



AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

Between

47TACD2026

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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 (“TCA 1997”) brought on behalf of the Appellant against a refusal by the Respondent of a claim made by the Appellant for Earned Income Tax Credit (“the claim”), for the years 2016 to 2020 (“the relevant years”). The Respondent refused the claim in accordance with the provisions of section 865 TCA 1997, as the claim for the relevant years was made outside of the statutory four-year period.
2. On 27 September 2025, the Appellant duly appealed to the Commission. The Appellant submitted a Notice of Appeal and accompanying documentation in support of his appeal. In addition, the Appellant submitted a Statement of Case which built on the Appellant’s Notice of Appeal. The Commissioner has received a Statement of Case from the Respondent. The Commissioner has considered all of the documentation submitted by the parties in support of their respective positions in this appeal.
3. By agreement with the parties, this appeal is adjudicated without a hearing in accordance with the provisions of section 949U TCA 1997.

Background

4. On 14 February 2025, the Appellant first made contact with the Respondent in respect of the claim, [REDACTED].
5. For the relevant years, the Appellant filed his income tax returns via the Revenue Online Services (“ROS”), where he omitted to claim Earned Income Tax Credit against self-employment income. The Appellant stated that he was unaware of his entitlement in that regard.
6. The Appellant submitted that in November 2024, he filed and paid his tax returns for the tax year 2023. However, he said that he discovered that he owed the Respondent approximately €2,000 less tax than he had anticipated. The Appellant stated that on further investigation he discovered this was due to the Respondent applying an Earned Income Tax Credit, which he was unaware of. He submitted that he had no information in relation to his entitlement to the Earned Income Tax Credit and only became aware of it due to the fact that in 2024, the Respondent “*introduced an automatic trigger on their ROS system which in my case triggered this credit and I became aware of this*”.
7. The Respondent submitted that the chargeable period for the year 2020 was 1 January 2020 to 31 December 2020. Therefore, in order for the Respondent to consider the

Appellant's claim for the tax year 2020, the claim should have been submitted on or before the 31 December 2024. The Respondent submitted that the same rule applied for the claims that relate to the relevant years prior to the tax year 2020.

8. The Respondent submitted that in circumstances where the Appellant made the claim on 14 February 2025, during his visit to the Respondent's public office, the claim was made outside of the four-year limit imposed by section 865(4) TCA 1997 and the Respondent was precluded from allowing the claim or any other additional tax relief for the relevant years.
9. On 8 July 2025, the Respondent wrote to the Appellant to inform him that his case had been reviewed by the Respondent, and the Respondent had decided to refuse the Appellant's request for "*amended returns to include the Earned Income tax credit for the years 2016 to 2020*" due to the four-year rule. That was so, the Respondent submitted, because the claim was not made within four years after the end of the chargeable period to which the assessment relates, in accordance with section 865 TCA 1997.
10. On 27 September 2025, the Appellant duly appealed to the Commission by submitting his Notice of Appeal.

Legislation and Guidelines

11. The legislation relevant to this appeal is as follows:-

12. Section 865 of the TCA 1997, Repayment of Tax, *inter alia* provides:-

(1)

(b) *For the purposes of subsection (3) –*

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

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

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

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

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

(ii) Where all information which the Revenue Commissioners may reasonably require, to enable them determine if and to what extent a repayment of taxes due to a person for a chargeable period, is not contained in such a statement or return as is referred to in subparagraph (i), a claim to repayment of tax by that person for that chargeable period shall be treated as a valid claim when that information has been furnished by the person, and

(iii)

.....

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

.....

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

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

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

(c) in the case of claims made—

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

(ii) *in relation to any chargeable period beginning on or after 1 January 2003, within 4 years, after the end of the chargeable period to which the claim relates.*

.....

(7) *Where any person is aggrieved by a decision of the Revenue Commissioners on a claim to repayment by that person, in so far as that decision is made by reference to any provision of this section, the person may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision.*

.....

13. Section 472AB TCA 1997, Earned income tax credit, *inter alia* provides:-

.....

(2) *Subject to subsection (3), where, for any year of assessment, a claimant proves that his or her total income for the year consists in whole or in part of qualifying earned income (including, in a case where the claimant is a married person assessed to tax in accordance with section 1017, or a civil partner assessed to tax in accordance with section 1031C, any qualifying earned income of the claimant's spouse or civil partner deemed to be income of the claimant by either of those sections for the purposes referred to in the relevant section) the claimant shall be entitled to a tax credit (to be known as the "earned income tax credit") of—*

(a) *where the qualifying earned income (but not including, in the case where the claimant is a married person or a civil partner so assessed, the qualifying earned income, if any, of the claimant's spouse or civil partner, as the case may be) arises to the claimant, the lesser of an amount equal to the appropriate percentage of the qualifying earned income and €2,000, and*

(b) *where, in a case where the claimant is a married person or a civil partner so assessed, the qualifying earned income arises to the claimant's spouse or civil partner, as the case may be, the lesser of an amount equal to the appropriate percentage of the qualifying earned income and €2,000.*

(3) *Where the claimant is entitled to—*

- (a) *employee tax credit in accordance with subsection (4)(a) of section 472 and earned income tax credit under paragraph (a) of subsection (2), the aggregate of those tax credits shall not exceed €2,000, and*
- (b) *employee tax credit in accordance with subsection (4)(b) of section 472 and earned income tax credit under paragraph (b) of subsection (2), the aggregate of those tax credits shall not exceed €2,000.*

Submissions

Appellant's submissions

14. The Commissioner sets out hereunder a summary of the submissions made by the Appellant, as set out in his Notice of Appeal, Statement of Case and correspondence:-

[REDACTED]

[REDACTED]

[REDACTED] .Last year in November 2024 I filled in and paid my returns for 2023 and found that I owed Revenue approx 2,000 Euros less than I anticipated .On further investigation I found that this was due to Revenue adding an EITC credit in 2016 which I was clearly unaware of .I had no information on this and only became aware due to the fact that in 2024 Revenue introduced an automatic trigger on their ROS system which in my case triggered this credit and I became aware of this .I have since made several attempts to contact Revenue to have a meeting so that I could explain my case but I am sorry to say the service from Revenue ,which some years ago was exemplary, is now disgraceful .It would take me alot of paperwork to document the appalling service from Revenue- unanswered phone calls, disconnected phone calls, unable to present my case ,investigating routes to get a contact in Revneue that may be able to assist me - but to no avail as you are dealing with faceless people .I believe I should be able to receive this EITC credit from the day it was introduced by Revenue i.e. 2016 .I am informed that Revenue will only allow you to claim back 4 years maximum ?? If Revenue had introduced the trigger in 2016 then this would never have happened so I believe the fault lies with Revenue .I got the allowance for 2023 - when I brought it to their attention their decision was to pay me for 2024 ,which is not even due until Nov 2024 ,2022 and 2021 which in their eyes is going back 4 years ???How can this be as when I brought it to their attention in 2023 - then I should surely have been able to reclaim the previous 4 years - 2022,2021,2020 and 2019 at a minimum.

and never got a call back . [REDACTED]
[REDACTED] which I responded with a request to contact me re my queries - I got a response with an apology more than two months later at which time I advised that I was left with no choice but to contact the Appeals commission .I have paid my taxes to Revenue on time and efficiently [REDACTED]
[REDACTED] .I do not understand this 4 years they refer to .When I first queried this it was in November 2024 when I first received this credit for 2023 .Why then can I not claim back the previous 4 years i.e. 2022,2021,2020 and 2019 at a minimum

I find this whole process extremely complicated and waring but also recognising the Commissions responsibility in this case .As outlined in my case I [REDACTED]
[REDACTED] for the last 16 years - [REDACTED] previous 37 years and during that time I paid my taxes on time and in total .The major criticism I have of Revenue is that though they had good intentions in 2016 in implementing the EITC credit for self employed to make it more equitable ;

a) Is the manner in which they set about implementing this - why did they not communicate it to the users - a simple email ???

b) Why did it take to 2023 to automatically trigger this new credit - if this had been done in 2016 then I and perhaps many others would not be in this position - I would have received the credit from whence it was instigated !

Now we are in a position that I did not become aware of until November 2024 and am now embroiled in a dispute with Revenue as to the length of time we can go back to gain what was rightfully mine .I have submitted evidence of an abysmal service from Revenue which led to delays in finding out information - two 30 min calls to Revenue which were dropped and no return call ([REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] , I would be still going around in circles - the delay in getting to the substance of the problem was caused by Revenues abysmal service to answer my questions and inform - If Revenue were a private Company operating like this they would be long since bankrupt. .

So on reflection I wish to leave this in the hands of the Commissioner to adjudicate on as this experience over the past 12 months has left me very disheartened.” (sic)

Respondent's submissions

15. The Commissioner sets out hereunder a summary of the submissions made by the Respondent as set out in its Statement of Case:-

"The Appellant filed their Notice of Appeal, appealing Revenue's decision not to allow a claim for Earned Income tax credit, for the years 2016 to 2020.

The Appellant first made contact with Revenue in respect of this claim on 14th February 2025, [REDACTED]

According to Revenue records, the Appellant filed his Income tax returns, for the years 2016 to 2020, through ROS (Revenue Online Services), where he has omitted to claim Earned Income tax credit, against self-employment income.

The legislation covering this matter is Section 865, subsection 4 of the TCA 1997.

A valid claim for the repayment of tax under the Acts for any chargeable period shall not be allowed unless it is made within 4 years after the end of the chargeable period to which the claim relates.

.....

The chargeable period for the year 2020, is 1st January 2020 to the 31st December 2020. Therefore, in order that Revenue could consider the Appellant's claim for Earned Income Tax Credit for the 2020 tax year, the claim would have to have been submitted on or before the 31st December 2024. The same rule applies for the claims that relate to the years prior to the year 2020, those claims should have been submitted within 4 years, after the end of the chargeable period to which each claim relates.

As the Appellant made a claim for the Earned income Tax Credit [REDACTED] [REDACTED] on 14th February 2025, and this was clearly outside the four-year limit imposed by Section 865, subsection 4 of the Taxes Consolidation Acts 1997, Revenue is precluded from allowing Earned Income tax credit or any other additional tax relief in the years 2016, 2017, 2018, 2019 and 2020."

Material Facts

16. Having read the documentation submitted, the Commissioner makes the following findings of material fact:

- 16.1. On 14 February 2025, [REDACTED], the Appellant first made contact with the Respondent in respect of the claim.

- 16.2. For the relevant years, the Appellant filed his income tax returns via the ROS, where he omitted to claim Earned Income Tax Credit against self-employment income.
- 16.3. For the relevant years, the Appellant was unaware of his entitlement to claim Earned Income Tax Credits against self-employment income.
- 16.4. In November 2024, the Appellant filed and paid his tax return for the tax year 2023. However, he discovered that he owed the Respondent approximately €2,000 less tax than he had anticipated for the year.
- 16.5. The Respondent did not automatically apply Earned Income Tax Credits to the Appellant's returns for the relevant years; hence, the Appellant was unaware of the availability of the credit.
- 16.6. In 2024, the Appellant became aware of the Earned Income Tax Credit because the Respondent "*introduced an automatic trigger on their ROS system which in my case triggered this credit and I became aware of this*".
- 16.7. The chargeable period for the year 2020 was 1 January 2020 to 31 December 2020.
- 16.8. In order that the Respondent could consider the Appellant's claim for the tax year 2020, the claim must have been submitted on or before the 31 December 2024. The same rule applied for the claims that related to the years prior to the tax year 2020.
- 16.9. The Appellant made the claim on 14 February 2025, [REDACTED]. Therefore, the claim for the relevant years was made outside the four-year limit imposed by section 865(4) TCA 1997.
- 16.10. On 8 July 2025, the Respondent wrote to the Appellant to inform him that his case had been reviewed by the Respondent, and the Respondent had decided to refuse the Appellant's request for "*amended returns to include the Earned Income tax credit for the years 2016 to 2020*" due to the four-year rule. This was so, the Respondent submitted, because the request was not made within four years after the end of the chargeable period to which the assessment relates in accordance with section 865 TCA 1997.
- 16.11. On 27 September 2025, the Appellant duly appealed to the Commission by submitting his Notice of Appeal.

Analysis

Burden of proof

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

“The burden of proof in this appeal process is, as in all taxation appeals, on the taxpayer. This is not a plenary civil hearing. It is an enquiry by the Appeal Commissioners as to whether the taxpayer has shown that the relevant tax is not payable”.

18. The Commissioner also considers it useful herein to set out paragraph 12 of the judgment of Charleton J. in *Menolly Homes*, wherein he stated that:

“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...”

Section 865 TCA 1997

19. The Appellant has been denied by the Respondent a repayment of tax paid in accordance with section 865(4) TCA 1997, on the grounds that he did not claim Earned Income Tax Credit for the relevant years. Therefore, his claim for a repayment of tax which would have been due to him as a result of the credit, was denied by the Respondent, as the claim for a repayment of tax resulting from the credit for the relevant years, was not made within four years after the end of the chargeable periods.

20. The Commissioner notes the Appellant submitted that in November 2024, he filed and paid his tax return for the tax year 2023. However, he discovered that he owed the Respondent approximately €2,000 less tax than he had anticipated for that year. The Appellant stated that on further investigation he discovered that this was due to the Respondent applying an Earned Income Tax Credit, which he was unaware of. He submitted that he had no information on the credit and only became aware of his entitlement to the credit due to the fact that in 2024, the Respondent *“introduced an automatic trigger on their ROS system which in my case triggered this credit and I became aware of this”*. He queried why a trigger did not exist for the relevant years.

21. Section 865 TCA 1997 provides for a general right to repayment of tax. The definition of tax in the section includes income tax and capital gains tax. It also covers: any interest, surcharge or penalty relating to the tax, levy or charge; any sum relating to a withdrawal of a relief or an exemption; and sums required to be withheld and remitted to the Respondent; and amounts paid on account of tax (for example, payments in excess of liability).
22. Section 865(2) TCA 1997 provides that a person who has paid tax which is not due, or which but for an error or mistake in the person's return would not have been due, is entitled to repayment of that tax.
23. Section 865(3) TCA 1997 provides that a repayment of tax referred to in section 865(2) TCA 1997 is not due, unless a valid claim to repayment has been made. A return or statement which a person is required to deliver under the Acts, and which contains all the information that the Respondent may reasonably require to determine if and to what extent a repayment is due, is regarded as a valid claim. The Commissioner is satisfied that the Appellant made a claim for the relevant years on 14 February 2025, during his visit to the Respondent's public office, and that this was a valid claim for the purposes of section 865(3) TCA 1997.
24. In relation to a limitation period for a repayment of tax, section 865(4) TCA 1997 provides that '*...a claim for repayment of tax under the Acts for any chargeable period shall not be allowed unless it is made- within 4 years, after the end of the chargeable period to which the claim relates.*' [Emphasis added].
25. The Commissioner notes the Respondent's submission that correspondence dated 8 July 2025, issued to the Appellant refusing the Appellant's claim for a repayment of tax paid for the relevant years. As the Appellant's claim for a repayment of tax related to the tax years 2016, 2017, 2018, 2019 and 2020, the Commissioner is satisfied that a valid claim for a repayment of tax must have been made on or before 31 December 2020, 31 December 2021, 31 December 2022, 31 December 2023 and 31 December 2024 for the relevant years. The Commissioner has found as a material fact in this appeal that a valid claim was not made until 14 February 2025, [REDACTED]
[REDACTED]
26. Having regard to those dates, the Commissioner is satisfied that the Appellant's claim for a repayment of tax falls outside of the 4-year time limit prescribed in section 865(4) TCA 1997. As the claim for a repayment of tax was made by the Appellant outside the four-year period specified in section 865(4) TCA 1997, the claim for a repayment of tax for the relevant years, was disallowed.

27. The Commissioner is satisfied that the use of the word “shall” as set out in section 865(4) TCA 1997, indicates an absence of discretion in the application of this provision. The wording of the provision does not provide for extenuating circumstances in which the four-year rule might be mitigated. The Commissioner has no authority or discretion to direct that a repayment be made, or credits allocated to the Appellant where the claim for a repayment of tax falls outside the four-year period specified in section 865(4) TCA 1997.
28. Previous determinations of the Commission have addressed the matter of repayment in the context of the four-year statutory limitation period. These determinations may be found on the Commission website¹.

Jurisdiction of an Appeal Commissioner

29. The Commissioner notes the Appellant’s references to the manner in which he was dealt with by the Respondent. The Commissioner notes the Appellant’s submissions and in particular that *“I do not understand this 4 years they refer to.....I find this whole process extremely complicated and waring.... [REDACTED] 16 years - and [REDACTED] the previous 37 years and during that time I paid my taxes on time and in total .The major criticism I have of Revenue is that though they had good intentions in 2016 in implementing the EITC credit for self employed to make it more equitable;.....why did they not communicate it to the users - a simple email”*
30. The Commissioner empathises with the Appellant’s frustration and the manner in which he was dealt with by the Respondent in respect of the Earned Income Tax Credit. The Commissioner accepts the Appellant’s submission that he has always paid his taxes and on time. However, the Commissioner does not have jurisdiction to set aside administrative decisions of the Respondent or decisions of the Respondent on the grounds of unfairness.
31. As stated, the wording of section 865(4) TCA 1997 does not provide for extenuating circumstances in which the four-year rule might be mitigated. Moreover, the Commissioner has no supervisory jurisdiction over the Respondent and does not have any jurisdiction in Irish law to consider allegations of unfairness or errors in procedure on the part of the Respondent. The Commissioner’s jurisdiction was set out clearly in the decision of *Lee v The Revenue Commissioners* [2021] IECA 18, where in the Court of Appeal, Mr Justice Murray stated that:

“The Appeal Commissioners are a creature of statute, their functions are limited to those conferred by the TCA, and they enjoy neither an inherent power of any kind, nor

¹ www.taxappeals.ie

a general jurisdiction to enquire into the legal validity of any particular assessment... That means that the Commissioners are restricted to inquiring into, and making findings as to, those issues of fact and law that are relevant to the statutory charge to tax. Their essential function is to look at the facts and statutes and see if the assessment has been properly prepared in accordance with those statutes. They may make findings of fact and law that are incidental to that inquiry.

.....”

32. The Commissioner has noted the circumstances as outlined by the Appellant. However, the Commissioner has no discretion in terms of the legislative provisions and must apply the law as it stands.

Conclusion

33. As set out above, 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.

34. The Commissioner determines that a repayment of tax was not available to the Appellant in relation to tax overpaid in respect of the relevant years, as a valid claim for repayment was not made within the four-year statutory period contained in section 865(4) TCA 1997

Determination

35. As such and for the reasons set out above, the Commissioner determines that the Appellant has failed in his appeal and has not succeeded in showing that the Respondent was incorrect to apply the provisions of section 865(4) TCA 1997 in respect of the Appellant’s claim for the relevant years. Therefore, the decision of the Respondent dated 8 July 2025, denying the claim shall stand.

36. The Commissioner appreciates this decision will be disappointing for the Appellant. The Appellant was correct to appeal to have clarity on the position.

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

Notification

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

949AJ TCA 1997 and in particular the matters as required in section 949AJ(6) TCA 1997. This notification under section 949AJ TCA 1997 is being sent via digital email communication **only** (unless the Appellant opted for postal communication and communicated that option to the Commission). The parties will not receive any other notification of this determination by any other methods of communication.

Appeal

39. Any party dissatisfied with the determination has a right of appeal on a point or points of law only within 42 days after the date of the notification of this determination in accordance with the provisions set out in section 949AP TCA 1997. The Commission has no discretion to accept any request to appeal the determination outside the statutory time limit.



Claire Millrine
Appeal Commissioner
6 March 2026