AN COIMISIÚN UM ACHOMHAIRC CHÁNACH

TAX APPEALS COMMISSION

76TACD2026

Between

[redacted]

Appellant

and

The Revenue Commissioners

Respondent

Determination

Contents

Introduction 3
Background 4
Legislation and Guidelines 10
Evidence and submissions 21
Appellant's evidence *21*
Appellant's submissions *21*
Respondent's submissions *22*
Material Facts 23
Analysis 24
Burden of proof in tax appeals *24*
Principles of statutory interpretation *26*
First-time purchaser *27*
Repayment of the HTB payment *28*
Respondent's published guidance materials *29*
Interest is not an appealable matter *30*
Jurisdiction of an Appeal Commissioner *31*
Conclusion *32*
Determination 33
Notification 33
Appeal 33

Introduction

1. This is an appeal to the Tax Appeals Commission ("the Commission") brought by the Appellant under section 477C(20)(b) and section 949I of the Taxes Consolidation Act 1997 ("the TCA 1997") in relation to an assessment issued by the Revenue Commissioners ("the Respondent") on 15 May 2025 pursuant to section 477C(20)(a) of the TCA 1997 ("the Assessment"), assessing the Appellant to the repayment of the previous payment made by the Respondent on foot of a claim by the Appellant to the Help to Buy Scheme ("the HTB") in 2021.

2. The Assessment is for a total amount of €38,186.21. This consists of the HTB repayment amount of €30,000 together with interest of €8,186.21.

3. The Assessment issued following a compliance intervention by the Respondent during which the Appellant confirmed that [redacted] had purchased a residential dwelling in the United Kingdom ("the UK") prior to purchasing the residential dwelling in Ireland in respect of which the Appellant had made the HTB claim.

4. On 29 June 2025, the Appellant filed a Notice of Appeal with the Commission together with supporting documentation. On 13 August 2025, the Appellant submitted [redacted] Statement of Case ("SoC") which built on the Notice of Appeal. On 20 August 2025, the Commission received the Respondent's SoC. Following receipt of Outline of Arguments from both parties, the appeal proceeded by way of a remote oral hearing on 13 February 2026. The Appellant represented [redacted] at the hearing and was accompanied by a friend for support. The Respondent was represented by two officials.

5. The Appellant notified the Commission that [redacted] wished to have [redacted] appeal hearing in private. Therefore, the appeal hearing was held in private, and this determination will be redacted prior to its publication on the Commission's website pursuant to section 949AO of the TCA 1997.

6. During this appeal, the Appellant submitted details of [redacted] difficult personal circumstances to the Commission. The details of those difficulties are not included within this determination to ensure the Appellant's privacy is maintained. However, the Commissioner assures the Appellant that these details have been considered when making this determination.

7. The Commissioner has considered the Appellant's oral evidence and the submissions from both parties at the appeal hearing, together with the documentation submitted from both parties prior to the hearing, in making this determination.

Background

8. The HTB is established by section 477C of the TCA 1997. The scheme provides financial assistance to a first-time purchaser of a new dwelling, through either purchase or self-build, in certain circumstances as laid down in that legislation. Subject to the conditions laid down in section 477C of the TCA 1997, the HTB provides relief by way of a payment equivalent to the income tax paid by the claimant and the deposit interest retention tax deducted at source from deposit interest received by the claimant in respect of the four tax years immediately preceding the year in which the application for the HTB is made, subject to an upper limit. The upper limit to the HTB payment which is applicable in this appeal is €30,000.

9. The Appellant is a PAYE taxpayer and is subject to single assessment.

10. On 10 August 2021, the Appellant made an application to the Respondent for the HTB and received approval in principle for the maximum HTB payment of €30,000.

11. On 18 November 2021, the Appellant claimed the HTB payment in respect of [redacted] purchase of a newly built dwelling house at [redacted] ("the Residence"). On [redacted] the specified building contractor ("the Contractor") verified the Appellant's HTB claim. On 3 December 2021, the Respondent approved the HTB claim for payment. On 16 December 2021, the HTB payment was issued by the Respondent to the Contractor.

12. On 11 February 2025, pursuant to a Level 1 compliance intervention by the Respondent, the Respondent issued correspondence to the Appellant requesting additional information regarding the Appellant's HTB claim, as follows:

> *"[…]*
>
> *[…] Each year [the Respondent] carries out a number of these checks to ensure the relief claimed is in order.*
>
> *[The Respondent] has carried out a review of all documentation and information submitted by you in support of your claim […].*
>
> *[…]*
>
> *Please note, the statutory requirements of S.477C necessitate to claim HTB, you must be a first-time purchaser at the time of the claim (ref. S.477C(15) of [the TCA 1997]). A first time purchaser means an individual who, at the time of a HTB claim, has not, either individually or jointly with any other person, previously purchased or built a*

dwelling. An individual who may have previously inherited a house, or a share in a house, will not be precluded from claiming HTB, provided all other conditions for the scheme are met.

As per [the Respondent's] records you owned a property in the United Kingdom prior to purchasing [the Residence]. Please advise if this property was purchased or inherited.

[…]"

13. On 26 February 2025, the Appellant replied to the Respondent's correspondence of 11 February 2025 as follows:

"[…]

The property in United Kingdom was purchased as a shared equity investment property. The property has been rented and returns filed both in UK and Ireland. I did not used any first time buyer scheme for this purchase. I moved to Dublin in [redacted] *with [the Appellant's child] and [the Appellant's mother].* [redacted]

My mother had been [redacted] *dependent on me for* [redacted] *years prior to my move to this country no I did not get any inheritance or financial help from her either.*

I was renting a property in Dublin since [redacted] *and would have continued to do so, had it not been for* [redacted] *I never bought a property until 2022 as I couldn't afford to pay the down payment for a property.*

Mid 2021, as the world was going through COVID, with limited advise (due to COVID) I could receive from a couple of neighbours and reading the information on the Citizens advise website, my simple interpretation was that I could get HTB as this was my first residential property in ROI.

[…]

I have been living in this property since purchase.

[…]" (sic)

14. On 13 March 2025, the Respondent notified the Appellant that it was expanding its compliance intervention to include income tax (Pay As You Earn ("PAYE")) matters for the tax years 2021 to 2024 inclusive and requested additional information from the

Appellant on certain income tax matters. The requested information was provided by the Appellant and [redacted] tax agent on various dates between 2 April 2025 and 9 May 2025.

15. On 15 May 2025, the Respondent issued correspondence to the Appellant confirming that the verification check was complete, stating:

"[…]

Please note, the statutory requirements of S.477C necessitate to claim HTB, you must be a first-time purchaser at the time of the claim (ref. S.477C(15) of [the TCA 1997]). A first time purchaser means an individual who, at the time of a HTB claim, has not, either individually or jointly with any other person, previously purchased or built a dwelling in Ireland or abroad.

As per information provided by you, you purchased a property in the United Kingdom prior to purchasing the property in relation to [the HTB] claim and therefore you are unable to satisfy a qualifying condition in relation to the HTB scheme.

Sub-section 477C(18) sets out that clawback of the relief applies in circumstances where the claimant is not entitled to the relief and, in accordance, with this sub-section of the Act, I wish to advise you that you are required to pay the following amount to [the Respondent] within three months from the date of this letter.

	Amount
Liability	*€30,000*
Interest	*€8,186.21*
Total	*€38,186.21*

[…]

Payment should be made to the Collector General within three months from the date of this letter.

[…]"

16. In the correspondence of 15 May 2025, as referred to above, the Respondent outlined the different payment methods available to the Appellant and attached the Assessment. The Assessment, dated 15 May 2025, is in the form of a letter, on the Respondent's headed paper, addressed to the Appellant. The Assessment states:

"[…]

Notice of Assessment

Section 477(21) Taxes Consolidation Act 1997

Year of Assessment: 2021

[…]

I hereby give notice that:

In accordance with Section 477C(20) of the Taxes Consolidation Act 1997, you have been assessed in respect of an amount of appropriate payment payable for the year of assessment 2021.

The amount included in the Assessment is €38,186.21

If you wish to appeal against the assessment, you must do so within the period of 30 days after the date of the notice by completing and submitting a Notice of Appeal form to the Tax Appeals Commission (TAC). The form can be obtained from the TAC's website as www.taxappeals.ie. You must submit a copy of this Notice of Assessment with your Notice of Appeal. […]

[…]"

17. On 29 May 2025, the Appellant issued correspondence to the Respondent stating:

"[…]

I recently received your correspondence regarding the Help to Buy (HTB) scheme, and I wish to express how deeply surprised and distressed I was upon reading it. When I applied for the scheme in 2021, I did so with complete sincerity and transparency, never anticipating that my circumstances might fall outside the bounds of eligibility.

Please allow me to share some background—not as an excuse, but in the hope that it provides meaningful context and supports my sincere request for empathy and understanding.

The UK property in question was purchased solely as a rental investment and has never served as a residence for myself or my family. It was not acquired under any first-time buyer initiative and has consistently operated at a financial loss, particularly during the COVID-19 pandemic due to significant structural issues.

Since arriving in Ireland, I have worked full-time while caring for [my family], [redacted]*. Despite these challenges, I have* *remained committed to building a* [redacted] *home for my family.* [redacted] *Due to the housing shortage, relocating to another rental was nearly impossible. It was during this period of uncertainty, in the wake of the pandemic, that I began exploring homeownership.*

In researching the HTB scheme, I relied on publicly available resources such as Citizens Information, the Tax and Duty Manual, and the Tax Consolidation Act. Based on the information available at the time, I understood a first-time buyer to be someone who had not previously purchased or built a home for their own use in Ireland. As the UK property was never used as a home nor in Ireland, I did not interpret it as relevant to the scheme's criteria.

It was only upon receiving your letter that I became aware of a broader interpretation of property ownership that may include such circumstances. I appreciate the clarification and the opportunity to respond.

Please know that I have never, in any aspect of my life, sought to mislead or act dishonestly. My application was made in good faith, with the sole intention of securing a [redacted] *suitable home for my* [redacted] *family. The prospect of having to repay the HTB funds is deeply distressing and places a significant burden* [redacted].

I respectfully request that my case be considered in light of the context and intent with which I applied. I would be sincerely grateful if a waiver or reduction of any penalties could be considered [redacted] *the spirit in which the application was made and my responsibility to continue providing for my* [redacted] *family members.*

I remain hopeful for a compassionate and fair resolution.

[...]"

18. On 9 June 2025, the Respondent replied to the Appellant's correspondence of 29 May 2025, setting out the Commission's details in the event that the Appellant wished to appeal the Assessment, and stating:

"[...]

I refer to your correspondence received on 29/05/2025 in relation to your Help to Buy Clawback. The Help to Buy (HTB) scheme is designed to assist first-time buyers fund the deposit required to purchase or self-build a qualifying property to live in as their home as outlined in the legislation (section 477C Taxes Consolidation Act 1997). It is a self-assessed system where the person claiming it has to be sure that they qualify for the scheme and are happy to abide by the rules of the scheme as laid out in the legislation.

Unfortunately as you do not satisfy the conditions of the HTB scheme, sub-section 477C(18) sets out that clawback of the relief applies. There is no discretion to waive or mitigate the liability and interest.

[…]"

19. On 29 June 2025, the Appellant filed a Notice of Appeal with the Commission wherein the grounds of appeal are stated as follows:

"[...]

The total amount assessed is €38,186.21, comprising the €30,000 HTB relief I received in 2021 and remaining in interest accrued since then. Revenue's determination is based on the grounds that I did not qualify as a first-time buyer due to a property I purchased in the United Kingdom.

I respectfully appeal this decision on the following grounds:

1. Lack of Clear Guidance on Non-Irish Property Ownership

At the time of my application, I relied on the information publicly available through Revenue's website, Citizens Information, and the Tax and Duty Manuals. None of these sources clearly stated that ownership of foreign property — particularly one never used as a residence — would render a person ineligible. The published definition of "first-time buyer" appeared to relate solely to the purchase or construction of a property for personal use in Ireland.

I acted in good faith and sincerely believed that my UK investment property, which was never occupied by myself or my family and has operated at a financial loss, did not disqualify me. It was not acquired under any first-time buyer scheme. As stated in my previous correspondence to [the Respondent], I was under pressure to secure a suitable home [redacted]. Had I been aware that the UK property disqualified me, I would not have applied for the scheme. I could not have *afforded to proceed without HTB support and would have sought alternative housing options in Ireland.*

2. Good Faith [redacted]

My application for the HTB scheme was made with full honesty and transparency. At the time, I had relocated to Ireland [redacted]. [redacted]. [redacted]

When Revenue contacted me, I disclosed all information regarding the UK property promptly and in full. I did not at any point believe the property would affect my eligibility, as I never viewed it as a "home" within the context of the scheme.

3. Request for Compassionate Consideration and Relief

This situation has caused enormous emotional and financial distress. The demand to repay over €38,000 poses a serious burden on my family's well-being. I respectfully ask the Tax Appeals Commission to consider the humanitarian context of my case, the lack of explicit guidance from Revenue at the time of application, and my sincere intention to comply with all requirements.

I have already made this property a suitable abode for my [family] and I for over 3 yerars and I request that the assessment be kindly overturned. Alternatively, I request that penalties (interest) and HTB amount along repayment plan terms be reviewed with compassion and fairness.

[…]" (sic)

20. It is not in dispute between the parties that the Appellant purchased a residential dwelling in the UK prior to [redacted] purchase of the Residence.

Legislation and Guidelines

21. The legislation relevant to this appeal is section 477C of the TCA 1997, Help to Buy. This section has been amended a number of times. The version of the section which is applicable to the HTB claim made by the Appellant in this case provides:

"(1) In this section –

[…]

'appropriate payment' shall be construed in accordance with subsection (4);

[…]

'first-time purchaser' means an individual who, at the time of a claim under subsection (3) has not, either individually or jointly with any other person, previously purchased or previously built, directly or indirectly, on his or her own behalf a dwelling;

[…]

'loan' means any loan or advance, or any other arrangement whatever, by virtue of which interest is paid or payable;

[…]

'purchase value' means -

> *(a) in the case of a qualifying residence, the price paid for the qualifying residence, being a price that is not less than its market value, […]*
>
> *[…];*

'qualifying contractor' has the meaning assigned to it by subsection (2);

'qualifying lender' has the meaning assigned to it by section 244A(3);

'qualifying loan', means a loan, which -

> *(a) is used by the first-time purchaser wholly and exclusively for the purpose of defraying money employed in -*
>
> > *(i) the purchase of a qualifying residence, […]*
> >
> > *[…],*
>
> *(b) is entered into solely between a first-time purchaser and a qualifying lender (but this does not exclude a loan to which a guarantor is a party), and*
>
> *(c) is secured by the mortgage of a freehold or leasehold estate or interest in, or a charge on, a qualifying residence […];*

[…]

'qualifying residence' means -

> *(a) a new building which was not, at any time, used, or suitable for use, as a dwelling, or*

(b) a building which was not, at any time, in whole or in part, used, or suitable for use, as a dwelling and which has been converted for use as a dwelling,

and –

(i) which is occupied as the sole or main residence of a first-time purchaser,

(ii) in respect of which the construction work is subject to the rate of tax specified in section 46(1)(c) of the Value-Added Tax Consolidation Act 2010, and

(iii) where the purchase value is not greater than -

(I) where in the period commencing on 19 July 2016 and ending on 31 December 2016, a contract referred to in subsection (3)(a) is entered into between a claimant and a qualifying contractor or the first tranche of a qualifying loan referred to in subsection (3)(b) is drawn down by a claimant, €600,000, or

(II) in all other cases, €500,000;

'relevant tax year' means a year of assessment, within the 4 tax years immediately preceding the year in which an application is made under this section, in respect of which a claim for an appropriate payment, or part of such appropriate payment, is made by an individual;

[…]

'tax year' means a year of assessment within the meaning of the Tax Acts;

[…]

(2) In this section, a 'qualifying contractor' means a person who applies to the Revenue Commissioners for registration as a qualifying contractor (pursuant to arrangements for such registration that are put in place by the Revenue Commissioners) and in respect of whom the Revenue Commissioners are satisfied is entitled to be so registered and -

(a) who -

(i) complies with the obligations referred to in section 530G or 530H, or

(ii) in the case of a contractor who is not a subcontractor to whom Chapter 2 of Part 18 applies, complies with the obligations referred to in subparagraph (i), other than the obligations referred to in paragraphs (a) and (b) of subsection (1) of section 530G or 530H,

(b) who has been issued with a tax clearance certificate in accordance with section 1095 and such tax clearance certificate has not been rescinded under subsection (3A) of that section, and

(c) who provides to the Revenue Commissioners -

(i) details of qualifying residences which the contractor offers, or proposes to offer, for sale within the qualifying period,

(ii) details of any planning permission under the Planning and Development Acts 2000 to 2015 in respect of the qualifying residences referred to in subparagraph (i),

(iii) details of the freehold or leasehold estate or interest in the land on which the qualifying residences referred to in subparagraph (i) are constructed or to be constructed, and

(iv) any other relevant information that may be required by the Revenue Commissioners for the purposes of registration of a person as a qualifying contractor.

(3) Where an individual has, in the qualifying period, […] -

(a) entered into a contract with a qualifying contractor for the purchase by that individual of a qualifying residence, that is not a self-build qualifying residence, […]

[…]

that individual may make a claim for an appropriate payment.

(4) On the making of a claim by an individual referred to in subsection (3), a payment (in this section referred to as an 'appropriate payment') shall, subject to the provisions of this section, be made in accordance with subsection (16).

(5)

(a) *An appropriate payment in relation to a qualifying residence […] under this section shall not be greater than whichever of the amounts referred to in the following subparagraphs is the lesser, namely:*

(i) *the amount of €20,000,*

(ii) *the amount of income tax payable and paid by the claimant in respect of the 4 tax years immediately preceding the year in which an application is made under subsection (6), or*

(iii) *the amount equal to 5 per cent of the purchase value of the qualifying residence or self-build qualifying residence, as the case may be.*

[…]

(5A) *Where an individual has, in that part of the qualifying period beginning on 23 July 2020 and ending on 31 December 2025, either -*

(a) *entered into a contract with a qualifying contractor for the purchase by that individual of a qualifying residence, that is not a self-build qualifying residence, or*

(b) *[…],*

paragraph (a) of subsection (5) shall apply subject to the following modifications:

(i) *in subparagraph (i) of that paragraph, '€30,000' shall be substituted for '€20,000';*

(ii) *in subparagraph (iii) of that paragraph, '10 per cent' shall be substituted for '5 per cent'.*

[…]

(12)

(a) *On making a claim under subsection (3) […] the claimant shall provide to the Revenue Commissioners -*

(i) *his or her name and PPS number,*

(ii) *the address of the qualifying residence,*

(iii) the purchase value of the qualifying residence,

(iv) details of the qualifying lender,

(v) confirmation that a qualifying loan has been entered into,

(vi) the qualifying loan application number or reference number used by the qualifying lender,

(vii) the amount of the qualifying loan,

(viii) evidence of the qualifying loan entered into,

(ix) evidence of the contract entered into with a qualifying contractor,

(x) the amount of deposit payable by the claimant to the qualifying contractor,

(xi) the amount, if any, of deposit paid by the claimant to the qualifying contractor,

(xii) confirmation that, on its completion, the qualifying residence will be occupied by the claimant as his or her only or main residence, and

(xiii) […].

(b) A claimant shall satisfy himself or herself that the contractor is a qualifying contractor.

(13) Following the making of a claim in accordance with subsection (12), the qualifying contractor shall provide to the Revenue Commissioners -

(a) the contractor's name,

(b) the contractor's tax reference number and VAT registration number,

(c) the name of the claimant,

(d) the address of the qualifying residence,

(e) the purchase value of the qualifying residence,

(f) the amount of deposit payable by the claimant to the qualifying contractor,

(g) the amount, if any, of deposit paid by the claimant to the qualifying contractor, and

(h) in the case of a contract to which subsection (16)(a)(ii) applies, details of the qualifying contractor's bank account.

[…]

(16)

(a) Subject to the provisions of this section, the appropriate payment shall be made by the Revenue Commissioners –

(i) […],

(ii) where in the period commencing on 1 January 2017 and ending on 31 December 2025, a contract referred to in subsection (3)(a) is entered into between the claimant and a qualifying contractor, to the qualifying contractor's bank account, or

(iii) […].

(b) Where the appropriate payment is made in respect of a claimant to a qualifying contractor referred to in paragraph (a)(ii), the contractor shall treat the appropriate payment as a credit against the purchase price of the qualifying residence.

(c) Where paragraph (a)(ii) applies, the claimant shall consent to the appropriate payment in respect of him or her being paid by the Revenue Commissioners to the qualifying contractor.

(17)

(a) On its completion, a qualifying residence […] shall be occupied by the claimant as his or her only or main residence.

[…]

(18)

(a) Where -

(i) arising from a claim under this section, an appropriate payment is made to, or in respect of, a claimant, and

(ii) *any condition that imposes a qualification, as respects the claimant, in relation to the making of an appropriate payment under this section is not satisfied by the claimant,*

the claimant shall, within 3 months from the date on which the appropriate payment is made, pay to the Revenue Commissioners an amount equal to the amount of the appropriate payment, or part of such an amount, as appropriate.

[…]

[…]

(20)

(a) *Where a person who is liable to pay to the Revenue Commissioners an amount referred to in […] paragraph (a) […] of subsection (18) fails to pay that amount, a Revenue officer may, at any time, make an assessment or an amended assessment on that person for a year of assessment or accounting period, as the case may be, in an amount that, according to the best of that officer's judgement, ought to be charged on that person.*

(b) *A person aggrieved by an assessment or an amended assessment made on that person under this subsection may appeal the assessment or the amended assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment or amended assessment.*

(c) *Where in accordance with paragraph (a), a Revenue officer makes an assessment or an amended assessment on a person in an amount that, according to the best of that officer's judgement, ought to be charged on that person, the amount so charged shall, for the purposes of paragraph (a) and Part 42, be deemed to be tax due and payable in respect of the tax year in which the person is liable to pay the amount involved and shall carry interest as determined in accordance with subsection (2) of section 1080 as if a reference in that subsection to the date when the tax became due and payable were a reference to the date the amount so charged is, under this section, payable to the Revenue Commissioners.*

(d) Any liability to pay an amount to which paragraph (a) applies, including any interest thereon, which is due and unpaid by a qualifying contractor under this section shall be and remain a charge on the freehold or leasehold estate or interest in the land on which the qualifying residence was to be constructed, where the contractor retains such estate or interest in the land.

(e) Notwithstanding section 36 of the Statute of Limitations 1957, the charge referred to in paragraph (d) shall continue to apply, without limit as to time, until such time as it is paid in full.

[…]"

22. The Respondent's Tax and Duty Manual, Part 15-01-46, titled "Help to Buy (HTB)" (version: updated December 2020), as published at the time when the Appellant made the claim under the HTB ("the Relevant TDM"), states:

"[…]

This document should be read in conjunction with section 477C of the Taxes Consolidation Act 1997.

Document last updated December 2020

The information in this document is provided as a guide only and is not professional advice, including legal advice. It should not be assumed that the guidance is comprehensive or that it provides a definitive answer in every case.

[…]

3. Who is entitled to claim HTB?

3.1 To be eligible for HTB, an individual must be a first-time buyer. Where more than one individual is purchasing or building a new home, all of the individuals must be first-time buyers. […]

Example 1

Denise and Noel are looking to buy a home together. Noel is a first-time purchaser, but Denise has bought a house previously. They do not qualify for HTB as Denise has previously owned a house.

[…]

[…]"

23. The Respondent's Tax and Duty Manual, Part 15-01-46, titled "Help to Buy (HTB)" (version: updated December 2024) is the manual published by the Respondent on the HTB at the time of the appeal hearing ("the Current TDM"). The Current TDM states:

"[…]

This document should be read in conjunction with section 477C of the Taxes Consolidation Act 1997.

Document last updated December 2024

The information in this document is provided as a guide only and is not professional advice, including legal advice. It should not be assumed that the guidance is comprehensive or that it provides a definitive answer in every case.

[…]

4. Who is a First Time Buyer?

For the purposes of HTB, a first-time buyer is an individual who, at the time of the HTB claim has not:

- *either individually, or jointly with another person,*
- *previously purchased or built,*
- *directly or indirectly,*
- *on his or her own behalf,*

a dwelling.

In order to be eligible to claim HTB, an individual must be a first-time buyer. […]

Example 4.1

Denise and Noel are looking to buy a home together. Noel is a first-time purchaser, but Denise has bought a house previously. They do not qualify for HTB as Denise has previously owned a house.

[…]"

24. The Respondent's website included a summary overview of the HTB at the time when the Appellant made [redacted] claim to HTB ("the Relevant Summary Overview") which stated:

"[…]

Who can claim HTB?

To claim HTB, you must:

- *be a first time purchaser at the time of the claim*

[…].

[…]

To qualify, you must not have previously purchased or built a house or apartment, either on your own or jointly with any other person. […]

[…]"

The Relevant Summary Overview is no longer available on the Respondent's website.

25. The Respondent's website currently includes a summary overview of the HTB ("the Current Summary Overview") which specifically refers to a person purchasing a residential dwelling in Ireland when that person already owns a residential dwelling either in Ireland or elsewhere. The Current Summary Overview states:

"[…]

Who can claim HTB?

To claim HTB, you must:

- *be a first-time purchaser of a property at the time of the claim*

[…].

[...]

To qualify, you must not have previously purchased […] a house or apartment, either:

- *on your own in or outside of the State*

or

- *jointly with any other person in or outside of the State.*

[…]"[1]

[1] www.revenue.ie/en/property/help-to-buy-incentive/who-can-claim-htb.aspx

Evidence and submissions

Appellant's evidence

26. During the appeal hearing, the Commissioner heard oral evidence from the Appellant as follows:

    26.1. The Appellant and [redacted] child moved from the UK to live in Ireland in [redacted].

    26.2. In [redacted], the Appellant's [redacted] mother moved [redacted] to Ireland, to live with the Appellant and [redacted] child [redacted] The Appellant [redacted] is the carer for [redacted] mother since [redacted] mother moved to Ireland. [redacted]

    26.3. The Appellant rented a residential dwelling in Ireland [redacted] to live in prior to proceeding with the purchase of the Residence in 2021.

    26.4. In 2012, the Appellant purchased a residential dwelling (a two-bedroom apartment) in the UK as an investment. The Appellant has never lived in that property. The Appellant's investment in this UK property is running at a net loss position due to the adverse impacts of the Covid-19 pandemic and the level of refurbishment and unforeseen expenditure incurred on the property since [redacted] purchase. The unforeseen expenditure incurred includes expenses arising from flooding at the property.

    26.5. The Appellant relied on the published information on the Respondent's website prior to making [redacted] claim under the HTB, including the Relevant TDM and the Relevant Summary Overview, and neither of these information sources specified that ownership of a residential dwelling outside Ireland, as an investment, precluded a claim under the HTB.

Appellant's submissions

27. During the appeal hearing, the Appellant submitted that [redacted] applied for the HTB as a lay applicant and, as such, [redacted] relied on the guidance published by the Respondent, which *"did not state clearly that ownership of a dwelling outside the State would disqualify the eligibility"* [2] for the HTB. The Appellant further submitted:

[2] Page 11 of the transcript

"As a layman, again, everything when being discussed in the context of Ireland, truly, honestly and truthfully did not give me an indication that I would [be] disqualified for the property I own in the UK. I applied honestly […], disclosed all relevant information, received approval and proceeded on the basis that I was eligible. I want to be very clear about the real-world impact of that reliance; because [the HTB] applied only to new build properties, I made a deliberate decision to purchase a new build rather than a cheaper second hand property which would have been significantly lower in price. The decision materially increased the purchase price, my mortgage borrowing, my long-term financial commitments and I made it solely because [the Respondent] had confirmed that I was eligible for the scheme.

Had the Respondent's guidance made the ineligibility clear at that time, I would not have purchased a new build property and instead would have bought a less-expensive second-hand home. Once the purchase was completed the decision was irreversible. After my approval […] and only after my appeal was accepted by the Commission, […] [the Respondent] amended its public guidance to express and clarify that ownership of a dwelling, in or outside the State, disqualifies the applicant, confirming that the earlier guidance lacked clarity for a lay applicant.

[…] I rely on principles of legal certainty, legitimate expectation, proportionality and fairness in administration. The social purpose of the scheme has been fully achieved and I live in the property as my principal private residence.

For those reasons, I respectfully submit that a clawback in these circumstances is unfair and disproportionate and I ask the Commissioner to allow the appeal and set aside the assessment." [3]

28. The Commissioner notes that the Appellant's submissions at the hearing are consistent with the information submitted in [redacted] SoC.

Respondent's submissions

29. The Respondent submitted at the appeal hearing that the Appellant is not a *"first-time purchaser"*, as defined in section 477C(1) of the TCA 1997, for the purposes of the HTB, as [redacted] had purchased a residential dwelling in the UK prior to purchasing the property in Ireland in respect of which [redacted] claimed the HTB. The Respondent further submitted that the HTB legislation does not state that the *"first-time purchaser"* requirement is limited to dwellings in Ireland. The Respondent stated that, as the Appellant had previously

[3] Pages 11 to 13 of the transcript

purchased a residential dwelling in the UK, the Appellant was not a *"first-time purchaser"* for the purposes of the HTB when [redacted] purchased the Residence. The Respondent contended that the Relevant TDM states that it is guidance only and is not professional tax advice, and taxpayers bear responsibility for their own tax affairs, so any misunderstanding of legislation is not the Respondent's responsibility. The Respondent stated that any amendments made in the guidance available on the Respondent's website is to remove doubt for taxpayers going forward and it does not equal a change in legislation. In addition, the Respondent stated that the Appellant's grounds of appeal in relation to how the HTB is administered and the wording of the guidance available on the Respondent's website, is outside the remit of the Commissioner. In conclusion, the Respondent submitted that as the Appellant had purchased a residential dwelling in the UK prior to [redacted] purchase of the Residence, [redacted] is not eligible to claim under the HTB, and so the HTB payment must be repaid and the Respondent does not have any discretion under the legislation to waive the Assessment.

Material Facts

30. Having considered the oral evidence at the hearing and the submissions from both parties in this appeal, the Commissioner makes the following material findings of fact:

30.1. The Appellant is a PAYE taxpayer and is subject to single assessment for income tax purposes.

30.2. The Appellant purchased a residential dwelling, a two-bedroom apartment, in the UK in 2012 as an investment.

30.3. In [redacted], the Appellant moved from the UK to Ireland, with [redacted] child.

30.4. In [redacted], the Appellant's [redacted] mother moved [redacted] to Ireland to live with the Appellant and [redacted] child [redacted], and the Appellant is the carer for [redacted] mother.

30.5. On 10 August 2021, the Appellant filed [redacted] application for the HTB with the Respondent.

30.6. On 18 November 2021, the Appellant proceeded to the claim stage by filing [redacted] HTB claim with the Respondent, in respect of the purchase of the Residence.

30.7. The Contractor provided the Respondent with the required verification of the HTB claim and the Respondent processed the HTB claim, resulting in a HTB payment of €30,000 being issued by the Respondent to the Contractor on 16 December 2021.

30.8. On 11 February 2025, the Respondent issued correspondence to the Appellant, pursuant to a Level 1 compliance intervention, requesting further information from the Appellant in relation to [redacted] HTB claim.

30.9. On 26 February 2025, the Appellant confirmed to the Respondent that [redacted] purchased the UK residential dwelling in 2012 as an investment.

30.10. On 13 March 2025, the Respondent expanded its compliance intervention to include income tax matters for the tax years 2021 to 2024 inclusive.

30.11. On 15 May 2025, the Respondent concluded its compliance intervention and issued the Assessment to the Appellant for the repayment of the HTB payment, which had been paid by the Respondent to the Contractor on 16 December 2021, on the basis that the Appellant had not been a *"first-time purchaser"*, as defined in section 477C(1) of the TCA 1997, when the claim to HTB was made (18 November 2021).

30.12. The Assessment is raised pursuant to section 477C(20)(a) of the TCA 1997 in respect of the HTB payment for the year of assessment 2021 and is in the amount of €38,186.21, which is composed of the amount of the repayable HTB payment (€30,000) and interest computed on the late repayment of the HTB payment to the date of the Assessment (€8,186.21).

30.13. When the Appellant made [redacted] claim for HTB [redacted] placed reliance on the published guidance available on the Respondent's website including the Relevant TDM and the Relevant Summary Overview.

30.14. The guidance published on the Respondent's website at the time the Appellant made [redacted] claim for HTB, being the Relevant TDM and the Relevant Summary Overview, states there is a requirement for the HTB claimant to be a first-time purchaser of a residential dwelling.

30.15. On 29 June 2025, the Appellant commenced the tax appeal process by filing [redacted] Notice of Appeal with the Commission.

Analysis

Burden of proof in tax appeals

31. The appropriate starting point for this analysis 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 the assessment to tax or the decision of the Respondent is incorrect.

32. 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 ("*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."

33. 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 […]"

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

"[…] the taxpayer bears the burden of demonstrating that a tax assessment is wrong. […]"

35. 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 joint 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

36. This appeal involves consideration of the applicability of section 477C of the TCA 1997 to the facts of the Appellant's case. The Commissioner considers it appropriate to set out the well-settled principles of statutory interpretation.

37. The principles to be applied to statutory interpretation, which the Commissioner adopts in this appeal, 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";*
>
> *[…]"*

38. The principles of statutory interpretation, as stated in the judgment of McDonald J. in *Perrigo* have been confirmed in the more recent decisions in *Heather Hill Management Company CLG & McGoldrick v An Bord Pleanála, Burkeway Homes Limited and the Attorney General* [2022] IESC 43 and *Hanrahan* (see above).

39. The approach to statutory interpretation as set down in *Perrigo* is authoritative. The judgment provides a framework for the Commissioner to interpret the relevant tax

legislation at issue in this appeal (the definition of *"first-time purchaser"* in section 477C(1) of the TCA 1997).

40. The Commissioner is satisfied that the phrase *"first-time purchaser"* and the words contained in the definition of that phrase in section 477C(1) of the TCA 1997, are plain and the meaning of those words is self-evident. Therefore, the ordinary, basic and natural meaning of the words should prevail when interpreting this legislation. In addition, the Commissioner notes that the words must be considered in the context of the act in which the provision sits (the TCA 1997), taken as a whole.

First-time purchaser

41. One of the criteria that must be satisfied in the HTB is that the individual making the HTB claim is a *"first-time purchaser"*. That term is defined in section 477C(1) of the TCA 1997 as follows:

> *"[…] an individual who, at the time of a claim under subsection (3) has not, either individually or jointly with any other person, previously purchased or previously built, directly or indirectly, on his or her own behalf a dwelling:"*

42. The Appellant gave evidence at the hearing that [redacted] purchased a residential dwelling, a two-bedroom apartment, in the UK in 2012 as an investment. The Appellant further testified that [redacted] continues to own this property, and it operates at a net loss due to the level of expenditure incurred since its purchase on refurbishment and unforeseen issues, including flooding and the adverse impacts of the Covid-19 pandemic.

43. The Commissioner refers to the phrase *"first-time purchaser"* and the definition provided for that phrase in section 477C(1) of the TCA 1997. As outlined above, the Commissioner is satisfied that the words used in the phrase and in the definition itself are plain and their meaning is self-evident. Therefore, the ordinary, basic and natural meaning of the words should prevail.

44. The Commissioner notes the Oxford English Dictionary[4] definition of the phrase *"first-time"* is *"experiencing or doing something for the first time"*. That dictionary's definition of the word *"first"*, in the context of time, is *"preceding all others in occurrence, existence […]; earliest"*. The same dictionary defines *"dwelling"* as *"a place of residence; a dwelling-place, habitation, house"*.

45. The definition of *"first-time purchaser"* contained in section 477C(1) of the TCA 1997 requires that the purchaser has not, either individually or jointly with another person,

[4] www.oed.com

previously purchased a dwelling on [redacted] own behalf. The Commissioner notes that the definition in the legislation is not limited by reference to the location of the previously purchased dwelling or the use to which the previously purchased dwelling has been put, whether as a home for the purchaser, as a rental investment or otherwise. Therefore, the Commissioner concludes that the legislative definition does not provide for exceptions where the previously purchased dwelling is located outside Ireland or where a previously purchased dwelling has been used solely as an investment property. The Commissioner finds that the Appellant does not fall within the definition of *"first-time purchaser"* as laid down in section 477C(1) of the TCA 1997, for the purposes of the HTB, as the Appellant had previously purchased a residential dwelling. It is not relevant to the definition of *"first time purchaser"* that the previously purchased dwelling is located in the UK, was purchased as an investment and the Appellant has never lived in it, or that the purchase resulted in the Appellant being in a net loss position in relation to that investment since its purchase. It follows that, as the Appellant purchased a residential dwelling prior to [redacted] purchase of the Residence, the Appellant did not satisfy the *"first-time purchaser"* qualification requirement for the HTB at the time when [redacted] made [redacted] claim under the HTB (in 2021). Therefore, the Commissioner concludes that the Appellant did not qualify for the HTB payment of €30,000 which followed on foot of [redacted] HTB claim and which was paid by the Respondent to the Contractor on 16 December 2021.

Repayment of the HTB payment

46. Pursuant to the provisions of section 477C(18)(a) of the TCA 1997, where a HTB claimant does not satisfy the qualification criteria of the HTB, the claimant is required to repay the HTB payment to the Respondent within three months of the date when the HTB payment was made. Therefore, in this case, as the Appellant did not satisfy the qualification criteria of the HTB when the claim for the HTB was made, the legislation requires that the HTB payment should be repaid by the Appellant to the Respondent within three months of the date when the HTB payment was originally made by the Respondent to the Contractor. The HTB payment was made by the Respondent to the Contractor on 16 December 2021. Therefore, in accordance with the legislation, the HTB payment should have been repaid by 16 March 2022. As the Appellant did not make repayment within that deadline, the Commissioner is satisfied that the requirement to repay the HTB payment, as laid down in section 477C(18)(a) of the TCA 1997, has not been satisfied.

47. Pursuant to section 477C(20)(a) of the TCA 1997, as the repayment required under section 477C(18)(a) of the TCA 1997 did not occur by 16 March 2022, the Respondent is authorised to issue an assessment for the repayment of the HTB payment at any time thereafter. The Commissioner is satisfied that the Assessment issued by the Respondent

in this case, dated 15 May 2025, was issued in accordance with the provisions of section 477C(20)(a) of the TCA 1997. Furthermore, the Commissioner is satisfied that the repayable amount stated in the Assessment (€30,000) is correct as this equates to the amount of the HTB payment made by the Respondent to the Contractor on 16 December 2021.

Respondent's published guidance materials

48. The Commissioner is satisfied that she must consider the legislation and its interpretation and application to the material facts in this appeal. The Commissioner does not have jurisdiction in relation to how the Respondent conducts its customer service or its discretion in how it deals with taxpayers, including the wording in the Respondent's guidance materials published, from time to time, including publication via its website. In this appeal it has been noted that the Respondent issued guidance to taxpayers in relation to the HTB including in the Relevant TDM, the Current TDM, the Relevant Summary Overview and the Current Summary Overview.

49. The Commissioner further notes the clear disclaimer wording on the front pages of the Relevant TDM and the Current TDM, whereby it is stated:

> *"The information in this document is provided as a guide only and is not professional advice, including legal advice. It should not be assumed that the guidance is comprehensive or that it provides a definitive answer in every case."*

50. The Commissioner notes the Appellant's grounds of appeal that [redacted] relied in good faith on the guidance issued by the Respondent on its website at the time [redacted] claimed the HTB payment, and this guidance did not state that a person who had previously purchased a residential dwelling outside Ireland as an investment is not a *"first-time purchaser"* within the HTB. As such, the Appellant contends that [redacted] was unaware that [redacted] did not satisfy the "first-time purchaser" requirement under the HTB. The Commissioner notes that the Respondent has updated its published guidance material since the Appellant made [redacted] claim to HTB. The Commissioner notes the Current Summary Overview states clearly that a previous purchase of a dwelling abroad renders a person ineligible for the HTB. The Appellant submits that the recent updates to the Respondent's published guidance support [redacted] contention that the Respondent's previously published guidance, available at the time [redacted] made [redacted] claim to HTB, was not clear or complete.

51. While the Commissioner notes the Appellant's submissions in this regard, the Commissioner is satisfied that she does not have jurisdiction to consider matters

concerning the contents of the published guidance, as her function is to consider the tax legislation and its application to the material facts in this appeal. As the Appellant's submissions regarding the published guidance does not refer to the wording of the legislation at issue in this appeal, the Commissioner is satisfied that the points raised are not within the scope of this appeal.

Interest is not an appealable matter

52. The Commissioner notes that section 477C(20)(c) of the TCA 1997 lays down the charge to interest in circumstances where an assessment issues in accordance with section 477C(20)(a) of the TCA 1997. The Commissioner notes the inclusion of interest in the Assessment. Whilst the Appellant has not referred to the charge to interest in [redacted] grounds of appeal, the Commissioner considers it appropriate to deal with this matter at this stage, for the sake of completeness.

53. The Commission is a statutory body created by the Finance (Tax Appeals) Act 2015. As a statutory body, the Commission only has the powers that have been granted to it by the Oireachtas. The powers of the Commission to hear and determine tax appeals are set out in Part 40A of the TCA 1997. Part 40A of the TCA 1997, entitled *"Appeals to Appeals Commissioners"*, comprises sections 949A to 949AX of the TCA 1997.

54. The Commissioner's jurisdiction has been considered by the courts in a number of cases. In the Court of Appeal case of *Lee v Revenue Commissioners* [2021] IECA 18 (*"Lee"*), Murray J. stated at paragraph 20:

> *"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. Insofar as they are said to enjoy any identified function, it must be either rooted in the express language of the TCA or must arise by necessary implication from the terms of that legislation."*

55. The Tax Acts do not confer on the Commissioner any power to hear appeals into matters pertaining to the statutory charge to interest on late payment of tax under any tax head, including under the repayment provisions in the HTB legislation. Therefore, the Commissioner does not have any jurisdiction in relation to appeals against charges of statutory interest, including the charge to interest on the late repayment of HTB payment charged in accordance with section 477C(20)(c) of the TCA 1997 and section 1080(2) of the TCA 1997.

Jurisdiction of an Appeal Commissioner

56. Finally, the Commissioner notes the Appellant's submissions regarding personal [redacted] difficulties [redacted]. The Appellant has referred to the principles of administrative fairness and legitimate expectation in the context of [redacted] application for the HTB in circumstances where [redacted] relied on the Respondent's published guidance which [redacted] contends was not clear and complete. The Appellant has submitted that the Assessment has led to emotional and financial distress, with the quantum of the HTB repayment and the interest per the Assessment posing a serious financial burden [redacted]. The Appellant requests compassionate consideration in the circumstances, and that the Commissioner show leniency in this case.

57. The Commissioner has cited the Court of Appeal case of *Lee* above, in the context of her jurisdiction in relation to matters concerning the statutory charge to interest. The Commissioner notes that *Lee* summarises her general jurisdiction in tax appeals. In *Lee* the Court of Appeal made clear that the function of the Appeal Commissioner is to determine by reference to applicable legislation the correct amount of tax owed. Paragraph 20 of the judgment of Murray J. in *Lee* has been cited above. Furthermore, Murray J. continued at paragraph 76 of his judgment:

> *"[…] 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."*

58. The Commissioner empathises with the Appellant's difficulties in this case. However, the Commissioner does not have jurisdiction to set aside a decision of the Respondent, made in accordance with the HTB legislation, on the basis of the Appellants difficulties or where the Appellant placed reliance in good faith on the Respondent's published guidance in circumstances where that guidance did not specifically refer to the HTB excluding purchasers who had previously purchased a residential dwelling located outside Ireland as an investment or otherwise. The Commissioner does not have jurisdiction to consider the principles of administrative fairness and legitimate expectation highlighted by the Appellant. The Commissioner has no jurisdiction to adopt a lenient approach in tax appeals or make a determination on compassionate grounds. 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 tax appeal. The Commissioner recognises that the Appellant is

in a difficult position and the quantum of the repayment amount per the Assessment is significant. The Commissioner notes the matters raised by the Appellant may come within the Respondent's complaint procedures or within the jurisdiction and remit of the Courts. The Commissioner further notes that taxpayers may agree phased payment arrangements with the Respondent in certain circumstances.

Conclusion

59. 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 or a decision of the Respondent is incorrect. Furthermore, in accordance with the decision in *Hanrahan*, where the material facts in a tax appeal are not in dispute, as in this appeal, the Commissioner must objectively assess the relevant tax legislation and its application to the facts outlined on appeal when making her determination.

60. The Commissioner has objectively considered the relevant legislation in this appeal, section 477C of the TCA 1997, and its application to the facts in this case. The Commissioner concludes as follows:

60.1. The Assessment issued by the Respondent on 15 May 2025 is correct as the Appellant did not satisfy the *"first-time purchaser"* requirement laid down as one of the qualifying criteria for a claim under the HTB.

60.2. There are no exceptions set down in the HTB legislation whereby a person who is not a *"first-time purchaser"* may qualify for the HTB in the particular circumstances where the claimant had previously purchased a residential dwelling in the UK as an investment.

60.3. Following objective assessment of the relevant legislation and its application to the facts of this case, this appeal fails as the Appellant has not discharged the burden of proof to satisfy the Commissioner that the Respondent was incorrect in its application of the relevant statutory provisions. Hence, the Commissioner finds that the Respondent's decision, to raise the Assessment, for repayment of the HTB payment of €30,000 was correct.

60.4. While empathising with the Appellants difficulties, the Commissioner finds that the legislation does not provide for any exception to the application of the *"first-time purchaser"* definition, as laid down in section 477C(1) of the TCA 1997, to take account of those difficulties.

60.5. The charge to interest, included in the Assessment, is not an appealable matter and is therefore outside the jurisdiction of the Commissioner.

60.6. The Commissioner does not have jurisdiction to use discretion, show the leniency requested or consider compassionate grounds in determining this tax appeal.

60.7. The Commissioner does not have jurisdiction to consider the principles of administrative fairness or legitimate expectation in determining this tax appeal.

Determination

61. As such and for all the reasons set out above, the Commissioner determines that the Assessment of the Respondent, dated 15 May 2025, assessing the Appellant to a repayment of the HTB payment, in the amount of €30,000, shall stand.

62. The Commissioner appreciates that this determination will be disappointing for the Appellant. The Appellant was entitled to check if the Assessment was correct and was prudent to do so in the circumstances. However, as noted above, the legislation does not afford the Commissioner any discretion in this matter.

63. This Appeal is determined in accordance with Part 40A of the TCA 1997 and, in particular, section 949AK [redacted]. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

Notification

64. 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 Appellants 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

65. 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
25 May 2026