusal of his claim for a repayment of tax was correct. However as noted above, the legislation does not afford the Commissioner any discretion on this matter.

Determination

47. For the reasons set out above, the Commissioner determines that the Appellant has not succeeded in showing that the Respondent was incorrect to refuse the Appellant's claim for a repayment of tax for the year 2019 under section 865(4) of the TCA 1997.
48. This appeal is determined in accordance with Part 40A of the TCA 1997 and in particular 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.

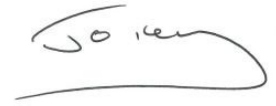
Notification

49. 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

50. 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.

¹ www.taxappeals.ie

A handwritten signature in dark ink, appearing to read 'Jo Kenny', with a long horizontal flourish extending to the right.

Jo Kenny
Appeal Commissioner
14 August 2026