



AN COIMISIÚN UM ACHOMHAIRC CHÁNACH  
TAX APPEALS COMMISSION

**Between**

59TACD2026

████████████████████

**Appellant**

and

**The Revenue Commissioners**

**Respondent**

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**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 year 2019 (“the relevant year”).
2. The Respondent refused the Appellant’s claim for repayment of income tax in accordance with the provisions of section 865 TCA 1997, as the claim for repayment of income tax for the relevant year was made outside of the statutory four-year period. The amount of tax at issue is €2,025.00.
3. On 1 October 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, in accordance with section 949Q TCA 1997, a Statement of Case was submitted by the Appellant, 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.
4. By agreement with the parties, this appeal is adjudicated without a hearing in accordance with the provisions of section 949U TCA 1997.

## Background

5. Since 2014, the Appellant has been [REDACTED]. The Appellant submitted that during his career, he was registered for PAYE. The Appellant submitted that his work [REDACTED] [REDACTED] required him to file Form 11 income tax returns to the Respondent.
6. [REDACTED] the Appellant [REDACTED]. The Appellant submitted that he applied for and received a grant in respect of the renovations under the Home Renovation Incentive Scheme (“HRI scheme”) which was to be paid to him in 2018 and 2019, in two equal installments via [the Respondent]. The Appellant stated that “*he received the refund in 2018 and assumed that the balance would be automatically refunded to me in 2019*”.
7. The Appellant submitted that [REDACTED] “*thought it was a bit ridiculous to remain on Income Tax*”. Therefore, he applied to revert to PAYE [REDACTED]. The Appellant submitted

that this required him to complete his income tax returns for the year 2023 and “to his surprise, for the tax year 2019”. He said that “[t]his came as a surprise as I felt sure that I was up to date in respect of all my tax affairs”.

8. Consequent to the Appellant completing and filing his income tax return for the relevant year, he discovered an overpayment of income tax in the amount of €2,704.04. The Appellant submitted that this was accounted for by the HRI scheme in the amount of €2,025, in addition to a credit in respect of medical expenses.
9. The Respondent submitted that on 28 August 2025, the Appellant’s Form 11 income tax return for the relevant year was submitted to the Respondent. This the Respondent submitted, resulted in an overpayment of income tax in the amount of €2,704.04. However, the Respondent submitted that as the Appellant’s income tax return for the relevant year was filed more than 4 years after the end of the relevant year, a repayment of income tax cannot be made, due to section 865(4) TCA 1997 and the four-year statutory time limit.
10. On 19 September 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 year.
11. On 1 October 2025, the Appellant duly appealed the decision of the Respondent dated 19 September 2025, to the Commission by submitting his Notice of Appeal.

### **Legislation and Guidelines**

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

13. 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 –*

(l) *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*

14. 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:-

*“I was moved from PAYE to Income Tax some years ago because I was in receipt of income from two sources:*

(1) [REDACTED]

(2) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] migrated back to PAYE. However, in order to do so I was asked by [the Respondent] to file my returns for the outstanding

years 2022 and 2023. That came as no surprise as I had earlier filed my return for 2024 and I knew I had to tidy up my tax affairs for 2022 and 2023. What did come as a surprise was that I was also asked to file my return for 2019. I had been sure that my tax affairs were all ok up to 2022.

Anyway, I duly filed the returns and received the usual refunds in respect of medical expenses for 2022 and 2023. However, to my surprise I was also judged to have overpaid in 2019 to the tune of €2704. This was quite a substantial figure composed of the usual medical expenses plus €2025 in respect of a Home Renovation Grant [REDACTED]

I cannot explain why in 2020 I failed to file a return in respect of 2019. It was certainly not in my interests to fail to file and, as I said earlier, I was sure I had. Perhaps it is down to a combination of getting a bit more forgetful with age and the usual challenges for my generation in wrestling with new technology like the Ros system. As the amount involved is relatively substantial as it includes my Home Renovation Grant, I am appealing for a special reassessment of my case.

.....

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] the Home Renovation Incentive Scheme which was to be paid to me in two equal installments through the [the Respondent] in 2018 and 2019. I received the refund in 2018 and assumed that the balance would be automatically refunded to me in 2019.

[REDACTED]  
[REDACTED] revert to PAYE in [REDACTED] To do so I had to complete my self assessment for 2023 and, to my surprise, for 2019. This came as a surprise as I felt sure that I was up to date in respect of all my tax affairs.

Anyway, the self assessment for 2019 revealed an over-payment in the amount of €2704.04. This was accounted for by the Home Renovation grant of €2025 as well as a credit in respect medical expenses. However, I was informed by the Income Tax in a letter dated 14/10/25 that this would not be refunded as it was out of time. The

*reason for this is that [the Respondent] can go back 6 years but the tax-payer can only go back 4 years.*

*While the equity of that practice is certainly problematic, I am basing this appeal solely in respect of the payment of €2025 which is due to me under the Home Renovation Scheme. I submit that this is not a tax matter. This is a grant presumably from the Dept of Housing. The Government in its wisdom, decided to use the [the Respondent] as a channel by which to pay me that grant. I suppose they could have used the Dept of Housing itself or perhaps the Post Office to pay the grant, but decided instead that the [the Respondent] would be easier and more efficient. In other words, this is not [the Respondent's] money. They are just the channel through which this grant is to be paid. I therefore submit that this is money which is due to me and is not subject to any time restriction.*

.....

*I have received a letter from [the Respondent] dated 14/10/25 turning down this appeal. I can understand their reasoning. However, I feel there are mitigating circumstances in my case - notably that the bulk of the refund relates to the balance of €2025 due to me in respect of an amount of Unused Home Renovation Incentive. That Scheme was in force from 2013 to 2018. I had claimed the full amount due to me under this scheme and the payment was agreed and would be paid to me through [the Respondent] in the years 2018 and 2019. The amount was paid to me in 2018 and I had every expectation that the balance of €2025 would be automatically paid to me in 2019. I did not realise that I had to claim it all over again in 2019. For this reason I would like to confirm that I wish to proceed with this appeal.*

#### *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 Form 11 Income Tax return for the year ended 31 December 2019 was submitted to [the Respondent] on 28 August 2025. This resulted in an overpayment of €2,704.04. As the return was filed more than 4 years after the end of the 2019 tax year, the overpayment is statute barred and the repayment cannot be made.*

*In accordance with Section 865(1)(a) a "valid claim" shall be construed in accordance with paragraph (b).*

*Per Section 865(1)(b) a valid claim to the repayment of tax arises when a person furnishes a return as required to be delivered in accordance with any provision of the Tax Acts. In this case as a chargeable person the Appellant was required to file a Form 11 Income Tax return for the period ended 31 December 2019.*

*Per Subsection 865(4) a 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 Respondent] submit that a claim for repayment of tax must be made within four years after the end of the tax year to which the claim relates. [The Respondent] position is that no valid claim for repayment had been made by the Appellant within the four-year limitation period per s.865(4) TCA 1997 and that as a result, the repayment claim in respect of the tax year of assessment 2019 was out of time.”*

### **Material Facts**

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

16.1. [REDACTED] was registered for PAYE.

16.2. [REDACTED]  
[REDACTED]

16.3. [REDACTED] required him to file Form 11 income tax returns to the Respondent.

16.4. [REDACTED]  
[REDACTED]

16.5. The Appellant applied for and received a grant in respect of those renovations under the HRI scheme, which in 2018 and 2019, was to be paid to the Appellant in two equal installments via [the Respondent].

16.6. The Appellant submitted that *“he received the refund in 2018 and assumed that the balance would be automatically refunded to me in 2019”*.

16.7. [REDACTED] he *“thought it was a bit ridiculous to remain on Income Tax”*. Therefore, he applied to revert to PAYE [REDACTED]

- 16.8. The Appellant submitted that this required him to complete his income tax returns for the year 2023 and “to his surprise, for the tax year 2019”. He said that “[t]his came as a surprise as I felt sure that I was up to date in respect of all my tax affairs”.
- 16.9. Consequent to the Appellant completing his income tax return for the relevant year, he discovered an overpayment of income tax in the amount of €2,704.04.
- 16.10. This was accounted for by the HRI scheme in the amount of €2,025, in addition to a credit in respect of medical expenses.
- 16.11. On 28 August 2025, the Appellant’s Form 11 income tax return for the relevant year was submitted to the Respondent.
- 16.12. The filing of the Appellant’s income tax return for the relevant year resulted in an overpayment of income tax in the amount of €2,704.04.
- 16.13. As the Appellant’s income tax return was filed more than 4 years after the end of the relevant year, the Respondent submitted that the repayment cannot be made due to section 865(4) TCA 1997, and the four-year statutory time limit.
- 16.14. On 19 September 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 year.
- 16.15. On 1 October 2025, the Appellant duly appealed the decision of the Respondent dated 19 September 2025, 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 a repayment of income tax on the grounds that the Appellant's claim for repayment for the relevant year was not made in accordance with section 865(4) TCA 1997. The Appellant's claim for a repayment of income tax which would have been due to him, was denied by the Respondent as the claim for a repayment of income tax for the relevant year was not made within four years after the end of the chargeable period.
20. The Commissioner notes that the Appellant submitted that his appeal relates to the amount of €2,025 which was due to him in accordance with the HRI scheme. The Commissioner notes that the Appellant submitted *"that this is not a tax matter. This is a grant..... The Government in its wisdom, decided to use the [the Respondent] as a channel by which to pay me that grant.....In other words, this is not [the Respondent's] money. They are just the channel through which this grant is to be paid. I therefore submit that this is money which is due to me and is not subject to any time restriction."*
21. The Commissioner understands from the Respondent's Tax and Duty manual entitled "Home Renovation Incentive (HRI) Part 15-01-43", last updated in December 2024, that the HRI scheme is governed by section 477B TCA 1997 and provides for tax relief by way of an income tax credit. It was not in dispute that the Appellant was entitled to the credit. Rather, the issue was that the claim for repayment of income tax which would have been due to the Appellant on foot of that credit, was made outside of the four-year statutory time limit that permits the repayment of overpaid income tax for any year. It is a material fact in this appeal that the Appellant, as a consequence of not filing an income tax return for the relevant year, did not claim income tax overpaid for that year having regard to the credit to be applied, until 28 August 2025 when the Appellant's Form 11 income tax return for the relevant year was submitted to the Respondent. The Commissioner notes the Appellant's submission that *"..I can understand their reasoning. However, I feel there are mitigating circumstances in my case - notably that the bulk of*

*the refund relates to the balance of €2025 due to me in respect of an amount of Unused Home Renovation Incentive. That Scheme was in force from 2013 to 2018. I had claimed the full amount due to me under this scheme and the payment was agreed and would be paid to me through [the Respondent] in the years 2018 and 2019. The amount was paid to me in 2018 and I had every expectation that the balance of €2025 would be automatically paid to me in 2019. I did not realise that I had to claim it all over again in 2019. For this reason I would like to confirm that I wish to proceed with this appeal.”*

22. 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).
23. 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.
24. 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 year on 28 August 2025, when the Appellant filed his income tax return for the relevant year, and that this was a valid claim for the purposes of section 865(3) TCA 1997.
25. 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].
26. The Commissioner notes that on 19 September 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 year. As the Appellant’s claim for a repayment of income tax related to the tax year 2019, the Commissioner is satisfied that a valid claim for a repayment of tax must have been made on or before 31 December 2023 for the relevant year. The

Commissioner has found as a material fact in this appeal that a valid claim was not made until 28 August 2025, when the Appellant filed his income tax return for the relevant year.

27. Having regard to those dates, the Commissioner is satisfied that the Appellant's claim for a repayment of tax falls outside of the four-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 year, was disallowed.
28. 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.
29. 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 website<sup>1</sup>.

#### *Jurisdiction of an Appeal Commissioner*

30. The Commissioner notes the Appellant requests the disapplication of the legislative provisions based on the principles of fair procedures and natural justice. The Commissioner notes that the Appellant submitted that "*the equity of that practice is certainly problematic*" when referring to the statutory time limits. The Appellant is seeking a derogation from the statutory four-year time limit specifically, on the grounds that the mistake made was a genuine error on his part.
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 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.

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<sup>1</sup> [www.taxappeals.ie](http://www.taxappeals.ie)

32. 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 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.*

.....”

33. 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**

34. 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.

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

**Determination**

36. 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 year. Therefore, the decision of the Respondent dated 19 September 2025, denying the claim shall stand.

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

38. 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**

39. 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**

40. 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  
24 March 2026