



AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

Between

44TACD2026

[REDACTED]

Appellant

and

REVENUE COMMISSIONERS

Respondent

Determination

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shareholding); (ii) adjusted the base cost to €79,671 in line with a valuation provided to it by a third party valuer; and (iii) adjusted the allowable losses deductible against the gain from €988,582 to €353,225.

6. On 2 February 2024, the Appellant appealed against the amended assessment to the Commission. Both parties submitted Statements of Case, Outlines of Argument and expert opinion reports. The expert opinion report submitted on behalf of the Respondent suggested a higher base cost than had been applied in the amended assessment, being €3.80 per share, and a total valuation on the 25% shareholding of €380,000.
7. The appeal proceeded by way of a hearing in private on 19 January 2026, and ran for three days plus a remote submission hearing on 28 January 2026. The Appellant was represented by senior counsel, and the Respondent was represented by senior and junior counsel.
8. There had been a number of additional arguments raised in the course of written submissions, including whether the Appellant was correctly charged to CGT, whether a share for share exchange was entitled to relief, and whether the Appellant was entitled to entrepreneurial relief. At the commencement of the hearing, Senior Counsel for the Appellant confirmed that the only issues that the Appellant wished to proceed with were the correct valuation of the shares, and the claimed losses. Therefore, the remaining issues raised by the Appellant in her notice of appeal and/or written submissions do not fall to be considered in this determination.

Legislation

9. Section 31 of the Taxes Consolidation Act 1997 as amended (“TCA 1997”) states that:

“Capital gains tax shall be charged on the total amount of chargeable gains accruing to the person chargeable in the year of assessment, after deducting –

(a) any allowable losses accruing to that person in that year of assessment, and

in so far as they have not been allowed as a deduction from chargeable gains accruing in any previous year of assessment, any allowable losses accruing to that person in any previous year of assessment (not earlier than the year 1974-75).”
10. Section 547(1) of the TCA 1997 states that:

“Subject to the Capital Gains Tax Acts, a person’s acquisition of an asset shall for the purposes of those Acts be deemed to be for a consideration equal to the market value of the asset where—

- (a) *the person acquires the asset otherwise than by means of a bargain made at arm's length (including in particular where the person acquires it by means of a gift),*
- (b) *the person acquires the asset by means of a distribution from a company in respect of shares in the company, or*
- (c) *the person acquires the asset wholly or partly—*
 - (i) *for a consideration that cannot be valued,*
 - (ii) *in connection with the person's own or another person's loss of office or employment or diminution of emoluments, or*
 - (iii) *otherwise in consideration for or in recognition of the person's or another person's services or past services in any office or employment or of any other service rendered or to be rendered by the person or another person."*

11. Section 548 of the TCA 1997 states *inter alia* that:

"(1) Subject to this section, in the Capital Gains Tax Acts, "market value", in relation to any assets, means the price which those assets might reasonably be expected to fetch on a sale in the open market...

(4) Where shares and securities are not quoted on a stock exchange at the time at which their market value is to be determined by virtue of subsection (1), it shall be assumed for the purposes of such determination that in the open market which is postulated for the purposes of subsection (1) there is available to any prospective purchaser of the asset in question all the information which a prudent prospective purchaser of the asset might reasonably require if such prospective purchaser were proposing to purchase it from a willing vendor by private treaty and at arm's length."

Evidence

██████████ – *the Appellant*

12. The Appellant stated that she came into possession of the shares in the company when her husband died in ██████. He had been involved in the company since ██████ and held a 25% shareholding. She stated that her husband became involved in the company after being approached by ██████████ (referred to hereafter as "Witness 2"): *"The company was going down and he asked [her husband] would he come along. Because he knew [her husband] had the influence to save it."* She stated that her husband was very charismatic and that his customers respected and trusted him.

13. She stated that her husband invested €100,000 in the company, together with three others. She stated that his clients included [REDACTED] and that they stayed on with the company after his death. She stated that Witness 2 used to take her out for lunch after her husband died to give her information about the company but that she did not *“want to be just pushed out...I knew it was [her husband’s] dream and maybe the last big company he was going to do so I wanted just to do that for him and to stay there. [REDACTED].”*
14. She stated that she believed that Witness 2 wanted to purchase her shares. He offered her €1,000,000 for the shares in [REDACTED] which she rejected. He then offered her €2,000,000 in [REDACTED] which she also rejected *“Because I knew the company was doing good.”* She stated that her husband was working in the company full-time prior to his death, but that she did not understand the technical side of what the company did. She stated that she received €5.6/5.7m when the company was sold in [REDACTED]. [REDACTED].
15. Regarding her claims for losses, she stated that the investments had been made by her husband and were in his name. Additional documentation to substantiate the claims had been submitted by the Appellant on the morning of the hearing. The first disallowed claim was for a property called [REDACTED]. It was a summer house that her husband had purchased but she decided to sell it after he died because she needed money. It was sold for €146,000, but she believed it was valued at €170,000 as of the date of her husband’s death. She stated that she had been offered €175,000 but the sale fell through.
16. The second disallowed claim was for [REDACTED]. She believed this concerned a site purchased for development. She thought that her husband had invested €200,000 but she had received nothing from it. The third disallowed claim was for [REDACTED]. Her husband had invested €139,000 but she had got no return. She had provided an email from [REDACTED] which stated that *“...it may be possible to extract some small value from this investment in time. However, we have spoken to the promoters and it seems it is impossible to know at the moment just what value might be or when it might arise.”*
17. The fourth disallowed claim concerned an investment in [REDACTED]. She believed that her husband had invested GB£104,000 in this but she had got no return. The fifth disallowed claim involved in an investment in [REDACTED]. She believed her husband had invested about €100-120,000. She received €22,500 in return.

18. She stated that she did not have additional documentation to support her loss claims because she had moved house after her husband died and documents had been misplaced.
19. On cross examination, she confirmed that she was not a director of the company and had no active involvement in the running of the company. She stated that she could not remember having been invited by the Respondent to a meeting to discuss her tax affairs, and that she had had health issues since her husband died. She stated that her memory had also been affected.
20. She agreed that she was claiming an overall valuation for the company in excess of €23 million in ██████████ which was more than what the company was sold for in ██████████ (€19.3m). She did not know why the value of the company would be greater in ██████████ than in ██████████. She was also asked about the setting up by her of a Maltese company shortly before her shares were sold in ██████████.
21. She agreed that the company had bought back the shares of ██████████ which increased her shareholding from 25% to 29.6%. She agreed that she had sold 5.04% of the shareholding and had declared a chargeable gain of €900,000. She agreed that her agent had stated in correspondence with the Respondent dated 24 March 2022 that the cost of those shares was €16,460, and that she sought to offset the chargeable gain by way of claimed losses in the total amount of €1,024,286.
22. It was put to her that her original claimed price per share was 97 cents, and that she was now seeking to value each share at €55.77. She did not know why her agent had advised the Respondent that Witness 2 had offered her €3.5 million for her shareholding in ██████████. She could not explain why her agent stated on 15 December 2022 that the base cost of her shares was €483,269, which meant a price per share of €28.71.
23. The Appellant could not provide an explanation as to why her agent had written to the Respondent on 29 May 2023 suggesting a base cost of her shareholding of €6,112,095, which equated to a price per share of €51.03. A further valuation was provided by her agent on 9 August 2023, which stated that the company was valued at the date of valuation at €22,310,020. She could not explain why the shares in the company had been sold ██████████ prior to her husband's death for €42,000, while she was contending that it had a value of over €22 million ██████████. She was asked if the increasing base cost in the shares suggested by her agent was a way of circumventing the risk that the share-for-share exchange would not be upheld, and she replied "Maybe".

24. She accepted that she had been asked by the Respondent in October 2023 to submit additional documentation to support her disallowed loss claims, but had not done so until the morning of the hearing. Regarding the first disallowed claim, she could not remember when the property in [REDACTED] had been sold. She stated that she had not got a written valuation of the property as at the date of her husband's death.
25. Regarding the second disallowed claim for [REDACTED], she agreed that it was an investment fund. She stated that she did not know whether these were subject to a different tax regime to CGT. It was put to her that the third disallowed claim for [REDACTED] [REDACTED] also concerned an investment fund. It was also put to her that the email regarding the investment suggested that its value was unknown.
26. Regarding the disallowed claim for [REDACTED], she stated that she did not know if it was an investment fund. It was put to her that the documentation was insufficient to enable the Respondent to allow the claim. In respect of the claim for the [REDACTED] investment, it was put to her that the land had not been sold so no loss had crystallised.

[REDACTED] (*“Witness 2”*)

27. The witness stated that he joined the company in [REDACTED] when [REDACTED].
[REDACTED]
[REDACTED]
[REDACTED]
28. He stated that the [REDACTED] owners were unhappy with Ireland [REDACTED] [REDACTED]. He was managing director (“MD”) of the company at the time, and the owners asked him to look for a buyer in [REDACTED]. He was unable to source one, which he and the company chief technology officer (“CTO”) [REDACTED] believed was due to the prevailing marketplace conditions. They believed that the company had value and decided to carry out a management buy out (“MBO”) of the company. The MBO took place on [REDACTED]. They brought the Appellant's husband in as chairman, with [REDACTED] as CTO and the witness as Finance MD. He stated that the company “landed” a lot of American multinationals when they came to Dublin, including [REDACTED] [REDACTED].
29. The company [REDACTED] which the witness stated resonated well in [REDACTED] [REDACTED]. The witness stated that the management team regularly spent time in [REDACTED] [REDACTED] to build the business, so that if an American [REDACTED] company was coming to Ireland it would consider using the company (i.e. [REDACTED] for its [REDACTED]). The witness agreed that the company's financial statements for [REDACTED] [REDACTED] that its principal services

were [REDACTED], but stated that the volume was in the [REDACTED] offered to US multinationals.

30. The witness agreed that turnover declined from [REDACTED] [REDACTED] [REDACTED] [REDACTED]. Up to the end of [REDACTED] the company lost €463,000, and for the 16 months to [REDACTED] it lost €1.275 million.
31. The management team invested approximately €500,000 in the company as part of the MBO. The witness stated that the company had a good client base, including [REDACTED] some government bodies and semi-states, and also some US companies: *“that would have included [REDACTED] Some of them came later.”* The company ensured that the US companies had [REDACTED] available for their staff when they moved to Ireland. The management team felt that there were better business prospects in America so started focusing on that side of the business. He stated that the company had at least a dozen clients.
32. The witness agreed that the company’s annual turnover to [REDACTED] increased from €10m to €17m. He stated that this growth gave them confidence in the company’s future: *“Still getting sleepless nights but less sleepless nights”*. The financial statements stated that the company was involved in [REDACTED] and the witness stated that [REDACTED] was able to speak to its clients about that: *“[REDACTED] [REDACTED] [REDACTED]”*
33. The witness agreed that the company reduced costs to return itself to profitability. They started to grow the company by increasing revenues. He stated that the Appellant’s husband was a non-executive chair and had a very good relationship with the company’s Irish clientele. He also drove the rebranding and the strategy of the company. However, as he was not in an executive capacity, the business continued on after he died in [REDACTED] [REDACTED]. He stated that the clients were *“on board”* when the Appellant’s husband died and that he did not think the company had ever lost a client.
34. The company increased turnover in [REDACTED] and continued to grow. In [REDACTED], a private equity company bought [REDACTED] the company. The valuation of the company at that time was over €20 million. In [REDACTED]
35. The witness stated that he used to meet the Appellant regularly to update her on the company’s progress. He twice made an offer for her shares, but she rejected both offers. The first offer was for around €1 million and was made some time before [REDACTED] The

second offer was for at least €1.8 million and was made in [REDACTED]. He stated that he would not have accepted a valuation of €380,000 on the Appellant's shareholding in [REDACTED]

36. On cross examination, the witness agreed that the company had [REDACTED] employees in [REDACTED]. There was a reduction in sales staff in [REDACTED] and a further reduction to [REDACTED] in [REDACTED]. For the period up until [REDACTED], the witness agreed that there was a further reduction in the number of employees (to [REDACTED] and also a significant reduction in salary levels. He also agreed that the principal activities of the company remained the same. He agreed that the valuation of shares involved consideration of the economic conditions in the marketplace, and that [REDACTED]. He also agreed that the austerity measures that were implemented had implications for those clients which were State entities.
37. He agreed that the inability to sell the company in late [REDACTED] was symptomatic of the negativity in the market, and that one of the reasons was that there was a long lease on the company's premises that was seen as a negative. In the MBO, the company's shares were purchased for €42,000, and there was a subsequent capital contribution by the management team of €420,000. The witness agreed that in [REDACTED] his salary was reduced to €70,000. He accepted that if the directors had not cut their salaries, the company would not have made a profit that year.
38. The witness stated that turnover for the year to [REDACTED] was essentially flat: "*Whether I would say that we're still in the doldrums is another question...But I would imagine that we would want to get flat before we grow.*" He accepted that the [REDACTED] Directors' Report stated that "*In [REDACTED] the Directors are further segmenting and streamlining the business to take the profitability into line with industry norms.*" Employee numbers had reduced from [REDACTED] to [REDACTED] and the witness stated that the company's service model had changed during that time which allowed it to operate with fewer [REDACTED]
39. The witness was asked about Form 46G returns submitted to the Respondent in respect of [REDACTED] provided by the company to its clients. He was informed that if a client made a payment to the Appellant in excess of €6,000 for [REDACTED] it was obliged to file a return to the Respondent. Counsel stated that the Respondent had no record of any payments from [REDACTED] to the company until [REDACTED]. The witness stated that [REDACTED] was definitely a client of the company prior to [REDACTED] but he thought that if the company was providing [REDACTED] it might not have been classified as [REDACTED]. He stated that he was unable to say when the company's clients had been taken on. However, he stated that he was "*sitting in their offices in [REDACTED]...in [REDACTED].*"

40. The witness agreed that when he was seeking to sell the company in late [REDACTED] on behalf of its [REDACTED] owner, profitability had been a factor. He also agreed that profitability would be a factor for any purchaser: *"it has got to show its growth and it has got to show its profitability."* His view was that the company was worth a lot more in [REDACTED] than the Respondent's valuation of the Appellant's shares. He stated that it was not possible that it was worth more in [REDACTED] than in [REDACTED].
41. The witness agreed that [REDACTED] was sales director of the company and held 16.5% of the company's shares. The company bought back those shares in [REDACTED] for €300,000. He agreed that the company's outlook was far more positive in [REDACTED] than it had been in [REDACTED]. He stated that [REDACTED] had wanted to leave the company so an agreement to purchase his shares was reached.
42. On re-examination, the witness stated the initial engagement with clients in [REDACTED] occurred while the Appellant's husband was still alive. He stated that he believed there were different variables to be considered when it came to valuing a company, including profitability. Other factors included client base, company growth and brand strength.

[REDACTED] – *Expert on behalf of the Appellant ("Witness 3")*

43. The witness stated that he was an accountant and had practised for over 40 years. He had his own firm since 1993, and specialised in insolvency work as well as in providing expert evidence. He stated that he had not met any of the parties prior to the hearing but did a small amount of valuation work for the Respondent.
44. He stated that he valued the company on the basis of a multiple of revenues because he believed that the historic trading performance did not reflect the true value of the company. He said that the evidence of Witness 2 confirmed the impression that had been given to him that a new life had been created for the company and that the MBO team were in for the long haul. They had their own money on the line. Driven by the expertise of [REDACTED], they were seeing the future in terms of [REDACTED] which was a different direction for the company: *"We're looking at a different company in terms of focus."*
45. He was asked about the Grant Thornton ("GT") report prepared on behalf of the Respondent. He stated that he believed the economic background identified by GT was overly pessimistic. By [REDACTED] the stock markets had *"well and truly"* recovered. He considered that the economic downturn was a seven-year cycle, and [REDACTED]. He also reiterated that using historic trading performance to value the company was inappropriate because the bringing in of new customers was changing the entire environment of the company.

46. The witness's difficulty with the GT report was that it had taken a low multiplier because the company had a low level of EBITDA². But the better approach was to look at the company from the point of view of the future rather than the past. While he did not have an arithmetical difficulty with GT's calculations, he did not believe they captured the essence of what was required for this valuation.
47. To determine the correct multiplier to be applied, the witness stated that he used a list of comparator transactions produced by a company called Cognient which no longer existed. He used the transaction data under the hearing "██████████", and came up with a median figure of 1.66. He stated that, having heard Witness 2's evidence, he would exclude some of the transactions relating to ██████ and ██████ and ██████ which would bring the multiplier down to 1.19. He had multiplied the company's turnover by 1.66 to get its valuation, but now was of the opinion that it should be reduced.
48. On cross examination, the witness stated that he had to rely on discussions with the Appellant's agent in relation to the trading of the company and the nature of the business. He stated that he had had sight of three reports³ prepared in respect of the valuation of the Appellant's shares but did not accept that his view was "*tainted*" by having read them. He accepted that the Forvis Mazars report was an opinion on the use of the revenue multiple methodology for valuing the company. He stated that he paid particular attention to the Friel Stafford report for background information on the company.
49. He accepted that he had not looked at any of the company accounts. He agreed that he had a duty to provide an independent report which was governed by his own inquiries and research. He stated that he cross checked the Friel Stafford and Forvis Mazar reports and was satisfied that the figures therein were accurate. He did not believe that the company's financial statements were of any consequence in this instance.
50. It was put to the witness that the statement in his report, that an EBITDA approach to valuing the Appellant's shareholding was not appropriate, was completely unsubstantiated. He replied that it was his opinion, and that he had been informed by the Appellant's agent that the future trading of the company would be very different to the historic trading performance. He accepted that the evidence of Witness 2 was that it was the same business, but stated that the emphasis within the business was totally different.

² Earnings before interest, taxes, depreciation and amortisation

³ Friel Stafford report prepared on behalf of the Respondent, and reports from the Appellant's agent and Forvis Mazars on behalf of the Appellant. None of these reports are before the Commissioner for the purposes of this determination.

There had been a change of emphasis from [REDACTED] which was being driven by [REDACTED]

51. The witness then went on to say that the evidence of Witness 2 led him to conclude that the company was “*not as far as along the road as I was led to believe it was when I prepared my report.*” However, he still believed that the historic trading performance did not always tell the full story, because a purchaser is “*buying the future*”. He accepted that he had no projections for future earnings. He agreed that he was provided with the Cognient schedule of valuations by the Appellant’s agent.
52. The witness was brought through the Cognient tables and explained that he chose the median value in respect of [REDACTED]. He stated that he made unsuccessful attempts to contact Cognient, and that it seemed it had stopped operating in about 2022. He was unable to find any alternative source for industry multiple values for [REDACTED]. He accepted that he had been unable to verify the Cognient figures, and agreed that this should have been stated in his report. He did not know where the data came from or whether it concerned public or private sales.
53. The witness stated that he had given the company the benefit of the doubt regarding its trading performance, on the basis that future profitability would “*click into place afterwards*”. However, based on the evidence he had heard, he wished to reduce his valuation. In response to a question from the Commissioner, the witness stated that he was resiling from the valuation provided in his report but not from the methodology he had used.
54. The cross-examination adjourned for the evening on the second day of the hearing, and resumed on the morning of the third day. At the start of the third day, the witness submitted an addendum to his report, which reduced his valuation of the Appellant’s shares as of the date of valuation to €1,244,000.
55. On the resumption of cross-examination, the witness accepted that he had been provided with misleading information by the Appellant’s agent regarding the company. He stated that he was asked at a very late stage to prepare his report and as a result had a very limited opportunity to validate the information therein.
56. The witness reiterated that he did not believe that the historic trading performance of the company was of particular benefit in its valuation. He still believed his approach was the correct one because “*it is intended to reflect the future rather than the past.*” He agreed that the report prepared by the Appellant’s agent suggested an approach using multiples

of revenue, and stated that he believed this was an acceptable alternative. He stated that *"I am endorsing the concept that they incorporated in their report."*

57. He accepted that he had been mistaken to treat the company *"as somewhat of a quasi start-up."* He believed that the [REDACTED] approach was more developed twelve months after the date of valuation. He agreed that [REDACTED] provided by the company changed as [REDACTED] developed over time, but that [REDACTED] was not a feature of its [REDACTED] until after [REDACTED]. However, he believed that the company's customer base was important, while acknowledging that there had not been a change from [REDACTED] [REDACTED] by [REDACTED]

58. He agreed that in [REDACTED] the domestic economy was still *"in a mess"*. He stated that there was a significant increase in monthly sales by the company between [REDACTED] and [REDACTED]. He agreed that gross margins were relevant to valuation and that these related to profitability. He accepted that the profitability levels of the company (approximately 10%) were below industry norms and constituted a negative factor for its outlook. He did not believe that the company would continue to accept suboptimal operating margins and therefore historic trading results did not reflect the intention of the board and management of the company as to its future activities. However, he accepted that there was a greater risk involved in investing in a company with lower profit margins.

59. The witness agreed that his revised valuation was still based on the Cognient schedule, which he had been unable to verify. He reiterated the importance of the company's customer base. He accepted that the source of his valuation (the Cognient schedule) was not reliable, and that as a consequence the revised valuation was not reliable:

"Q. Yes. And you accept that that is not reliable?"

A. I accept that the source is not reliable, yes.

Q. You accept that those figures are not reliable?"

A. Okay.

Q. Yes. That being so, no reliability can be given to the product of using that percentage, that figure in your calculation?"

A. I will accept that."

60. The witness stated that he did not object to the approach taken by the Respondent's expert in the GT report, except that he did not agree that the EBITDA approach was appropriate in this instance. He stated that he was not in a position to challenge the

comparators set out in the GT report. In response to a question from the Commissioner, the witness stated that he had discounted the subsequent sale of ██████ shareholding in the company, but he did not suggest that the Commissioner should discount it.

██████████ – *Expert on behalf of the Respondent (“Witness 4”)*

61. The witness stated that he was a partner in deal advisory in GT for 20 years. He led the valuation practice, and also advised clients on buying and selling businesses. He stated that around ██████ he was doing a lot of work with NAMA regarding business plans.
62. In valuing the Appellant’s shareholding, he stated that he reviewed available information on Guideline Public Companies (“GPC”) and Guideline Precedent Transactions (“GPT”) for relevant comparators. He also considered the market at the time. He stated that there were no projections for the company that he could use. He was aware of the disposal of shares by ██████ in ██████
63. The witness calculated the market value of the company as of the date of valuation at €1.783 million, with a 25% shareholding being worth €380,000, and a price per share of €3.80. He disagreed with Witness 3 regarding the market environment in Ireland at the time, as he stated that there were not many mergers and acquisitions transactions taking place, and that liquidity was a serious issue for businesses.
64. The witness stated that there were three main approaches to valuation: (1) the cost approach which predominantly considered the balance sheet of a company; (2) the market approach used multiples of EBITDA / profitability and publicly available data to arrive at a valuation; (3) the income approach assessed cash flow going forward, but given the lack of projections for the company herein this was not applicable. So the witness used the cost and market approaches for the current valuation.
65. He stated that he also considered the MBO of the company ██████ which set a precedent of value at that time. He explained his approach to GPC analysis, which showed that the higher the profitability of a company, the higher the multiple of revenue. The company in this appeal had relatively low profitability so he used a lower revenue multiplier. He accessed comparators by way of the Capital IQ database, which he refined based on the description of the company in its financial statements.
66. Based on the purchase price of the company in the MBO, together with the capital contribution and directors’ loans, he gave an assumed enterprise value (“EV”) to the company of €823,000. The annualised turnover was approximately €8 million, so the implied revenue multiple to the EV was 0.1. He applied the 25th percentile of the EV to

EBITDA multiples of 4.9 to 6.8, and EV to revenue multiples of 0.1 to 0.2. He averaged the four results to arrive at the EV of €1.532 million.

67. This valuation suggested a doubling of EV [REDACTED] since the MBO. To calculate equity value he added on cash in the company and deducted the bank overdraft to finish with a valuation of €1.783 million, or €3.80 per share, which he considered very fair. He noted that the valuation of [REDACTED] shares in [REDACTED] equated to approximately €4.50 per share.
68. The witness did not consider the original valuation put forward by Witness 3 to have much credibility. He also believed that the revised valuation was “*out of kilter*” with the factual situation of the company in [REDACTED]. He did not believe that taking an approach based purely on revenue multiples was appropriate. The financial statements showed gross profit of around 10%, which was very low and suggested that the company was primarily engaged in low margin activities such as the provision of [REDACTED]. Nobody would pay a multiple of revenue for a company selling [REDACTED] at low margins.
69. On cross examination, the witness was asked about his experience in providing valuations. He stated that he had to be balanced when providing a valuation. When advising a purchaser it was necessary to carry out due diligence on the target. He stated that two valuers might not come up with the same valuation, and agreed that there was a judgment call to be made. He agreed that decisions had to be made in respect of the value of the multiples used. Counsel made the point that different multiples would impact on the ultimate valuation.
70. It was put to the witness that the economy was growing in [REDACTED]. He stated that Eurostat statistics did not reflect what was happening “*on the ground*” from the point of view of liquidity and investment. He stated that the economy was pretty depressed until around [REDACTED]. He agreed that the company showed revenue growth up to the period of the valuation, but stated that it appeared that was on low margin activity. He believed that if the company was doing more [REDACTED] work, which was higher margin, its staff numbers would not have decreased as they had.
71. He stated that his initial search in Capital IQ had resulted in over 100 companies, which he then refined by comparison of their activities to [REDACTED]. He stated that he excluded what he considered to be outliers, including where the EBITDA was too high compared to the company. He believed that the EBITDA multiples of 4.9 and 6.8 were quite generous for a company making less than €1 million in EBITDA. He agreed that he made a judgment call to go with a lower multiplier than some other companies might attract.

72. Regarding the revenue multiples of 0.1 and 0.2 , he stated that *“If you do a lot of sales and you don't make a whole lot of money, you can't multiply your sales figure by a big number because they don't correlate.”* He stated that he used the [REDACTED] EBITDA, annualised to that year, [REDACTED]
73. He did not believe that, following the MBO, the company was akin to a start-up: *“A management buyout is the buyout of an existing business and an established business, a business that has people, technology, IP. A startup is when somebody is starting up a new business afresh. What [Witness 2] did and what [the Appellant's husband] invested in was a business that had track record.”* He stated that he blended EBITDA and revenue, because he considered that EBITDA on its own did not properly reflect the progress made since the MBO. He believed that others would consider the multiplier applied by him to be too generous.
74. Regarding the client base of the company, he stated that he would attribute a higher value in circumstances where a lot of money was being made. He also stated that the evidence was that the management team were underpaying themselves to increase profitability, and that it would not be uncommon to reduce profits for valuation purposes to reflect market salaries, which he had not done. He stated that Witness 2 had offered €1 million for the Appellant's shares in [REDACTED] which suggested that €380,000 was a reasonable figure in [REDACTED]

Submissions

75. Both parties submitted written Outlines of Argument in advance of the hearing. However, these were predominantly concerned with legal issues that were no longer relevant following the Appellant's decision not to pursue certain arguments. Therefore, the Commissioner will focus on the oral submissions made by counsel at the hearing.

Appellant

76. In opening submissions, Senior Counsel for the Appellant stated that the company was purchased in [REDACTED] for €19.8 million by [REDACTED] [REDACTED] [REDACTED]. Regarding the date of valuation in [REDACTED], the Appellant's case was that the company was effectively a new start-up following the MBO in [REDACTED]
77. In closing submissions, Senior Counsel opened *IRC v Gray* [1994] STC 360, and stated that the valuation of the company was a retrospective exercise in ascertaining probabilities in [REDACTED] He also opened *Erdal v HMRC* [2011] UKFTT 87 (TC), which

showed that the purchaser of a company is interested in its future prospects, which are relevant to valuation. In this appeal, the company had a new management team and a new approach.

78. The most important evidence before the Commissioner was that of Witness 2, who gave a good account of the potential and positive outlook for the company in [REDACTED]. The company had a strong client base, a strong management team, and had undergone rebranding. There had been an increase in turnover of 40%, and the evidence was that the economy was improving. The evidence of Witness 2 was that the company had US [REDACTED] [REDACTED] as clients such as [REDACTED].
79. The GT report had focused on the alleged low profit margins of the company, which had resulted in GT applying low multipliers. But the Appellant argued that there was more to valuing a company than just assessing its profitability. This was a factor, but not the only factor. Witness 4 had assumed that the company was focused on selling [REDACTED] but that was just an assumption on his part. He had not attached adequate weight to all of the relevant factors, but focused on the negatives, as if he was acting for a purchaser trying to drive down the price.
80. The best evidence of the valuation of the company came from the offers made by Witness 2 to the Appellant in [REDACTED] and [REDACTED]. It was submitted that the range was between €1- €2 million. The strong client base and management team should lead to a valuation towards €2 million. The evidence regarding the sale of [REDACTED] shares was not as relevant because, according to Witness 2, [REDACTED] wanted out of the business. Counsel also asked the Commissioner to take into account the evidence of the Appellant regarding the claimed losses.
81. In response to questions from the Commissioner, counsel stated that he was not asking him to disregard the evidence of Witness 3, and that this was a decision for the Commissioner. Regarding the sale of [REDACTED] shares, counsel submitted that the value ascribed to them was lower than the market value. Regarding the claimed losses, counsel stated that all of the losses related to CGT, but accepted that in principle an exit tax loss could not be claimed as a CGT loss.

Respondent

82. Senior Counsel for the Respondent stated that credibility was relevant to the appeal. The Appellant had originally claimed that she had carried out a bona fide commercial transaction by means of the share for share exchange with a Cypriot company. This claim was withdrawn on the eve of the hearing, so it had been accepted by the Appellant that

the main purpose or one of the main purposes of the transaction was the avoidance of tax. The Appellant had also claimed entrepreneurial relief, even though there was no evidence to support this claim. This too was dropped on the eve of the hearing. She had further claimed that she had no legal entitlement to the shares, even though she had disposed of them for a significant sum in [REDACTED]. This claim was also dropped.

83. Furthermore, it was clear that the Appellant's expert, Witness 3, had been misled regarding the activities of the company and its prospects as of the date of valuation. Additionally, the Appellant had not addressed why she had accepted that she had made a gain of €900,000 on the disposal of 5.04% of the shares. She had claimed a base cost of €16,460 on that shareholding. There had then been a number of increasing valuations put on the 25% shareholding put forward on behalf of the Appellant in the run-up to the appeal.
84. It was clear that Witness 2 and the company's CTO were the driving forces in the company. But they had been there for years prior to the MBO. It did not appear that the Appellant's husband had been active on a day-to-day basis, but if the company did have a new management team after the MBO as contended by the Appellant, her husband's death would have been a negative from a valuation perspective.
85. The evidence was that the company was selling large amounts of [REDACTED]. The reference to [REDACTED] concerned a later date, and was not as of the date of valuation. Witness 2 had stated that there was no appetite for the company in [REDACTED], and one of the negatives was the lease it held. The company was sold for €42,000 on [REDACTED], [REDACTED] before the valuation date.
86. The company's turnover in [REDACTED] was marginally less than in [REDACTED]. The gross profit margins in [REDACTED] and in [REDACTED] were not in line with industry norms. Yet the Appellant had sought to claim a higher value for the company in [REDACTED] than what it was ultimately sold for in [REDACTED]. Regarding the sale of [REDACTED] shares, the Appellant had indicated that she planned to call [REDACTED] to give evidence, but ultimately did not do so. That was something the Commissioner should have regard to in light of the Appellant's attempt to undermine a valuation of €300,000 in [REDACTED] for his 16.5% shareholding.
87. Regarding the evidence of Witness 3, he had stated that historic trading performance was of no benefit in valuing the company, which contradicted basic common sense. He had stated that he received misleading instructions from the Appellant's agent, and accepted under cross examination that the company's activities had not changed as of the date of valuation. He agreed that there was no basis for his original valuation of the company of

€24.2 million. He subsequently agreed that even his revised valuation and report was unreliable.

88. Counsel submitted that the evidence of Witness 3 should be disregarded by the Commissioner. Against that, the evidence and report of Witness 4 were reliable. His evidence was that the margins on the sale of ██████ were very low, whereas one would expect a much higher margin on the provision of ██████. Witness 4 stated that you would only ascribe a higher value to a company based on its clients if it was making money from those clients. There was no evidence from the Appellant to challenge the comparators utilised by Witness 4.
89. Counsel opened case law on the duties of expert witnesses, including *Donegal Investment Group plc v Danbywiske* [2016] IECA 193, *O'Leary v Mercy University Hospital Cork Ltd* [2019] 2 IR 478 and *Duffy v McGee* [2022] IECA 54, and submitted that the Commissioner should conclude that Witness 3's evidence was inadmissible. While the Appellant had sought to rely on *Erdal v HMRC*, in that case there had been clear evidence of significant changes to that company's business model prior to the valuation that had not been taken into account. But there was no similar evidence in respect of the company herein.
90. Regarding the claimed losses, only the first of those, the property in ██████ had actually been included in the Appellant's inland revenue affidavit. There was also no evidence to support the claimed valuation of €170,000 in ██████ particularly given it had been sold for €145,000 around a year later. The next claimed loss was the ██████, which appeared to be a fund, as did the ██████ item. There also appeared to have been no sale and crystallisation of any putative loss in respect of these.
91. The claim in respect of ██████ appeared to be an investment in a fund, and there was no evidence of an initial investment. Finally, the ██████ investment appeared to concern land, but it appeared that it had not been sold so again there was no crystallisation of any loss.
92. Finally, the Respondent had issued the amended assessment of €1,770,725 on the basis of the initial valuation of the Appellant's shareholding of €79,671. However, the valuation provided by Witness 4 on behalf of the Respondent was €380,000, which gave rise to a reduced liability to CGT of €1,671,617.

Material Facts

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

93.1. The Appellant's late husband [REDACTED] held a 25% shareholding in [REDACTED]
[REDACTED]
[REDACTED].

93.2. The Appellant's husband died on [REDACTED] ("the date of valuation"). The Appellant acquired her shareholding in the company on that date by way of inheritance.

93.3. The Appellant's husband had become involved in the company in [REDACTED] when he was appointed as non-executive chairman after being approached by [REDACTED] [REDACTED] ("Witness 2"). The Appellant had no active involvement in the running of the company.

93.4. Up to year end [REDACTED] the company lost €463,000, and for the 16 months to [REDACTED] [REDACTED] it lost €1.275 million.

93.5. Witness 2 had been involved in the company since [REDACTED]. He was managing director ("MD") of the company in [REDACTED], when its [REDACTED] owners sought to sell it. He had been unable to find a buyer for the company at that stage, and one of its negatives was the lease held by the company.

93.6. On [REDACTED], the management of the company carried out a management buyout ("MBO"). The management team was principally Witness 2 as Finance MD and [REDACTED] as Chief Technology Officer ("CTO"), both of whom had been involved in the company previously. The Appellant's husband joined the MBO as non-executive chairman.

93.7. In the MBO, the company's shares were bought for €42,000, and the former parent forgave a loan of €1.363 million. The management team (including the Appellant's husband) then invested €420,000 into the company.

93.8. The company's turnover increased between [REDACTED] from €10,684,000 to €17,012,000. The company achieved an operating profit of

€116,000 in [REDACTED] which was achieved by way of *inter alia* cutting directors' salaries. Turnover was marginally lower in [REDACTED] on a *pro rata* basis.

- 93.9. While the company began to source [REDACTED] companies as clients from the USA after the MBO, the company's financial statements did not demonstrate an increase in profitability that would be expected from a change to the provision of [REDACTED] rather than [REDACTED] as of the date of valuation. The company's gross profit margin was approximately 10%, which Witness 2 accepted was low and not in line with industry norms.
- 93.10. There had been no substantive change in the company's business model or activities between the MBO and the date of valuation.
- 93.11. Witness 2 made two offers to the Appellant to purchase her shares in the company. In or around [REDACTED] he made an offer of approximately €1 million. In or around [REDACTED] he made an offer of approximately €1.8 – 2 million. The Appellant rejected both offers.
- 93.12. The company bought back the shares of [REDACTED] in [REDACTED], which increased the Appellant's shareholding to 29.6%. [REDACTED] had held 16.5% of the company's shares, which he sold for €300,000.
- 93.13. On [REDACTED] [REDACTED] the shareholders in the company sold their shareholding to [REDACTED] for €19,330,000. At the date of sale, the Appellant's direct and indirect shareholding represented around 30% (29.6%) of the total issued share capital. In her Form 11 income tax return for [REDACTED] the Appellant declared proceeds on the sale of 5% of the shares of €966,460 with an arising chargeable gain of €900,000. She also declared unused capital losses from prior periods of €1,024,286, with a resulting nil liability to CGT. In correspondence to the Respondent dated 24 March 2022, her agent stated that the base cost of her 5% shareholding was €16,460.
- 93.14. The remaining portion of the Appellant's shares (i.e. 25%) had been the subject of a share for share exchange, and therefore she did not consider that there was a liability to CGT in respect of their disposal.
- 93.15. On 12 December 2023, the Respondent disapplied the share for share exchange on the 25% shareholding, and issued an amended assessment to CGT in the amount of €1,770,725. This was on the basis that the net chargeable gain arising on the sale of the Appellant's shares in the company was adjusted to €5,365,834. In so doing, the Respondent (i) adjusted the consideration on sale from €966,460

to €5,799,000 (for the 30% shareholding); (ii) adjusted the base cost to €79,671 in line with a valuation provided to it by a third party valuer; and (iii) adjusted the allowable losses deductible against the gain from €988,582 to €353,225.

93.16. On 2 February 2024, the Appellant appealed against the amended assessment to the Commission. The Respondent submitted an expert report to the Commission which suggested a higher base cost than had been applied in the amended assessment, being €3.80 per share, and a total valuation on the 25% shareholding of €380,000.

93.17. There had been a number of additional arguments raised by the Appellant in the course of written submissions, including that the share for share exchange was entitled to relief. These additional arguments were withdrawn at the commencement of the hearing.

93.18. The Appellant's expert [REDACTED] ("Witness 3") had provided a report suggesting a valuation of the Appellant's 25% shareholding as of the date of valuation of €5.77 million. In evidence he stated that he valued the company on a multiple of revenues basis as he believed that the historic trading performance did not reflect the true value of the company, which he treated as effectively a new company post the MBO. He did not believe the company's financial statements were relevant to its valuation.

93.19. However, on cross examination, Witness 3 stated that he had been misled by the Appellant's agent regarding the true status of the company as of the date of valuation, and accepted that the business of the company had not changed. He provided a revised valuation of €1,244,000 for the 25% holding which was again based on a multiple of revenues. However, he agreed that the revised valuation was unreliable, as it was based on a schedule of valuations that he had been unable to verify.

93.20. Therefore, both of the valuations provided by Witness 3 were unreliable and no reliance could be given to either of them.

93.21. The Respondent's expert, [REDACTED] ("Witness 4") calculated the market value of the company as of the date of valuation at €1.783 million, with the Appellant's shareholding of 25% being worth €380,000. Witness 4's evidence was credible and his methodology was clear and consistent.

93.22. Therefore, the valuation of the Appellant's 25% shareholding as of the date of valuation was €380,000.

93.23. Regarding the Appellant's claims for losses: (1) There was no evidence to support an alleged valuation on the property in ██████ of €170,000 as of the date of valuation. The property had subsequently been sold in or around ██████ for €146,000; (2) The alleged losses in respect of ██████ ██████ concerned investment funds. Even if they did not, there was insufficient evidence to show the alleged losses claimed; (3) The land connected to the ██████ investment had not been sold.

Analysis

94. In the High Court case of *Menolly Homes Ltd v. Appeal Commissioners* [2010] IEHC 49 ("*Menolly Homes*"), 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.*"

Valuation of the Appellant's shares

95. The primary issue to be determined in this appeal is the correct valuation of the Appellant's 25% shareholding in the company as at the date of valuation. Section 547(1) of the TCA 1997 deems that the Appellant acquired the shares "*for a consideration equal to the market value*". Section 548(1) of the TCA 1997 provides that "*market value*" means "*the price which those assets might reasonably be expected to fetch on a sale in the open market*".

96. Section 548(4) then goes on to provide that:

"Where shares and securities are not quoted on a stock exchange at the time at which their market value is to be determined by virtue of subsection (1), it shall be assumed for the purposes of such determination that in the open market which is postulated for the purposes of subsection (1) there is available to any prospective purchaser of the asset in question all the information which a prudent prospective purchaser of the asset might reasonably require if such prospective purchaser were proposing to purchase it from a willing vendor by private treaty and at arm's length."

97. In *IRC v Gray* [1994] STC 360, Hoffman LJ stated at page 372 that:

"In all other respects, the theme which runs through the authorities is that one assumes that the hypothetical vendor and purchaser did whatever reasonable people buying and selling such property would be likely to have done in real life. The hypothetical vendor is an anonymous but reasonable vendor, who goes about the sale as a prudent

man of business, negotiating seriously without giving the impression of being either over-anxious or unduly reluctant. The hypothetical buyer is slightly less anonymous. He too is assumed to have behaved reasonably, making proper inquiries about the property and not appearing too eager to buy. But he also reflects reality in that he embodies whatever was actually the demand for that property at the relevant time. It cannot be too strongly emphasised that although the sale is hypothetical, there is nothing hypothetical about the open market in which it is supposed to have taken place. The concept of the open market involves assuming that the whole world was free to bid, and then forming a view about what in those circumstances would in real life have been the best price reasonably obtainable. The practical nature of this exercise will usually mean that although in principle no one is excluded from consideration, most of the world will usually play no part in the calculation. The inquiry will often focus on what a relatively small number of people would be likely to have paid. It may have to arrive at a figure within a range of prices which the evidence shows that various people would have been likely to pay, reflecting, for example, the fact that one person had a particular reason for paying a higher price than others, but taking into account, if appropriate, the possibility that through accident or whim he might not actually have bought. The valuation is thus a retrospective exercise in probabilities, wholly derived from the real world but rarely committed to the proposition that a sale to a particular purchaser would definitely have happened.”

98. In considering the evidence before him, the Commissioner considers that he must evaluate the evidence of three witnesses; Witnesses 2 and 3 on behalf of the Appellant, and Witness 4 on behalf of the Respondent. The Commissioner considers that the Appellant herself was able to provide little substantive evidence on the valuation to be applied to her shares (apart from her evidence regarding the offers made to her by Witness 2). Notably, she was unable to explain why she had claimed a base cost on her 5% shareholding in her [REDACTED] Form 11 of €16,460, but was now claiming a valuation on her 25% shareholding of €5.77 million⁴.
99. Witness 2 was the Finance MD of the company and part of the management team that carried out the MBO in [REDACTED], when the former owner sold the company for €42,000. He stated that he had been unable to find a buyer for the company in [REDACTED] on behalf of its then owner. The company's turnover declined from [REDACTED] to [REDACTED] and then

⁴ The Commissioner notes that the report of Witness 3 of March 2025 appears to provide a median value on the Appellant's 25% shareholding of €6.05 million. However, for the purposes of this determination he is taking the value as stated by the Appellant's Senior Counsel in his opening submissions. In any event, Witness 3 resiled from this original valuation during cross examination.

increased in [REDACTED] and was flat into [REDACTED]. He accepted that the company's principal activities remained the same after the MBO as before, and remained so as of the date of valuation. He accepted that the company's profitability was still below industry norms as of [REDACTED] and agreed that profitability was relevant to valuation. While the witness was firmly of the view that the company had secured US-based [REDACTED] companies as of [REDACTED] he could not explain why the Respondent had no record of [REDACTED] making payments to the company in excess of €6,000 for [REDACTED] prior to [REDACTED].

100. Witness 2 also stated that he offered the Appellant approximately €1 million for her shares prior to [REDACTED] and that he made another offer of approximately €1.8 million in late [REDACTED] or [REDACTED]. He would not have accepted a valuation of €380,000 on the Appellant's shareholding in [REDACTED]. He accepted that the company had bought [REDACTED] 16.5% shareholding in [REDACTED] for €300,000, but stated that [REDACTED] had wanted to leave the company and sell his shares.

101. Witness 3 was the expert witness called on behalf of the Appellant. The witness initially appeared to stand over his initial valuation of €5.77 million, and stated that the evidence of Witness 2 supported his approach. However, on cross examination, he resiled from this position and said that he had been misled by the Appellant's agent into understanding that the company was further along in its development of [REDACTED] than was the case as at the date of valuation. He provided a revised valuation of €1.244 million.

102. The Commissioner is satisfied that Witness 3's evidence was fundamentally flawed and that no regard can be had to it in determining the market value of the Appellant's shares. It was apparent from his evidence that he carried out little if any independent research into the company and instead relied on information provided to him by the Appellant's agents, including earlier expert reports. He did not look at the company's financial statements and contended that its historic performance was irrelevant. The Commissioner considers that this position was not credible, and that by relying wholly on information provided to him by the Appellant's agent, the witness did not demonstrate the independence that is required of expert witnesses; see e.g. *Duffy v McGee* [2022] IECA 254.

103. The witness stated that his approach of applying a multiple of revenues and ignoring EBITDA was based on his belief that the company was effectively a "start-up" and essentially a new entity after the MBO. The Commissioner is satisfied that this approach was not justified, as it appeared that the Finance MD and CTO were the principal leaders in the company, and they had been *in situ* prior to the MBO. Witness 2 agreed that the company's activities remained the same after the MBO as before. Indeed, this was

accepted by Witness 3 during cross examination. However, he continued to apply the same methodological approach to his revised valuation, notwithstanding that he had accepted that the company was not akin to a start-up post the MBO. The revised valuation was achieved by the witness amending the multiplier values applied to the company's turnover. However, he accepted that he could not vouch for the reliability of these multipliers, and accepted that his revised valuation was therefore unreliable.

104. Consequently, as Witness 3 accepted that neither of the two valuations provided by him were reliable, the Commissioner is satisfied that his evidence cannot be of any relevance in determining the market value of the Appellant's shareholding and must be disregarded.

105. Witness 4 was the expert retained on behalf of the Respondent. In contrast to the Appellant's expert, the Commissioner found the evidence of Witness 4 to be credible, coherent and consistent. He explained that he relied on available GPC and GPT evidence for comparators, and that by applying the cost and market approaches to valuation he estimated a company valuation of €1.783 million as of the date of valuation, with the Appellant's shareholding being worth €380,000.

106. Witness 4 stated that he considered that the MBO set a precedent of value as of [REDACTED]. He calculated the enterprise value as of the date of valuation at €823,000, which suggested a doubling of value since the MBO [REDACTED]. The witness stated that he considered the company's gross profit of around 10% to be very low, and that this suggested that the company was engaged in low margin activities such as the provision of [REDACTED]. While it was put to the witness on cross examination that he had taken an overly negative attitude towards the prospects of the company, the Commissioner is satisfied that the witness justified his approach and does not consider that Witness 4 failed to properly take the company's client base and future prospects into account.

107. Therefore, the Commissioner is satisfied that the evidence of Witnesses 2 and 4 is relevant to the question of valuation. Counsel for the Appellant criticised the valuation put forward by Witness 4. It seemed to the Commissioner that the main basis for the Appellant's criticism was the allegation that Witness 4 did not have proper regard to the US-based [REDACTED] companies which the Appellant and Witness 2 contended were clients of the company as of the date of valuation.

108. Unfortunately, no clear evidence was put before the Commissioner as to when precisely the company secured US-based companies such as [REDACTED] as clients, or when it began to provide [REDACTED] to those clients rather than simply providing lower-margin [REDACTED] to companies setting up in Ireland. Witness 2 stated that he was

unable to say when these clients had been taken on, but that he was “*sitting in their offices in [REDACTED] ...in [REDACTED].*”

109. Witness 2 was unable to provide an explanation to counsel for the Respondent as to why it was contended that the Respondent had not received any Form 46G returns from [REDACTED] regarding payments to the company until [REDACTED]. While this matter was raised in cross examination, counsel for the Appellant correctly pointed out that no evidence was led by the Respondent on this point, and therefore the Commissioner considers that little regard can be given to it.

110. However, Witness 2 accepted that the company’s profit margins were below industry norms in [REDACTED] and [REDACTED] and Witness 4 stated that the approximate gross profit margin of 10% was very low for that industry. The Commissioner found convincing the evidence of Witness 4 that these low margins suggested that the company was engaged in lower-margin provision of [REDACTED] rather than higher-margin provision of [REDACTED]. The Commissioner also found convincing Witness 4’s view that it was unlikely that a buyer would be willing to spend a higher multiple in purchasing a company engaged in low margin activity. Therefore, the Commissioner concludes that, even if the company had secured some US-based [REDACTED] companies as of the date of valuation, it was providing them with lower-margin [REDACTED] at that time, rather than higher-margin [REDACTED] which would justify a higher valuation.

111. Senior Counsel for the Appellant urged the Commissioner to reach a valuation based on the two offers made by Witness 2 to the Appellant, rather than the evidence of Witness 4. Based on the evidence of the Appellant and Witness 2, it appeared that he had offered around €1 million in [REDACTED], and between €1.8 - €2 million in [REDACTED]⁵.

112. However, the Appellant’s counsel did not adequately address the fact that each of these offers were made [REDACTED] after the date of valuation. Indeed, [REDACTED]
[REDACTED]
[REDACTED] The company lost money between [REDACTED] and [REDACTED]. Turnover increased between [REDACTED] and [REDACTED], and the company achieved an operating profit of €116,000 in [REDACTED] which was achieved by *inter alia* cutting directors’ salaries. However, turnover remained effectively stagnant

⁵ In passing, the Commissioner notes that no evidence was put forward to substantiate the claim made by the Appellant’s agent in correspondence to the Respondent, and reiterated in the Outline of Arguments submitted on her behalf, that Witness 2 had offered the Appellant €3.5 million for her shares in [REDACTED]

in [REDACTED] and it appeared that the company did not begin to achieve significant growth until [REDACTED] onwards.

113. Furthermore, the Commissioner considers that the valuation put forward by Witness 4 was not in fact out of line with the offers made by Witness 2, when considered in light of the valuation of €19,330,000 placed on the company when it was sold on [REDACTED]. Taking Witness 4's valuation of €380,000 on [REDACTED], and the Appellant's 25% shareholding on [REDACTED] at €4,832,500 ($19,330,000 \times 0.25$), on a straight line basis the value of her shareholding on [REDACTED] would have been €1,577,987, in excess of the first offer made by Witness 2 (and assuming a reasonably early offer date, given Witness 2 thought it may have been made in [REDACTED]. Likewise, using the same methodology, the valuation on [REDACTED] would have been €3,324,161, again in excess of the second offer actually made to the Appellant⁶.

114. The Commissioner acknowledges that these are very rough calculations, and in no way seeks to rely on them to ascertain the "true" valuation of the Appellant's shareholding in [REDACTED] and [REDACTED]. However, he considers them indicative of the fact that Witness 4's valuation was not unfairly low, as contended for by counsel for the Appellant, but was arguably more generous than the offers made by Witness 2 to the Appellant, which she subsequently sought to rely on to argue for a higher valuation.

115. Finally, the Commissioner notes that [REDACTED] sold his 16.5% shareholding back to the company in [REDACTED] for €300,000. Witness 2 stated that [REDACTED] wished to leave the company and suggested that he negotiated a lower price for the shares than their market value. The Appellant had listed [REDACTED] as a witness but ultimately did not call him. However, the Shareholders' Agreement, provided that the company shares were to be sold at "*fair value*", which it defined as market value, and further provided for arbitration if the parties to the sale could not agree on what constituted fair value. In the absence of any evidence from [REDACTED] confirming that he sold his shares for less than market value, the Commissioner will assume that he was satisfied that he received fair value for this shareholding. That being so, the Commissioner considers that Witness 4's valuation on the Appellant's 25% shareholding as of the date of valuation compares favourably with a value of €300,000 on [REDACTED] 16.5% shareholding [REDACTED] later.

⁶ [REDACTED]
[REDACTED]
[REDACTED].

116. In all the circumstances, therefore, the Commissioner is satisfied that the valuation put forward by the Respondent is fair and reasonable and has been justified by the evidence of Witness 4. Consequently, he determines that the base cost of the Appellant's 25% shareholding was €380,000.

Claimed losses

117. The remaining issue to be addressed is that of the alleged losses that the Appellant seeks to put against her chargeable gain. Counsel for the Respondent stated that the Respondent had allowed some losses where sufficient documentary evidence had been provided, but that the Respondent was not satisfied that there was adequate documentation in respect of the remaining claimed losses to allow the deductions sought. In short, the Commissioner agrees with the Respondent.

118. The Appellant submitted a supplemental booklet of documentation on the morning of the hearing regarding the claimed losses. The first claimed loss concerned a property called [REDACTED]. The Appellant believed that it was worth €170,000 as of the date of her husband's death. However, no valuation report was submitted to justify this claimed valuation. The property was subsequently sold for €146,000 in or around [REDACTED]. Given the well-known state of the property market in those years following the economic crash, the Commissioner considers it unlikely that the property was worth less in [REDACTED] than in [REDACTED]. Consequently, given the lack of evidence justifying the alleged valuation in [REDACTED] this claim is not allowed.

119. The second, third and fourth claimed losses concerned [REDACTED]. While these seemed to concern property developments, the Appellant did not contradict the Respondent's contention that these were investment funds. While her counsel did not concede that they were investment funds, he accepted as a matter of law that funds were taxed differently to capital assets and that any losses arising could not be put against capital gains.

120. The Commissioner has considered the documentation provided on these claims, and while he considers the position somewhat unclear, on the balance of probabilities he determines that these three investments were in funds and therefore did not generate allowable losses. Even if they were capital investments, the Commissioner considers that there is inadequate evidence before him to determine the amounts invested and the losses, if any, arising. Therefore, the claims for these three items are disallowed.

121. The final claimed loss concerned an investment in property in [REDACTED]. The only evidence concerning this claim was a print-off from a website dated 7 January 2026

which seemed to provide information to investors in the development. There was nothing provided to suggest that the Appellant had sold her interest in the property; rather, the website was aimed at ongoing investors “*so that any future potential can be realised.*” Consequently, the Commissioner finds that no loss to the Appellant has crystallised, and therefore there is no loss to be claimed. Even if this is incorrect, there is insufficient evidence to quantify the loss, if any. Therefore, this claim is also disallowed.

Conclusion

122. In conclusion, the Commissioner determines that the valuation of the Appellant’s 25% shareholding in the company as at the date of valuation was €380,000. Furthermore, he determines that none of the additional losses claimed by the Appellant have been made out, and therefore they are disallowed. Consequently, the appeal is unsuccessful.

123. However, as explained by counsel for the Respondent in closing submissions, the amended assessment was based on an initial valuation of €79,671 on the Appellant’s shareholding. As the valuation has been increased, the Appellant’s liability to CGT is reduced to €1,671,617.

Determination

124. In the circumstances and based on a review of the facts and a consideration of the submissions, material and evidence provided by both parties, the Commissioner determines that the amended assessment to CGT for ██████ should be reduced to €1,671,617.

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

Notification

126. 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

127. 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.



Simon Noone
Appeal Commissioner
3 March 2026

The Tax Appeals Commission has been requested to state and sign a case for the opinion of the High Court in respect of this determination, pursuant to the provisions of Chapter 6 of Part 40A of the Taxes Consolidation Act 1997.