AN COIMISIÚN UM ACHOMHAIRC CHÁNACH

TAX APPEALS COMMISSION

17TACD2026

Between

[redacted]

Appellant

and

The Revenue Commissioners

Respondent

Determination

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Introduction

1. This is an appeal to the Tax Appeals Commission ("the Commission") pursuant to and in accordance with the provisions of sections 865(7) and 949I of the Taxes Consolidation Act 1997 ("the TCA 1997") brought on behalf of [redacted] ("the Appellant") by [redacted] ("the Appellant's representatives").

2. The appeal is against a refusal by the Office of the Revenue Commissioners ("the Respondent") of a claim made by the Appellant's representatives for a repayment of income tax in the sum of €2,321.50 for the year 2020, on the basis that the repayment sought was outside the statutory timeframe.

3. 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.

Background

4. The Appellant died on [redacted]

5. On 3 September 2025, the Appellant's representatives filed [redacted] income tax return for the year 2020 through the Revenue Online System ("ROS"). This income tax return indicated that the Appellant has overpaid income tax in the sum of €2,321.50.

6. On 8 September 2025, the Respondent wrote to the Appellant's representatives [redacted] of the Appellant to inform them of its decision to refuse the Appellant's representatives claim for a repayment of income tax for the year 2020, on the basis that the income tax return for 2020 was filed outside the four year limit pursuant to section 865(4) of the TCA 1997.

7. On 19 September 2025, the Appellant's representatives filed a Notice of Appeal to the Commission outlining [redacted] which caused the delay in filing the 2020 income tax return.

8. On 30 September 2025, the Respondent submitted its Statement of Case.

9. On 7 October 2025, the Appellant's representatives filed [redacted] Statement of Case. It was not disputed by the Appellant's representatives that the Appellant's income tax return for 2020 was filed on 3 September 2025.

Legislation and Guidelines

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

11. Section 865 of the TCA 1997, Repayment of Tax, *inter alia* provides:

(1) …………....

(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.

(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

12. The Commissioner has set out hereunder, a summary of the submissions made by the Appellant's representatives:

13. In their Notice of Appeal (written from the perspective of [redacted]) dated 19 September 2025, the Appellant's representatives stated:

"[The Appellant] died on the [redacted] unexpectedly. He owned a farm and was a Director of [redacted] at the date of death. [redacted]

[redacted]

The business was [redacted] *and was initially a successful operation.* [redacted] *This business was eventually wound up, but is still filling annual returns etc.* [redacted] *There are losses reported for this company for many years. [The Appellant's representatives] continued to operate this business for about a year and a half but had no idea of the accumulating losses.*

[redacted] *The* [redacted] *companies are going to be liquidated this year.*

[redacted]

14. On 7 October 2025, the Appellant's representatives submitted [redacted] Statement of Case, (again written from the perspective of the [redacted]), which reiterated what had been included in the Notice of Appeal and included some additional detail, as follows:

[redacted]

[redacted] This led to delays in dealing with these issues until 2025.

There is an income tax refund of €2,321.50 assessed for the year ending 31/12/2020. This refund is outside the 4 year period after the end of the chargeable period to which the claim relates.

The only case law [redacted] can relay on is force majeure. [sic]

[redacted]

Respondent's submissions

15. The Respondent in its Statement of Case dated 30 September 2025 stated:

"The Appellant filed 2020 Income Tax return through ROS on 03/09/2025. The return submission resulted in overpayment, in amount of €2,321.50.

However, this refund was refused by Revenue as the income tax return was filed outside the four-year time limit as imposed by legislation. It is this decision that the Appellant is appealing. In their appeal, dated 19/09/2025, the Appellant provides details of the [redacted] that caused the delay in filing of the return.

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.

Section 865, subsection 4 states;

> *"(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."

The chargeable period in this instance is 1 January 2020 to the 31 December 2020. Therefore, in order that Revenue could consider a refund of tax overpaid for the 2020 tax year, a completed return would have to have been submitted on or before the 31 December 2024.

As the 2020 tax return was filed outside of the 4-year limit imposed by Section 865 of the Acts, Revenue are precluded from allowing refund or offset of the overpaid tax".

Material Facts

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

16.1. The Appellant died on [redacted]

16.2. The [redacted] are acting as representatives for the Deceased in this appeal.

16.3. The Appellant's 2020 income tax return was filed on 3 September 2025 which indicated an overpayment of income tax in the sum of €2,321.50.

16.4. On 8 September 2025, the Respondent refused a repayment of the overpaid income tax on the basis that the Appellant's representatives had filed [redacted] income tax return for 2020 outside the four-year statutory limit.

16.5. On 19 September 2025, the Appellant's representatives submitted a Notice of Appeal to the Commission outlining [redacted] for the filing delay.

Analysis

17. At the outset, it is important to understand that in an appeal before the Commission, the burden of proof rests on the Appellant[redacted]representatives being the taxpayer, who must prove on the balance of probabilities that the Revenue Commissioners were incorrect to refuse a claim for income tax overpaid by the Appellant in the sum of €2,321.50 for the year 2020.

18. 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".

19. 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."

20. 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".

21. 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 that, *inter alia* "*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*" (emphasis added).

22. In this appeal, the relevant tax year was 2020. Therefore, the claim for a repayment of income tax must have been made on or before 31 December 2024. The Appellant's representatives have not disputed that [redacted] filed [redacted] income tax return for 2020 on 3 September 2025. It is this date that establishes a valid claim for the purposes of section 865(3) of the TCA 1997.

23. Therefore, the Commissioner is satisfied, having regard to the 2020 income tax return filing date of 3 September 2025, that the Appellant's representatives' claim fell outside the four-year time limit provided for in section 865(4) of the TCA 1997.

24. The use of the word "shall" in section 865(4) TCA 1997 indicates an absence of discretion in the application of this provision. The wording of the provision does not allow for extenuating circumstances in which the four-year rule might be mitigated and therefore the Commissioner does not have any discretion to disapply the rule.

25. The Commissioner has sympathy for the Appellant's representatives in this instance and acknowledges the [redacted] arising resulting in the delay of the filing of the Appellant's 2020 income tax return.

26. The Commissioner appreciates that this decision will be disappointing for the Appellant's representatives. The Appellant's representatives were entitled to check whether the Respondent's refusal of this claim for repayment of income tax was correct. However, as noted above the legislation does not afford the Commissioner any discretion on this matter.

Determination

27. For the reasons set out herein, the Commissioner determines that the Appellant's representatives have not succeeded in demonstrating that the Respondent was incorrect to refuse the Appellant's representatives' claim for a repayment of income tax for the amount of €2,321.50 under section 865(4) of the TCA 1997.

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

Notification

29. 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.

30. This notification under section 949AJ of the TCA 1997 is being sent via digital email communication **only** (unless the Appellant's representatives opted for postal communication and communicated that option to the Commission). The parties will not receive any other notification of this determination by any other methods of communication.

Appeal

31. Any party dissatisfied with the determination has a right of appeal on a point or points of law only within 42 days after the date of the notification of this determination in accordance with the provisions set out in section 949AP of the TCA 1997. The Commission has no discretion to accept any request to appeal the determination outside the statutory time limit.

Róisín Jordan
Appeal Commissioner
8 January 2026