AN COIMISIÚN UM ACHOMHAIRC CHÁNACH

TAX APPEALS COMMISSION

71TACD2026

Between

[redacted]

Appellant

and

THE REVENUE COMMISSIONERS

Respondent

Determination

Contents

Introduction

1. This matter comes before the Tax Appeal Commission (from here on referred to as the “Commission") as an appeal against Notices of Amended Assessment to income tax for the years 2021, 2022 and 2023 issued by the Revenue Commissioners (from here on referred to as the “Respondent") on 17 January 2025.

Background

2. During the years 2021, 2022 and 2023, the Appellant was a proprietary director of [redacted] (from here on referred to as the “Company”) who owned in excess of 15% of the shares in the Company.

3. The Appellant filed income tax returns for the years 2021, 2022 and 2023 with the Respondent all of which indicated tax overpayments, which said overpayments were refunded or offset as follows:

Year	Date Filed	Tax Overpayment	Date refunded / offset
2021	12 November 2022	€27.38	5 December 2022
2022	4 November 2023	€420.48	14 November 2023
2023	12 November 2024	€299.61	19 November 2024

4. The Company had the following liabilities to income tax, Pay Related Social Insurance and Universal Social Charge (from here on collectively referred to as “PREM”) in 2021, 2022 and 2023 respectively:

Year	Liability to PREM €
2021	11,062.94
2022	16,654.26
2023	17,390.28

5. The Company made the following payments of PREM totalling €1,489.65 relating to 2021:

Payment Date	Payment Amount €	Allocated to Outstanding PREM for Month
17 July 2024	252.28	January 2021
19 August 2024	791.28	January 2021
19 August 2024	446.09	February 2021

6. The Company made the following payments of PREM totalling €13,514.12 relating to 2022:

Payment Date	Payment Amount €	Allocated to Outstanding PREM for Month
16 August 2022	1,208.31	April 2022
16 August 2022	1,393.15	May 2022
16 August 2022	1,722.58	June 2022
4 November 2022	1,409.46	July 2022
4 November 2022	880.93	August 2022
17 November 2022	528.54	August 2022
17 November 2022	1,761.84	September 2022
16 February 2023	1,409.49	October 2022
16 February 2023	1,437.98	November 2022
16 February 2023	1,761.84	December 2022

7. The Company made the following payments of PREM totalling €13,031.24 relating to 2023:

Payment Date	Payment Amount €	Allocated to Outstanding PREM for Month
15 May 2023	1,331.58	January 2023
19 May 2023	1,331.59	February 2023
19 May 2023	166.45	March 2023
2 June 2023	1,498.03	March 2023
26 July 2023	1,331.59	April 2023
26 July 2023	840.69	May 2023
28 July 2023	495.72	May 2023
28 July 2023	1,676.55	June 2023
7 November 2023	1,341.24	July 2023
17 November 2023	1,341.25	August 2023
17 November 2023	335.30	September 2023
30 November 2023	1,341.25	September 2023

8. The Company went into liquidation in September 2024 with outstanding liabilities to PREM totalling €17,072.37 as follows:

8.1. 2021 – total liability to PREM of €11,062.94, €1,489.65 of which was returned to the Respondent leaving an outstanding liability of €9,573.29;

8.2. 2022 – total liability to PREM of €16,654.26, €13,514.12 of which was returned to the Respondent leaving an outstanding liability of €3,140.14; and

8.3. 2023 – total liability to PREM of €17,390.28, €13,031.24 of which was returned to the Respondent leaving an outstanding liability of €4,359.04.

9. The Appellant submitted income tax returns to the Respondent for the years 2021, 2022 and 2023 which claimed the following credits in relation to income tax and Universal Social Charge (from here on referred to as "USC") paid by the Company relating to his employment by the Company:

Year	Income tax credit claimed €	USC credit claimed €	Total credits claimed €
2021	3,188	763	3,951
2022	4,056	1,487	5,543
2023	4,288	1,020	5,308

10. Following a review of the Appellant's returns for the years 2021, 2022 and 2023, on 17 January 2025 the Respondent issued Notices of Amended Assessment to income tax and USC for the years 2021, 2022 and 2023 to the Appellant which showed the following balances payable:

Year	Balance Payable
2021	€3,950.74
2022	€5,543.03
2023	€5,308.33
Total	€14,802.10

11. The Notices of Amended Assessment to income tax issued on 17 January 2025 removed the entirety of the credits in relation to income tax and USC payments claimed by the Appellant on the basis that the Company had outstanding liabilities to PREM which had not been returned to the Respondent.

12. The Appellant submitted a Notice of Appeal contesting the Notices of Amended Assessment to the Commission on 14 February 2025.

13. The oral hearing of this appeal took place remotely on 28 January 2026.

14. Prior to the oral hearing, the Respondent reviewed the Notices of Amended Assessment issued to the Appellant on 17 January 2025 and on 15 January 2026 issued further Notices of Amended Assessment to income tax for the years 2022 and 2023.

15. It is agreed between the parties that the amounts now under appeal are as follows:

Year	Balance Payable
2021 (Notice of Amended Assessment issued 17 January 2025)	€3,950.74
2022 (Notice of Amended Assessment issued 15 January 2026)	€3,666.45
2023 (Notice of Amended Assessment issued 15 January 2026)	€4,359.33
Total	€11,976.52

16. At the oral hearing, the Appellant indicated that he wished for this appeal to be held in private. 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

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

Section 997A of the TCA 1997 – "*Credit in respect of tax deducted from emoluments of certain directors*"

"(1) (a) In this section—

"control" has the same meaning as in section 432;

"ordinary share capital", in relation to a company, means all the issued share capital (by whatever name called) of the company.

(b) For the purposes of this section—

(i) *a person shall have a material interest in a company if the person, either on the person's own or with any one or more connected persons, or if any person connected with the person with or without any such other connected persons, is the beneficial owner of, or is able, directly or through the medium of other companies or by any other indirect means, to control, more than 15 per cent of the ordinary share capital of the company, and*

(ii) *the question of whether a person is connected with another person shall be determined in accordance with section 10.*

(2) *This section applies to a person to who, in relation to a company (hereafter in this section referred to as "the company"), has a material interest in the company.*

(3) *Notwithstanding any other provision of the Income Tax Acts or the regulations made under this Chapter, no credit for tax deducted from the emoluments paid by the company to a person to whom this section applies shall be given against the amount of tax chargeable in any assessment raised on the person or in any statement of liability sent to the person under Regulation 28 of the Income Tax (Employments) Regulations 2018 (S.I. No. 345 of 2018) unless there is documentary evidence to show that the tax deducted has been remitted by the company to the Collector-General in accordance with the provisions of those regulations.*

(4) *Where the company remits tax to the Collector-General which has been deducted from emoluments paid by the company in a year of assessment, the tax remitted for that year of assessment shall be treated as having been deducted from emoluments paid to persons other than persons to whom this section applies in priority to tax deducted from persons to whom this section applies.*

(5) *Where, in accordance with subsection (4), tax remitted to the Collector-General by the company is to be treated as having been deducted from emoluments paid by the company to persons to whom this section applies, the tax to be so treated shall, if there is more than one such person, be treated as having been deducted from the emoluments paid to each such person in the same proportion as the emoluments paid to the person bears to the aggregate amount of emoluments paid by the company to all such persons.*

(6) Where, in accordance with subsection (5), the tax to be treated as having been deducted from the emoluments paid to each person to whom this section applies exceeds the actual amount of tax deducted from the emoluments of each person, then the amount of credit to be given for tax deducted from those emoluments shall not exceed the actual amount of tax so deducted.

(7) Notwithstanding section 960G and for the purposes of the application of this section, where a company has an obligation to remit any amount by virtue of the provisions of—

(a) the Social Welfare Consolidation Act 2005 and regulations made under that Act, as respects employment contributions,

(b) Part 18D and regulations made under that Part, as respects universal social charge, and

(c) this Chapter and regulations made under this Chapter, as respects income tax,

any amount remitted by the company for a year of assessment shall be set—

(i) firstly against employment contributions,

(ii) secondly against universal social charge, and

(iii) lastly against income tax.

(8) A person aggrieved by a decision of the Revenue Commissioners in relation to a claim by that person for credit for tax deducted from emoluments, in so far as the decision was made by reference to any provision of this section, may appeal that decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of that decision."

Submissions

Appellant's submissions

18. The following is a summary of the submissions made by and on behalf of the Appellant:

18.1. In the years 2021, 2022 and 2023, the Appellant was a director of the Company;

18.2. The Appellant was a shareholder in the Company holding in excess of 15% of the shares;

18.3. It is accepted by the Appellant that the Company has outstanding liabilities to PREM totalling €17,072.37 for the following years: for 2021 in the amount of €9,573.19, for 2022 in the amount of €3,140.14 and for 2023 in the amount of €4,359.04;

18.4. The Appellant accepts that the Respondent has applied the provisions of section 997A of the TCA 1997 to the years 2021, 2022 and 2023. However, the Appellant submits that, in circumstances where the Company made monthly returns of PREM which discharged the Company's liabilities to PREM for the months April to December 2022 inclusive and for the months January to September 2023 inclusive, credit should be given to the Appellant for the PREM returned by the Company for those months. As a result, the Appellant submitted that he should be entitled to credits for the months in which the Company discharged its liabilities to PREM in 2022 and 2023.

Respondent's submissions

19. The following is a summary of the submissions made by and on behalf of the Respondent:

19.1. The Appellant was, in 2021, 2022 and 2023, a director of the Company who held in excess of 15% of the shares in the Company.

19.2. The Company has outstanding liabilities to PREM totalling €17,072.37 for the following years: for 2021 in the amount of €9,573.19, for 2022 in the amount of €3,140.14 and for 2023 in the amount of €4,359.04;

19.3. In circumstances where the Company has an outstanding liability to PREM for 2021 of €9,573.29, the Notice of Amended Assessment for 2021 issued on 17 January 2025 is correct in that it removed the credit claimed by the Appellant for income tax and USC in the amount of €3,950.74.

19.4. The Respondent accepts that the Appellant is correct in asserting that the Notices of Amended Assessments raised on 17 January 2025 for the years 2022 and 2023 are incorrect in that they removed credits for income tax and USC from the Appellant which were in excess of the Company's outstanding liabilities to PREM for those years. As a result, the Respondent submitted, it issued fresh Notices of Amended Assessment for the years 2022 and 2023 on 15 January 2026.

19.5. In relation to 2022, the Respondent submitted that in his tax return for 2022, the Appellant had claimed a credit for income tax and USC paid by the Company of €5,543.03. As the Company's outstanding liability to PREM for 2022 is €3,140.14

the Respondent submitted that, in the Notice of Amended Assessment issued on 15 January 2026, it has credited the Appellant with the difference between the outstanding liability to PREM and the credit claim, that being €2,402.89.

19.6. The Respondent also submitted that in his return for 2022, the Appellant had incorrectly included a credit for €1,487 for USC whereas this amount, in fact, related to PRSI. The correct credit for USC for 2022, the Respondent submitted was €960.55.

19.7. This has, the Respondent submitted, resulted in the Notice of Amended Assessment for 2022 issued on 15 January 2026 containing a liability on the part of the Appellant of €3,666.45, that being comprised of the Company's outstanding liability to PREM of €3,140.14 and the corrected amount claimed by the Appellant for USC amounting to €526.45.

19.8. In relation to the year 2023, the Respondent submitted that the Appellant is correct in his submission that the Notice of Amended Assessment for 2023 issued on 17 January 2025 contained an overstated liability. The Respondent accepts that the Company has an outstanding liability to PREM for 2023 of €4,359.04 and that the Notice of Amended Assessment issued on 17 January 2025 which contained a liability of €5,308.33 was incorrect in that it had incorrectly removed the entirety of the credits for income tax and USC claimed by the Appellant.

19.9. This has, the Respondent submitted, resulted in the Notice of Amended Assessment for 2024 issued on 15 January 2026 containing a liability on the part of the Appellant of €4,359.04, that being comprised of the Company's outstanding liability to PREM in the same amount.

19.10. In relation to the Appellant's claim that he should be entitled to credits for the months in which the Company discharged its liabilities to PREM in 2022 and 2023, the Respondent submitted that section 997A of the TCA 1997 sets out a Company's liability to PREM is calculated on a yearly basis and not on a monthly basis. As a result, the Respondent submitted, that where the Company has an outstanding liability to PREM in a particular year, the Appellant is not entitled to claim a credit.

Material Facts

20. The material facts are not at issue in this appeal and the Commissioner accepts the following as material facts:

20.1. During the years 2021, 2022 and 2023, the Appellant was a proprietary director of the Company who owned in excess of 15% of the shares in the Company.

20.2. The Appellant filed income tax returns for the years 2021, 2022 and 2023 with the Respondent all of which indicated tax overpayments, which said overpayments were refunded or offset as follows:

Year	Date Filed	Tax Overpayment	Date refunded / offset
2021	12 November 2022	€27.38	5 December 2022
2022	4 November 2023	€420.48	14 November 2023
2023	12 November 2024	€299.61	19 November 2024

20.3. The Company had the following liabilities to PREM totalling €17,072.37 in 2021, 2022 and 2023 respectively:

Year	Liability to PREM €
2021	11,062.94
2022	16,654.26
2023	17,390.28

20.4. The Company made the following monthly payments of PREM totalling €1,489.65 relating to 2021:

Payment Date	Payment Amount €	Allocated to Outstanding PREM for Month
17 July 2024	252.28	January 2021
19 August 2024	791.28	January 2021

19 August 2024	446.09	February 2021

20.5. The Company made the following monthly payments of PREM totalling €13,514.12 relating to 2022:

Payment Date	Payment Amount €	Allocated to Outstanding PREM for Month
16 August 2022	1,208.31	April 2022
16 August 2022	1,393.15	May 2022
16 August 2022	1,722.58	June 2022
4 November 2022	1,409.46	July 2022
4 November 2022	880.93	August 2022
17 November 2022	528.54	August 2022
17 November 2022	1,761.84	September 2022
16 February 2023	1,409.49	October 2022
16 February 2023	1,437.98	November 2022
16 February 2023	1,761.84	December 2022

20.6. The Company made the following monthly payments of PREM totalling €13,031.24 relating to 2023:

Payment Date	Payment Amount €	Allocated to Outstanding PREM for Month
15 May 2023	1,331.58	January 2023
19 May 2023	1,331.59	February 2023
19 May 2023	166.45	March 2023
2 June 2023	1,498.03	March 2023
26 July 2023	1,331.59	April 2023
26 July 2023	840.69	May 2023
28 July 2023	495.72	May 2023
28 July 2023	1,676.55	June 2023
7 November 2023	1,341.24	July 2023
17 November 2023	1,341.25	August 2023
17 November 2023	335.30	September 2023
30 November 2023	1,341.25	September 2023

20.7. The Company went into liquidation in September 2024 with outstanding liabilities to PREM totalling €17,072.37 as follows:

20.7.1. 2021 – total liability to PREM of €11,062.94, €1,489.65 of which was returned to the Respondent leaving an outstanding liability of €9,573.29;

20.7.2. 2022 – total liability to PREM of €16,654.26, €13,514.12 of which was returned to the Respondent leaving an outstanding liability of €3,140.14; and

20.7.3. 2023 – total liability to PREM of €17,390.28, €13,031.24 of which was returned to the Respondent leaving an outstanding liability of €4,359.04.

20.8. The Appellant submitted income tax returns to the Respondent for the years 2021, 2022 and 2023 which claimed the following credits in relation to income tax and USC paid by the Company relating to his employment by the Company:

Year	Income tax credit claimed €	USC credit claimed €	Total credits claimed €
2021	3,188	763	3,951
2022	4,056	1,487	5,543
2023	4,288	1,020	5,308

20.9. Following a review of the Appellant's returns for the years 2021, 2022 and 2023, on 17 January 2025 the Respondent issued Notices of Amended Assessment to income tax and USC for the years 2021, 2022 and 2023 to the Appellant which showed the following balances payable:

Year	Balance Payable
2021	€3,950.74
2022	€5,543.03
2023	€5,308.33
Total	€14,802.10

20.10. The Notices of Amended Assessment to income tax issued on 17 January 2025 removed credits in relation to income tax payments claimed by the Appellant on the basis that the Company had outstanding liabilities to PREM which had not been returned to the Respondent.

20.11. Prior to the oral hearing, the Respondent reviewed the Notices of Amended Assessment issued to the Appellant on 17 January 2025 and on 15 January 2026 issued further Notices of Amended Assessment to income tax for the years 2022 and 2023 which sought to correct errors made in relation to USC and PRSI amounts in the Form 11 returns for those years and errors in the calculations contained in the Notices of Amended Assessment issued on 17 January 2025.

20.12. It is agreed between the parties that the amounts now under appeal are as follows:

Year	Balance Payable
2021 (Notice of Amended Assessment issued 17 January 2025)	€3,950.74
2022 (Notice of Amended Assessment issued 15 January 2026)	€3,666.45
2023 (Notice of Amended Assessment issued 15 January 2026)	€4,359.33
Total	€11,976.52

Analysis

21. It is long established that, in appeals against assessments to tax, the burden of proof rests on the taxpayer. Gilligan J. in *TJ v Criminal Assets Bureau* [2008] IEHC 168 at paragraph 50 stated that:

"The whole basis of the Irish taxation system is developed on the premise of self assessment. In this case, as in any case, the applicant is entitled to professional advice, which he has availed of, and he is the person who is best placed to prepare a computation required for self-assessment on the basis of any income and/or gains that arose within the relevant tax period. In effect, the applicant is seeking discovery of all relevant information available to the respondents against a background where he has, by way of self-assessment, set out what he knows or ought to know, is the income and gains made by him in the relevant period. It is quite clear that the whole basis of self assessment would be undermined if, having made a return which was not accepted by the respondents, the applicant was entitled to access all the relevant information that was available to the respondents. The issue, in any event, is governed by legislation and there is no constitutional challenge to that legislation. The respondents are only required to make an assessment on the person concerned in such sum as according to the best of the Inspector's judgment ought to be charged on that person. The applicant in this case has the right of an appeal to the Appeal Commissioners and the right to a further appeal to the Circuit Court and the right to a further appeal on a point of law to the High Court and from there to the Supreme Court. Any reasonable approach dictates that if the applicant, on appeal to the Appeal Commissioners or to

the Circuit Court, can demonstrate some form of prejudice, then an adjournment in accordance with fair procedures would have to be granted, and if not granted, the applicant would have an entitlement to bring judicial review proceedings. There are adequate safeguards in position to protect the applicant in the event that he is in some way prejudiced, but in any event it has to be borne in mind that since an assessment can only relate to the applicant's own income and gain, any materially relevant matter would have to be or have been in the knowledge and in the power procurement and control of the applicant."

22. Charleton J. confirmed that the burden of proof rests on appellants in *Menolly Homes v Appeal Commissioners* [2010] IEHC 49 when he stated at paragraph 22:

    "*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 Commissioner as to whether the taxpayer has shown that the relevant tax is not payable*."

23. The Commissioner has considered the evidence adduced, the submissions made and the documentation submitted on behalf of both parties in this appeal.

24. Section 997A(1)(b) of the TCA 1997 provides that:

    "For the purposes of this section—

    (i) a person shall have a material interest in a company if the person, either on the person's own or with any one or more connected persons, or if any person connected with the person with or without any such other connected persons, is the beneficial owner of, or is able, directly or through the medium of other companies or by any other indirect means, to control, more than 15 per cent of the ordinary share capital of the company, and

    (ii) the question of whether a person is connected with another person shall be determined in accordance with section 10."

25. Section 997A of the TCA 1997 also provides that:

    "(2) This section applies to a person to who, in relation to a company (hereafter in this section referred to as "the company"), has a material interest in the company.

> (3) *Notwithstanding any other provision of the Income Tax Acts or the regulations made under this Chapter, no credit for tax deducted from the emoluments paid by the company to a person to whom this section applies shall be given against the amount of tax chargeable in any assessment raised on the person or in any statement of liability sent to the person under Regulation 28 of the Income Tax (Employments) Regulations 2018 (S.I. No. 345 of 2018) unless there is documentary evidence to show that the tax deducted has been remitted by the company to the Collector-General in accordance with the provisions of those regulations.*
>
> (4) *Where the company remits tax to the Collector-General which has been deducted from emoluments paid by the company in a year of assessment, the tax remitted for that year of assessment shall be treated as having been deducted from emoluments paid to persons other than persons to whom this section applies in priority to tax deducted from persons to whom this section applies."*

26. It is not disputed between the parties, and the Commissioner has found as a material fact, that the Appellant owned in excess of 15% of the shares in the Company. As a result, the Appellant is a "*person with a material interest*" in the Company pursuant to the provisions of section 997A(1)(b) of the TCA 1997.

27. It is also not disputed between the parties, and the Commissioner has found as material facts, that the Company went into liquidation in September 2024 with outstanding liabilities to PREM as follows:

    27.1. 2021 – total liability to PREM of €11,062.94, €1,489.65 of which was returned to the Respondent leaving an outstanding liability of €9,573.29;

    27.2. 2022 – total liability to PREM of €16,654.26, €13,514.12 of which was returned to the Respondent leaving an outstanding liability of €3,140.14; and

    27.3. 2023 – total liability to PREM of €17,390.28, €13,031.24 of which was returned to the Respondent leaving an outstanding liability of €4,359.04.

28. As there are outstanding liabilities to PREM owed by the Company for the years 2021, 2022 and 2023, and as there is no documentary evidence to show that the tax deducted from the Appellant through his payslips has been remitted to the Respondent, the provisions of section 997A(3) of the TCA 1997 mean that no credit for tax deducted from the emoluments paid by the Company to the Appellant, as a person with a material

interest in the Company, shall be given against the amount of tax chargeable in the contested Notices of Amended Assessment for the years 2021, 2022 and 2023.

29. As a result, the Commissioner must find that the Notice of Amended Assessment for 2021 issued by the Respondent on 17 January 2025 which removed the credits for income tax and PAYE claimed by the Appellant in the amount of €3,951 was correct.

30. The Commissioner must also find that the Notice of Amended Assessment for 2022 issued by the Respondent on 15 January 2026 which removed the credits for income tax and PAYE claimed by the Appellant in the amount of €3,140.14 was correct.

31. The Appellant has not disputed that his return submitted for 2022 had incorrectly included a credit for €1,487 for USC whereas this amount, in fact, related to PRSI. The Appellant has also not disputed that the correct credit for USC for 2022 should have been €960.55. As a result, the Commissioner must find that the inclusion of a liability of €526.45 for USC in the Notice of Amended Assessment issued by the Respondent on 15 January 2026 was correct.

32. Finally, the Commissioner must find that the Notice of Amended Assessment for 2023 issued by the Respondent on 15 January 2026 which removed the credits for income tax and PAYE claimed by the Appellant in the amount of €4,359.04 was correct.

33. In relation to the Appellant's claim that he should be entitled to credits for the months in which the Company discharged its liabilities to PREM in 2022 and 2023, section 997A provides the following:

> *"(4) Where the company remits tax to the Collector-General which has been deducted from emoluments paid by the company in a year of assessment, the tax remitted for that year of assessment shall be treated as having been deducted from emoluments paid to persons other than persons to whom this section applies in priority to tax deducted from persons to whom this section applies."*

34. In the judgment of the High Court in *Perrigo Pharma International Activity Company v McNamara, the Revenue Commissioners, Minister for Finance, Ireland and the Attorney General* [2020] IEHC 552 (hereinafter "*Perrigo*"), McDonald J, reviewed 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., 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";

(c) Where the meaning is not clear but is imprecise or ambiguous, further rules of construction come into play. In such circumstances, a purposive interpretation is permissible;

(d) Whatever approach is taken, each word or phrase used in the statute should be given a meaning as it is presumed that the Oireachtas did not intend to use surplusage or to use words or phrases without meaning.

(e) In the case of taxation statutes, if there is ambiguity in a statutory provision, the word should be construed strictly so as to prevent a fresh imposition of liability from being created unfairly by the use of oblique or slack language;

(f) Nonetheless, even in the case of a taxation statute, if a literal interpretation of the provision would lead to an absurdity (in the sense of failing to reflect what otherwise is the true intention of the legislature apparent from the Act as a whole) then a literal interpretation will be rejected.

(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"".*

These principles have been confirmed in the more recent decision of the Supreme Court in *Heather Hill Management Company CLG v An Bord Pleanála* [2022] IESC 43.

35. The Commissioner has considered the provisions of section 997A(4) of the TCA 1997 and finds that the plain and ordinary meaning of the wording therein sets out that the PREM remitted by a company is to be taken on an yearly basis and not on a monthly basis As a result, in circumstances where the Company has outstanding liabilities to PREM for the years 2022 and 2023, the Commissioner does not accept the Appellant's argument that he should be entitled to credits for the months in which the Company discharged its liabilities to PREM in 2022 and 2023.

Determination

36. For the reasons set out above, the Commissioner determines that this appeal has failed and that it has not been shown that that the Notices of Amended Assessment issued on 17 January 2025 by the Respondent for the tax year 2021 and issued on 15 January 2026 for the tax years 2022 and 2023 were incorrect.

37. Therefore, the Notices of Amended Assessment for the years 2021, 2022 and 2023 shall stand.

38. 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

39. 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

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 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 May 2026