AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

16TACD2026

Between

[redacted]

Appellant

and

The Revenue Commissioners

Respondent

Determination

Table of Contents

Introduction

1. This is an appeal to the Tax Appeals Commission ("the Commission") pursuant to and in accordance with the provisions of sections 466A(2) and 466A(6)(a) of the Taxes Consolidation Act 1997 ("the TCA 1997") brought on behalf of [redacted] ("the Appellant") in relation to a Statement of Liability issued by the Revenue Commissioners ("the Respondent") for the tax year 2021, dated 28 May 2025 which shows an amount of tax underpaid in the sum of €1,105.81.

2. On 4 July 2025, the Appellant appealed to the Commission against the Statement of Liability for 2021. In accordance with the provisions of section 949U of the TCA 1997 and by agreement with the parties, this appeal is adjudicated and determined without a hearing.

3. The Appellant submitted a Notice of Appeal and Statement of Case which the Commissioner has considered in this Determination. The Commissioner has received a Statement of Case from the Respondent and responses to the Commissioner's directions pursuant to section 949E of the TCA 1997 which have also been considered by the Commissioner.

Background

4. On 22 November 2020, the Respondent automatically allocated a Home Carers Tax Credit in the full amount of €1,600 for the tax year 2021 to the Appellant's record.

5. On 28 November 2020, the Department of Social Protection ("DSP") confirmed to the Respondent that the Appellant's spouse would be in receipt of taxable income in the form of Illness Benefit for 2021 amounting to the sum of €10,566.84.

6. The maximum income allowable to be entitled to benefit from the Home Carer Tax Credit in 2021 was €10,400 per annum pursuant to an implied calculation when considering sections 466A(2) and 466A(6a)of the TCA 1997 together, as set out in paragraphs 17 and 18 of this Determination. Based on the Appellant's spouse's income, the Appellant exceeded the threshold in 2021.

7. On 3 December 2020, the Respondent issued the Appellant a Tax Credit Certificate for the tax year 2021 via myAccount on the Revenue Online System ("ROS") which included the Home Carer Tax Credit in error.

8. The Appellant did not apply for Home Carer Tax Credit and [redacted] does not assert [redacted] was entitled to such a credit in 2021.

9. On 28 May 2025, a Statement of Liability for the tax year 2021 for the amount of €1,105.81 was issued to the Appellant following the filing of [redacted] 2021 Income Tax return on 28 May 2025.

10. The Respondent has explained that the underpayment of tax now accruing relates to the incorrect, automatic application of this credit to the Appellant's record by the Respondent in its Information Technology ("IT") system.

11. This incorrect allocation of the Home Carer Tax Credit was not manually or automatically removed, following receipt of documentation by the Respondent regarding the Appellant's spouse's income by way of Illness Benefit for 2021 from the Department of Social Protection.

12. It is not in dispute that the Appellant is not entitled to this Home Carer Tax Credit.

13. The Appellant is appealing to the Commission regarding the fairness of a payment of tax now owing to the Respondent due to a system error made by the Respondent and subsequently not corrected until 2025.

Legislation and Guidelines

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

15. Section 3(1) of the TCA 1997: Interpretation of income tax provides that: "Tax" means "*income tax".*

16. Section 466A(1) of the TCA 1997: Home carer tax credit *inter alia* provides: "*Qualifying claimant", in relation to a year of assessment, means an individual*:

    (a) Who is assessed to tax for that year in accordance with [section 107 or 1031C], and

    (b) Who, or whose spouse or civil partner (in this section referred to as the ["carer spouse" or "carer civil partner"]) is engaged during that year in caring for one or more dependent persons.

17. Section 466A(2) of the TCA 1997 for the year 2021 states: "*Where for any year of assessment an individual proves that he or she is a qualifying claimant he or she shall be entitled to a tax credit (to be known as the "home carer tax credit") of €1,600"*.

18. Section 466A(6a) of the TCA 1997 states: "*Where in any year of assessment the [carer spouse or carer civil partner] is entitled in his or her own right to [total income] exceeding*

[€7,200] in that year, the tax credit shall be reduced by one-half of the amount of that excess".

19. The Commissioner notes that section 466A of the TCA 1997 does not explicitly include an amount for the maximum income allowable per annum, rather it is implied in the calculation under section 466A(6)(a) of the TCA 1997 read in conjunction with section 466A(2) of the TCA 1997.

20. On the basis that the tax credit amount has been increased in subsequent years in the Finance Acts, the legislation in the relevant tax year must be reviewed as it details the amount of the total Home Carer Tax Credit due in 2021.

21. The legislation in force in 2021 sets out the maximum Home Carer Tax Credit of €1,600 (section 466A(2)) of the TCA 1997) and the €7,200 income threshold (section 466A(6)(a) of the TCA 1997) for 2021.

22. If a taxpayer met the conditions for the credit and their income in a relevant year was less than €7,200, the taxpayer was entitled to the full Home Carer Tax Credit. If a taxpayer's income in 2021 exceeded the €7,200 threshold, then a further calculation was required in order to calculate the amount of the tax credit allowable out of the full credit of €1,600 i.e. being a reduced tax credit or a nil tax credit.

23. Section 466A(6)(a) of the TCA 1997 cited at paragraph 18 of this Determination sets out the basis of the annual income allowable calculation as "*where total income exceeds €7,200, the tax credit shall be one half of the excess".*

24. Section 960C of the TCA 1997: Tax to be due and payable to Revenue Commissioners provides that: "*Tax due and payable under the Acts shall be due and payable to the Revenue Commissioners*."

Submissions

Appellant's submissions

25. The Commissioner has set out hereunder, a summary of the submissions made by the Appellant in [redacted] Notice of Appeal dated 4 July 2025 and Statement of Case dated 13 August 2025:

> *"I was informed I have an underpayment of tax for 2021. I raise an enquiry in relation to this as a PAYE worker tax is deducted at source so I was at a loss to understand how this happened. I received a reply 3/7/25 stating Home Carers credit was included in my tax certificate for 2021.*

I received the following response to my query. Having reviewed your record for 2021 Home Carers Tax Credit was included on your tax certificate for 2021 and it would appear that you did not apply for this relief. When I reviewed your statement of liability for 2021 the Home Carers Credit did not appear on it. This would unfortunately appear to be a system error.

………………………………………………………………………

It is stated that this was a system error and my tax credits were overstated for 2021. I feel as this underpayment is as a result of a system error, through no fault of my own and not caused by me it's is very unfair that I am being penalised/left with an underpayment of tax as a result. [sic] This error occurred due to a system/department error and not as a result of anything I done. [sic]

The same error appears to have occurred in 2022. I subsequently received a telephone call from Revenue who informed me that this error carried over from 2021 I believe through the following years to 2024 and only came to light when a review was carried out. It has now been rectified for 2025. As stated above I am a PAYE worker, tax is deducted at source, I presumed my tax was in order but unfortunately that was not the case. I honestly don't think I should be held responsible for a system/department error.

I had no knowledge that there was any issue with my tax until I was contacted by Revenue. I submit the above in support of my appeal against this underpayment of tax for all years that this Home Carers Credit was applied in error by the department and at no time requested by me".

Respondent's submissions

26. In the Respondent's Statement of Case dated 8 September 202, the Respondent submitted, among other things, as follows:

………………………………………………………..

"2. Outline of relevant facts.

On 3 December 2020, the Respondent issued the Appellant with a 2021 Tax Credit Certificate [redacted] *via myAccount. This Tax Credit Certificate confirmed the Home Carers Tax Credit in the amount of €1,600 was applied for tax year 2021.*

This Tax Credit Certificate also confirmed the spouse of the Appellant was receiving taxable income from the Department of Social Protection (DSP) in the form of Illness Benefit.

The Illness Benefit payment for 2021 was estimated to be €10,556 and the tax credit and rate band allocations were reduced accordingly to cover the tax due on this income.

On 28 May 2025, the Appellant completed [redacted] *2021 PAYE Income tax Return.*

On this return, the Appellant ticked the relevant box on [redacted] *return which meant that* [redacted] *confirmed* [redacted] *entitled to claim the Home Carers Tax Credit in 2021.*

On 29 May 2025, the Respondent issued the Appellant with a Statement of Liability [redacted] *for 2021.*

This Statement of Liability confirmed a final underpayment of €1,105.81.

The Statement of Liability confirmed Illness Benefit for the Appellant's spouse of €10,556.84.

The Statement of Liability which issued to the Appellant on 29 May 2025 did not include the Home Carers Tax Credit.

The Appellant contacted the Respondent via MyEnquiries on 5 June 2025 concerning [redacted] *underpayment for 2021.*

The Respondent replied to the Appellant on 3 July 2025 to clarify the underpayment arose because [redacted] *had the benefit of the Home Carer Tax Credit in 2021 but* [redacted] *not entitled to same.*

As the Illness Benefit paid to the Appellant's spouse exceeded the maximum income allowable to benefit from the Home Carer Tax Credit, the Appellant was not entitled to benefit from this credit in 2021.

On 11 July 2025, the Appellant appealed their 2021 Statement of Liability".

…………………………………………………………………………………………....

"4. Relevant case law, etc.

Menolly Homes Ltd v Appeal Commissioners and Revenue Commissioners: [2010] ITR 75 states that 'The burden of proof in this appeal process is, as in all taxation appeals, on the taxpayer' (para. 22).

The judgement of the court in Bolands Limited v Revenue Commissioners 1 ITR 34 states that the burden of proof falls on "he who asserts", i.e., the Appellant. Furthermore, in the case of MacEachern v Carr [1996] STC 282, it was observed that one of the reasons the onus is justified is because it is only the taxpayer who has access to the full facts relating to their personal situation.

Revenue's Tax and Duty Manual Part 15-01-29 confirms the upper limits for receiving a portion of the Home Carers Tax Credit in 2021 was €10,400. As the Appellants spouses' income for this period exceeded this amount, the Home Carers Tax Credit was not due for this period.

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." In this case the Respondent 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.

5. Summary

The matter under appeal is whether the Appellant should be liable to discharge the underpayment which arose on their record in 2021.

The Appellant benefited from the Home Carer Tax Credit in 2021.

The Appellant was not entitled to benefit from the Home Carer Tax credit in 2021.

Removing the Home Carer Tax Credit from the Appellant's record for 2021 has resulted in a liability of €1,105.81.

To mitigate against any hardship to the Appellant, the Respondent will collect the underpayment on record for 2021 over an extended four-year period, commencing in 2026, as follows:

2026 €276.45 per year

2027 €276.45 per year

2028 €276.45 per year

2029 €276.46 per year

This equates to approximately €23.04 per month or €5.32 per week.

The Appellant has not demonstrated a legislative basis for why the liability should not stand."

27. On 30 September 2025, pursuant to section 949E of the TCA 1997, the Commissioner issued a direction to the Respondent to advise on the calculation applied by the Respondent. On 2 October 2025, the Respondent replied, stating the following:

"Section 466A (6)(a) of the Taxes Consolidation Act 1997 states: "Where in any year of assessment the carer spouse or carer civil partner is entitled in his or her own right to total income exceeding €7,200 in that year, the tax credit shall be reduced by one-half of the amount of that excess.

The calculation below confirms the Home Carer Tax Credit was not permissible for the period under appeal.

2021 Home Carer Calculation:

€10,400 - €7,200 = €3,200 / 2 = €1,600

€1,600 (Home Carer Credit amount) - €1,600 (S.466A (6a) reduction)= €0.00 Home Carer Credit due for 2021

The Respondent further notes that the specific limits regarding the Home Carer Tax Credit are outlined in further detail in Revenue's Tax and Duty Manual Part 15-01-29 where the upper limits for receiving a portion of the Home Carer Tax Credit in 2021 was €10,400.

For the matter under appeal, as the Appellants spouses' income for this period exceeded this amount, the Home Carer Tax Credit was not due for this period".

28. On 3 October 2025, the Commissioner sent a further direction pursuant to section 949E of the TCA 1997 seeking clarification regarding the liability calculation of €1,051 and how the credit came to be applied, to which the Respondent responded on 9 October 2025 with the below:

"The Respondent can confirm as per the Appellant's 2021 Statement of Liability dated 28 May 2025 the Home Carer Tax Credit is no longer on the record of the Appellant for the period under appeal. As a result, the Appellant has a liability of €1,105.81 outstanding for this period. The Appellant submitted a claim for Remote Working Relief of €79.34 which at the Appellant's marginal rate granted the benefit of €15.86. As the Home Carers Credit was removed, the Appellant's spouse was entitled to a rate band of 20% for [redacted] *DSP Illness Benefit income. This resulted in a payroll overpayment for the Appellant, which was taken into account when issuing the Statement of Liability for this period and resulted in the underpayment of €1,051.*

……

On 22 November 2020, in advance of tax year 2021, the Respondent applied the Home Carer Tax Credit to the record of the Appellant. The Home Carer Tax Credit was automatically applied to the record of the Appellant as [redacted] were in receipt of [redacted] and [redacted] spouse had no active PAYE employment or any other taxable income on record.

The Respondent can confirm the Appellant did not apply or tick any box in advance of tax year 2021, to claim the Home Carer Tax Credit for this period.

On 28 November 2020, the Respondent received a notification from the Department of Social Protection (DSP) which confirmed the spouse of the Appellant was in receipt of Illness Benefit for 2021 in the amount of €10,556. At this point, the credit should have been removed from the record of the Appellant, however the internal IT systems of the Respondent did not remove the credit and it remained on the Appellant's record for this period.

On 3 December 2020, the Respondent issued the Appellant with a 2021 Tax Credit Certificate [redacted] via myAccount. No contact was received from the Appellant on foot of this correspondence and consequently, the Appellant received the benefit of the Home Carer Tax Credit throughout 2021, through a reduction in tax payable in [redacted] employment with [redacted]

On 28 May 2025, the Home Carer Tax Credit was removed from the record of the Appellant for 2021, in advance of a Statement of Liability issuing for this period".

Material Facts

29. Having read the documentation submitted, and having read the submissions of the parties, the Commissioner makes the following findings of material fact:

    29.1. The Appellant was a PAYE employee in 2021.

    29.2. The Appellant's spouse was in receipt of Illness Benefit amounting to €10,566.84 in 2021. This was confirmed by DSP to the Respondent on 28 November 2020.

    29.3. The Appellant and [redacted] spouse are jointly assessed for the purposes of income tax.

    29.4. On 3 December 2020, the Respondent issued a Tax Credit Certificate for 2021 to the Appellant's record which included a full Home Carer Tax Credit.

29.5. The Appellant was not entitled to benefit from the Home Carer Tax credit in 2021 on the basis that [redacted] spouse's illness benefit exceeded the income threshold of €10,400.

29.6. The Respondent failed to correct the Appellant's record once information of the Appellant's spouse's Illness Benefit was provided by DSP.

29.7. As a result of the incorrect application of the Home Carer Tax Credit, The Appellant underpaid tax in the amount of €1,105.81 for the tax year 2021.

29.8. The Respondent has sought to collect the underpayment of tax by the Appellant, by way of a reduction in tax credits for the years 2026 - 2029 at €276.46 per annum.

29.9. On 11 July 2025, the Appellant appealed this tax liability to the Commission.

Analysis

30. At the outset, it is important to understand that in an appeal before the Commission, the burden of proof rests on the Appellant being the taxpayer, who must prove on the balance of probabilities that an assessment to tax by the Revenue Commissioners is incorrect.

31. This legal proposition is well established in case law and was outlined in the case of *Menolly Homes Ltd v Appeal Commissioners and Another* [2010] IEHC 49 *("Menolly Homes").* At paragraph 22, Mr. Justice Charleton held 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".*

32. The Commissioner also refers to paragraph 12 of Charleton J.'s judgment in *Menolly Homes,* wherein he 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…"*

33. The Commission is a statutory body, and it can only lawfully operate within the confines of the legislation. The Commissioner refers to the Court of Appeal case of *Lee v The Revenue Commissioners* [2021] IECA 18, ("*Lee"*) wherein Mr. Justice Murray 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 see if the assessment has been properly prepared in accordance with those statutes. They may make findings of fact and law that are incidental to that inquiry.

Noting the possibility that other provisions of the TCA may confer a broader jurisdiction and the requirements that may arise under European Law in a particular case, they do not in an appeal of the kind in issue in this case, enjoy the jurisdiction to make findings in relation to matters that are not directly relevant to that remit, and do not accordingly have the power to adjudicate upon whether a liability the subject of an assessment has been compromised, or whether Revenue are precluded by legitimate expectation or estoppel from enforcing such a liability by assessment, or whether Revenue have acted in connection with the issuing or formulation of the assessment in a manner that would, if adjudicated upon by the High Court in proceedings seeking Judicial Review of that assessment, render it invalid."

34. The Respondent has accepted that the underpayment arose as a result of two errors by the Respondent. First, the Respondent's Information Technology system automatically applied a Home Carer Tax Credit to the Appellant's record using data sets that contained incomplete information and incorrect assumptions, and not in response to a request from the Appellant.

35. Second, when the DSP documentation confirming the Appellant's spouse's income was received by it on 29 November 2020, the Respondent failed to amend the record and remove the Home Carer Tax Credit for 2021.

36. The Respondent explained that the Appellant "ticked a box" in May 2025 confirming [redacted] was entitled to the Home Carer Tax Credit when filing [redacted] 2021 tax return. However, the Appellant in this appeal has not sought to argue or adduce evidence that [redacted] was in fact entitled to the Home Carer Tax Credit or that [redacted] spouse's illness benefit was materially misstated.

37. When the Appellant's spouse's income for 2021 of €10,556.84 is applied to the calculation provided by the Respondent, in line with the legislation cited at paragraphs 16 - 23 of this Determination, the result is as follows:

Applicable figures:

Total income 2021: **€10,566.84** (the Appellant's spouse's income in 2021):

Income threshold allowable: **€7,200** (if above €7,200, additional calculation required):

Maximum tax credit in 2021: **€1,600**

Calculation:

€10,556.84 minus € 7,200 = €3,356.84

€3,356.84 divided by 2 = €1,678.42

€1,678,42: Excess income as per above calculation based on section 466A(6a) of the TCA 1997 in 2021

€1,600: Maximum Home Carer Tax Credit as per section 466A(2)of the TCA 1997 in 2021

€1,600 minus €1,678,42 = **-** €78.42, a negative figure

38. As the amount of the Appellant's spouse's annual income in 2021 using the calculation implied in the legislation as set out above, is higher than the maximum allowable annual income to be entitled to the Home Carer Tax Credit, the Appellant and [redacted] spouse would have had no entitlement to the Home Carer Tax Credit in 2021.

39. The Appellant has not challenged the methodology or calculations provided by the Respondent on 2 October 2025.

40. Therefore, the Commissioner is satisfied that the Appellant did not have an entitlement to the Home Carer Tax Credit based on sections 466A(2) and 466A(6)(a) of the TCA 1997 and the thresholds allowed in 2021, as [redacted] spouse's Illness Benefit exceeded the maximum income threshold of €10,400 in the relevant year.

41. The Commissioner has sympathy for the Appellant in this instance. However, in order for the Appellant's appeal to be successful, it is necessary for the Appellant to demonstrate that the Respondent was incorrect in raising the Statement of Liability for 2021 for the sum of €1,105.81 in May 2025.

42. The Commissioner is satisfied that the Appellant has not done so as [redacted] has not challenged the substance of the Statement of Liability. The Appellant's submissions were focused on fairness and can be summarised in [redacted] statement that "*I honestly don't think I should be held responsible for a system/department error*".

43. It therefore appears to the Commissioner that the Appellant is aggrieved at the level of customer service provided to [redacted] by the Respondent. The Commissioner considers that the errors which led to [redacted] incurring an additional liability were very unfortunate. However, it must be noted that the Commission does not have a supervisory jurisdiction over the Respondent's conduct.

44. The Commission's jurisdiction is limited to considering whether the Appellant has been correctly charged and assessed to tax, as stated by Murray J. in *Lee*. For the reasons set out herein, the Commissioner is satisfied that the Appellant has not demonstrated that the Statement of Liability for 2021 is incorrect, and therefore [redacted] appeal cannot succeed.

Determination

45. In the circumstances and based on a review of the facts and submissions provided by both parties, the Commissioner determines that the Appellant has not demonstrated that the Statement of Liability for 2021 raised by the Respondent in May 2025, was incorrect. Therefore, the Statement of Liability for 2021 of €1,105.81 stands.

46. The Commissioner notes that the Appellant briefly mentions in [redacted] Notice of Appeal that a recent assessment has also been received for the year 2022, on the same or similar point but this year of assessment has not been appealed to the Commission (as the Commissioner is aware). It is important to note this determination relates only to the appeal for 2021 on hand. No evidence has been adduced in relation to the year 2022 or any other year.

47. The Commissioner appreciates this decision will be disappointing for the Appellant. However, the Commissioner is charged with ensuring that the Appellant pays the correct tax and duties. The Appellant was correct to appeal to have clarity on the position. The Commissioner further notes that the Respondent proposes to reclaim the underpaid sum by way of a reduction in the Appellant's tax credits for subsequent years.

48. 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.

49. 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.

Notification

50. 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

51. 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.

Róisín Jordan
Appeal Commissioner
7 January 2026