



AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

Between

33TACD2026

[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 [REDACTED] (“the Appellant”) against the decision of the Revenue Commissioners (“the Respondent”) to withdraw the Single Parent Child Carer Credit for the tax years 2021 and 2022 (“the relevant years”) and collect the resulting tax and interest liability by reduction of the Appellant’s tax credits for the tax years 2025, 2026 and 2027.
2. The Appellant claimed the Single Parent Child Carer Credit (“SPCCC”) and Remote Working Relief (“RWR”) in [REDACTED] income tax returns for the relevant years.
3. Following a compliance intervention, the Respondent removed the SPCCC and reduced the RWR in relation to each of the relevant years. In addition, as a consequence of the removal of the SPCCC, the standard rate band applied in each of the relevant years was reduced by €4,000 to align it to the standard rate band that applies to a single person who does not qualify for the SPCCC.
4. On 14 February 2024, the Respondent issued amended PAYE/USC Statements of Liability for the relevant years (“Amended SoLs”). The additional income tax liabilities computed were €2,345.42 (tax year 2021) and €2,293.09 (tax year 2022). Interest of €1,030.61 was computed by the Respondent. The total tax and interest liability amounted to €5,669.12. On 10 April 2024, the Respondent notified the Appellant of the total liability and the payment options available.
5. On 24 January 2025, the Respondent notified the Appellant that the total liability would be collected by reduction of the Appellant’s tax credits over three tax years, with the interest liability being collected in full in 2025, as follows:

Tax year 2025	€2,575.97
Tax year 2026	€1,545.36
Tax year 2027	€1,547.79
6. On 19 February 2025, the Appellant duly appealed to the Commission by submitting [REDACTED] Notice of Appeal. On 16 May 2025, the Appellant submitted [REDACTED] Statement of Case (“SoC”) building on the Notice of Appeal. On 11 November 2025, the Appellant submitted [REDACTED] Outline of Arguments (“OoA”).

7. On 5 June 2025, the Commission received the Respondent's SoC. On 23 October 2025, the Respondent submitted its Book of Authorities and Book of Documents.
8. On 17 November 2025, the appeal proceeded by way of a remote oral hearing at which the Appellant represented [REDACTED] and the Respondent was represented by two case officers. The Appellant gave evidence during the hearing.
9. The Commissioner has considered the Appellant's evidence, the submissions from both parties and the relevant legislation in making this determination.
10. This appeal concerns the withdrawal of the SPCCC in the relevant years, the reduction in the standard rate band applicable to the Appellant and the application of the payment method by way of reduction of tax credits in the tax years 2025 to 2027. The reduction in RWR is not under appeal.
11. The Appellant has indicated that the information contained in this appeal is private and hence the determination will be redacted on publication.

Background

12. In the relevant years, the Appellant was a PAYE taxpayer and was assessed as a single person.
13. The Appellant filed [REDACTED] income tax returns for the relevant years by completing the online Form 12 on the Respondent's MyAccount service ("MyAccount") for each year. The Form 12 for 2021 was filed on 15 March 2022. The Form 12 for 2022 was filed on 5 January 2024.
14. The Appellant claimed the SPCCC of €1,650 in each of the relevant years. As the Appellant claimed the SPCCC, the standard rate band allocated to the Appellant automatically included an additional €4,000 in each the relevant years. The Appellant claimed RWR for each of the relevant years. On [REDACTED], the Appellant purchased a house with [REDACTED]. The address of the property is [REDACTED]. The Appellant and [REDACTED] are joint owners of the property since its purchase.
15. The Appellant and [REDACTED] have known each other since before 2014. They have two children together, a daughter born in [REDACTED] and a son born in [REDACTED]. The Appellant and [REDACTED] were not married or civil partners during the relevant years. The Appellant claimed the SPCCC in respect of [REDACTED] daughter during the tax years [REDACTED] to 2020.

16. The Respondent submitted that, in March 2021, the Appellant was subject to a compliance intervention in relation to ■ SPCCC claim in a tax year prior to the relevant years. In its SoC, the Respondent contended that, during this previous compliance intervention, the Appellant confirmed to the Respondent that ■ had resided at ■ ■■■■■■■■■■■■ for a short time after its purchase and then ■ had moved to a property at ■■■■■■■■■■■■ ■■■■■■■■■■■■. During that previous intervention, on 10 March 2021, the Appellant submitted an email to the Respondent, via the Respondent's MyEnquiries service ("MyEnquiries"), wherein ■ stated that ■ intended to move back to ■■■■■■■■■■■■ in the near future and would not claim the SPCCC thereafter. A copy of the email of 10 March 2021 was included in the Book of Documents submitted by the Respondent. Following the intervention, the claim for SPCCC was allowed by the Respondent for the tax year that was under review on the basis that the Appellant was not cohabiting with ■ during the year under review.
17. On 26 January 2024, the Respondent notified the Appellant, by email via MyEnquiries, of a compliance intervention and requested the Appellant to provide support for ■ claims for the SPCCC and RWR for the tax year 2022. On 26 January 2024, the Appellant replied to the Respondent via MyEnquiries stating that ■ was not cohabiting with ■ during 2022 and providing utility bills in support of the RWR claims in the relevant years.
18. On 6 February 2024 the Respondent replied to the Appellant via MyEnquiries stating:
- "It is noted that all utility bills provided are for ■■■■■■■■■■■■ [...] not ■■■■■■■■■■■■ ■■■■■■■■■■■■. It is noted that ■ has resided at ■■■■■■■■■■■■ as per revenue records from ■■■■■■■■■■■■ along with [the Appellant's son] since his birth in ■■■■■■■■■■■■.*
- Based on the above it is Revenue's view that you are cohabiting with your partner since October 2020 and are not entitled to Single Parent Child Care tax credit for the years 2021 and 2022. If you have any documentation to support your claim that you are not cohabiting with your partner please submit it for consideration."*
19. On 6 and 7 February 2024, the Appellant provided further utility bills to the Respondent via MyEnquiries in support of the RWR claim. The Appellant did not refer to ■ place of residence or the SPCCC in this correspondence. All utility bills supplied by the Appellant to the Respondent in support of ■ RWR claims for the relevant years were addressed to the Appellant at ■■■■■■■■■■■■.
20. On 14 February 2024, the Respondent issued the Amended SoLs for the relevant years removing the SPCCC and reducing the RWR in each year. As a direct consequence of

the removal of the SPCCC in the relevant years, the Amended SoLs applied the reduced standard rate band for each of the relevant years.

21. On 15 February 2024, via MyEnquiries, the Appellant requested further information from the Respondent to explain the underpayment result in the Amended SoLs. On 10 April 2024, the Respondent replied to the Appellant via MyEnquiries as follows:

“The following adjustments were made to your record.

2021

Single Parent Child Carer (SPCC) tax credit €1,650 was removed.

Remote Working relief claim was reduced from €353.42 to €149.31.

2022

Single Parent Child Carer Tax credit €1,650 was removed.

Remote Working relief claim was reduced from €989.26 to €392.57.

As you were not entitled to Single Parent Child Carer tax credit in 2021 and 2022 your rate bands were adjusted to that of a Single Person from a Single Person with SPCC;

2021

Single Person standard rate band €35,300 @ 20%, balance of income @ 40%.

Single Person with SPCC standard rate band €39,300 @ 20%, balance of income @ 40%.

2022

Single Person standard rate band €36,800 @ 20%, balance of income @ 40%.

Single Person with SPCC standard rate band €40,800 @ 20%, balance of income @ 40%.”

22. In its email of 10 April 2024, the Respondent attached a copy of a letter (“the Letter of Liability”), addressed to the Appellant at [REDACTED] and posted by the Respondent on the same date. The Letter of Liability stated:

“I can confirm that our recent PAYE compliance check for the above tax years have now been finalised.

I now calculate the additional liability due as follows:

<i>Liability</i>	<i>2021</i>	<i>2022</i>	<i>Total</i>
<i>Tax</i>	€2,345.42	€2,293.09	€4,638.51
<i>Interest</i>	€613.80	€416.81	€1,030.61
<i>Overall Total</i>	€2,959.22	€2,709.90	€5,669.12

You can make a payment to settle the full amount through myAccount, on the debit/credit card phone line [...] or alternatively a cheque or bank draft made payable to the Collector General, within one month of the date of this letter. [...]

Alternatively, the tax liability may be paid by a reduction in your tax credits over the next 4 years commencing at the beginning of the 2024 tax year. [...]"

23. The Appellant did not reply to the Respondent's email of 10 April 2024 or to the Respondent's Letter of Liability of the same date.
24. On 6 June 2024, the Respondent contacted the Appellant by telephone to discuss payment of the liability, leaving a voicemail. The Appellant did not reply to the Respondent.
25. On 24 January 2025, the Respondent emailed the Appellant via MyEnquiries stating:

"As you have not settled the liability as per the attached [Letter of Liability] or engaged any further with our intervention, the amounts owing including interest will be collected via a reduction in your tax credits as follows;

Tax credit reduction

2025 - €2,575.97

2026 - €1,545.36

2027 - €1,547.79

Please note the interest amount owing is collected fully in 2025, the tax amounts owing are collected over 3 years commencing in 2025."

26. On 12 February 2025, the Respondent emailed the Appellant via MyEnquiries stating that the compliance intervention was "now complete".
27. There was further email correspondence between the parties conducted via MyEnquiries during the period from 15 February 2025 to 12 March 2025 on the issues of the withdrawal

of the SPCCC and the collection of the liability by way of the reduction of the Appellant's tax credits over the three tax years 2025 to 2027.

28. The Appellant states that, during the relevant years, ■ resided at ■ with ■ daughter, and that ■ resided at ■. The Appellant contends ■ is entitled to the SPCCC in respect of ■ daughter during the relevant years as ■ was not cohabiting with ■ during the relevant years.

Legislation and Guidelines

29. Section 462B of the TCA 1997 sets out the requirements to qualify for the SPCCC:

“(1) (a) In this section—

[...]

‘qualifying child’ in relation to any primary claimant and year of assessment means a child—

- (i) who is born in the year of assessment,*
- (ii) who, at the commencement of the year of assessment, is under the age of 18 years, or*
- (iii) who, if over the age of 18 years at the commencement of the year of assessment—*
 - (I) is receiving full-time instruction at any university, college, school or other educational establishment, or*
 - (II) is permanently incapacitated by reason of mental or physical infirmity from maintaining himself or herself and had become so permanently incapacitated before he or she had attained the age of 21 years or had become so permanently incapacitated after attaining the age of 21 years but while he or she had been in receipt of such full-time instruction,*

and who—

(A) is a child of the primary claimant, [...]

[...]

(b) [...]

(c) *This section shall not apply for any year of assessment—*

[...]

(iii) *in the case of cohabitants.*

(2) (a) *This paragraph applies to an individual (in this section referred to as the 'primary claimant'), being an individual to whom this section applies, who proves for a year of assessment that a qualifying child is resident with him or her for the whole or the greater part of that year of assessment or, in respect of a child born in that year of assessment, for the greater part of the period remaining in that year of assessment from the date of birth of that child, [...]*

[...]

(3) *Subject to subsection (5), an individual to whom subsection (2)(a) applies, shall be entitled to a tax credit (in this section referred to as a 'single person child carer credit') of [€1,650].*

[...]

(5) *A claimant under this section shall be entitled to only one single person child carer credit for any year of assessment irrespective of the number of qualifying children resident with the claimant in that year.*

[...]

30. Section 462B of the TCA 1997 does not define the term “cohabitants”, as referred to in section 462B(1)(c)(iii) of the TCA 1997. Section 1031P of the TCA 1997 states that the term “cohabitant” has the same meaning as “in section 172 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010”.

31. Section 172 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 (“the 2010 Act”), referred to in section 1031P of the TCA 1997, provides:

“(1) [...] a cohabitant is one of 2 adults (whether of the same or the opposite sex) who live together as a couple in an intimate and committed relationship and who are not [...] married to each other or civil partners of each other.

(2) *In determining whether or not 2 adults are cohabitants, the court shall take into account all the circumstances of the relationship and in particular shall have regard to the following*

end of 2020, start of 2021". The Appellant testified that the Appellant's son lived with [REDACTED] at [REDACTED] [REDACTED] [REDACTED] until the time at which [REDACTED] returned to live at [REDACTED].

35. The Appellant stated [REDACTED] son was registered as living at [REDACTED] for DSP purposes "because [REDACTED] was still our house, still his house". Furthermore, [REDACTED] stated that there were no formal custody arrangements in place for the children during the relevant years, and that the two houses, [REDACTED] [REDACTED].

36. During [REDACTED] testimony the Appellant stated:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

37. In [REDACTED] oral evidence, the Appellant stated [REDACTED] could not recall the date on which [REDACTED] moved back to live with [REDACTED] at [REDACTED]. [REDACTED] stated that this occurred [REDACTED] [REDACTED] and later [REDACTED] stated it was [REDACTED].

38. The Appellant stated in [REDACTED] evidence that the reduction in [REDACTED] tax credits in 2025 resulted in a significant reduction in [REDACTED] net salary and caused financial hardship as [REDACTED] [REDACTED] [REDACTED].

Appellant's submissions

39. The Appellant's grounds of appeal, submitted in the Notice of Appeal, are:

"I am appealing a decision by revenue to reduce my tax credits by the below amounts

2025 - €2,575.97

2026 - €1,545.36

2027 - €1,547.79

The revenue says that I was not entitled to claim the [SPCCC] for years 2021 and 2022.

[...]

*[...] I was entitled to the credit as I was not cohabiting with my partner at the time due to a separation and [REDACTED] did not live here full time. [REDACTED]
[REDACTED]. We ended our separation in 2023 [...] and [...] I did NOT claim the credit for 2023 or 2024 as I was not entitled to it.*

[...]

My tax credits have been wrongly reduced and my take home pay is down over 500e a month. I cannot afford this I have a family and the financial burden this puts me under cannot be understated.

[...]”

40. The Appellant submitted a typed letter which [REDACTED] stated was written by [REDACTED] addressed “to whom it may concern”. The letter is not signed or dated. It states, among other things:

*“I [...] confirm that during the years 2021 and 2022 I did not reside full time at [REDACTED]
[REDACTED]*

[...] I am now back residing at [REDACTED].

I did not make any changes to my home address with revenue or any other vendors (utilities etc) because during that period we were trying to reconcile.

[The Appellant] was entitled to those tax credits for them years and our hope as a family is that [REDACTED] pay and tax credits is correctly restored.”

41. In [REDACTED] SoC, the Appellant stated, among other things:

“The decision by revenue has caused me massive hardship and has reduced my monthly pay significantly. As a hard working father of two children I provide for my children and it is imperative I have my tax credits restored correctly.

Revenue has no way of proving their case it is purely based on speculation. I have provided evidence to confirm that we were not living together at the time of the tax credit claim. We have since reunited [...] and [...] I no longer claimed the tax credit as it was not applicable to me.”

42. The Appellant stated in [REDACTED] OoA, among other things:

“During the tax years 2021 and 2022, my child resided with me for the greater part of each year. [...] My partner [REDACTED] resided [REDACTED] during the relevant period. [...] I was solely responsible for the day-to-day care of the child. I did not share a household, finances, or domestic life with the other parent. [...]

Revenue's decision to withdraw the credit was made without affording me an adequate opportunity to clarify or challenge the assumptions regarding my living arrangements. This approach was procedurally unfair and contrary to the principles of natural justice.

[...]

- Revenue's withdrawal of the credit was based on an incorrect interpretation of the facts and applicable law;*
- The reduction of my tax credits does not appear to align with the statutory value of the [SPCCC]. [...] the total amount Revenue has sought to recover exceeds €5,000, which I believe is disproportionate and inconsistent with the amounts involved; and*
- This action has caused me significant financial hardship during the current year, impacting my ability to meet essential living costs."*

Respondent's submissions

43. In its SoC the Respondent submitted the following:

"2. Outline of relevant facts

2.1 On 26.01.2024, a Level 1 Compliance Intervention was opened on the appellant [...].

2.2 [...] The full appraisal for the case under appeal noted the following:

- a. The appellant has claimed [SPCCC] since [REDACTED], the child noted on the application is [the Appellant's daughter].*
- b. The appellant purchased a property [REDACTED] on [REDACTED] with [REDACTED]. [REDACTED] entitlement to [SPCCC] was queried as part of the previous intervention and, on the 05.03.21, the appellant advised, via MyEnquiries, that [REDACTED] only lived in this property for a short time after purchase and that [REDACTED] moved to [REDACTED] [REDACTED].*
- c. The appellant advised on 10.03.2021, that [REDACTED] intended to move back to [REDACTED] [REDACTED] shortly.*
- d. The appellant had previously advised Revenue via MyEnquiries on [REDACTED] that [REDACTED] had a child on the way.*

e. [The Appellant's son] was registered at an address of [REDACTED], [...].

2.3 On 26.01.2024 the appellant responded the initial Level 1 Compliance Intervention enquiry. [REDACTED] advised that [REDACTED] was not cohabitating with [REDACTED] partner in 2022, but from 2023 onwards, [REDACTED] was cohabitating with [REDACTED] partner.

2.4 On the same date, [REDACTED] also advised that [REDACTED] uploaded supporting documentation for [REDACTED] claim for [RWR] to Revenue's receipts tracker for review.

2.5 On review of the [RWR] documentation, the caseworker noted that the receipts provided were in the appellant's name and had an address of [REDACTED]. Utility bills provided were dated from 16.10.2020 – 10.02.2023.

2.6 On 06.02.2024 the appellant was advised of the following by the caseworker at 16:00;

"It is noted that all utility bills provided are for [REDACTED] [REDACTED] which you purchased on [REDACTED] not [REDACTED]. It is noted that [REDACTED] has resided at [REDACTED] as per Revenue records from [REDACTED], along with [REDACTED]."

Based on the above it is Revenue's view that you are cohabitating with your partner since October 2020 and are not entitled to [SPCCC] for the years 2021 and 2022. If you have any documentation to support your claim that you are not cohabitating with your partner, please submit it for consideration."

2.7 On the same date at 16:35, the appellant responded advising the following:

"I also have broadband bills for 2020-2023 to upload. and also Electricity bills for 2023. I will get them uploaded today."

2.8 On 07.02.2024 the appellant sent copies of 10 further utility bills via MyEnquiries. It was noted that these were all addressed to [REDACTED].

2.9 On 14.02.2024 [Amended SoLs] issued to the appellant for 2021 & 2022, which included a revised claim for [RWR] and the removal of [SPCCC].

2.10 On 15.02.2024 the appellant emailed to request an explanation of the [Amended SoLs].

2.11 On 10.04.2024 an explanation was sent to the appellant along with the [Letter of Liability] which provided for tax €4,638.51 and interest €1,030.61. The total amount due €5,669.12

2.12 By 30.05.2024 the appellant did not settle the liability or engage any further with the intervention.

2.13 On 06.06.2024 a voicemail was left for the appellant regarding the collection of the outstanding liability of €5,669.12.

2.14 On 10.10.2024 the caseworker's Principal Officer approved collection of this liability via a reduction of the appellant's tax credits over 3 years, commencing in 2025.

2.15 On 24.01.2025 the appellant was advised of the above via MyEnquiries and of the amounts tax credits would be reduced by each year. The appellant read the email on this date.

2.16 On 12.02.2025 the caseworker issued a closure letter to the appellant via MyEnquiries, the appellant read the email on this date.

2.17 On 15.02.2025 the appellant submitted a general query via MyEnquiries (not directly to the caseworker), advising that credits and take-home pay had been reduced, and requesting an explanation for same. also noted that was not residing at for 2021 and 2022 as they were separated and advised that would confirm same.

2.18 On 17.02.2025 Revenue Services for Compliance referred the appellant back to the caseworker's email dated 24.01.2025.

2.19 From 17.02.2025 to 12.03.2025 the appellant engaged with Revenue Services for Compliance repeating assertion that was entitled to the [SPCCC]. The Revenue official redirected the appellant to MyAccount, where could resubmit claim if wished.

[...]"

44. The Respondent submitted copies of the following documents from the Department of Social Protection ("DSP"):

44.1. DSP profile for the Appellant's daughter stating her address as .

44.2. DSP profile for the Appellant's son stating his address as .

44.3. DSP profile for stating address and DSP benefit history.

45. The DSP profile for states address on 24 July 2017 was and that address was updated from to on 27 October 2020. The profile states that was reconfirmed as

address on 19 January 2022 and 24 February 2022. The profile confirms that ■ did not receive DSP One Parent Family benefit in either of the relevant years.

46. At the appeal hearing the Respondent submitted that a phased payment arrangement, to pay the liability in instalments, could be explored with the Appellant should ■ wish to do so.

Material Facts

47. Having reviewed the evidence and submissions from both parties, the Commissioner makes the following findings of material fact:

47.1. During the relevant years the Appellant was a PAYE taxpayer subject to income tax on employment income through single assessment.

47.2. On ■, the Appellant and ■ jointly purchased the house at ■.

47.3. The Appellant and ■ have two children, a daughter born in ■ and a son born in ■.

47.4. The Appellant and ■ were not married or civil partners at any time during the relevant years.

47.5. On 15 March 2022, the Appellant filed ■ 2021 income tax return.

47.6. On 5 January 2024, the Appellant filed ■ 2022 income tax return.

47.7. The Appellant claimed SPCCC of €1,650 for each of the relevant years in respect of ■ daughter, on the basis that ■ was not cohabiting with ■ and ■ daughter lived with ■ for the whole or a majority of each of the relevant years.

47.8. Consequent upon the SPCCC claim, the Appellant's standard rate band was increased by €4,000 in each of the relevant years.

47.9. The Appellant claimed RWR for each of the relevant years.

47.10. On 26 January 2024, the Respondent commenced a compliance intervention for the relevant years focussed on the SPCCC and RWR claims in the relevant years.

47.11. All utility bills provided by the Appellant to the Respondent, in support of ■ RWR claims in the relevant years, were addressed to the Appellant at ■.

47.12. On 14 February 2024, the Respondent issued Amended SoLs for the relevant years removing the SPCCC (€1,650), reducing the Appellant's standard rate band by €4,000, and reducing the RWR in each of the relevant years.

47.13. The amendments resulted in an additional tax liability for each of the relevant years.

47.14. On 10 April 2024, the Respondent issued a Letter of Liability to the Appellant summarising the total liability as follows:

2021	€2,345.42
2022	€2,293.09
Interest	€1,030.61
Total	€5,669.12

47.15. The Letter of Liability outlined the payment options available to the Appellant for settling the total liability, either by way of immediate payment or through the reduction of the Appellant's tax credits over four tax years (2024 to 2027).

47.16. On 6 June 2024, the Respondent telephoned the Appellant to discuss the payment of the liability and left a voicemail.

47.17. No reply was received by the Respondent from the Appellant, and, on 24 January 2024, the Respondent issued an email to the Appellant via MyEnquiries stating the total liability of €5,669.12 would be collected by way of reduction of the Appellant's tax credits over three tax years (2025 to 2027), as follows:

2025	€2,575.97
2026	€1,545.36
2027	€1,547.79
Total	€5,669.12

47.18. The tax credit reduction in 2025 includes the full interest amount (€1,030.61).

47.19. The submitted DSP profile for ■ states ■ address is ■ since 27 October 2020.

47.20. The submitted DSP profile for the Appellant's son states his address as ■ ■.

47.21. There is a dispute between the parties over the Appellant's entitlement to the SPCCC during the relevant years. The Appellant contends ■ was entitled to the

SPCCC in the relevant years. The Respondent contends the Appellant was not entitled to the SPCCC in the relevant years.

47.22. There is no dispute between the parties in relation to the RWR included in the Amended SoLs, and the RWR is not subject to appeal.

Analysis

Burden of proof in tax appeals

48. The appropriate starting point for this analysis 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.

49. This proposition is now well established by case law. For example, in the High Court case of *Menolly Homes Ltd v Appeal Commissioners and another* [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.”

50. The Commissioner considers it helpful to set out paragraph 12 of the judgment of Charleton J. in *Menolly Homes*, wherein he stated:

“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 [...]”

51. The Court of Appeal affirmed this position recently in the case of *JSS & Others v Tax Appeals Commissioner* [2025] IECA 96. In that case McDonald J. stated at paragraph 34:

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

Statutory interpretation

52. In this appeal the Commissioner must consider the legislation that provides for the SPCCC and lays out when that credit can be claimed. In this context it is appropriate to summarise the well-established principles of statutory interpretation.

53. The principles to be applied to statutory interpretation were set out by McDonald J. in the High Court case of *Perrigo Pharma International Designated Activity Company v McNamara, the Revenue Commissioners, the Minister for Finance, Ireland and the Attorney General* [2020] IEHC 552 (“*Perrigo*”). McDonald J. stated 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 Commissioners [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”;

[...]”

54. The approach to statutory interpretation as set down in *Perrigo* is authoritative. The judgment provides a framework for interpreting tax legislation.
55. The recent Supreme Court case of *Heather Hill Management Company CLG & McGoldrick v An Bord Pleanála, Burkeway Homes Limited and the Attorney General* [2022] IESC 43 (“*Heather Hill*”) is relevant to the principles to be applied to statutory interpretation. In that case, Murray J. highlighted that the literal and purposive approaches to statutory interpretation are not hermetically sealed, and the words of the section in the legislation in question are the first port of call in its interpretation.
56. In interpreting the legislation that is relevant to the SPCCC claim, the Commissioner is satisfied that a literal interpretative approach must be taken and the wording in the legislation must be given its ordinary, plain and natural meaning as per subparagraph (a) of paragraph 74 of *Perrigo*. In addition, in accordance with the principles enunciated in subparagraph (b) of paragraph 74 of *Perrigo*, context is critical.

Section 462B of the TCA 1997

57. Section 462B of the TCA 1997 sets out the conditions that are required to be satisfied for an individual to qualify for the SPCCC. The Commissioner notes that, as this appeal concerns a dispute over the entitlement to SPCCC, she must consider whether the conditions to qualify for the SPCCC are satisfied in this case in each of the relevant years.

58. Pursuant to section 462B of the TCA 1997 and in the context of the facts of this appeal, the Commissioner is satisfied that there are three requirements that must be met in each of the relevant years for the Appellant to have been entitled to claim the SPCCC in respect of those years.

Qualifying child

59. The first requirement under section 462B of the TCA 1997 is that there must be a “*qualifying child*” in respect of whom the claim to SPCCC is made. The term “*qualifying child*” for this purpose is defined in section 462B(1)(a) of the TCA 1997. The definition includes a child of the claimant who is born in the tax year in question or a child who, at the start of the tax year in question, is under the age of eighteen years.

60. The Commissioner notes that the SPCCC claim was made by the Appellant in respect of ■ daughter. The Commissioner is satisfied that the Appellant’s daughter is a “*qualifying child*” for the purpose of claiming the SPCCC in each of the relevant years, as the child was under the age of 18 years at the start of each of the relevant years.

61. Therefore, the Commissioner finds that the Appellant has met the first of the three requirements to claim the SPCCC in accordance with section 462B of the TCA 1997.

Cohabitants

62. The second requirement under section 462B of the TCA 1997 is that the claimant of the SPCCC cannot be married, in a civil partnership or cohabiting in the tax year in respect of which the claim is made. The Appellant in this case was not married or in a civil partnership during the relevant years. It is necessary to consider if the Appellant was cohabiting during each of the relevant years. Section 462B(1)(c) of the TCA 1997 provides that the SPCCC “*shall not apply*” for any tax year “*in the case of cohabitants*”.

63. The word “*cohabitants*” is not defined in section 462B of the TCA 1997. The Commissioner must therefore consider the meaning of the word “*cohabitants*” before applying it to the facts of this appeal. The proper approach to statutory interpretation has been set out above.

64. The Commissioner is satisfied that the word “*cohabitants*” is plain and the meaning is self-evident. It is a word used in common parlance. The Oxford English Dictionary defines the word “*cohabitant*” as “*one who dwells together with another*”. Furthermore, the Commissioner is satisfied that the TCA as a whole is instructive in terms of the meaning of the word “*cohabitant*”. Section 1031P of the TCA 1997, dealing with income tax and capital gains tax, provides that the term “*cohabitant*” has the same meaning as section 172 of the 2010 Act. Section 172 of the 2010 Act provides that a “*cohabitant is one of 2*

adults [...] who live together as a couple in an intimate and committed relationship”. Section 172(2) of the 2010 Act provides that, in determining whether or not 2 adults are cohabitants, all the circumstances of the relationship shall be taken into account and provides a non-exhaustive list of the factors to be considered in making the determination.

65. The Appellant testified that [REDACTED] and [REDACTED] have known each other since before 2014 and had been in a relationship both prior to and after the relevant years. It was not in dispute that the Appellant and [REDACTED] jointly purchased the house at [REDACTED] in [REDACTED]. The Appellant and [REDACTED] have two children together, a daughter born in [REDACTED] and a son born in [REDACTED].
66. The Commissioner notes the Respondent’s submission of the DSP profile for [REDACTED] which confirms that [REDACTED] address on record with the DSP changed from [REDACTED] to [REDACTED] on 27 October 2020, and that [REDACTED] was reconfirmed as [REDACTED] address for DSP purposes on both 19 January 2022 and 24 February 2022. The DSP profile was uncontested by the Appellant. Furthermore, the DSP profile for the Appellant’s son confirms his address as [REDACTED]. The Commissioner notes the Appellant’s evidence that [REDACTED] resided with [REDACTED] daughter at [REDACTED] during the relevant years. The Appellant stated [REDACTED] bore the costs of maintaining [REDACTED] daughter and all the costs of running the house at [REDACTED] during the relevant years. The Commissioner notes that the utility bills provided to the Respondent, in support of the Appellant’s RWR claim for the relevant years, are addressed to the Appellant at [REDACTED]. Hence, the Commissioner is satisfied that during the relevant years, the Appellant resided at the address [REDACTED].
67. The Commissioner notes that the DSP profile for [REDACTED], as submitted by the Respondent, confirms that [REDACTED] was not in receipt of DSP One Parent Family benefit during the relevant years.
68. The Appellant testified that [REDACTED] and [REDACTED] had difficulties in their relationship during the relevant years which resulted in [REDACTED] moving from [REDACTED] to [REDACTED] for a period of time before returning to live at [REDACTED]. The Appellant could not recall the exact date on which [REDACTED] moved from [REDACTED] to [REDACTED]. [REDACTED] stated it was either in the middle of 2020, the end of 2020 or the start of 2021. The Appellant could not recall the date on which [REDACTED] returned to live at [REDACTED]. [REDACTED] stated it was either in July 2022 or the end of 2022. The Commissioner notes the Appellant stated in [REDACTED] Notice of Appeal that [REDACTED] did not live “full time” at [REDACTED] during the relevant years, and that [REDACTED] lived “on and off” at [REDACTED] during those years. The Appellant testified that during the relevant

years ■ and ■ were working to resolve the difficulties in their relationship, and ■ ■ was still the family home. Considering all of the above evidence and submissions, the Commissioner is satisfied that ■ lived at least part-time at ■ ■ during the relevant years.

69. The Commissioner notes the only documentary evidence submitted by the Appellant in support of ■ contention that ■ did not live at ■ during the relevant years was a letter stated to be from ■, as submitted with ■ Notice of Appeal. The letter purporting to be from ■ states that ■ lived “full-time” at ■ during the relevant years. The Commissioner notes that the letter is addressed to “whom it may concern” and is not signed or dated. Furthermore, the Commissioner notes that the Appellant did not call ■ as a witness to give evidence in respect of the letter purported to have been written by ■. Hence, the Commissioner is satisfied that this letter is hearsay and of no real evidential value to the Appellant in support of ■ appeal. Even if the Commissioner were to attach any evidential value to this letter, the Commissioner notes the information in the letter is inconsistent with the Appellant’s oral evidence and with other documentary evidence before the Commissioner. The letter states ■ lived full-time at ■ for the relevant years while the Appellant stated in ■ oral evidence that ■ lived there “on and off” during the relevant years. The DSP profile for ■, submitted by the Respondent, confirms ■ address as ■ effective from 27 October 2020 and that this address was reconfirmed, as ■ address, to the DSP on 19 January 2022 and 24 February 2022.
70. Thus, the Commissioner concludes that the letter purported to be from ■ is of no evidential value to the Appellant in this appeal. Moreover, even if the Commissioner was to attribute any weight to the letter, she notes that the contents of the letter are contradictory to the oral evidence of the Appellant at the hearing and other documentary evidence submitted, in particular the DSP profile for ■. Therefore, the Commissioner is satisfied that the letter does not support the Appellant’s contention that ■ and ■ were not cohabitants during the relevant years.
71. The Appellant stated ■ son lived with ■ after his birth in ■, at ■. However, the DSP profiles for both ■ and the Appellant’s son, as submitted by the Respondent, state the address for both to be ■. The Appellant stated ■ resided at ■ during the relevant years with ■ daughter and ■ provided utility bills as documentary evidence of ■ residence at that address. The Commissioner is satisfied that no documentary evidence has been presented that ■ lived at an address other than ■ during the relevant years.

Furthermore, the Commissioner notes that at no stage has the Appellant contended that ■ son did not reside with ■ from birth. The Commissioner has already found that the letter purporting to be from ■ is of no evidential value in determining this appeal. Therefore, the Commissioner finds that there is no evidence or submission before her to support the contention that, during each of the relevant years, ■ did not live with the Appellant and their two children at ■.

72. It is a material fact in this appeal that the Appellant and ■ have two children together. Their youngest child was born in ■, approximately mid-way through the first of the relevant years. The Commissioner notes that the Appellant did not state in ■ evidence that the couple were not in an intimate relationship during the relevant years. The Commissioner finds that, based on the evidence and submissions before her, and in particular the birth of the second child in ■ and that child's address with the DSP being registered at ■, where the Appellant and ■ daughter were stated in oral evidence to be living, these weigh heavily towards the Appellant and ■ living "*together as a couple in an intimate and committed relationship*" during the relevant years.
73. Therefore, the Commissioner finds that the Appellant has not discharged the burden of proof to show that, on the balance of probabilities, the Appellant and ■ were not in an intimate and committed relationship during each of the relevant years. Based on the analysis above, the Commissioner finds that the Appellant and ■ were "*cohabitants*" for the purposes of section 462B(1)(c) of the TCA 1997, for the relevant years. Consequently, the second of the three requirements provided for in section 462B of the TCA 1997 was not satisfied in the relevant years and, therefore, the Commissioner finds that the Appellant does not qualify for the SPCCC in either of those years.

Qualifying child is resident with the claimant

74. The last of the three requirements that must be satisfied to qualify for the SPCCC under section 462B of the TCA 1997 is set out in section 462B(2)(a) of the TCA 1997. That section requires that the SPCCC claimant must prove, for the tax year of claim, that the qualifying child is "*resident*" with the claimant for the whole or the greater part of that tax year. The Appellant claimed the SPCCC in the relevant years on the basis that ■ daughter, born in ■, was the qualifying child.
75. The Commissioner has already concluded above that the Appellant and ■ were "*cohabitants*" during each of the relevant years. Consequently, the Commissioner has found that the Appellant is not entitled to claim the SPCCC in the relevant years as the requirement not to be cohabiting as per section 462B(1)(c)(iii) of the TCA 1997 is not

satisfied. Therefore, the Commissioner finds that it is not necessary for her to consider if the Appellant has proved that the qualifying child, ■ daughter, was resident with ■ for the whole or the greater part of each of the relevant years in accordance with section 462B(2)(a) of the TCA 1997. Whether or not the qualifying child was in fact resident with ■, the Appellant cannot qualify for the SPCCC in respect of each of the relevant years in any event as ■ has been held to be cohabiting with ■ during those years.

Jurisdiction of the Appeal Commissioner

76. The Appellant contends that the compliance intervention process was unfair and contrary to natural justice on the basis that the Respondent did not explain how the liability was computed, and the Appellant's agreement was not obtained on the settling of the tax liability by way of reduction of ■ tax credits for the years 2025 to 2027. Furthermore, the Appellant contends that the quantum of the reduction in ■ tax credits is excessive and this has created financial hardship as it impacts ■ ability to meet essential living costs. The Appellant submitted that ■ in an effort to make ends meet. The Commissioner will now consider these matters in the context of her jurisdiction.

77. In the case of *Lee v Revenue Commissioners* [2021] IECA 18, the Court of Appeal made clear that the function of an Appeal Commissioner is to determine, by reference to the applicable legislation, the correct amount of tax owed. Murray J. stated at paragraph 20 of that judgment:

"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."

78. Furthermore, Murray J. stated at paragraph 76:

"The jurisdiction of the Appeal Commissioners [...] is limited to determining whether an assessment correctly charges the relevant taxpayer in accordance with the relevant provisions of the TCA."

79. Where the payment of a tax liability is spread over a period of future tax years through tax credit reduction, this is done pursuant to an extra-statutory concession by the Respondent. There is no tax legislation that provides for such a staged payment method

through tax credit reduction. As this method is a concession made outside the tax legislation, it therefore falls outside the Commissioner's jurisdiction as outlined above.

80. The Commissioner does not have jurisdiction to set aside a decision of the Respondent based on allegations that it is unfair or contrary to natural justice. In addition, the Commissioner does not have jurisdiction to set aside a decision of the Respondent on the collection of a liability by means of the reduction of tax credits in future years, as that payment method is applied pursuant to an extra-statutory concession. Therefore, the Commissioner finds that these grounds of appeal do not fall within her jurisdiction and thus, do not fall to be determined as part of this appeal. These matters come within the jurisdiction and remit of the Courts.
81. The Commissioner notes that in cases of financial hardship it may be possible to agree a phased payment arrangement with the Respondent. Such an arrangement would spread the payment of a tax liability across a number of agreed instalments over a period of future months or years. The Respondent has offered to discuss a phased payment arrangement with the Appellant. The Commissioner encourages the Appellant to discuss this matter with the Respondent to establish if this payment option might provide some relief to ■■■.

Conclusions

82. In an appeal before the Commission, the burden of proof rests on the Appellant. The Appellant must prove, on the balance of probabilities, that an assessment to tax or a decision by the Respondent is incorrect.
83. The Commissioner has considered all evidence and submissions in this appeal in reaching her conclusions.
84. The Commissioner's findings in relation to the SPCCC in this case are as follows:
- 84.1. The Appellant and ■■■ were cohabitants during each of the relevant years.
- 84.2. As the SPCCC does not apply in the case of cohabitants, the Appellant did not qualify for the SPCCC in either of the relevant years.
- 84.3. The Respondent's decision, to withdraw the SPCCC claimed by the Appellant in each of the relevant years, was correct.
85. Following on from the Commissioner's findings above, the Appellant's standard rate band was correctly reduced by €4,000 in each of the relevant years thereby aligning the standard rate band to that of a single person not qualifying for the SPCCC.

86. The grounds of appeal that the Respondent's actions were unfair and contrary to natural justice do not have a bearing on the outcome of this appeal. Such matters fall outside the jurisdiction of the Commissioner.
87. The Respondent's decision to collect the liability through reduction of the Appellant's tax credits over three years (2025 to 2027) falls outside the jurisdiction of the Commissioner, as that decision was made pursuant to an extra-statutory concession that exists outside the scope of the tax legislation.
88. For all the reasons set out above, the Commissioner finds the Appellant has not discharged the burden of proof that, on the balance of probabilities, the decisions of the Respondent in this case were incorrect.

Determination

89. As such and for all the reasons set out above, it is determined that the Appellant has failed in ■ appeal against the decisions of the Respondent to withdraw the SPCCC in each of the relevant years and to collect the liability to tax and interest arising by reduction of the Appellant's tax credits in the tax years 2025 to 2027. Therefore, these decisions of the Respondent shall stand.
90. The Commissioner appreciates that this decision will be disappointing for the Appellant. The Commissioner acknowledges the Appellant's financial difficulties following the significant reduction of ■ tax credits and she encourages the Appellant to consider the Respondent's offer to discuss a phased payment arrangement.
91. The Appellant was entitled to check whether the decisions of the Respondent were correct, and ■ was prudent to do so in all the circumstances. However, as noted above, the legislation does not afford the Commissioner any discretion in this matter.
92. This Appeal is determined in accordance with Part 40A TCA 1997 and in particular sections 949AK and 949AL thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) TCA 1997.

Notification

93. 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 of the 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

94. 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.



Suzanne Carter
Appeal Commissioner
4 February 2026