AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

97TACD2026

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 2025 issued by the Respondent on 14 January 2026 ("the Statement of Liability").

2. On 7 April 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 14 January 2026, the Respondent issued the Statement of Liability to the Appellant, which showed an underpayment in the amount of €2,457.40.

4. On 10 March 2026, the Appellant submitted a Notice of Appeal to the Commission, which enclosed a copy of the Statement of Liability. When submitting his Notice of Appeal, the Appellant also stated:

   "*My apologies for the late appeal, however I required advice on this matter as this appeal is based on changes made within revenue and the Department of Social Protection regarding Carers Allowance. I submitted my Tax return for 2025 which included Carers Benefit and Carer Allowance, but Revenue have since stated that the changes is a forward looking process and therefore they will not be looking back at tax liabilities from previous years. As a result I am appealing the tax owed of 2457.40.*"

5. On 11 March 2026, the Commission notified the Respondent of the appeal, under section 949K of the TCA 1997. On 24 March 2023, the Respondent objected to the acceptance of this appeal, under section 949L of the TCA 1997, on the following grounds:

   "The Respondent notes the comments of the Appeal Commissioner in 20TACD2018: "The jurisdiction of the Appeal Commissioners does not extend to supervising the administrative actions or any purported inequity in the Respondent's application of the tax code."

   The Respondent notes the decision of the Court of Appeal in Lee v The Revenue Commissioners in which it was stated: "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."*

The Respondent further notes the previous Tax Appeals Commission determination 81TACD2023 in which the Appeal Commissioner stated: "Section 949A of the TCA 1997 provides that an "appealable matter" means "any matter in respect of which an appeal is authorised by the Acts." The Commissioner is satisfied that the TCA 1997 does not authorise the making of an appeal on the basis of the Respondent's management of a taxpayer's tax affairs".

The Respondent is not aware of any provision of the TCA which provides for TAC to adjudicate on matters outside of its jurisdiction, and respectfully objects to the acceptance of the appeal on this point.

[…]

The Appellant is appealing a Revenue assessment, in relation to the 2025 tax year, which issued to the Appellant on 14 January 2026. The Appellant's Notice of Appeal to the Tax Appeals Commission is dated 10 March 2026. As the Notice of Appeal was received more than 30 days after the assessment issued to the Appellant, the Respondent respectfully submits that this constitutes a late appeal. In their appeal submission, the Appellant has not offered any substantive reason for their late appeal."

6. On 25 March 2026, the Commission notified the Appellant of the Respondent's objection to the acceptance of this appeal, under section 949L of the TCA 1997, and invited the Appellant's comments. On 4 April 2026, the Appellant informed the Commission that he had no further information to provide regarding his appeal.

7. On 7 April 2026, the Commission notified the parties that the Commissioner intended to adjudicate on this appeal without a hearing, as set out above. In that notification, the Commission informed the parties that if they wished to provide any further documentation, they should do so within 21 days. No further documentation was received from the Appellant.

8. On 14 April 2026, the Respondent submitted an additional document to the Commission. On 3 June 2026, the Respondent confirmed to the Commission that it had provided its additional document to the Appellant. The Commission invited the Appellant to comment on the additional document submitted by the Respondent if he wished to. No further

comment was received from the Appellant. The Commissioner has considered all of the documentation submitted by the parties in this appeal.

Legislation and Guidelines

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

10. 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."

11. 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."

12. 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."

13. 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

14. In his Notice of Appeal, the Appellant submitted:

"I am appealing tax owed on my statement of liability for 2025, money to the value of €2457.40. This money is owed having declared carers allowance and carers benefit earned by my spouse for 2025. However, changes in the tax system and how the payment paid by the Department of Social Protection (DSP) is taxed came into effect on January 1st 2026. Since I made my tax return and following meetings with Revenue and Family Carers Ireland, Revenue have stated that this is a forward-looking process and therefore they will not be looking back at tax liabilities from previous years. Therefore Family Carers who did not declare their receipt of Carers Allowance/Benefit will not receive an outstanding tax bill for previous years including 2025. I am therefore appealing on the grounds that this is completely unfair on those who declared their tax return in the normal manner. I do not believe I should have an underpayment of

€2457.40 when all those who have not declared their income do now not have to pay tax owed. In my opinion, Revenue are obliged by law to look back at every persons income and tax return. I am no different to any other person in the state and my spouse is a family carer just like all those other carers. I believe my statement of liability should be amended and that there should be no underpayment in relation to carers income. Every person should be treated the same. I respectfully submit this appeal and I thank you for your time and consideration on same."

Respondent

15. In its additional document, the Respondent submitted (among other things):

"Section 19 of the TCA 1997 (Document 1) 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 (Document 2) 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 (Document 3) 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.

Summary

The facts in this appeal are clear, the Appellant and their spouse declared taxable income (Carer's Allowance) received by the spouse of the Appellant for 2025, as part of their PAYE Income Tax Return submissions on 14 January 2026.

In the completed PAYE Income Tax Return submission, the Appellant confirmed his spouse had received €13,402.00 in Carer's Allowance from the Department of Social Protection (DSP) in 2025. As this income was first declared to the Respondent as part of the PAYE Income Tax Return submission, the tax due on this income was not collected in-year during 2025.

As a result, a Statement of Liability issued to the Appellant and their spouse dated 14 January 2026, which confirmed an underpayment of €2,457.40.

To mitigate against any hardship to the Appellant in this matter, the Respondent will collect the underpayment on record for 2025 over an extended four-year period, commencing in 2027, as follows: 2027 = €614.35, 2028 = €614.35, 2029 = €614.35, 2030 = €614.35. This equates to approximately €51.19 per month, or €11.81 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 2025."

Material Facts

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

    16.1. The Appellant's spouse received Carer's Benefit/Carer's Allowance in 2025.

    16.2. On 14 January 2026, the Respondent issued a Statement of Liability for the tax year 2025, which showed an underpayment in the amount of €2,457.40.

    16.3. On 10 March 2026, the Appellant submitted a Notice of Appeal.

Analysis

17. At the outset, the Commissioner wishes to confirm that the Commissioner accepted this appeal under section 949O of the TCA 1997. Although the appeal was submitted just over three weeks late, the Commissioner was satisfied that the Appellant had shown that he was prevented by a reasonable cause from making the appeal within the 30 day period, and that the appeal was made thereafter without unreasonable delay. The Commissioner was also satisfied that the appeal related to an appealable matter, being the Statement of Liability issued by the Respondent on 14 January 2026 for the tax year 2025.

18. 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".

19. 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."

20. 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".

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

22. 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.

23. In addition, section 126(6A) of the TCA 1997 exempts certain benefits which are payable under social welfare legislation, as described in 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 the Table to section 126 of the TCA 1997 and therefore exempted from income tax.

24. 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.

25. 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 contended that it was unfair for a taxpayer who declared the receipt of Carer's Benefit/Carer's Allowance to owe tax, whereas carers who did not declare their income would not owe tax. The Appellant submitted that the Respondent should be obliged to "look back" at every person's income and tax return.

26. Having considered the Appellant's submission, the Commissioner has sympathy with the Appellant and appreciates his frustration. However, the Commissioner has no supervisory jurisdiction over the processes of the Respondent and does not have jurisdiction to set aside a decision of the Respondent based on alleged unfairness. 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.

27. In this case, the Appellant did not contend that the Statement of Liability had incorrectly charged the Appellant to income tax in the amount of €2,457.40. More fundamentally, no evidence was presented to the Commissioner to demonstrate that the Statement of Liability was incorrect.

28. Consequently, the Commissioner concludes that the Appellant has not succeeded in showing that the Statement of Liability was wrong.

29. The Commissioner appreciates that this decision will be disappointing for the Appellant. The Appellant was entitled to appeal the Statement of Liability. However, the Commissioner must make a determination in accordance with the legislation.

30. Finally, the Commissioner notes that to mitigate hardship, the Respondent will collect the underpayment of income tax over a four-year period.

Determination

31. For the reasons set out above, the Commissioner determines that the Appellant has not succeeded in showing that the Statement of Liability is wrong and accordingly the Statement of Liability stands.

32. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular sections 949AK and 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

33. 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

34. 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
29 June 2026