



AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

48TACD2026

Between

██████████

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 the repayment of income tax in respect of the tax years 2019 and 2020 (“the relevant years”). The Respondent has refused the Appellant’s claim for repayment in accordance with the provisions of section 865 TCA 1997, as the claim for repayment of income tax for the relevant years was made outside of the statutory four-year period.
2. On 28 October 2025, the Appellant duly appealed to the Commission. The [REDACTED] submitted a Notice of Appeal and accompanying documentation in support of his appeal. In addition, a Statement of Case was submitted on the Appellant’s behalf 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 19 September 2025, the Appellant amended his income tax return for the relevant years.
5. [REDACTED] submitted that when completing the Appellant’s income tax return for the tax year 2019, she mistakenly carried forward the amount of €900, instead of the correct balance in the amount of €951 from the 2018 Form 11. She submitted that this error was then carried into the 2020 income tax return, along with an additional erroneous deduction of €650, for which she cannot provide an explanation.
6. [REDACTED] submitted that her mistakes were made in good faith, as she was dealing with the complexity of capital allowances and personal difficulties at that time. Consequent to the [REDACTED] becoming aware of the mistakes in the income tax returns, she contacted the Respondent to provide the correct calculations, in addition to supporting documentation. She submitted that the Appellant was claiming repayment of overpaid income tax in the total amount of €356.80, consisting of €20.40 for the tax year 2019 and €336.40 for the tax year 2020.

7. The Respondent submitted that as the claim for repayment of income tax for the relevant years was made by the Appellant outside of the statutory four-year period, pursuant to section 865(4) TCA 1997 the Respondent was precluded from making the repayment to the Appellant.
8. On 6 October 2025, the Respondent issued correspondence to the Appellant informing the Appellant that in accordance with section 865(4) TCA 1997, it was precluded from allowing the claim for repayment of income tax for the relevant years.
9. On 28 October 2025, the Appellant duly appealed to the Commission by submitting his Notice of Appeal.

Legislation and Guidelines

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

11. 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.

.....”

Submissions

Appellant's submissions

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

“..... ██████████, prepared and submitted the relevant tax returns on his behalf. The overpayment arose from a genuine error in the completion of those returns. The mistake was made in good faith and without any intent to mislead or obtain an improper refund. Upon discovering the error, I contacted [the Respondent] to correct the returns and explained the error by referring them to 2018 Form 11 which clearly shows that I did not carry forward €51 of the total €951 into 2019. I mistakenly carried over €900. This error carried over to 2020 along with an extra deduction of €650, which I cannot explain why I did this. I requested a refund which is a total of €356.80 (€20.40 for 2019 and €336.40 for 2020) together with the supporting documentation establishing the overpayment for the €51 for both 2019 and 2020, less the explanation for the €650 which I subtracted in 2020.

[The Respondent] has refused repayment on the basis of the statutory limitation period under **Section 865(4) TCA**. I fully acknowledge that the section imposes a four-year time limit on repayment claims. However, I respectfully submit that there are **exceptional and equitable grounds** upon which the refusal should be reconsidered or overturned, for the following reasons:

1. **Genuine and bona fide error:** The overpayment resulted solely from my own clerical mistake ██████████ I am not an accountant and was struggling to understand capital allowance during 2019 and 2020. ██████████
██████████
██████████. At all times, full disclosure of income and tax paid was made to [the Respondent].
2. **[The Respondent] in possession of material facts:** All relevant documentation and records were already in [the Respondent's] possession within the statutory period, and the overpayment is objectively verifiable. There is therefore no prejudice to the Exchequer.

3. **Fairness and equity:** *The refusal to refund an undisputed overpayment in these circumstances would be contrary to principles of natural justice and fair administration.*

*Accordingly, this appeal is made pursuant to **Section 865(7)** of the TCA 1997 and in accordance with **Sections 949K and 949L** of the same Act, on the basis that the [the Respondent's] decision refusing repayment constitutes an appealable decision within the meaning of Section 949L. I respectfully request that the Tax Appeals Commission review the matter and make such determination as it deems appropriate in the interests of fairness and in accordance with law.*

.....

The overpayment is undisputed and fully supported by the figures already in [the Respondent's] possession within the statutory timeframe. All relevant documentation, including the 2018–2020 computations, was available to [the Respondent] during the statutory period, meaning there is no prejudice to the Exchequer.

The error was made by me [REDACTED] who is elderly, and while I was still dealing with the administrative complications following my [REDACTED]. I am not a trained accountant and made the mistake in good faith.

I submit that a strict application of the four-year rule in this particular case results in an unfair and disproportionate outcome, especially given that:

the overpayment is objectively verifiable,

[the Respondent] had the underlying documents at all times, and

the amount is modest but significant to the taxpayer.”

Respondent's submissions

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

“Fact 1 Appellant's Income Tax assessments for 2019 and 2020 were amended 19/09/2025.

Fact 2 Refunds for 2019 and 2020 Income Tax assessments disapproved by [the Respondent] in accordance with section 865(4) TCA 1997 on 06/10/2025 and notice issued to customer advising of same.

Fact 3 Appellant appealed disapproval of refund to Tax Appeals Commission on 28/10/2025.”

Material Facts

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

- 14.1. On 19 September 2025, the Appellant amended his income tax returns for the relevant years.
- 14.2. [REDACTED] the Appellant's income tax return for the tax year 2019, mistakenly carried forward the amount of €900, instead of the correct balance in the amount of €951 from the 2018 Form 11.
- 14.3. This error was then carried into the 2020 income tax return, along with an additional erroneous deduction of €650, for which she cannot provide an explanation.
- 14.4. [REDACTED] submitted that her mistakes were made in good faith, as she was dealing with the complexity of capital allowances and personal difficulties at that time.
- 14.5. Consequent to [REDACTED] becoming aware of the mistakes in the income tax return, she contacted the Respondent to provide the correct calculations, in addition to supporting documentation.
- 14.6. The Appellant was claiming repayment of overpaid income tax in the total amount of €356.80, consisting of €20.40 for the tax year 2019 and €336.40 for the tax year 2020.
- 14.7. On 6 October 2025, the Respondent issued correspondence to the Appellant informing the Appellant that in accordance with section 865(4) TCA 1997, it was precluded from allowing the claim for repayment of income tax for the relevant years.
- 14.8. On 28 October 2025, the Appellant duly appealed to the Commission by submitting his Notice of Appeal.

Analysis

Burden of proof

15. 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”.

16. 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

17. The Appellant has been denied by the Respondent a repayment of tax paid, on the grounds that the claim for the relevant years was not made in accordance with section 865(4) TCA 1997. Therefore, the Appellant’s claim for a repayment of income tax which would have been due, was denied by the Respondent, as the claim for a repayment of income tax for the relevant years was not made within four years after the end of the chargeable periods.

18. The Commissioner notes that [REDACTED] the mistakes made in the income tax returns for the relevant years were made in good faith, and that at the time she was not only dealing with the complexities of capital allowances, but also difficult personal circumstances. The Commissioner further notes that [REDACTED] submitted that she accepted that the claim for repayment was made outside of the four-year time period provided by legislation. However, she submitted [REDACTED] that she was seeking the repayment of the amount of overpaid income tax due to “*exceptional and equitable grounds*” namely, that it was a “*genuine and bona fide error*” on her behalf, “*there was no prejudice to the*

exchequer” and the refusal to repay an undisputed overpayment in these circumstances, would be “*contrary to principles of natural justice and fair administration.*”

19. 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).
20. 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.
21. 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 19 September 2025 when the Appellant amended his income tax returns for the relevant years, and that this was a valid claim for the purposes of section 865(3) TCA 1997.
22. 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].
23. The Commissioner notes that on 6 October 2025, the Respondent issued correspondence to the Appellant informing the Appellant that in accordance with section 865(4) TCA 1997, it was precluded from allowing the claim for repayment of income tax for the relevant years. As the Appellant’s claim for a repayment of tax related to the tax years 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 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 19 September 2025, when the Appellant amended his income tax return for the relevant years.
24. 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.

25. 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.
26. 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

27. The Commissioner notes the Appellant requested the disapplication of the legislative provisions based on the principles of fair procedures and natural justice. In particular, the Appellant was seeking a derogation from the statutory four-year time limit specifically, on the grounds that the mistake made was a genuine error and there was no prejudice to the exchequer. The Commissioner notes [REDACTED] submitted that it would be “*unfair and disproportionate*” to apply the four-year rule and refuse the repayment in the circumstances.
28. 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 does not have jurisdiction to set aside a decision of the Respondent based on alleged unfairness, breach of legitimate expectation or disproportionality, as such grounds of appeal do not fall within the jurisdiction of an Appeal Commissioner and thus, do not fall to be determined as part of this appeal. This comes within the jurisdiction and remit of the Courts.
29. 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.

.....”

30. 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

31. 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.

32. 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

33. 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 6 October 2025, denying the claim shall stand.

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

35. 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

36. 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

37. 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