AN COIMISIÚN UM ACHOMHAIRC CHÁNACH

TAX APPEALS COMMISSION

81TACD2026

Between

[redacted]

Appellant

and

The Revenue Commissioners

Respondent

Determination

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Introduction

1. This is an appeal to the Tax Appeals Commission ("the Commission") pursuant to and in accordance with the provisions of section 949I of the Taxes Consolidation Act 1997 ("TCA 1997") brought on behalf of the Appellant in relation to Statements of Liability issued by the Respondent in respect of the tax years 2023, 2024 and 2025 ("the relevant years"). The tax at issue in this appeal is in the amount of €5,703.00.

2. On 1 October 2025, the Appellant duly appealed to the Commission. The Appellant submitted a Notice of Appeal and accompanying documentation in support of his appeal. In addition, in accordance with section 949Q TCA 1997, a Statement of Case was submitted by the Appellant, which built on the Appellant's Notice of Appeal. The Commissioner has received a Statement of Case from the Respondent, in addition to copies of amended Statements of Liability for the relevant years. The Commissioner has considered all of the documentation submitted by the parties in support of their respective positions in this appeal.

3. In the Statement of Case filed by the Appellant, the Appellant confirmed that he did not wish for the appeal to proceed in private should a hearing of the appeal be required.

4. By agreement with the parties, this appeal is adjudicated without a hearing in accordance with the provisions of section 949U TCA 1997.

Background

5. On 13 March 2023, the Appellant commenced employment on a Community Employment (CE) Scheme ("the CE scheme").

6. On 24 October 2025, the Appellant contacted the Respondent concerning certain income tax deductions applied to the income the Appellant received from the CE scheme employment.

7. On 3 November 2025, the Respondent replied to the Appellant and confirmed that it considered that the income tax and PRSI deductions for the relevant years were correct.

8. The Respondent submitted that as the Appellant was employed on a CE scheme, this employment was subject to income tax and Pay Related Social Insurance ("PRSI") deductions. However, the Respondent confirmed that payments made to participants on a CE Scheme are treated as social welfare payments and are hence, are exempt from the Universal Social Charge ("USC"), in accordance with section 531AM TCA 1997.

9. On 4 November 2025, the Appellant replied to the Respondent to request, amongst other things, that the Respondent exclude child support payments from the Appellant's taxable income; apply the necessary tax credits in relation to the Appellant's weekly income; and repay to the Appellant any overpaid tax.

10. On 4 November 2025, the Appellant submitted further correspondence in which the Appellant sought a review by a senior officer of the Respondent of the Appellant's tax records, in respect of any incorrect deductions made.

11. On 11 November 2025, the Respondent replied to the Appellant to state that the income tax deductions applied to the Appellant's record were in order, based on the payroll submissions made by the Appellant's employer. The Respondent further confirmed that the Appellant's income was exempt from USC, having regard to the Appellant's CE scheme employment.

12. On 19 November 2025, the Appellant replied to the Respondent to request a repayment in full of all deductions made by the Respondent since the commencement of the Appellant's employment, in March 2023. The Appellant stated there should be no weekly income tax or PRSI deductions applied to the Appellant's record.

13. On 20 November 2025, the Appellant duly appealed to the Commission the Statements of Liability for the relevant years, by submitting a Notice of Appeal.

14. Following the appeal being made by the Appellant, the Respondent reviewed the Appellant's records for the relevant years, and on 15 December 2025, the Respondent amended the Appellant's record to reduce the Appellant's pay for USC to €0.00 for the years 2023 and 2024.

15. On 16 December 2025, the Respondent issued amended Statements of Liability to the Appellant, which confirmed the Appellant's CE scheme employment income was not subject to USC. The Respondent submitted that it also contacted the Appellant's employer and advised the employer to ensure that it does not include the Appellant's employment income for USC purposes.

16. On 20 January 2026, the Respondent amended the record of the Appellant for 2025, which saw the Appellant's income for USC reduced to €0.00 for that period. The Statements of Liability have been submitted in support of the Respondent's position in this appeal.

Legislation and Guidelines

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

18. Section 19 TCA 1997, Schedule E, provides that:-

(1) The Schedule referred to as Schedule E is as follows:

SCHEDULE E

1. In this Schedule, "annuity" and "pension" include respectively an annuity which is paid voluntarily or is capable of being discontinued and a pension which is so paid or is so capable.

2. Tax under this Schedule shall be charged in respect of every public office or employment of profit, and in respect of every annuity, pension or stipend payable out of the public revenue of the State, other than annuities charged under Schedule C, for every one pound of the annual amount thereof.

3. Tax under this Schedule shall also be charged in respect of any office, employment or pension the profits or gains arising or accruing from which would be chargeable to tax under Schedule D but for paragraph 2 of that Schedule.

4. Paragraphs 1 to 3 are without prejudice to any other provision of the Income Tax Acts directing tax to be charged under this Schedule, and tax so directed to be charged shall be charged accordingly.

5. Subsection (2) and sections 114, 115 and 925 shall apply in relation to the tax to be charged under this Schedule.

(2) Tax under Schedule E shall be paid in respect of all public offices and employments of profit in the State or by the officers respectively described below—

(a) offices belonging to either House of the Oireachtas;

(b) offices belonging to any court in the State;

(c) public offices under the State;

(d) officers of the Defence Forces;

(e) offices or employments of profit under any ecclesiastical body;

(f) offices or employments of profit under any company or society, whether corporate or not corporate;

(g) offices or employments of profit under any public institution, or on any public foundation of whatever nature, or for whatever purpose established;

(h) offices or employments of profit under any public corporation or local authority, or under any trustees or guardians of any public funds, tolls or duties;

(i) all other public offices or employments of profit of a public nature.

19. Section 112 TCA 1997, Basis of assessment, persons chargeable and extent of charge, amongst other things, provides that:

(1) Income tax under Schedule E shall be charged for each year of assessment on every person having or exercising an office or employment of profit mentioned in that Schedule, or to whom any annuity, pension or stipend chargeable under that Schedule is payable, in respect of all salaries, fees, wages, perquisites or profits whatever therefrom, and shall be computed on the amount of all such salaries, fees, wages, perquisites or profits whatever therefrom for the year of assessment.

(2) (a) In this section, "emoluments" means anything assessable to income tax under Schedule E.

20. Section 531AM TCA 1997, Charge to Universal Social Charge, amongst other things, provides that:

(1) With effect from 1 January 2011, there shall be charged, levied and paid, in accordance with the provisions of this Part, a tax to be known as "universal social charge" in respect of the income specified in paragraphs (a) and (b) of the Table to this subsection.

TABLE

(a) The income described in this paragraph (in this Part referred to as "relevant emoluments") is emoluments to which Chapter 4 of Part 42 applies or is applied, including—

(i) any allowable contributions referred to in Regulation 31 of the Income Tax Regulations,

(ii) the initial market value (within the meaning of section 510(2)) of any shares, excluded from the charge to income tax by virtue of section 510(4), appropriated in accordance with Chapter 1 of Part 17, except where such shares were held by an employee share ownership trust, approved in accordance with Schedule 12, before 1 January 2011,

(iii) *the market value (determined in accordance with section 548) of the right referred to in section 519A(1) or 519D(1),*

(iv) *any gain exempted from income tax by virtue of section 519A(3) or 519D(3) after such a gain is reduced by the market value of the right referred to in subparagraph (iii), and*

(v) *the "specified amount" as defined in section 825C, but not including—*

(I) *social welfare payments and similar type payments, (II)*

(II) *excluded emoluments,*

(III) *emoluments disregarded by an employer following receipt of a notification issued by an inspector under section 984(1),*

(IV) *any amount in respect of which relief is due under section 201(5)(a) and paragraphs 6 and 8 of Schedule 3,*

(V) *any amount transferred by an administrator under section 782A(3),*

(VI) *emoluments in the nature of a contribution by an employer to a PRSA (within the meaning of Chapter 2A of Part 30), and*

(VII) *emoluments in the nature of a contribution by an employer to a PEPP (within the meaning of Chapter 2D of Part 30)*

21. Section 193 TCA 1997, Income from scholarships, amongst other things, provides that:

(1) (a) In this section –

"relevant body" means a body corporate, unincorporated body, partnership, individual or other body;

"relevant scholarship" means a scholarship provision for which is made, either directly or indirectly, by a relevant body or a person connected with the relevant body and where payments are made, either directly or indirectly, in respect of such a scholarship to –

(i) an employee or, where the relevant body is a body corporate, a director of the relevant body, or

(ii) the spouse, civil partner, family, dependants, servants or children of the civil partner of such employee or director;

"scholarship" includes an exhibition, bursary or other similar educational endowment.

………………..

(2) Income arising from a scholarship held by a person receiving full-time instruction at a university, college, school or other educational establishment shall be exempt from income tax, and no account shall be taken of any such income in computing the amount of income for the purposes of the Income Tax Acts.

(3) Nothing in subsection (2) shall be construed as conferring on any person other than the person holding the scholarship in question any exemption from a charge to income tax.

(4) Notwithstanding subsection (3), a payment of income arising from a relevant scholarship which is -

(a) provided from a trust fund or under a scheme, and

(b) held by a person receiving full-time instruction at a university, college, school or other educational establishment,

*shall be exempt from income tax if, in the year of assessment in which the payment is made, not more than 25 per cent of the total amount of the payments made from that fund, or under that scheme, in respect of scholarships held as mentioned in paragraph (b) is attributable to relevant scholarships***.**

Submissions

Appellant's submissions

22. The Commissioner sets out hereunder a summary of the submissions made by the Appellant as set out in the Notice of Appeal and Statement of Case:-

"I appeal against [the Respondent] assessment which results in the inconsistent and incorrect taxation of a social support component within my CE Scheme income.

Incorrect Taxation of a Non-Taxable Social Support Element

The appellant's weekly CE Scheme gross pay (€583.50) is an aggregate figure that includes the Increase for a Qualified Child (IQC) component for three children. The IQC component is, by definition, a social support payment intended for the maintenance of qualified children.

By taxing the full gross pay, [the Respondent] is taxing the IQC component, which breaches the fundamental principle that social support payments of this nature should be excluded from the taxable income base. This administrative error has led to an unjustified overpayment of PAYE tax (estimated at €5703) since the scheme commenced.

Legal Inconsistency (The USC Contradiction)

[The Respondent] applies two mutually exclusive legal classifications to the exact same source of income: Rule A (Social): [the Respondent] grants Full Universal Social Charge (USC) Exemption, acknowledging the social character. Rule B (Employment): [the Respondent] classifies the entire payment as taxable Schedule E employment income, refusing to exclude the IQC component from PAYE. This contradiction is unsustainable.

Remedy Sought

I respectfully request that the Tax Appeals Commission orders [the Respondent] to:

a) Immediately and manually exclude the value of the Increase for a Qualified Child (IQC) component from my taxable income base for PAYE purposes.

b) Calculate and refund the full overpayment of PAYE tax for the entire period of my participation in the CE Scheme.

…………………………...

The Appellant is a participant in a Community Employment (CE) Scheme. The dispute concerns two interconnected issues:

The incorrect classification and taxation of the Intensive Childcare (IQC) Grant. The Appellant contends this is a state-funded educational/social support grant, not 'emoluments' from employment.

Chronic systemic errors in payroll reporting by the employer ([redacted]). [The Respondent] confirmed in writing on 18/12/2025 that the employer repeatedly failed to *apply correct USC status and failed to process a confirmed refund of €1,288.14 on 17/12/2025, despite receiving explicit instructions from [the Respondent] on 15/12/2025. The Appellant argues that these documented payroll failures reflect a broader misunderstanding of the CE Scheme's tax status by both the employer and [the Respondent].*

………………

The Appellant intends to rely on the legal principle of 'substance over form' regarding the nature of social and educational grants. Specific case law citations will be provided as the exchange of documentation with [the Respondent] progresses.

Attached as evidence is the correspondence from………..(National PAYE Branch) dated 18/12/2025, which confirms the typo in previous dates and the employer's failure to upload correct payroll data. This evidence supports the Appellant's claim that the current tax assessment is based on unreliable and erroneous payroll data."

Respondent's submissions

23. The Commissioner sets out hereunder a summary of the submissions made by the Respondent as set out in its Statement of Case:-

"i. All CE Scheme payments to participants, including those with adult and child dependents, are assessable for Income Tax (PAYE) purposes.

ii. The actual amount of income tax payable by any individual will depend on their tax credit and rate band allocations.

iii. CE Scheme participants pay PRSI at Class A8/A9 which counts as a full Class A contribution. If the CE Scheme payment is less than €352 per week an employee contribution does not need to be paid. If the CE Scheme payment is greater than €352 a week, the employee PRSI contribution is 4%.

iv. Payments made to participants on a CE Scheme are treated as social welfare payments and are therefore exempt from USC under section 531AM of the TCA 1997.

v. Section 19 of the Taxes Consolidation Act (TCA) 1997 provides that tax under Schedule E shall be charged in respect of "every public office or employment of profit, *and in respect of every annuity, pension or stipend payable out of the public revenue of the State…. for every one euro of the annual amount thereof".*

vi. Therefore, under this provision social welfare payments including the increase for Qualifying Child (IQC) are chargeable to tax, this provision includes CE Schemes.

vii. Section 19 of the TCA 1997 provides that income from offices or employments, and from annuities, pensions or stipends payable out of State funds, is within the charge to tax under Schedule E.

viii. The central issue in this appeal is the charge to Income tax for the Appellant's CE Scheme employment.

ix. As noted above, Section 19 of the TCA 1997 provides that income from offices or employments, and from annuities, pensions or stipends payable out of State funds, is within the charge to tax under Schedule E.

x. The underlined wording above is clear in its meaning the CE Scheme employment is a taxable form of income in accordance with the legislation.

xi. There is no special narrower meaning given to the words "provides that income from offices or employments, and from annuities, pensions or stipends payable out of State funds, is within the charge to tax under Schedule E" in the relevant section, nor can a narrower meaning be ascribed to these words from other parts of the TCA.

xii. Therefore, the income of the Appellant in this matter is correctly chargeable to income tax under Schedule E but exempt from USC.

xiii. The Appellant in their submissions has not outlined a legislative basis on why the income tax deductions applied to their record is not correctly.

xiv. [The Respondent] has always acted in accordance with the prescribed legislation in this case and is satisfied that the final taxation position for the Appellant in 2023, 2024 & 2025 is correct based on all information held on record.

xv. In the circumstances, it is submitted that the Appellant has failed to offer a valid reason as why their CE Scheme employment should be exempted from income tax and therefore the appeal should be dismissed." (sic)

Material Facts

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

24.1. On 13 March 2023, the Appellant commenced employment on the CE scheme.

24.2. As part of the CE scheme, the Appellant was in receipt of an increased Child Support Payment ("CSP") (previously known as the Increase for a Qualified Child ("IQC")) for the relevant years.

24.3. On 20 November 2025, the Appellant duly appealed to the Commission the Statements of Liability for the relevant years.

24.4. On 15 December 2025, the Respondent amended the record of the Appellant to reduce the Appellant's income for USC to €0.00 for 2023 and 2024.

24.5. On 16 December 2025, the Respondent issued the Appellant with amended Statements of Liability which confirmed the Appellant's CE scheme employment was not subject to USC.

24.6. The Respondent also contacted the Appellant's employer and advised the employer to ensure that it does not include the Appellant's employment income for USC purposes.

24.7. On 20 January 2026, the Respondent amended the record of the Appellant for 2025, which saw the Appellant's income for USC reduced to €0.00 for that period.

Analysis

Burden of proof

25. The appropriate starting point for the analysis of the issues is to confirm that in an appeal before the Commission, the burden of proof rests on the Appellant, who must prove on the balance of probabilities that an assessment to tax is incorrect. This proposition is now well established by case law, for example in the High Court case of *Menolly Homes Ltd v Appeal Commissioners and another* [2010] IEHC 49 ("*Menolly Homes*"), at paragraph 22, Charleton J. stated that:

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

26. The Commissioner also considers it useful herein to set out paragraph 12 of the judgment of Charleton J. in *Menolly Homes,* wherein he stated that:

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

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

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

28. It is also necessary to observe that in *Hanrahan v The Revenue Commissioners* [2024] IECA 113, the Court of Appeal clarified the approach to the burden of proof where an appeal relates to the interpretation of law only. The court stated (amongst other things) that:

    "Where the onus of proof lies can be highly relevant in those cases in which evidential matters are at stake…

    In the present case however, the issue is not one of ascertaining the facts; the facts themselves are as found in the case stated. The issue here is one of law;....Ultimately when an Appeal Commissioner is asked to apply the law to the agreed facts, the Appeal Commissioner's correct application of the law requires an objective assessment of what the law is and cannot be swayed by a consideration of who bears the burden. If the interpretation of the law is at issue, the Appeal Commissioner must apply any judicial precedent interpreting that provision and in the absence of precedent, apply the appropriate canons of construction, when seeking to achieve the correct interpretation".

Substantive issue

29. Since 13 March 2023, the Appellant has been a participant on a CE scheme. The crux of the issue in this appeal is the charge to income tax on the Appellant's CE scheme employment income. In accordance with section 531AM TCA 1997, the Commissioner is satisfied that the Appellant's income is exempt from the USC, as payments made to participants on a CE scheme are treated as social welfare payments and are hence, excluded from the USC. The Commissioner notes that the Respondent issued updated amended Statements of Liability for the relevant years, which reflect the exclusion of the Appellant's income the USC.

30. The Appellant submitted that the weekly payment from the CE Scheme was *"an aggregate figure that includes the Increase for a Qualified Child (IQC) component for three children. The IQC component is, by definition, a social support payment intended*

for the maintenance of qualified children….By taxing the full gross pay, [the Respondent] is taxing the IQC component, which breaches the fundamental principle that social support payments of this nature should be excluded from the taxable income base." The Commissioner notes that the Appellant submitted that the Respondent's approach to the payment "*applies two mutually exclusive legal classifications to the exact same source of income*", namely that the exemption to the USC acknowledges the social character of the payment but the Appellant's entire payment is taxable in accordance with Schedule E employment income and does not exclude the CSP (IQC) part of the payment. The Commissioner observes that the Appellant relied on the "*legal principle of 'substance over form' regarding the nature of social and educational grants"* and was seeking repayment of the income tax paid for the relevant years.

31. The Respondent submitted that section 19 TCA 1997 provides that social welfare payments, including the increase for the CSP (or the IQC) are chargeable to tax, and this includes income from a CE scheme. The Respondent argued that all CE scheme payments to participants, including those with adult and/or child dependents, are assessable for income tax purposes, and that the amount of income tax payable will depend on an individual's tax credits and rate band allocations. Moreover, the Respondent submitted that CE scheme participants pay PRSI at Class A8/A9 which counts as a full Class A contribution, but that if the CE scheme payment is less than €352.00 per week, an employee contribution does not need to be paid. If the CE Scheme payment is greater than €352.00 per week, the employee PRSI contribution is 4%.

32. Section 12 of the TCA 1997 provides that income tax is charged on all income described or comprised in four schedules, which include Schedule E. Section 19 of the TCA 1997 contains Schedule E, which provides, among other things, that: "*Tax under this Schedule shall be charged in respect of every public office or employment of profit, and in respect of every annuity, pension or stipend payable out of the public revenue of the State*". Section 112 of the TCA 1997 sets out the basis of the assessment to income tax charged under Schedule E.

33. The Commissioner notes the broad nature of section 19 TCA 1997, in particular the words "*every office or employment of profit, and every……stipends payable out of the public revenue of the State*". The Commissioner is satisfied that the words in section 19 TCA 1997 are plain and their meaning self-evident in terms of the payments subject to tax. In addition, the Commissioner notes the use of the word "shall" which is mandatory in nature and provides no discretion in respect of the tax payable pursuant to section 19 TCA 1997.

34. Having considered the submissions of both parties and the applicable legislative provisions, the Commissioner is satisfied that the Appellant has not shown on balance that the Respondent was incorrect to impose income tax on the Appellant's income from the CE scheme for the relevant years. The Appellant has not shown a legislative basis to support why the income tax deductions applied for the relevant years are incorrect. The Commissioner is satisfied that the income of the Appellant, derived from his employment on the CE scheme, was correctly chargeable to income tax under Schedule E but exempt from the USC. Section 19 TCA 1997 is broad in its nature and the income from the CE scheme employment is captured as a payment taxable in accordance with section 19 TCA 1997.

35. Therefore, pursuant to section 19 TCA 1997, CE scheme payments including the CSP (or the IQC) are chargeable to income tax, and the Commissioner find that the Statements of Liability for the relevant years are correct. The Commissioner is satisfied that the Appellant has not discharged the burden of proof to show that the income from the CE Scheme employment should be exempt from income tax. Therefore, the Appellant's appeal fails.

Conclusion

36. As set out above, in an appeal before the Commission, the burden of proof rests on the Appellant, who must prove on the balance of probabilities that an assessment to tax is incorrect.

37. The Commissioner determines that the Appellant has not shown that the Statements of Liability issued by the Respondent for the relevant years are incorrect. The Commissioner appreciates that this decision will be disappointing for the Appellant. The Appellant was entitled to appeal the Statements of Liability. However, the Commissioner must make a determination in accordance with the legislation.

Determination

38. As such and for the reasons set out above, the Commissioner determines that the Appellant has failed in the appeal and has not succeeded in showing that the Respondent was incorrect to issue the Statements of Liability for the relevant years. Therefore, the Statements of Liability for the relevant years shall stand.

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

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

Notification

41. This determination complies with the notification requirements set out in section 949AJ TCA 1997, in particular section 949AJ(5) and section 949AJ(6) TCA 1997. For the avoidance of doubt, the parties are hereby notified of the determination under section 949AJ TCA 1997 and in particular the matters as required in section 949AJ(6) TCA 1997. This notification under section 949AJ TCA 1997 is being sent via digital email communication **only** (unless the Appellant opted for postal communication and communicated that option to the Commission). The parties will not receive any other notification of this determination by any other methods of communication.

Appeal

42. Any party dissatisfied with the determination has a right of appeal on a point or points of law only within 42 days after the date of the notification of this determination in accordance with the provisions set out in section 949AP TCA 1997. The Commission has no discretion to accept any request to appeal the determination outside the statutory time limit.

Claire Millrine
Appeal Commissioner
26 May 2026