AN COIMISIÚN UM ACHOMHAIRC CHÁNACH

TAX APPEALS COMMISSION

98TACD2026

Between

[redacted]

**Appellant**

and

**The Revenue Commissioners**

**Respondent**

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**Determination**

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**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 issue repayment of the balances of tax overpaid computed in the Notices of Amended Assessment issued for the tax years 2015 and 2016 ("the relevant years"). The Respondent's decisions, to refuse to repay the balances of tax overpaid per the Notices of Amended Assessment, were made on the basis that the Appellant's amended income tax returns for the relevant years, giving rise to the balances of tax overpaid, were filed outside the statutory four-year timeframe.

2. On 13 November 2025, the Appellant submitted a Notice of Appeal to the Commission appealing the Respondent's refusal, in its decision letter dated 10 October 2025, to repay the balance of tax overpaid for 2015 as computed in the Notice of Amended Assessment for 2015 dated 20 September 2025. On 12 January 2026, the Commission received a Notice of Appeal from the Appellant appealing the Respondent's refusal, in its decision letter dated 24 November 2025, to repay the balance of tax overpaid for 2016, as computed in the Notice of Amended Assessment for 2016 dated 20 September 2025. By agreement with the parties, the Commission has consolidated the two appeals on the basis that the appeals concern common or related issues in accordance with section 949E(2)(b) of the TCA 1997.

3. On 10 February 2026 the Commissioner issued a direction to both parties to submit a consolidated Statement of Case ("SoC"). On 24 February 2026, the Appellant submitted a consolidated SoC for the two appeals. On 12 March 2026, the Commission received the Respondent's consolidated SoC.

4. On 28 May 2026, the Commissioner issued a direction to both parties, pursuant to section 949E of the TCA 1997, to provide additional information regarding the filing dates for the amended tax returns for the relevant years which had then resulted in the Notices of Amended Assessment for the relevant years (both dated 20 September 2025) showing balances of tax overpaid. On 15 June 2026, the Commission received the Appellant's submission in response to the Commissioner's direction. On the same date, the Commission received the Respondent's reply to the Commissioner's direction.

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

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

7. The Commissioner has considered all submissions from both parties in making her determination. As stated above, this determination is issued in respect of two appeals which have been consolidated.

**Background**

8. The Appellant is subject to income tax, under joint assessment with [redacted] spouse, for the relevant years.

9. On 7 November 2016, the Appellant filed an income tax return for 2015. The tax return included €24,000 in gross income for the Appellant and a total of €24,000 in gross income for the Appellant's spouse. The gross income for the Appellant's spouse, as declared in that tax return, consisted of emoluments of €12,000 subject to Pay As Your Earn deductions at sources ("PAYE") and €12,000 of emoluments not subject to PAYE, totalling €24,000 in gross income. The tax return also included a claim for a total PAYE tax credit of €3,300 for both the Appellant and [redacted] spouse. Following the filing of that tax return, a Notice of Assessment was issued by the Respondent to the Appellant on 9 November 2016, showing a balance of tax overpaid of €255.80. A refund of the balance of tax overpaid was subsequently issued by the Respondent to the Appellant.

10. On 21 February 2017, an amended income tax return was submitted by or on behalf of the Appellant for 2015 via the Respondent's Revenue Online Service ("ROS"). The amended return for 2015 removed the €12,000 in emoluments not subjected to PAYE for the Appellant's spouse. At this time, the PAYE tax credit of €3,300 was removed by the Respondent as the Appellant and [redacted] spouse had declared only proprietary directorship income in the revised income tax return and were not entitled to the PAYE tax credit as a result. Following these amendments, on 21 February 2017, a Notice of Amended Assessment was issued by the Respondent to the Appellant which showed a balance of tax payable for the period of €75.40.

11. On 19 September 2025, the Appellant telephoned the Respondent to make amendments to this 2015 tax return. As a result of that telephone call, the Respondent reinstated the PAYE tax credit for both spouses, totalling €3,300. On 20 September 2025, the Respondent issued a Notice of Amended Assessment to the Appellant for the tax year 2015, reflecting this change, and computing a balance of tax overpaid of €3,224.60. The

text at the bottom of page 2 of that amended assessment stated *"THIS REPAYMENT MAY NOT BE DUE IN ACCORDANCE WITH S.865 TCA 1997"* (emphasis in the original). On 10 October 2025, the Respondent issued correspondence to the Appellant refusing to repay the balance of tax overpaid for the tax year 2015, 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 | 01/01/2015 to 31/12/20215 |
>
> […]
>
> 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]. […]" (emphasis in the original)

12. On 24 October 2017, the Appellant's original income tax return for 2016 was filed with the Respondent. That original 2016 return included gross income from directorships for the Appellant (€52,431) and [redacted] spouse (€25,000), totalling €77,431. On the same date, the Respondent issued a confirmation of the Appellant's self-assessment and an indicative calculation based on that self-assessment computing a balance of tax overpaid for 2016 of €1,098.77. On 5 February 2018, the Respondent issued the repayment to the Appellant.

13. On 3 December 2021, following an audit by the Respondent of the Appellant's tax return for 2016, the Appellant's gross taxable income from directorship in 2016 increased from €52,431 to €106,040, and the gross taxable income from directorship for the Appellant's spouse in 2016 reduced from €25,000 to €5,198. Following those changes, the

Respondent issued a Notice of Amended Assessment, computing a balance of tax payable for 2016 of €21,767.53.

14. On 19 September 2025, the Appellant telephoned the Respondent to amend [redacted] 2016 tax return. The amendments made re-instated the Appellant's directorship income as €52,431 and the directorship income of the Appellant's spouse to €25,000. The Respondent processed these changes, and, on 20 September 2025, a Notice of Amended Assessment was issued by the Respondent to the Appellant which computed a balance of tax overpaid of €5,310.15. Towards the end of page 2 the amended assessment stated *"THIS REPAYMENT MAY NOT BE DUE IN ACCORDANCE WITH S.865 TCA 1997"* (emphasis in the original). On 24 November 2025, the Respondent issued correspondence to the Appellant refusing to repay the balance of tax overpaid for the tax year 2016, 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 | 01/01/2016 to 31/12/2016 |

   […]

   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]. […]" (emphasis in the original)

15. On 20 September 2025, the Respondent issued a Notice of Amended Assessment to the Appellant for the tax year 2017 computing a balance of tax payable for that year of €1,055.96. That assessment stated, towards the end of page 2, *"THIS TAX SHOULD BE PAID IMMEDIATELY USING THE ROS PAYMENTS FACILITY"* (emphasis in the

original). The Appellant has confirmed to the Commission that this balance of tax payable for 2017 has been paid by the Appellant to the Respondent.

16. Following receipt of the Respondent's letter dated 10 October 2025, refusing the repayment of the tax overpaid position in 2015, the Appellant sent correspondence to the Respondent on 31 October 2025, via the Respondent's MyEnquiries email service ("MyEnquiries"), stating:

" letter:

late claim for repayment of tax

chargeable period

01/01/2025 to 31/12/2015

letter to query this or to appeal this assessment dated 10/10/25 was received on 29/10/25

tried to reach your office many times no success

I would like to discuss your assessment and refusal to pay my allowances for

year 2015, 2016, […]" (sic)

17. On 4 November 2025, the Respondent replied to the Appellant's correspondence via MyEnquiries stating:

"[…]

The refunds were disallowed as the returns were amended outside the 4 year time limit.

If you wish to appeal this decision, please send the request to [the Commission]"

18. On 19 November 2025, the Commission received correspondence from the Appellant stating:

"[…]

I wish to let you know that reason for late appeal [the Respondent] sent me the letter that I can appeal for 2015 dated 10/10/25 received 29/10/25

Initial assessment by [the Respondent] advised I cant appeal their assessment then sent me the above letter of appeal

Correspondence with [the Respondent] after discussion regarding 2015. 2016 on [MyEnquiries] advised to appeal to [the Commission]

Tax due for 2017 after their assessment of 1,025,96 was paid

*[…]"* (sic)

19. On 28 May 2026, the Commissioner issued a direction to both parties to provide additional information to the Commission. The direction was issued pursuant to section 949E of the TCA 1997. In that direction, the Commissioner requested both parties to confirm the filing dates for the amended tax returns which had resulted in the Notices of Amended Assessment, for both of the relevant years, that were issued on 20 September 2025. On 9 June 2026, a reminder was issued by the Commission to both parties to provide the information requested. On 15 June 2026, the Commission recevied submissions from both parties. The relevant details of those submissions are set out in the Submissions section of this determination, see below.

**Legislation and Guidelines**

20. The legislation relevant to this appeal is section 865 of the TCA 1997, entitled "Repayment of tax". That section 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.*

*[…]"*

**Submissions**

*Appellant's submissions*

21. The Appellant submitted two Notices of Appeal to the Commission, which state the grounds of appeal as follows:

*"my allowances and credits which has resulted in overpayment of tax was neither allowed nor set off against income tax assessment for years 2016, 2015 […]"*

and

*"my tax credits and allowances neither allowed nor set off against tax due year 2016"*

22. The Appellant’s consolidated SoC, in respect of both appeals, states:

*“[…]*

***Section 3****: Outline of Relevant Facts*

*[…]*

*my allaownces and tax credit resulted in tax overpayment for 2015 and 2016*

*these refunds were not of set of for tax duo 201[7], instead my refund for the year 2024 was taken for the 201[7] debt.*

***Section 4****: Statutory Provisions*

*tax consolidation*

*section 865(7) to appeal decision for not paying refund*

*[…]*

***Section 6****: Supplementary Information*

*[…]*

*proper assessment tax year 2016 should be reviewd and refunds should be set off to tax due instead of taking tax refund 2024*

*[…]”* (sic) (emphasis in the original)

23. On 15 June 2026, the Appellant replied to the Commissioner’s direction of 28 May 2026, as follows:

*“[…]*

*I wish to confirm dates of filing of years*

*2015 filed on 07/11/2016 refund 255.80*

*2016 filed on 24/10/2017 refund 1099.17*

*As in my accountant attachment*

*This is only refund available that time*

*Upon new amendment which resulted in significant amount only available now by revenue therefore I feel that 4 years limited role should not be applied to my case*

*No set off being made against tax due 2016*

*Instead my refund 2024 was taken*

*[…]"*

24. The Appellant included two screenshots in the submission dated 15 June 2026. The screenshots confirm the date of filing of the income tax returns as 7 November 2016 and 24 October 2017 for 2015 and 2016 respectively.

*Respondent's submissions*

25. The Respondent's consolidated SoC in respect of both appeals states:

*"[…]*

***Outline of the relevant facts***

*The Appellant filed a Notice of Appeal on 02/12/2025, appealing [the Respondent's] decision to refuse repayment of Income tax refunds, relating to the 2015 and 2016 tax years.*

*The legislation covering this matter is Section 865, subsection 4 of the TCA 1997. A valid 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.*

*[...]*

*The chargeable period in this instance is 1st January 2015 to the 31st December 2015. Therefore, in order that [the Respondent] could consider a refund of tax overpaid for the 2015 tax year, an amended return would have to have been submitted on or before the <u>31st December 2019</u>.*

*The second chargeable period in this instance is 1st January 2016 to the 31st December 2016. Therefore, in order that [the Respondent] could consider a refund of tax overpaid for the 2016 tax year, an amended return would have to have been submitted on or before the <u>31st December 2020</u>.*

*As the 2015 and 2016 tax returns were amended outside of the 4-year limit imposed by Section 865 of the Acts, [the Respondent is] precluded from allowing refunds or offset of potentially overpaid tax."* (emphasis in the original)

26. On 15 June 2026, the Respondent replied to the Commissioner's direction of 28 May 2026 giving additional information on the amendments made to the Appellant's tax returns

for the relevant years. Copies of the relevant returns were also provided to the Commission. The submission stated as follows:

*"[…]*

*2015 Income tax year*

*[…]*

- *[The Respondent] refused this refund [€3,224.60] under Section 865 of TCA 1997, as the claim was made outside the four-year timeframe as imposed by the legislation.*
- *[The Respondent] subsequently determined that the amendment [resulting in the Notice of Amended Assessment issued on 20 September 2025] was made in error, the Appellant and* [redacted] *spouse were not entitled to the Employee tax credit as both declared only proprietary directorship income.*

*2016 Income tax year*

*[…]*

- *[The Respondent] refused this refund [€5,310.15] under Section 865 of TCA 1997, as the claim was made outside the four-year timeframe as imposed by the legislation.*
- *[The Respondent] subsequently determined that the amendment [resulting in the Notice of Amended Assessment issued on 20 September 2025] was made in error.*

*[…]"*

**Material Facts**

27. Having considered the submissions from both parties in this appeal, the Commissioner makes the following findings of material fact:

    27.1. The Appellant is an individual subject to income tax for both of the relevant years.

    27.2. The Appellant is subject to joint assessment with [redacted] spouse for both of the relevant years.

    27.3. On 7 November 2016, the Appellant filed the original income tax return for 2015.

    27.4. On 9 November 2016, a Notice of Assessment for 2015 was issued computing a balance of tax overpaid in the amount of €255.80.

27.5. On 21 February 2017, the Appellant filed an amended income tax return for 2015 via ROS.

27.6. On 21 February 2017, following the filing of the amended income tax return for 2015 earlier that day, a Notice of Amended Assessment for 2015 was issued computing a balance of tax payable of €75.40.

27.7. On 19 September 2025, the Appellant made amendments to [redacted] 2015 tax return via a telephone call to the Respondent on that date.

27.8. On 20 September 2025, after processing the amendments requested by telephone by the Appellant on the previous day, the Respondent issued a Notice of Amended Assessment for 2015 which computed a balance of tax overpaid of €3,224.60.

27.9. The Respondent has submitted to the Commission that the amendments made to the Appellant's record for 2015, following the telephone call between the parties of 19 September 2025, were made by the Respondent in error.

27.10. On 10 October 2025, the Respondent issued correspondence to the Appellant refusing to repay the balance of tax overpaid for the tax year 2015 (€3,224.60).

27.11. The Respondent has refused to repay the tax overpaid position for 2015, on the basis that the claim for repayment was not made within four years from the end of that year of assessment (i.e. 31 December 2019).

27.12. The Appellant's amendments to the 2015 income tax return, giving rise to the balance of tax overpaid position of €3,224.60 for that year, were made via a telephone call to the Respondent on 19 September 2025 which resulted in the issue of the Notice of Amended Assessment for 2015 on 20 September 2025.

27.13. The Appellant's amendments to the 2015 income tax return, giving rise to the balance of tax overpaid position of €3,224.60 for that year, were made more than four years after the end of the 2015 tax year.

27.14. On 24 October 2017, the Appellant filed the original income tax return for 2016.

27.15. On 24 October 2017, the Respondent issued a confirmation of the Appellant's self-assessment for 2016, and an indicative calculation based on that self-assessment computing a balance of tax overpaid for 2016 of €1,098.77.

27.16. On 3 December 2021, following an audit by the Respondent, the taxable income for the Appellant and [redacted] spouse for 2016 was amended, and the amendments resulted in the issue by the Respondent of a Notice of Amended Assessment computing a balance of tax payable for 2016 of €21,767.53.

27.17. On 19 September 2025, the Appellant made amendments to [redacted] 2016 tax return via a telephone call to the Respondent on that date.

27.18. On 20 September 2025, after processing the amendments requested by the Appellant on the telephone call between the parties on the previous day, the Respondent issued a Notice of Amended Assessment for 2016 which computed a balance of tax overpaid of €5,310.15.

27.19. The Respondent has submitted to the Commission that the amendments made to the Appellant's record for 2016, following the telephone call between the parties of 19 September 2025, were made by the Respondent in error.

27.20. On 24 November 2025, the Respondent issued correspondence to the Appellant refusing to repay the balance of tax overpaid for the tax year 2016 (€5,310.15).

27.21. The Respondent has refused to repay the tax overpaid position for 2016, on the basis that the claim for repayment was not made within four years from the end of that year of assessment (i.e. 31 December 2020).

27.22. The Appellant's amendments to the 2016 income tax return, giving rise to the balance of tax overpaid position of €5,310.15 for that year, were made via a telephone call to the Respondent on 19 September 2025 which resulted in the issue of the Notice of Amended Assessment for 2016 on 20 September 2025.

27.23. The Appellant's amendments to the 2016 income tax return, giving rise to the balance of tax overpaid position of €5,310.15 for that year, were made more than four years after the end of the 2016 tax year.

27.24. The Appellant has appealed the refusal of the Respondent to issue repayment of the tax overpaid position in both of the relevant years.

**Analysis**

*The burden of proof*

28. 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".*

29. 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 […]."*

30. 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."*

31. 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*

32. 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(3) and section

865(4) of the TCA 1997 have the effect of limiting that entitlement to repayment in certain circumstances.

33. Section 865(3) of the TCA 1997 provides that a repayment of tax shall not be due under section 865(2) of the TCA 1997 unless a "valid claim" has been made to the Respondent for that purpose.

34. Section 865(4) of the TCA 1997 provides a statutory time limit to the entitlement to a repayment of tax under section 865(2) of the TCA 1997. Section 865(4) of the TCA 1997 provides 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."*

35. Pursuant to section 865(4) of the TCA 1997, the time limits for claiming a repayment of the balances of tax overpaid for the relevant years in this appeal are therefore as follows:

- Tax year 2015: 31 December 2019
- Tax year 2016: 31 December 2020

36. The Appellant made amendments to [redacted] tax returns for the relevant years via a telephone call to the Respondent on 19 September 2025. The Respondent processed those amendments and issued the Notices of Amended Assessment for the relevant years on 20 September 2025. These amended assessments computed balances of tax overpaid for each of the relevant years. The balance of tax overpaid computed in the Notice of Amended Assessment for 2015, issued on 20 September 2025, is €3,224.60. The balance of tax overpaid computed in the Notice of Amended Assessment for 2016, issued on 20 September 2025, is €5,310.15. Therefore, the total balance of tax overpaid in these Notices of Amended Assessment for the relevant years amounts to €8,534.75.

37. In its correspondence to the Appellant on 10 October 2025 and 24 November 2025, the Respondent refused to repay the balances of tax overpaid for 2015 and 2016 respectively, as computed in the Notices of Amended Assessment issued on 20 September 2025. The Respondent refused to repay the balances of tax overpaid fro the relevant years as the claims for repayment were made outside the four-year statutory time limit applicable to such claims pursuant to section 865(4) of the TCA 1997.

38. For the purposes of section 865 of the TCA 1997, it is the date on which the Appellant amended the tax returns for the relevant years that establishes the date when a valid claim has been made for each of those tax years.

39. The amendments made by the Appellant, on 19 September 2025, to the 2015 tax return were made more than five years and eight months after the statutory four-year time limit had elapsed for that tax year. The amendments made by the Appellant, on 19 September 2025, to the 2016 tax return were made more than four years and eight months after the statutory four-year time limit had elapsed for that tax year.

40. Based on the submissions before her, the Commissioner has found as material facts that the Appellant made amendments to the tax returns for the relevant years on 19 September 2025, and that these amendments were made via a telephone call from the Appellant to the Respondent on that date. Furthermore, the Commissioner has found as material facts that these amendments resulted in the issuing by the Respondent of the Notices of Amended Assessment for the relevant years on 20 September 2025. These amended assessments computed the balances of tax overpaid of €3,224.60 and €5,310.15 for 2015 and 2016 respectively. The Commissioner is therefore satisfied that the claims for repayment of the balances of tax overpaid, for the relevant years, were made by the Appellant on 19 September 2025. The date when the claims for repayment were made (19 September 2025) is after the expiry of the four-year time limit, as prescribed in section 865(4) of the TCA 1997, for each of the relevant years. Therefore, the Commissioner concludes that the claims for repayment of the balances of tax overpaid for the relevant years cannot be allowed as the time limit imposed by section 865(4) of the TCA 1997 has not been satisfied. It follows that the Commissioner is satisfied that the Respondent's decisions to refuse to repay the balance of tax overpaid for each of the relevant years is correct as those decisions were made in accordance with the legislation.

41. The Commissioner is satisfied that 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 to claims for repayment. 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 time limit in any circumstances.

42. The Commissioner notes the Appellant's contention that the balances of tax overpaid in the relevant years should be available for offset against a balance of tax payable assessed for the tax year 2017. The Commissioner notes the Appellant has not asserted any basis for that contention and has not submitted any legislation which supports this position. The Commissioner disagrees with the Appellant's contention on the basis that the claim for repayment of the balances of tax overpaid for the relevant years was made

outside the four-year time limit imposed by section 865(4) of the TCA 1997. The Commissioner is satisfied that there is no provision in section 865 of the TCA 1997 which allows the four-year time limit to be disregarded in circumstances where the taxpayer is seeking to utilise a balance of tax overpaid in a particular tax year by offset against a balance of tax payable arising in a separate tax year.

43. The Commissioner has found as material facts that the original tax returns for the relevant years were filed on 7 November 2016 and 24 October 2017 for 2015 and 2016 respectively. The Commissioner is satisfied that, while these original returns were filed within the four-year time limit, these returns did not result in the balances of tax overpaid which are the subject of this consolidated appeal. Therefore, the Commissioner is satisfied that the original return filing dates are not relevant to her determination of the matter under appeal in this case.

44. The Commissioner notes the Respondent's submission that the amendments to the tax returns for the relevant years, as per the telephone call from the Appellant to the Respondent on 19 September 2025, were processed in error by the Respondent. The Commissioner has found as a material fact that the Respondent submitted this was an error on its part. This error is unfortunate and may have created confusion. However, the Commissioner is satisfied that nothing in this appeal turns on this point.

45. 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(4) of the TCA 1997. These determinations may be found on the Commission's website.[1]

*Jurisdiction of an Appeal Commissioner*

*46.* In *Lee v Revenue Commissioners* [2021] IECA 18 and [2021] IECA 114 *("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. Murray J. stated 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 that 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*

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

*see if the assessment has been properly prepared in accordance with those statutes. […]"*

47. In *Lee*, at paragraph 20, Murray J. stated:

    *"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."*

48. In accordance with *Lee*, and the statutory framework that applies for tax appeals to the Commission, in accordance with Part 40A of the TCA 1997, the Commissioner must consider if the relevant tax legislation at issue has been correctly applied to the facts. The Commissioner has found that the Respondent's decisions to refuse to repay the balances of tax overpaid for the relevant years per the two Notices of Amended Assessment dated 20 September 2025, is correct in law.

49. The Commissioner notes that she does not have jurisdiction to set aside a decision of the Respondent, which has been made in accordance with the tax legislation, on the basis of allegations that the decision was unfair or disproportionate. The Commissioner is satisfied that such grounds of appeal do not fall within the jurisdiction of a Tax Appeal Commissioner.

*Conclusion*

50. 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.

51. Section 865(4) of the TCA 1997 expressly prohibits repayment of tax where the claim for the repayment is made more than four years after the end of the relevant tax year in which the overpayment arose. The Commissioner finds that the decision of the Respondent to refuse to repay the balances of tax overpaid for the relevant years is correct in law, as the claims for repayment were made by the Appellant outside the statutory four-year timeframe.

52. There is no provision in section 865 of the TCA 1997 which allows the four-year time limit to be disregarded in circumstances where the taxpayer is seeking to utilise a balance of

tax overpaid in a particular tax year by means of offset against a balance of tax payable arising in a separate tax year.

53. 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. The Commissioner finds that the Appellant has not discharged the burden of proof in this appeal.

**Determination**

54. As such and for the reasons set out above, the Commissioner determines that this consolidated appeal must be denied. Therefore, the decisions of the Respondent dated 10 October 2025 and 24 November 2025, refusing to repay the balances of tax overpaid for 2015 and 2016 respectively, shall stand.

55. The Commissioner appreciates that this decision will be disappointing for the Appellant. The Appellant was entitled to check whether the Respondent's refusal to repay the balances of tax overpaid for the relevant years 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.

56. 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**

57. 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**

58. 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
29 June 2026