AN COIMISIÚN UM ACHOMHAIRC CHÁNACH

TAX APPEALS COMMISSION

84TACD2026

Between

[redacted]

Appellant

and

The Revenue Commissioners

Respondent

Determination

Contents

Introduction

1. This is an appeal to the Tax Appeals Commission ("the Commission") brought by the Appellant under section 949I of the Taxes Consolidation Act 1997 ("the TCA 1997"), in relation to a Statement of Liability for the tax year 2024 and a Statement of Liability for the tax year 2025 issued by the Respondent on 9 January 2026 (collectively "the Statements of Liability").

2. On 30 March 2026, the Commission notified the Appellant and the Respondent that the Commissioner intended to adjudicate on this appeal without a hearing and informed the parties that they could request a hearing within 21 days of that notification. Neither of the parties objected or requested a hearing. Accordingly, this appeal is adjudicated without a hearing, under section 949U of the TCA 1997.

Background

3. On 9 January 2026, the Respondent issued the Statements of Liability to the Appellant. The Statement of Liability for the tax year 2024 showed an underpayment in the amount of €5,254.46, while the Statement of Liability for the tax year 2025 showed an underpayment in the amount of €3,296.10.

4. On 5 February 2026, the Appellant submitted a Notice of Appeal to the Commission, which enclosed copies of the Statements of Liability.

5. On 25 March 2026, the Appellant and the Respondent submitted their respective Statements of Case. The Commissioner has considered all the documentation submitted by the parties in this appeal.

Legislation and Guidelines

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

7. Section 12 of the TCA 1997 provides:

> *"Income tax shall, subject to the Income Tax Acts, be charged in respect of all property, profits or gains respectively described or comprised in the Schedules contained in the sections enumerated below -*
>
> *Schedule C - Section 17;*
>
> *Schedule D - Section 18;*
>
> *Schedule E - Section 19;*
>
> *Schedule F - Section 20;*

and in accordance with the provisions of the Income Tax Acts applicable to those Schedules."

8. Section 19 of the TCA 1997 provides:

"(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 euro 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."

9. Section 112 of the TCA 1997 provides (among other things):

"(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."

10. Section 126 of the TCA provides (among other things):

"(6A) A payment which is -

(a) described in column (1) of the Table to this section,

(b) paid on the basis specified in column (2) of that Table, and

(c) made by the Minister for Employment Affairs and Social Protection to an individual on or after 1 January 2019,

shall be exempt from income tax and shall not be reckoned in computing income for the purposes of the Income Tax Acts.

[…]

TABLE

Basic supplementary welfare allowance
Back to education allowance
Back to work enterprise allowance
Back to school clothing and footwear allowance
Bereaved Parent grant
Carer's support grant
Constant attendance allowance
Death benefit - funeral expenses
Death benefit - orphans
Direct provision allowance
Disability allowance
Disablement gratuity
Domiciliary care allowance
Exceptional needs payment
Farm assist
Fuel allowance
Guardian's payment (contributory)
Guardian's payment (non-contributory)
Household benefit package
Humanitarian assistance payment
Jobseeker's allowance
Jobseeker's transitional payment
Medical care
Part-time job incentive scheme
Rent allowance
Supplementary welfare allowance
Telephone support allowance

Training support grant

Urgent needs payment other than the payments referred to in subsection (3)(a)(iib)

Working family payment

Youth employment support scheme"

Submissions

Appellant

11. In her Notice of Appeal, the Appellant submitted:

"From 31/08/2023 to 27/08/2025 I was on Carer's Benefit [redacted]*. When this payment ceased I applied for Carer's Allowance which I receive a payment of 240 per week. In Jan I received a letter from Revenue stating that I was to submit my tax returns. Immediately I went and did that only to receive 2 Statements of Liability stating I now owe Revenue an amount totalling 9,500 thousand. I'm on job share* [redacted] *to be able to care for* [redacted]*. I rang Revenue to be told that if I didn't send in my tax returns I would not have to pay this amount back.* [redacted] *I feel I am being wrongly treated for being honest.* [redacted]*."*

12. In her Statement of Case, the Appellant submitted (among other things):

"I feel I am working for nothing as well as trying to keep [redacted] *well cared for rather than in residential settings.*

[redacted] *I fought very hard to get Carer's Benefit for 2 years. When that ended I had to fight again to gain Carer's Allowance which meant a huge drop on the weekly payments. My appeal is very simple. I received a statement from Revenue to declare that I owe nearly 9K back in tax.* [redacted]*. I feel because I was honest in my declaration of taxes in Jan 2026 I am being punished.*

I as a working person [redacted] *just feel let down by the Revenue at this stage. I have a tax credit of 6.00 euro paying €190.70 per fortnight on tax on an earning of €951.78. This will reduce further in Jan 2027 when my debt of 9k will start being* *collected at 38 per week. Soul destroying. Just hoping my appeal can be looked at with some compassion."*

Respondent

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

"On 8 January 2026, the spouse of the Appellant "assessable spouse", submitted an amended PAYE Income Tax Return for tax year 2024.

When completing the amended PAYE Income Tax Return, they confirmed that the Appellant had received €19,422 in Carer's Allowance payments from DSP for that period.

On 8 January 2026, the spouse of the Appellant "assessable spouse", submitted a PAYE Income Tax Return for 2025.

When completing the return, they confirmed that the Appellant had received €17,109.00 in Carer's Allowance payments from DSP for 2025.

On 9 January 2026, the Respondent issued the Appellant and their spouse with Statements of Liability for 2024 and 2025. The amended Statement of Liability for 2024 confirms an underpayment of €5,254.46. The Statement of Liability for 2025 confirmed an underpayment of €3,926.10.

[…]

The facts in this case are clear, the Appellant and their spouse declared taxable income (Carer's Allowance) received by the Appellant for years 2024 and 2025, as part of their PAYE Income Tax Return submissions for these periods.

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.

Section 112 of the TCA 1997 charges income tax on all Schedule E income received in a year, with the exception of proprietary directors who pay tax in the year the income arises.

Therefore, all payments from DSP are considered taxable under Schedule E unless specifically exempted from income tax.

Section 126 (6A) of the TCA 1997 provides for the exemption of certain payments from DSP from income tax which are listed in the table within Section 126 of the TCA 1997.

As Carer's Allowance is not listed as exempt payments within this table, they are therefore taxable.

Following the declaration of Carer's Allowance by the spouse of the Appellant as part of their 2024 and 2025 PAYE Income Tax Returns, Statements of Liability issued to the Appellant and their spouse, confirming an underpayment outstanding for these periods.

The Statements of Liability for 2024 and 2025 confirm an overall underpayment of €9,180.56 for these periods.

To mitigate against any hardship to the Appellant in this matter, the Respondent will collect the underpayment on record for 2024 and 2025 over an extended five-year period, commencing in 2027, as follows: 2027 = €2,000.00 2028 = €2,000.00 2029 = €2,000.00 2030 = €2,000.00 2031 = €1,180.56 This equates to approximately €166.66 per month, or €38.46 per week.

The Respondent is sympathetic to the Appellant in this matter, however there is no basis to waive the underpayment in this matter.

The Appellant has not demonstrated a legislative basis on why their Carer's Allowance income should not be taxed for 2024 and 2025."

Material Facts

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

    14.1. The Appellant received Carer's Benefit/Carer's Allowance in 2024 and 2025.

    14.2. On 9 January 2026, the Respondent issued Statements of Liability for the tax years 2024 and 2025, which showed underpayments in the amounts of €5,254.46 and €3,296.10 respectively.

    14.3. On 5 February 2026, the Appellant submitted a Notice of Appeal.

Analysis

15. This appeal relates to Statements of Liability issued by the Respondent on 9 January 2026 for the tax years 2024 and 2025. In an appeal before the Commission, the burden of proof rests on the Appellant. In the High Court case of *Menolly Homes Ltd v Appeal Commissioners and another* [2010] IEHC 49, Charleton J stated at paragraph 22 that:

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

16. The Court of Appeal confirmed this position in *JSS & Ors v A Tax Appeal Commissioner* [2025] IECA 96, in which McDonald J stated at paragraph 34 that:

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

17. 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 (among 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".

18. In this appeal, the Appellant did not dispute that she received Carer's Benefit/Carer's Allowance in 2024 and 2025, and the Commissioner has found this to be a material fact.

19. 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.

20. In addition, section 126(6A) of the TCA 1997 exempts certain benefits which are payable under social welfare legislation, as described in column (1) of the Table to section 126,

from the charge to income tax. However, neither Carer's Benefit nor Carer's Allowance is included in the list of benefits which are described in column (1) of the Table to section 126 of the TCA 1997 and therefore exempted from the charge to income tax.

21. Accordingly, the Commissioner is satisfied that both Carer's Benefit and Carer's Allowance qualify as income which is chargeable to income tax under Schedule E.

22. In fairness, the Commissioner did not understand the Appellant to dispute the point that Carer's Benefit and Carer's Allowance are chargeable to income tax. Instead, the Appellant's appeal submission focused on the background to the issuing of the Statements of Liability, as well as the Appellant's caring responsibilities and job. In that respect, the Appellant requested that this appeal be regarded with compassion.

23. The Commissioner has sympathy with the circumstances outlined on appeal. Nonetheless, the Commissioner's jurisdiction "*is limited to determining whether an assessment correctly charges the relevant taxpayer in accordance with the relevant provisions of the TCA*", as confirmed by the Court of Appeal in *Lee v Revenue Commissioners* [2021] IECA 18.

24. In this case, the Appellant did not contend that the Statements of Liability had incorrectly charged the Appellant to income tax in the amounts of €5,254.46 and €3,296.10 respectively. More fundamentally, no evidence was presented to the Commissioner to demonstrate that the Statements of Liability were incorrect.

25. Consequently, the Commissioner concludes that the Appellant has not succeeded in showing that the Statements of Liability were wrong.

26. 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.

27. Finally, the Commissioner observes that to mitigate hardship to the Appellant, the Respondent will collect the underpayment of income tax over a five-year period.

Determination

28. For the reasons set out above, the Commissioner determines that the Appellant has not succeeded in showing that the Statements of Liability are wrong and accordingly the Statements of Liability stand.

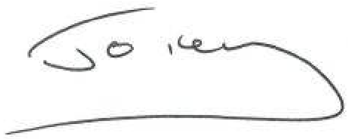
29. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular section 949U thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

Notification

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

Appeal

31. 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.



Jo Kenny
Appeal Commissioner
3 June 2026