AN COIMISIÚN UM ACHOMHAIRC CHÁNACH

TAX APPEALS COMMISSION

90TACD2026

Between

[redacted]

Appellant

and

The Revenue Commissioners

Respondent

Determination

Contents

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 ("the TCA 1997") brought by the Appellant against the refusal by the Revenue Commissioners ("the Respondent") to repay the balance of tax overpaid in respect of the income tax year of assessment 2019. The Respondent's decision to refuse to repay the balance of overpaid tax was made on the basis that the Appellant's income tax return for 2019 was filed outside the statutory four-year timeframe.

2. On 7 December 2025, the Appellant submitted a Notice of Appeal to the Commission appealing the Respondent's refusal to repay the balance of tax overpaid in its decision letter dated 2 December 2025. The balance of tax overpaid for 2019 was computed in the Notice of Assessment for that tax year as issued by the Respondent to the Appellant on 18 November 2025. On 9 January 2026, the Commissioner issued a direction to both parties to submit a Statement of Case ("SoC"). Following a request from the Appellant, the Commissioner granted an extension to both parties for the submission of the SoC. On 6 April 2026, the Appellant submitted [redacted] SoC which built on [redacted] Notice of Appeal. On 28 January 2026, the Commission received the Respondent's SoC.

3. In accordance with the provisions of section 949U of the TCA 1997, and by agreement with the parties, this appeal is determined without a hearing.

4. The Appellant has confirmed to the Commission that this appeal is private, and therefore this determination will be redacted prior to its publication on the Commission's website pursuant to section 949AO of the TCA 1997.

5. The Commissioner has considered all correspondence and submissions from both parties in making her determination.

Background

6. On 17 November 2025, the Appellant filed an income tax return (Form11) for the tax year 2019.

7. On 18 November 2025, the Respondent issued a Notice of Assessment to the Appellant for the tax year 2019 computing a balance of tax overpaid for that year of €1,313.64. Towards the end of page 3 of that assessment, the Respondent states *"THIS REPAYMENT MAY NOT BE DUE IN ACCORDANCE WITH S.865 TCA 1997"* (emphasis in the original).

8. On 2 December 2025, the Respondent issued correspondence to the Appellant refusing to repay the balance of tax overpaid for 2019, stating:

> "[…]
>
> LATE CLAIM FOR REPAYMENT OF TAX
>
> […]
>
> I refer to your recent tax return and claim for allowances/credits which has resulted in an overpayment of tax outlined below. However, Section 865(4) Taxes Consolidation Act 1997 provides that a claim for repayment of tax for a chargeable period shall not be allowed unless it is made within 4 years after the end of that chargeable period. As your claim for the repayment of the overpayment of tax below was not made within the relevant 4 year period, I am precluded from repaying that tax.
>
> | Overpayment of Tax | Chargeable period |
> |---|---|
> | Income Tax | 01/01/2019 to 31/12/20219 |
>
> […]
>
> Section 865(7) Taxes Consolidation Act 1997 provides that you may, within 30 days after the date of this letter, appeal my decision not to repay the amount of tax above. An appeal may be made by completing and submitting a notice of appeal form to [the Commission]. […]
>
> […]"

9. The Appellant is appealing the decision of the Respondent to refuse to repay the balance of tax overpaid for 2019 in the amount of €1,313.64.

Legislation and Guidelines

10. Section 865 of the TCA 1997, entitled "Repayment of tax", provides:

> *"(1) (a) In this section […] –*
>
> *[…]*
>
> *"valid claim" shall be construed in accordance with paragraph (b).*
>
> *(b) For the purposes of subsection (3) –*
>
> *(i) Where a person furnishes a statement or return which is required to be delivered by the person in accordance with any*

provision of the Acts for a chargeable period, such a statement or return shall be treated as a valid claim in relation to a repayment of tax where –

(I) all the information which the Revenue Commissioners may reasonably require to enable them determine if and to what extent a repayment of tax is due to the person for that chargeable period is contained in the statement or return, and

(II) the repayment treated as claimed, if due -

(A) would arise out of the assessment to tax, made at the time the statement or return was furnished, on foot of the statement or return, or

(B) would have arisen out of the assessment to tax, that would have been made at the time the statement or return was furnished, on foot of the statement or return if an assessment to tax had been made at that time,

(ii) Where all information which the Revenue Commissioners may reasonably require, to enable them determine if and to what extent a repayment of taxes due to a person for a chargeable period, is not contained in such a statement or return as is referred to in subparagraph (i), a claim to repayment of tax by that person for that chargeable period shall be treated as a valid claim when that information has been furnished by the person, and

(iii) […]

(2) Subject to the provisions of this section, where a person has, in respect of a chargeable period, paid, whether directly or by deduction, an amount of tax which is not due from that person or which, but for an error or mistake in a return or statement made by the person for the purposes of an assessment to tax, would not have been due from the person, the person shall be entitled to repayment of the tax so paid.

(2A) Where a chargeable person (within the meaning of Part 41A) makes a claim under subsection (2) for repayment of tax which, but for an error or mistake referred to in that subsection, would not have been due it shall not constitute a valid claim for the purposes of subsection (3) unless the return and self assessment for the period to which the claim relates is amended, in accordance with section 959V, to correct the error or mistake

[…]

(3) A repayment of tax shall not be due under subsection (2) unless a valid claim has been made to the Revenue Commissioners for that purpose.

[…]

(4) Subject to subsection (5), a claim for repayment of tax under the Acts for any chargeable period shall not be allowed unless it is made—

(a) in the case of claims made on or before 31 December 2004, under any provision of the Acts other than subsection (2), in relation to any chargeable period ending on or before 31 December 2002, within 10 years,

(b) in the case of claims made on or after 1 January 2005 in relation to any chargeable period referred to in paragraph (a), within 4 years, and

(c) in the case of claims made—

(i) under subsection (2) and not under any other provision of the Acts, or

(ii) in relation to any chargeable period beginning on or after 1 January 2003,

within 4 years,

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

[…]

(7) Where any person is aggrieved by a decision of the Revenue Commissioners on a claim to repayment by that person, in so far as that decision is made by reference to any provision of this section, the person may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision.

[…]"

11. Section 959I of the TCA 1997, entitled "Obligation to make a return", provides:

    "(1) Every chargeable person shall as respects a chargeable period prepare and deliver to the Collector-General on or before the specified return date for the chargeable period a return in the prescribed form.

    […]"

Submissions

Appellant's submissions

12. The grounds of appeal set out in the Appellant's Notice of Appeal are as follows:

    "I am not very up to date with computers so I use to do a tax return manually [redacted] I had to obtain employment to support myself [redacted]. I had my account with revenue I made an enquiry into been made paye worker [redacted] my lack of knowledge then on revenue app wasn't good. I am appealing to you to look at my situation with some sympathy. I am a law bidding citizen who has paid tax. I wait your reply" (sic)

13. The Appellant submitted the following detail in [redacted] SoC:

    "[…]

    Section 3: Outline of Relevant Facts

    […]

    I'm […] a taxpayer since [redacted]. [redacted].

    [redacted].

    [redacted]

    When I started working [redacted] I assumed my employer handled tax paperwork. I've been overpaying tax since then, but have received refunds for years after 2019 recently.

I'd like to appeal the overpaid tax for 2019. I wasn't computer savvy and trusted my employer to handle tax matters, missing the 4 year deadline.

[…]

Section 6: Supplementary Information

[redacted] This is a lot of money to me. I hope you consider this as a genuinely mistake on my part.

[…]" (sic) (emphasis in the original)

14. [redacted]

Respondent's submissions

15. The Respondent's SoC states:

"[…]

2. Outline of the relevant facts

The Form 11 Income Tax Return for the year ended 31st December 2019 was submitted to Revenue on 17th November 2025. This resulted in an overpayment of €1,313.64. As the return was filed more than 4 years after the end of the 2019 tax year, the overpayment is statute barred and repayment of tax cannot be made.

In accordance with Section 959(1) a chargeable person shall deliver a return to the Collector General for each year that they are/were a chargeable person. The Appellant did not deliver the return for the period ended 31st December 2019 until 17th November 2025. In order to be within the 4-year time limit, the return should have been filed by 31st December 2023 for the 2019 tax period.

In accordance with Section 865(1)(a) a "valid claim" shall be construed in accordance with paragraph (b).

Per Section 865(1)(b) a valid claim to the repayment of tax arises when a person furnishes a return as required to be delivered in accordance with any provision of the

Tax Acts. In this case as a chargeable person the Appellant was required to file Form 11 Income Tax returns for the period 31st December 2019.

Per Subsection 865(4) a claim for the repayment of tax under the Acts for any chargeable period shall not be allowed unless it is made within 4 years after the end of the chargeable period to which the claim relates.

Revenue submit that no valid claim for repayment had been made by the Appellant within the four-year limitation period per s.865(4) TCA 1997 and that as a result, the claim for repayment in respect of the tax year of assessment 2019 is out of time.

In order for the Appellant's claim to be a valid claim for the repayment of tax, the tax return required to be filed in accordance with Section 959(I) must have been filed by 31st of December 2023 for the 2019 tax period (4 years). As the Appellant did not file the return until 17th November 2025 the repayment shall not be allowed in accordance with Section 865(4) and is statute barred.

[…]

The wording of [section 865(4) of the TCA 1997] does not provide for extenuating circumstances in which the four-year rule might be mitigated. In short, I do not consider that I have the authority or jurisdiction to direct that a repayment be made to the Appellant where the claim for repayment is outside the four-year period specified in s.865(4) TCA 1997.

[…]" (emphasis in the original)

Material Facts

16. Having considered all the documentation provided to the Commission and the submissions from both parties in this appeal, the Commissioner makes the following findings of material fact:

17. The Appellant is an individual subject to income tax for 2019.

18. On 17 November 2025, the Appellant filed [redacted] income tax return for 2019.

19. On 18 November 2025, the Respondent issued a Notice of Assessment for 2019 to the Appellant which computes the balance of tax overpaid in the amount of €1,313.64.

20. On 2 December 2025, the Respondent issued correspondence to the Appellant whereby it refused to repay the balance of tax overpaid for 2019, on the basis that the claim for

repayment was not made within four years from the end of the 2019 year of assessment (31 December 2023).

21. The Appellant's income tax return for the year of assessment 2019 was filed more than four years after the end of that year of assessment (31 December 2023).

22. The Appellant has appealed to the Commission the Respondent's refusal to repay the balance of tax overpaid position in 2019.

23. The above facts [redacted] are not in dispute between the parties.

Analysis

The burden of proof

24. 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 & Revenue Commissioners* [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".*

25. In paragraph 12 of his judgment in *Menolly Homes,* Charlton J. 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 […]."*

26. 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."*

27. 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 […]."

Section 865 of the TCA 1997

28. Section 865(2) of the TCA 1997 provides that a person is entitled to a repayment of tax paid where that tax is not due from that person. However, section 865(4) of the TCA 1997 provides a statutory time limit to this entitlement as follows:

    "a claim for repayment of tax under the Acts for any chargeable period shall not be allowed unless it is made […] within 4 years, after the end of the chargeable period to which the claim relates."

29. Pursuant to section 865(4) of the TCA 1997, it is clear that the time limit for claiming a repayment of the balance of tax overpaid for the year of assessment 2019 is therefore 31 December 2023.

30. The Appellant filed [redacted] income tax return for 2019 on 17 November 2025. It is this date (17 November 2025) that establishes whether a valid claim for the purposes of section 865 of the TCA 1997 has been made. Having regard to this date, the Commissioner is satisfied that the Appellant's claim for a repayment of income tax was made on a date after the four-year time limit prescribed in section 865(4) of the TCA 1997 had elapsed.

31. The Commissioner notes the Appellant's submissions regarding [redacted]. [redacted] Furthermore, the Appellant states that [redacted] is not good with computers and this adversely impacted on [redacted] ability to manage [redacted] personal tax affairs online. The Commissioner also notes that the Appellant states [redacted] and [redacted] had assumed [redacted] new employer would manage [redacted] income tax position.

32. The Commissioner notes the use of the word *"shall"* in section 865(4) of the TCA 1997 indicates an absence of discretion in the application of the four-year time limit. The wording of that section does not provide for any circumstances in which the four-year time limit may be mitigated. Furthermore, the legislation does not afford the Commissioner any discretion to disapply the four-year time limit in any circumstances. The Commissioner therefore does not have any discretion to disapply the four-year time limit in the circumstances outlined in this appeal.

Jurisdiction of an Appeal Commissioner

33. In *Lee v The Revenue Commissioners* [2021] IECA 18 (*"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. In that case, 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."*

34. In *Lee*, Murray J. continued at paragraph 76:

> *"The jurisdiction of the Appeal Commissioners […] is limited to determining whether an assessment correctly charges the relevant taxpayer in accordance with the relevant provisions of the TCA. That means 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. […]"*

35. The Commissioner empathises with the Appellant's difficult [redacted] circumstances outlined in this appeal. However, the Commissioner does not have jurisdiction to set aside a decision of the Respondent based on such circumstances. The Commissioner is obliged to consider whether the relevant tax legislation has been correctly applied to the facts in this case. The Commissioner has found that the Respondent's decision to refuse to repay the balance of tax overpaid in 2019, where the Appellant filed [redacted] tax return for that year of assessment outside the statutory four-year time limit, is correct in law. The Commissioner does not have jurisdiction to consider the Appellant's [redacted] difficulties, the challenges the Appellant has

encountered with computer usage to deal with [redacted] income tax affairs or the Appellant's misplaced reliance on [redacted] employer to manage [redacted] income tax position via the employer's payroll and the operation of the PAYE system of deduction of tax at source.

Conclusion

36. The Commissioner has objectively assessed the relevant legislation in this appeal and in particular the application of the statutory four-year time limit under section 865(4) of the TCA 1997. The Commissioner notes that the legislation does not provide for any exceptions to the application of this four-year time limit.

37. Section 865(4) of the TCA 1997 expressly prohibits repayment of overpaid tax where the claim for the repayment is made more than four years after the end of the relevant year of assessment. The Commissioner finds that the decision of the Respondent, to refuse to repay the balance of tax overpaid in 2019, is correct in law as the claim for that repayment was made outside the statutory four-year timeframe.

38. The Commissioner finds that there are no exceptions to the statutory four-year time limit set down in section 865(4) of the TCA 1997.

39. Previous determinations of the Commission have addressed the matter of repayment of tax in the context of the statutory four-year time limit imposed by section 865 of the TCA 1997. These determinations may be found on the Commission's website.[1]

40. 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. Following on from the analysis above, the Commissioner is satisfied that the Appellant has not discharged the burden of proof in this appeal.

Determination

41. As such and for the reasons set out above, the Commissioner determines that this appeal must be denied. Therefore, the decision of the Respondent dated 2 December 2025, refusing to repay the balance of tax overpaid for 2019, shall stand.

42. The Commissioner empathises with the Appellant's [redacted] circumstances outlined on appeal and appreciates that [redacted] will undoubtedly be disappointed with this determination. The Appellant was entitled to check whether the Respondent's refusal to repay the balance of tax overpaid for 2019 was correct and was prudent to do so in all the

[1] https://www.taxappeals.ie/en/determinations

circumstances. However, as noted above, the legislation is clear and does not afford the Commissioner any discretion in this matter.

43. This Appeal is determined in accordance with Part 40A of the TCA 1997 and, in particular, section 949AL and 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

44. 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

45. 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
18 June 2026