



AN COIMISIÚN UM ACHOMHAIRC CHÁNACH  
TAX APPEALS COMMISSION

58TACD2026

Between

[REDACTED]

**Appellant**

and

**The Revenue Commissioners**

**Respondent**

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**Determination**

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## Introduction

1. This is an appeal before the Tax Appeals Commission (“the Commission”) brought by the Appellant against a PAYE/USC Statement of Liability for the tax year 2024 (“the Assessment”) issued by the Revenue Commissioners (“the Respondent”) to the Appellant on 21 January 2025 whereby income tax relief, claimed by the Appellant for family maintenance ■■■ paid in 2024, was disallowed. The PAYE underpayment result computed in the Assessment is €2,860.40.
2. In June 2024, the Appellant claimed a tax credit for maintenance payments during 2024 by completion of the online tax credit claim form on the Respondent’s self-service My Account platform (“MyAccount”). The Respondent processed the tax credit claim and the Appellant’s tax credits were increased by 20% of the amount included in the claim. The Appellant’s take-home pay increased accordingly. In January 2025, the Appellant filed ■■■ 2024 income tax return which included a claim for income tax relief for the maintenance ■■■ had paid in 2024. The Respondent commenced a compliance intervention on 14 January 2025. Following that intervention, the income tax relief that the Appellant had claimed in ■■■ 2024 income tax return was not allowed and the Respondent issued the Assessment accordingly. The Respondent informed the Appellant that the income tax relief ■■■ claimed for the maintenance ■■■ paid in 2024 did not qualify for the tax relief because the Appellant had confirmed to the Respondent that the maintenance was paid for the benefit of the Appellant’s children.
3. On 11 March 2025, the Appellant duly appealed the Assessment by submitting a Notice of Appeal to the Commission. Both parties were directed to submit a Statement of Case (“SoC”) to the Commission. On 23 August 2025, the Appellant submitted correspondence to the Commission as ■■■ SoC, and the Commissioner accepted that correspondence as the Appellant’s SoC. On 16 May 2025, the Commission received the Respondent’s SoC. Pre-hearing documentation was received from the parties. The Commissioner has considered the evidence at the appeal hearing, the submissions made by both parties prior to and at hearing and the relevant legislation in making her determination.
4. Prior to the hearing the Commissioner issued a direction to both parties in accordance with section 949Y(2)(d) of the Taxes Consolidation Act 1997 (“the TCA 1997”) that the appeal hearing be held in private, to protect the Appellant’s right to respect for ■■■ private and family life. Therefore, this determination will be redacted prior to its publication on the Commission’s website pursuant to section 949AO of the TCA 1997.



[REDACTED]

10. In January 2025, the Appellant filed [REDACTED] 2024 income tax return and included the claim for income tax relief for maintenance payments made in 2024. On 14 January 2025, the Respondent commenced a compliance intervention into the claim for maintenance payments included in the 2024 income tax return. On 15 January 2025, the Respondent caseworker telephoned the Appellant to discuss the claim. The Respondent submits that on that telephone call the Appellant stated that the maintenance payments were for the benefit of the Appellant’s children, and the Appellant gave evidence during the hearing that [REDACTED] provided that confirmation to the Respondent on that telephone call. The Respondent caseworker advised the Appellant that, as income tax relief was not available for maintenance payments for the benefit of children, the relief claimed for 2024 was not available and therefore the claim would not be included in the Assessment for 2024. On 21 January 2025, the Respondent issued the Assessment. As the Appellant had claimed the tax credit for the maintenance payments during 2024 (in June 2024), and [REDACTED] tax credits had been increased accordingly, the disallowance of the income tax relief claimed in the 2024 tax return resulted in a PAYE underpayment amounting to €2,860.40.

11. On 21 January 2025, the Respondent issued a letter to the Appellant stating:

*[...]*

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

*As the maintenance payments you pay are for your children, no tax relief is due on these payment so the tax credit has been removed for 2024 and 2025. I calculate your tax liability for 2024 due as follows:*

	<i>Tax liability</i>	<i>Interest</i>	<i>Total</i>
2024	€2860	€127.77	€2987.77
<i>Total Due</i>			€2987.77

*[...] **The tax liability and interest of €2987.77 must be paid in full within 1 month.** Please note, the interest charge may be re-calculated if payment is not received within 1 month. If you wish to discuss the above, please contact me on [mobile telephone number]*

*[...]” (sic) (emphasis in the original)*

12. On 26 February 2025, the Respondent issued further correspondence to Appellant stating:

*“[...]*

*I refer to the letter sent to you on 21/01/2025, copy attached.*

*To date I have not received a response or payment for your tax liability and the timeframe to pay the liability has passed.*

*Please note, the interest charge may be re-calculated and your case escalated to the next level if payment is not received within 14 days.*

*If you wish to discuss the above, please contact me on [mobile telephone number]*

*[...]”*

13. Later on the same date, 26 February 2025, the Appellant telephoned the Respondent caseworker requesting to pay the income tax liability in instalments. On that telephone call, the Respondent caseworker advised the Appellant to make this request in writing via the Respondent’s MyEnquiries service (“MyEnquiries”).
14. On 11 March 2025, the Appellant filed ■ Notice of Appeal with the Commission.
15. On 13 March 2025, the Respondent issued correspondence to the Appellant confirming its compliance intervention had been closed. The correspondence stated:

*“[...]*

*As per our discussion, as you cannot pay your tax and interest liability.*

*As advised, additional interest is due. Amended figures below.*

*Tax Liability €2,860.40*

*Interest €573.41 (accrued and Projected)*

*I have spoken to my line manager and they have agreed that it will be collected by reducing your Tax Credits over 2 years from 01/01/2026 to 31/12/2027. This will mean an additional net tax paid by you of €33.01 per week.*

*I can confirm that your Compliance Intervention is now closed.*

*[...]*

*Total Due €3433.81”*

### **Legislation and Guidelines**

16. Section 1025 of the Taxes Consolidation Act 1997 (“the TCA 1997”), Maintenance in case of separated spouses, sets down the circumstances in which income tax relief is available to a person paying maintenance for the benefit of a former spouse. This legislation provides:

*“(1) In this section -*

*“maintenance arrangement” means an order of a court, rule of court, deed of separation, trust, covenant, agreement, arrangement or any other act giving rise to a legally enforceable obligation and made or done in consideration or in consequence of -*

*(a) the dissolution or annulment of a marriage, [...]*

*[...],*

*and a maintenance arrangement relates to the marriage in consideration or in consequence of the dissolution or annulment of which, or of the separation of the parties to which, the maintenance arrangement was made or arises;*

*“payment” means a payment or part of a payment, as the case may be;*

*a reference to a child of a person includes a child in respect of whom the person was at any time before the making of the maintenance arrangement concerned entitled to relief under section 465.*

(2)

(a) *This section shall apply to payments made directly or indirectly by a party to a marriage under or pursuant to a maintenance arrangement relating to the marriage for the benefit of his or her child, or for the benefit of the other party to the marriage, being payments -*

(i) *which are made at a time when the wife is not living with the husband,*

(ii) *the making of which is legally enforceable, and*

(iii) *which are annual or periodical;*

*[...].*

(b) *For the purposes of this section [...] but subject to paragraph (c), a payment, whether conditional or not, which is made directly or indirectly by a party to a marriage under or pursuant to a maintenance arrangement relating to the marriage (other than a payment of which the amount, or the method of calculating the amount, is specified in the maintenance arrangement and from which, or from the consideration for which, neither a child of the party to the marriage making the payment nor the other party to the marriage derives any benefit) shall be deemed to be made for the benefit of the other party to the marriage.*

(c) *Where the payment, in accordance with the maintenance arrangement, is made or directed to be made for the use and benefit of a child of the party to the marriage making the payment, or for the maintenance, support, education or other benefit of such a child, or in trust for such a child, and the amount or the method of calculating the amount of such payment so made or directed to be made is specified in the maintenance arrangement, that payment shall be deemed to be made for the benefit of such child, and not for the benefit of any other person.*

(3) *Notwithstanding anything in the Income Tax Acts [...], as respects any payment to which this section applies made directly or indirectly by one party to the marriage to which the maintenance arrangement concerned relates for the benefit of the other party to the marriage -*

- (a) *the person making the payment shall not be entitled on making the payment to deduct and retain out of the payment any sum representing any amount of income tax on the payment,*
  - (b) *the payment shall be deemed for the purposes of the Income Tax Acts to be profits or gains arising to the other party to the marriage, and income tax shall be charged on that other party under Case IV of Schedule D in respect of those profits or gains, and*
  - (c) *the party to the marriage by whom the payment is made, having made a claim in that behalf in the manner prescribed by the Income Tax Acts, shall be entitled for the purposes of the Income Tax Acts to deduct the payment in computing his or her total income for the year of assessment in which the payment is made.*
- (4) *Notwithstanding anything in the Income Tax Acts, as respects any payment to which this section applies made directly or indirectly by a party to the marriage to which the maintenance arrangement concerned relates for the benefit of his or her child -*
- (a) *the person making the payment shall not be entitled on making the payment to deduct and retain out of the payment any sum representing any amount of income tax on the payment,*
  - (b) *the payment shall be deemed for the purposes of the Income Tax Acts not to be income of the child,*
  - (c) *the total income for any year of assessment of the party to the marriage who makes the payment shall be computed for the purposes of the Income Tax Acts as if the payment had not been made, and*
  - (d) *for the purposes of section 465(6), the payment shall be deemed to be an amount expended on the maintenance of the child by the party to the marriage who makes the payment and, notwithstanding that the payment is made to the other party to the marriage to be applied for or towards the maintenance of the child and is so applied, it shall be deemed for the purposes of that section not to be an amount expended by that other party on the maintenance of the child.*

*[...]" (emphasis added)*

17. The Respondent's Tax and Duty Manual Part 44-01-01, Income Tax Treatment of Married Persons and Civil Partners, at section 7.2, Maintenance of spouses or civil partners living apart, states:

*[...]*

*Where legally enforceable maintenance payments are payable by one spouse or civil partner to her or his separated spouse or civil partner:*

- *the paying spouse or civil partner makes the payments gross;*
- *the paying spouse or civil partner is allowed, in computing her or his total income, a deduction for maintenance payments made in the year of assessment for the benefit of the other spouse or civil partner (see below - tax relief is confined to the amount referable to the spouse - tax relief is not available in relation to payments for the benefit of children);*
- *the recipient is taxable [...] in respect of such maintenance payments received; and*
- *both are taxed as single persons.*

*The same treatment will apply in respect of couples whose marriage or partnership have been dissolved or annulled and to couples who are living apart permanently provided the payments are:*

- 1) *made at a time when the couple is living apart;*
- 2) *legally enforceable; and*
- 3) *annual or periodic*

*and the agreement under which the payments are being made was entered into on or after 8 June 1983.*

*[...]*

*Only payments made for the benefit of the other spouse or civil partner will qualify for tax relief. Where a maintenance arrangement provides for the payment for the benefit of a child of specified sums or of amounts which are quantifiable under the terms of the maintenance arrangement –*

- a) *the payments are to be made gross, without deduction of tax,*



20. In ■ SoC, the Appellant stated:

*[...]*

*Basically I done a tax return, in the tax return it asked about children dependants, I have ■ children*

*It asked was I paying child maintenance, and to show proof.*

*I sent proof of what I was paying, and then my wages changed, I was paying less tax every week.*

*There was no correspondence from tax office to inform me of anything, so I took it as that was it sorted.*

*Last January tax office said I owed them money, I was trying to get it sorted because I'm not very good at this sort of thing, but they kept putting interest on top every month.*

*So I contacted tax appeal commission, thinking that I would get help, but it is actually more complicated than I thought, surely there is a paper trail of what happened? [...]"*

#### *Respondent's submissions*

21. At the appeal hearing, the Respondent submitted that the Appellant initially claimed the tax credit for maintenance payments in June 2024 by completing the relevant online form via the MyAccount self-service platform. The Respondent noted that, at the time when the tax credit was claimed by the Appellant via MyAccount, the Appellant confirmed that the maintenance payment amount excluded any amount of maintenance in respect of ■ children. The Respondent submitted that it then processed the claim for the tax credit made by the Appellant and the Appellant's personal tax credits were increased accordingly. The Respondent stated that the Appellants 2024 income tax return was selected for review after it was submitted by the Appellant to the Respondent, and during that review the Respondent's caseworker noted the supporting documentation submitted by the Appellant, following the claim for the tax credit in June 2024 suggested that the maintenance payments were for the benefit of the Appellant's children. The Respondent noted that the Respondent's caseworker contacted the Appellant by telephone to discuss the matter, and the Appellant confirmed to the caseworker during that telephone call that the maintenance payments were made for the benefit of the Appellant's children. The Respondent stated that the caseworker advised the Appellant on the same telephone call that maintenance paid for the benefit of the Appellant's children does not qualify for income tax relief. The Respondent then issued the Assessment on 21 January 2025 and

the income tax relief for maintenance payments was not included therein. The Respondent removed the tax credit for maintenance payments from the Appellant's tax credits for 2025 and issued a revised 2025 tax credit certificate accordingly.

### **Material Facts**

22. Having considered the Appellant's evidence and the submissions from both parties in this appeal, the Commissioner makes the following findings of material fact:

22.1. The Appellant is an individual who is registered for income tax in Ireland and is liable to income tax [REDACTED].

22.2. On 5 June 2024, the Appellant claimed a tax credit for maintenance payments during the tax year 2024, via MyAccount.

22.3. The gross maintenance payment amount claimed by the Appellant for 2024 tax credit purposes, is €7,151.

22.4. In the tax credit claim made on 5 June 2024, the Appellant ticked a box confirming that the maintenance payments excluded payments made for the benefit of children.

22.5. The Respondent processed the Appellant's claim for the tax credit for 2024, and a revised tax credit certificate was issued to the Appellant whereby [REDACTED] 2024 tax credits for PAYE purposes were increased by €1,430.20 (20% of the maintenance payment amount included in the tax credit claim filed via MyAccount on 5 June 2024).

22.6. Following the increase in the Appellant's tax credits, the Appellant's net take-home pay for the remainder of 2024 increased.

22.7. In January 2025, the Appellant filed [REDACTED] income tax return for 2024 via MyAccount and claimed income tax relief in that return for the maintenance payments [REDACTED] made in 2024.

22.8. The maintenance paid by the Appellant in 2024 was paid for the benefit of the Appellant's children.

22.9. Following a compliance intervention, the Respondent disallowed the income tax relief the Appellant had claimed in [REDACTED] 2024 income tax return and issued the Assessment which computed a PAYE underpayment result for the Appellant for 2024 in the amount of €2,860.40.

## Analysis

### *Burden of proof in tax appeals*

23. In a tax appeal before the Commission, the burden of proof rests on the Appellant, who must prove, on the balance of probabilities, that the assessment to tax or the decision of the Respondent is incorrect.

24. This proposition is well established by case law. For example, in the High Court case of *Menolly Homes Ltd v Appeal Commissioners and another* [2010] IEHC 49 (“*Menolly Homes*”), at paragraph 22, Charleton J. stated:

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

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

*“Revenue law has no equity. Taxation does not arise by virtue of civic responsibility but through legislation. Tax is not payable unless the circumstances of liability are defined, and the rate measured, by statute [...]”*

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

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

27. In *Hanrahan v The Revenue Commissioners* [2024] IECA 113 (“*Hanrahan*”), the Court of Appeal clarified the approach to the burden of proof where an appeal relates to the interpretation of law only. In that case, the judgment of Donnelly J. and Butler J. stated:

*“97. Where the onus of proof lies can be highly relevant in those cases in which evidential matters are at stake. [...]”*

*98. In the present case however, the issue is not one of ascertaining the facts; the facts themselves are as found in the case stated. The issue here is one of law; [...]. Ultimately when an Appeal Commissioner is asked to apply the law to the agreed facts, the Appeal Commissioner’s correct application of the law requires an objective assessment of what the law is and cannot be swayed by a consideration of who bears the burden. If the interpretation of the law is at issue, the Appeal Commissioner must*

*apply any judicial precedent interpreting that provision and in the absence of precedent, apply the appropriate canons of construction, when seeking to achieve the correct interpretation [...].”*

*Principles of statutory interpretation*

28. As this appeal concerns the interpretation of the legislation providing for income tax relief for maintenance payments (section 1025 of the TCA 1997), the Commissioner considers it appropriate at this stage to summarise the well-established principles of statutory interpretation which apply when interpreting taxation statutes.
29. The principles to be applied to statutory interpretation were set out by McDonald J. in the High Court case of *Perrigo Pharma International Designated Activity Company v McNamara, the Revenue Commissioners, the Minister for Finance, Ireland and the Attorney General* [2020] IEHC 552 (“*Perrigo*”). In that case, McDonald J. considered the most up to date jurisprudence and summarised the fundamental principles of statutory interpretation at paragraph 74 as follows:

*“The principles to be applied in interpreting any statutory provision are well settled. They were described in some detail by McKechnie J. in the Supreme Court in Dunnes Stores v. The Revenue Commissioners [2019] IESC 50 at paras. 63 to 72 and were reaffirmed recently in Bookfinders Ltd v. The Revenue Commissioner [2020] IESC 60.*

*Based on the judgment of McKechnie J. [in the Dunnes Stores v. The Revenue Commissioners case], the relevant principles can be summarised as follows:*

- (a) If the words of the statutory provision are plain and their meaning is self-evident, then, save for compelling reasons to be found within the Act as a whole, the ordinary, basic and natural meaning of the words should prevail;*
- (b) Nonetheless, even with this approach, the meaning of the words used in the statutory provision must be seen in context. McKechnie J. (at para. 63) said that:*

*“... context is critical: both immediate and proximate, certainly within the Act as a whole, but in some circumstances perhaps even further than that”;*

*[...]*

- (g) Although the issue did not arise in Dunnes Stores v. The Revenue Commissioners, there is one further principle which must be borne in mind in the context of taxation statute. That relates to provisions which provide for relief*

or exemption from taxation. This was addressed by the Supreme Court in *Revenue Commissioners v. Doorley* [1933] I.R. 750 where Kennedy C.J. said at p. 766:

*“Now the exemption from tax, with which we are immediately concerned, is governed by the same considerations. If it is clear that a tax is imposed by the Act under consideration, then exemption from that tax must be given expressly and in clear and unambiguous terms, within the letter of the statute as interpreted with the assistance of the ordinary canons for the interpretation of statutes. This arises from the nature of the subject-matter under consideration and is complementary to what I have already said in its regard. The Court is not, by greater indulgence in delimiting the area of exemptions, to enlarge their operation beyond what the statute, clearly and without doubt and in express terms, except for some good reason, from the burden of a tax thereby imposed generally on that description of subject-matter. As the imposition of, so the exemption from, the tax must be brought within the letter of the taxing Act as interpreted by the established canons of construction so far as possible.”*

30. The principles of statutory interpretation, as stated in the judgment of McDonald J. in *Perrigo* have been confirmed in the more recent decision of the Supreme Court in *Heather Hill Management Company CLG & McGoldrick v An Bord Pleanála, Burkeway Homes Limited and the Attorney General* [2022] IESC 43 and *Hanrahan* (as referred to above).
31. The approach to statutory interpretation as set down in *Perrigo* is authoritative. The judgment provides a framework for interpreting tax legislation, including the legislation at issue in this appeal (section 1025 of the TCA 1997). The Commissioner is satisfied that the words in section 1025 of the TCA 1997 are plain and the meaning of those words is self-evident. Therefore, the ordinary meaning of the words should prevail when interpreting the section. In addition, the context is critical.

#### *Income tax relief for maintenance payments*

32. The Appellant testified at the appeal hearing that the maintenance ■■■ paid during 2024 was paid to ■■■ former spouse on foot of an agreement which was made between the Appellant and ■■■ former spouse, and the maintenance payments were made for the benefit of the Appellant's ■■■ children. Furthermore, the Commissioner notes that it was not in dispute between the parties that the Appellant confirmed to the Respondent, on a telephone call on 15 January 2025, that the maintenance ■■■ paid in 2024 was for the benefit of ■■■ children. The Commissioner has reviewed the documentation submitted by

the Appellant to the Respondent following [REDACTED] claim for the tax credit for maintenance payments in June 2024, and the Commissioner notes this documentation was issued from [REDACTED] to the Appellant addressed to the Appellant's home address confirming the weekly maintenance amounts paid by the Appellant, and that these amounts were paid in respect of the Appellant's [REDACTED] children. The Commissioner further notes that the Appellant has not submitted a copy of a written maintenance agreement for the Commissioner to consider.

33. Section 1025 of the TCA 1997 provides for income tax relief for maintenance payments in certain limited circumstances. Section 1025(3) of the TCA 1997 provides for income tax relief for the person paying maintenance where that maintenance is paid *“directly or indirectly by one party to the marriage to which the maintenance arrangement concerned relates for the benefit of the other party to the marriage”*. Section 1025(4) of the TCA 1997 limits the income tax relief by excluding from that relief *“any payment to which this section applies made directly or indirectly by a party to the marriage to which the maintenance arrangement concerned relates for the benefit of his or her child”*.
34. The Commissioner has already found, as a material fact, that the maintenance payments in this case were made by the Appellant for the benefit of the Appellant's children. This accords with the oral testimony of the Appellant. The Commissioner notes that there is no evidence or submission before her that shows that either all or any portion of the maintenance paid by the Appellant in 2024 was for the benefit of the Appellant's former spouse.
35. The Commissioner is satisfied that the words in section 1025 of the TCA 1997 are plain and their meaning is self-evident and therefore the ordinary meaning of the words should prevail when interpreting this legislation. The Commissioner is satisfied that the legislation provides for income tax relief for maintenance payments in specific circumstances as set down in section 1025(3) of the TCA 1997, including in circumstances where the maintenance is paid pursuant to a maintenance arrangement for the benefit of a former spouse of the payer. Furthermore, the Commissioner is satisfied that section 1025(4) of the TCA 1997 sets down that there is no income tax relief for maintenance payments made for the benefit of children. The maintenance paid by the Appellant in 2024 was paid for the benefit of the Appellant's children. The Appellant confirmed this in [REDACTED] oral evidence at the appeal hearing. The submissions made by both parties are in accordance with that evidence. As such, the Commissioner is satisfied that the maintenance payments do not fall within the scope of the income tax relief set down in section 1025(3) of the TCA 1997. Furthermore, the Commissioner finds that the maintenance paid by the Appellant in 2024

falls within the exclusion from the income tax relief which is laid down in section 1025(4) of the TCA 1997, as those maintenance payments were made by the Appellant for the benefit of the Appellant's children.

36. As stated above, the Commissioner is satisfied that the maintenance payments in this case fall within the provisions of section 1025(4) of the TCA 1997. The Commissioner notes the use of the word "*shall*" in section 1025(4) of the TCA 1997, and she is satisfied that this wording indicates that there is an absence of discretion in the application of this subsection. As such, the Commissioner is satisfied that the legislation does not provide any optionality, and there is no scope for discretion in the application of section 1025(4) of the TCA 1997 to the facts of this case.
37. The Commissioner notes the Appellant's point that the Respondent granted ■ tax credit claim in June 2024, only to subsequently withdraw that credit later on, after its compliance intervention in relation to the 2024 income tax return. The Appellant further submitted that ■ had uploaded supporting documentation following ■ tax credit claim only to find later on that the credit was withdrawn. The Commissioner notes that the Appellant confirmed, in error, in ■ tax credit claim via MyAccount, that the maintenance was not paid for the benefit of children. The Commissioner has found, as a material fact, that the maintenance payments were made by the Appellant for the benefit of the Appellant's children and the Appellant testified to that fact at the appeal hearing. Therefore, the Commissioner is satisfied that the Appellant was not entitled to the tax credit ■ claimed via MyAccount in June 2024, or to the income tax relief ■ claimed in ■ 2024 income tax return filed via MyAccount in January 2025. While the Commissioner notes the underpayment result ■ she is satisfied that the underpayment result arose as a consequence of the Appellant's own error when ■ filed the tax credit claim in June 2024.
38. The Commissioner is satisfied that the tax credit claimed by the Appellant in June 2024 and the income tax relief claimed by the Appellant in ■ 2024 income tax return are not due to the Appellant in the circumstances where the maintenance payments in 2024 were made for the benefit of the Appellant's children. The Commissioner is satisfied that the applicable legislation does not provide for any exceptions to be made, for example, in a situation where a tax credit was erroneously claimed during the tax year in respect of an income tax relief which was, in fact, not available in the first place.
39. Following on from the above analysis, the Commissioner finds that the Appellant has not discharged the burden of proof to show that, on the balance of probabilities, the Assessment issued by the Respondent on 21 January 2025, which excluded income tax

relief for maintenance paid by the Appellant in 2024, for the benefit of the Appellant's children [REDACTED], was not correct.

40. The Commissioner notes that she does not have jurisdiction to set aside a decision of the Respondent to disallow a claim for income tax relief where that income tax relief is not applicable based on the facts of this case. The Commissioner's jurisdiction "*is limited to determining whether an assessment correctly charges the relevant taxpayer in accordance with the relevant provisions of the TCA*" (*Lee v Revenue Commissioners* [2021] IECA 18).

### *Conclusions*

41. Having considered the relevant legislation and guidelines, the Appellant's evidence during the appeal hearing and the submissions made by both parties, the Commissioner concludes as follows:
  - 41.1. 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 or a decision of the Respondent is not correct. For the reasons set out in the analysis above, the Commissioner is satisfied that the Appellant has not discharged the burden of proof that, on the balance of probabilities, the Assessment in this case was not correct.
  - 41.2. The legislation providing for income tax relief for maintenance payments provides for relief in certain limited circumstances where maintenance is paid for the benefit of a former spouse (section 1025(3) of the TCA 1997). The same legislation excludes, from the income tax relief, maintenance paid for the benefit of children (section 1025(4) of the TCA 1997). As the maintenance paid by the Appellant in 2024 was paid for the benefit of the Appellant's children, the Commissioner is satisfied that income tax relief is not available to the Appellant for that maintenance.
  - 41.3. The Commissioner does not have discretion to disapply the statutory provisions in a situation where the Appellant erroneously claimed the tax credit during the tax year, via MyAccount, and subsequently the income tax relief claimed in the tax return was not allowed, thereby resulting in an underpayment of income tax under PAYE deduction at source.
42. The Commissioner acknowledges that this determination will be disappointing for the Appellant. The Appellant was entitled to check whether the Assessment was correct and

was prudent to do so in the circumstances. However, the Commissioner must make her determination in accordance with the applicable tax legislation.

### **Determination**

43. As such and for all the reasons set out above, the Commissioner determines that this appeal is denied and the Assessment, issued by the Respondent on 21 January 2025, shall stand.
44. 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**

45. 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**

46. 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.



Suzanne Carter  
Appeal Commissioner  
24 March 2026