



AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

Between

64TACD2026



Appellant

and

The Revenue Commissioners

Respondent

Determination

Contents

Introduction	3
Background.....	3
Legislation and Guidelines	4
Submissions	5
Appellant	5
Respondent.....	6
Material Facts	7
Analysis	7
Section 865 TCA 1997	8
Determination	9
Notification	9
Appeal	10

Introduction

1. This is a consolidated appeal to the Tax Appeals Commission (“the Commission”) brought by [REDACTED] (“the Appellant”) under section 949I of the Taxes Consolidation Act 1997 (“the TCA 1997”), against a refusal by the Revenue Commissioners (“the Respondent”) of a claim made by the Appellant for a repayment of tax in the amount of €150 for the tax year 2018, in the amount of €600 for the tax year 2019, and in the amount of €650 for the tax year 2020, on the ground that the Appellant’s claim for a repayment of tax for the tax years 2018, 2019 and 2020 was made outside the statutory timeframe.
2. On 5 March 2026, the Commission notified the Appellant and the Respondent that the Commissioner intended to adjudicate on this appeal without a hearing and informed the parties that they could request a hearing within 21 days of that notification. Neither of the parties objected or requested a hearing of the appeal. Accordingly, this appeal is adjudicated without a hearing, under section 949U of the TCA 1997.
3. As outlined below, this determination is being issued in respect of three appeals: [REDACTED].

Background

4. The Respondent submitted that on 10 September 2025, the Appellant sought to claim a repayment of tax in respect of a pension overpayment for the tax years 2018 to 2023 and on 30 October 2025, the Respondent informed the Appellant that her claim for the tax years 2018 to 2020 was not allowable as it was made outside the statutory four-year time period. There ensued further contact between the Appellant and the Respondent.
5. On 3 December 2025, the Respondent wrote to the Appellant to inform her that the recoupments for the tax years 2018 to 2020 were outside the four-year limit for making claims.
6. On 19 December 2025, the Appellant submitted three Notices of Appeal to the Commission, each of which enclosed the Respondent’s correspondence of 3 December 2025, as well as a letter from [REDACTED].
7. On 28 January 2026, the Commission notified the parties that the Commissioner had issued a direction to consolidate the Appellant’s appeal [REDACTED] with the Appellant’s other appeals [REDACTED], which raised a common or related issue. The Commission informed the parties that one determination would issue in respect of the consolidated appeals and gave 14 days within which to apply to amend or set aside the Commissioner’s direction. No objection was received.

8. On 16 February 2026, the Appellant submitted a consolidated Statement of Case and on 4 March 2026, the Respondent submitted a consolidated Statement of Case. The Commissioner has considered all documentation submitted by the parties in this appeal.

Legislation and Guidelines

9. The legislation relevant to this appeal is as follows:
10. Section 865 of the TCA 1997 provides (among other things):

“(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.

...

(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,*

within 4 years,

after the end of the chargeable period to which the claim relates.”

Submissions

Appellant

11. In her three Notices of Appeal, the Appellant submitted:

“This is a claim for refund of tax and USC paid in respect of repayment of pension overpayment in 2018”. The Appellant stated that the quantum of tax was €150.

“This is a claim for refund of tax and USC paid in respect of repayment of pension overpayment in 2019”. The Appellant stated that the quantum of tax was €600.

“This is a claim for refund of tax and USC paid in respect of repayment of pension overpayment in 2020”. The Appellant stated that the quantum of tax was €650.

12. In her Statement of Case, the Appellant submitted:

“Overpayment of Pension by ██████████.

I am in receipt of a pension from ██████████ commencing in 2018. I was informed by ██████████ in 2023 that an overpayment of my pension occurred from 2018 to 2023 inclusive. The overpayment was outlined as follows:

2018 - Euro 318.63 Gross

2019 - Euro 1,281.96 Gross

2020 – Euro 1,303.29 Gross

2021- Euro 1,325.97 Gross

2022 - Euro - 243.11 Gross

2023 - Euro 5.73 Gross

I commenced repayment of the overpayment in 2023. The repayment was recouped from net pay. The repayment was recouped in full by 01/08/2025 as follows:

2023 - Euro 1,500.00

2024 – Euro 1800.23

2025 - Euro 1167.23

As advised by ██████████ I applied to the Revenue Department for a refund of the Tax, USC and PRSI as I had now paid Tax, USC and PRSI twice on the value of the original overpayment.

I received correspondence from the Revenue Dept outlining that they had corrected their records for the 2021 and 2022 tax years - I received a tax rebate for these years.

The correspondence stated that "as the recoupmets for the years 2018-2020 are outside of the four-year limit for making claims or amendments to your records, i am not in a position to update these years".

I believe that this decision is completely wrong for a number of reasons; the over payment was not my fault; I commenced repayment of the original overpayment immediately on being informed of it; I was informed that once the overpayment was totally recouped I should apply to the Revenue Department for a refund of the double payment of tax, USC and PRSI. I was NOT informed that a four-year limit would apply."

Respondent

13. In its Statement of Case, the Respondent submitted (among other things):

"On 10 September 2025, the Appellant contacted the Respondent and stated they had received correspondence from ██████████ stating that they had been overpaid through their salary.

On 10 September 2025, the Appellant submitted correspondence to the Respondent and stated they wished to claim for a refund for a repayment of their pension overpayment ██████████ for years 2018-2023.

A copy of the correspondence provided is included below for completeness.¹

On 3 and 7 October 2025, the Appellant contacted the Respondent seeking an update on their claim for a repayment.

On 30 October 2025, the Respondent replied to the Appellant and advised them their claim for years 2018-2020 was not allowable as the claim was made outside of the statutory four-year time period.

On 4 November 2025, the Appellant contacted the PAYE Helpline concerning this matter. On 7 November 2025, correspondence from the Appellant dated 4 October 2025 was received by the Respondent, the correspondence was a follow up to their claims for repayment for years 2018-2023. On 27 November 2025, the Appellant contacted the PAYE Helpline concerning their repayment claim.

¹¹ The Respondent enclosed a copy of the letter from ██████████ to the Appellant dated 9 September 2025 which the Appellant had enclosed with each of her Notices of Appeal.

On 3 December 2025, the Respondent wrote to the Appellant and confirmed their claim for a refund for years 2018-2020 were outside the statutory four-year period and were not allowable.

On 19 December 2025, the Appellant submitted appeals for the refusal to allow their claim for refunds for years 2018, 2019 and 2020.

[...]

The facts in this case are clear, the Appellant first contacted the Respondent in relation to their claim for a repayment for tax years 2018, 2019 and 2020 in September 2025. No contact was made by the Appellant prior to this period, therefore, no claim for a refund of income tax for the periods under appeal is permissible in this matter. As the claim was submitted in 2025, the claims for 2018, 2019 and 2020 were not allowed in accordance with Section 865(4) of the TCA 1997.

The Respondent is sympathetic to the Appellant in this matter, however there is no basis to approve any late claims in this case. The Appellant has not demonstrated a legislative basis on why their late claim should be accepted in this matter.”

Material Facts

14. Having read the documentation submitted, the Commissioner makes the following findings of material fact:
 - 14.1. On 10 September 2025, the Appellant sought to claim a repayment of tax in respect of a pension overpayment for the tax years 2018 to 2023.
 - 14.2. On 3 December 2025, the Respondent refused the Appellant’s claim for a repayment of tax for the tax years 2018, 2019 and 2020 on the ground that the claim fell outside the four-year time limit.
 - 14.3. On 19 December 2025, the Appellant submitted a Notice of Appeal to the Commission.

Analysis

15. This appeal relates to the Respondent’s refusal of the Appellant’s claim for a repayment of tax in the amount of €150 for the tax year 2018, in the amount of €600 for the tax year 2019, and in the amount of €650 for the tax year 2020. In an appeal before the Commission, the burden of proof rests on the Appellant. In the High Court case of *Menolly Homes Ltd v Appeal Commissioners and another* [2010] IEHC 49, Charleton J stated at paragraph 22 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 Court of Appeal confirmed this position in *JSS & Ors v A Tax Appeal Commissioner* [2025] IECA 96, in which McDonald J stated at paragraph 34 that:

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

17. Additionally, in *Hanrahan v The Revenue Commissioners* [2024] IECA 113, the Court of Appeal clarified the approach to the burden of proof where an appeal relates to the interpretation of law only, stating:

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

Section 865 TCA 1997

18. Section 865(2) of the TCA 1997 provides that a person is entitled to a repayment of tax paid where that tax is not due from that person. However, 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).
19. In this appeal, the relevant tax years were 2018, 2019, and 2020. Therefore, the claim for a repayment of tax must have been made on or before 31 December 2022, 31 December 2023, and 31 December 2024 respectively. The Appellant has not disputed that she sought to claim repayments of tax for the tax years 2018, 2019, and 2020, on 10 September 2025. It is this date that establishes a valid claim for the purposes of section 865(3) of the TCA 1997. Having regard to this date, the Commissioner is satisfied that the Appellant’s claim fell outside the four-year time limit prescribed in section 865(4) of the TCA 1997.

20. The use of the word “shall” 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 four-year rule might be mitigated.
21. The Commissioner acknowledges the circumstances outlined on appeal. In particular, the Commissioner appreciates the Appellant’s position that the overpayment of pension was not her fault, and that she was not told about the four-year rule. Nonetheless, the Commission is a statutory body created by the Finance (Tax Appeals) Act 2015. As such, the Commission only has the powers that have been granted to it by the Oireachtas. The legislation does not afford the Commissioner any discretion to disapply the four-year rule.
22. 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 website².
23. The Commissioner appreciates that this decision will be disappointing for the Appellant. The Appellant was entitled to check whether the Respondent’s refusal of her claim for a repayment of tax was correct and was prudent to do so. However as noted above, the legislation does not afford the Commissioner any discretion on this matter.

Determination

24. For the reasons set out above, the Commissioner determines that the Appellant has not succeeded in showing that the Respondent was incorrect to refuse the Appellant’s claim for a repayment of tax for the years 2018, 2019 and 2020, under section 865(4) of the TCA 1997.
25. This Appeal is determined in accordance with Part 40A of the 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) of the TCA 1997.

Notification

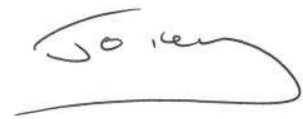
26. This determination complies with the notification requirements set out in section 949AJ of the TCA 1997, in particular section 949AJ(5) and section 949AJ(6) of the TCA 1997. For the avoidance of doubt, the parties are hereby notified of the determination under section 949AJ of the TCA 1997 and in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

² www.taxappeals.ie

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

27. 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.

A handwritten signature in black ink, appearing to read 'Jo Kenny', with a long horizontal flourish underneath.

Jo Kenny
Appeal Commissioner
8 April 2026