



AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

Between

54TACD2026

[REDACTED]

Appellant

and

THE REVENUE COMMISSIONERS

Respondent

Determination

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Introduction

1. This matter comes before the Tax Appeal Commission (from here on referred to as the "Commission") as an appeal against a decision by the Revenue Commissioners (from here on referred to as the "Respondent") dated 30 October 2025 refusing a repayment of tax for the tax year 2020.
2. The amount of tax at issue is €3,286.21.

Background

3. The Appellant is a taxpayer.
4. On 25 September 2025 the Appellant filed a tax return for the year 2020 with the Respondent. The return indicated that the Appellant had overpaid income tax for 2020 in the amount of €3,286.21.
5. By way of a letter dated 30 October 2025, the Respondent disallowed repayment of the overpaid tax for 2020 on the basis that the claim for repayment of income tax had not been made within 4 years of the end of the relevant tax year to which the claim related pursuant to the provisions of section 865 of the Taxes Consolidation Act 1997 (from here on referred to as the "TCA 1997").
6. The Appellant has appealed the disallowance of the repayment of tax by the Respondent for the tax year 2020 by way of a Notice of Appeal which was submitted to the Commission on 12 November 2025.
7. On 28 January 2026, the Commissioner wrote to the parties and informed them of her intention to determine this appeal without an oral hearing pursuant to the provisions of section 949U of the TCA 1997. No objection to this course of action was raised by either party.
8. The Appellant indicated that he wished for this appeal to be held in private in his Statement of Case. As a result, the publication of this determination shall be made in a way that, in so far as it is possible, does not reveal the identity of any person whose affairs were dealt with on a confidential basis during the proceedings concerned in compliance with section 949AO(4) of the TCA 1997.

Legislation and Guidelines

9. The legislation relevant to this appeal is as follows:

Section 865 of the TCA 1997:

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

“Acts” means the Tax Acts, the Capital Gains Tax Acts, Part 4A, Part 18A, Part 18C, Part 18D, Part 22A and Part 22B and instruments made thereunder;

“chargeable period” has the meaning assigned to it by section 321;

“correlative adjustment” means an adjustment of profits under the terms of arrangements entered into by virtue of section 826(1);

“tax” means any income tax, corporation tax, capital gains tax, income levy, domicile levy, universal social charge, residential zoned land tax or vacant homes tax or IIR top-up tax, UTPR top-up tax or domestic top-up tax (each within the meaning of Part 4A) and includes—

(i) any interest, surcharge or penalty relating to any such tax, levy or charge,

(ii) any sum arising from the withdrawal or clawback of a relief or an exemption relating to any such tax, levy or charge,

(iii) any sum required to be deducted or withheld by any person and paid or remitted to the Revenue Commissioners or the Collector-General, as the case may be, and

(iv) any amount paid on account of any such tax, levy or charge or paid in respect of any such tax, levy or charge;

“valid claim” shall be construed in accordance with paragraph (b).

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

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

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

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

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

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

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

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

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

...

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

(3A) (a) Subject to paragraph (b), subsection (3) shall not prevent the Revenue Commissioners from making, to a person other than a chargeable person (within the meaning of Part 41A), a repayment in respect of tax deducted, in accordance with Chapter 4 of Part 42 and the regulations made thereunder, from that person's emoluments for a year of assessment where, on the basis of the information available to them, they are satisfied that the tax so deducted, and in respect of which the person is entitled to a credit, exceeds the person's liability for that year.

(b) A repayment referred to in paragraph (a) shall not be made at a time at which a claim to the repayment would not be allowed under subsection (4).

(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

10. The Appellant submitted the following Grounds of Appeal in his Notice of Appeal:

“It was always my intention to offset overpayment of income tax in 2020 and subsequent years against underpayment in 2019. As the form 11 for 2020 was due for filing on 31/10/2021 and 2024 was due on 31/10.2025, I was under the wrong impression that this left me within the four year rule. I realise now that this was incorrect. I have attempted, on many occasions, since 2020 to complete all of my tax returns, but in 2019/2020 I found myself in financial difficulties which resulted in a state

of debilitating depression. This, together with other family health issues, affected my concentration abilities. As a result I felt it necessary to withdraw my services as a [REDACTED] for [REDACTED] in 2023. Following this I secured a part time position as a [REDACTED] with [REDACTED]. A position which is ongoing and manageable. In order to ensure that all my tax affairs are kept up to date from now on I have authorised my accountants ([REDACTED]) to act as my agent from 2025 onwards.”

11. The Appellant submitted the following in section 3 of his Statement of Case entitled “Outline of Relevant Facts”:

“It was always my intention to offset overpayment of income tax in 2020 and subsequent years against underpayment in 2019. As the form 11 for 2020 was due for filing on 31/10/2021 and 2024 was due on 31/10.2025, I was under the wrong impression that this left me within the four year rule. I realise now that this was incorrect. I have attempted, on many occasions, since 2020 to complete all of my tax returns, but in 2019/2020 I found myself in financial difficulties which resulted in a state of debilitating depression. This, together with other family health issues, affected my concentration abilities. As a result I felt it necessary to withdraw my services as a [REDACTED] for [REDACTED] in 2023. Following this I secured a part time position as a [REDACTED] with [REDACTED]. A position which is ongoing and manageable. In order to ensure that all my tax affairs are kept up to date from now on I have authorised my accountants ([REDACTED]) to act as my agent from 2025 onwards.”

Respondent’s submissions

12. The Respondent submitted that the provisions of section 865 of the TCA 1997 mean that 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.
13. As the Appellant’s claim for the repayment of income tax for the tax year 2020 was submitted on 25 September 2025, the Respondent submitted that the provisions of section 865 of the TCA 1997 do not permit the Respondent and / or the Commissioner, to allow a repayment outside of the 4-year time limit. The Respondent submitted that the provisions of section 865 of the TCA 1997 mean that the Commissioner does not have any discretion or leeway where valid claims for repayment of tax are made outside of the 4-year period provided for.

Material Facts

14. The following material fact is not at issue in this appeal and the Commissioner accepts the following as a material fact:
15. The Appellant submitted a tax return for the tax year 2020 to the Respondent on 25 September 2025 which indicated the Appellant had overpaid income tax for 2020 in the amount of €3,286.21.

Analysis

16. As with all appeals before the Commission the burden of proof lies with the Appellant. As confirmed in *Menolly Homes v Appeal Commissioners* [2010] IEHC 49 (from here on referred to as "*Menolly Homes*"), the burden of proof is, as in all taxation appeals, on the taxpayer. As confirmed in that case by Charleton J at paragraph 22:-

"This is not a plenary civil hearing. It is an enquiry by the Appeal Commissioner as to whether the taxpayer has shown that the tax is not payable."

17. The Commissioner has considered the submissions made and the documentation submitted on behalf of both parties in this appeal.
18. Section 865(2) of the TCA 1997 provides that a person is entitled to a repayment of tax paid where an amount of tax paid is not due from that person. Section 865(3) of the TCA 1997 provides that a repayment of tax is not due unless a valid claim has been made to the Respondent.
19. Section 865(1)(b)(i) of the TCA 1997 provides that where a person furnishes a return which is required to be delivered by the person for a chargeable period, such a return shall be treated as a valid claim in relation to a repayment of tax where all the information which the Respondent may reasonably require to enable them to determine if and to what extent a repayment of tax is due is contained in the return furnished by the person.
20. Section 865(1)(b)(ii) of the TCA 1997 provides that where all the information which the Respondent may reasonably require to enable them to determine if and to what extent a repayment of tax is due is not contained in the return furnished by the person, a claim for repayment of tax shall be treated as a valid claim when that information has been furnished by the person.
21. In relation to a limitation period for a repayment of tax section 865(4) of the TCA 1997 provides that *"...a claim for repayment of tax under the Acts for any chargeable period*

shall not be allowed unless it is made- within 4 years, after the end of the chargeable period to which the claim relates.” [emphasis added].

22. A repayment of tax was sought by the Appellant for the year 2020 on the basis that the amount of tax of €3,286.21 for 2020 was not due.
23. The entitlement to a repayment of tax arises under section 865(2) of the TCA 1997. Section 865(3) of the TCA 1997 means the repayment of tax sought under section 865(2) of the TCA 1997 is not due unless a valid claim has been made to the Respondent. Therefore, for the repayment of tax in the amount of €3,286.21 for the tax year 2020 to be due, the Respondent must have received a valid claim.
24. The Respondent had all the information which they required to enable them to determine if and to what extent repayments of tax were due on 25 September 2025 following the delivery of the relevant claim to repayment by the Appellant by way of the submission of a tax return. This was in excess of 4 years from the end of the tax year 2020.
25. Having established that there is a valid claim, the provisions of section 865(4) of the TCA 1997 must be applied. As the claim for repayment of tax was made outside the 4-year period specified in section 865(4) of the TCA 1997, no valid claim for repayment of tax had been submitted by the Appellant and the claim for repayment the amount of €3,286.21 for the tax year 2020 was disallowed by the Respondent.
26. The use of the word “*shall*” as set out in section 865(4) of the TCA 1997, indicates an absence of discretion in the application of this provision. The wording of the provision does not provide for extenuating circumstances in which the 4-year rule might be mitigated.
27. The Commissioner has no authority or discretion to direct that repayment be made or credits allocated to the Appellant where the claim for repayment falls outside the 4-year period specified in section 865(4) of the TCA 1997.
28. Previous determinations of the Tax Appeals Commission have addressed the matter of repayment in the context of the 4-year statutory limitation period. These determinations may be found on the Commission website.¹
29. As a result of the above, the Commissioner finds that the burden of proof has not been discharged to satisfy the Commissioner that the refund of income tax in the amount of €3,286.21 for the tax year 2020 was payable by the Respondent.

¹ www.taxappeals.ie

Determination

30. For the reasons set out above, the Commissioner determines that this appeal has failed and that it has not been shown that the relevant refund was payable. Therefore, the decision of the Respondent of 30 October 2025 disallowing repayments of the overpaid tax for the year 2020 shall stand.
31. It is understandable the Appellant will be disappointed with the outcome of this appeal. This is an unfortunate situation, and the Commissioner has every sympathy with the Appellant's position. However, the Commissioner has no discretion in these cases due to the application of the 4-year rule, set out above.
32. This appeal is determined in accordance with Part 40A of the Taxes Consolidation Act 1997 and in particular, section 949AL thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

Notification

33. 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

34. 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.



Clare O'Driscoll
Appeal Commissioner
18 March 2026