AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

222TACD2025

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 [redacted] against a surcharge imposed by the Revenue Commissioners ("the Respondent") for the late filing of financial statements in the Inline eXtensible Business Reporting Language ("iXBRL") format, in the amount of €63,485.00, for the accounting period 2018.

2. On 1 April 2025, 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 of the appeal. Accordingly, this appeal is adjudicated without a hearing, under section 949U of the Taxes Consolidation Act 1997 ("the TCA 1997").

Background

3. In this appeal, the Appellant acted through its authorised agent.

4. The Appellant filed a corporation tax return ("CT1") for the accounting period 2018 on 6 September 2019 and filed iXBRL financial statements for the accounting period 2018 on 22 November 2024.

5. On 22 November 2024, the Respondent issued a Notice of Amended Assessment which showed a surcharge for late submissions in the amount of €63,485.00 for the accounting period 2018.

6. On 23 December 2024, the Appellant submitted a Notice of Appeal to the Commission, with enclosures. On 21 February 2025, the Appellant submitted a Statement of Case. On 10 March 2025, the Respondent submitted a Statement of Case. On 11 March 2025, the Commissioner directed both parties to make submissions in relation to section 959AF(1A) of the TCA 1997, which the parties did on 25 March 2025. On 22 April 2025, the Appellant made additional submissions to the Commission. The Commissioner has considered all of the documentation submitted by the parties in this appeal.

Legislation

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

8. Section 884 of the TCA 1997 provides (among other things):

"(2) A company may be required by a notice served on it by an inspector or other officer of the Revenue Commissioners to deliver to the officer within the time limited by the notice a return of –

[…]

(aa) such information, accounts, statements, reports and further particulars -

(i) relevant to the tax liability of the company, or

(ii) otherwise relevant to the application of the Corporation Tax Acts to the company, as may be required by the notice or specified in the prescribed form in respect of the return,

[…]

(2A) The authority under subsection (2) to require the delivery of accounts as part of a return is limited to such accounts, as, together with such documents as may be annexed thereto and such further information, statements, reports or further particulars as may be required by the notice referred to in subsection (2) or specified in the prescribed form in respect of the return, contain sufficient information to enable the chargeable profits of the company to be determined."

9. Section 917EA of the TCA 1997 provides (among other things):

"(3) The Revenue Commissioners may make regulations -

(a) requiring the delivery by specified persons of a specified return by electronic means where an order under section 917E has been made in respect of that return,

(b) requiring the payment by electronic means of specified tax liabilities by specified persons, and

(c) for the repayment of any tax specified in the regulations to be made by electronic means.

[…]

(5) Regulations made under this section may, in particular and without prejudice to the generality of subsection (3), include provision for -

(a) the electronic means to be used to pay or repay tax,

(b) the conditions to be complied with in relation to the electronic payment or repayment of tax,

(c) determining the time when tax paid or repaid using electronic means is to be taken as having been paid or repaid,

(d) the manner of proving, for any purpose, the time of payment or repayment of any tax paid or repaid using electronic means, including provision for the application of any conclusive or other presumptions,

(e) notifying persons that they are specified persons, including the manner by which such notification may be made, and

(f) such supplemental and incidental matters as appear to the Revenue Commissioners to be necessary."

10. Section 959I of the TCA 1997 provides:

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

(2) The prescribed form referred to in subsection (1) may include such matters in relation to gift tax and inheritance tax as may be required by that form.

(3) Where under this Chapter a person delivers a return to the Collector-General, the person shall be deemed to have been required by a notice under section 877 to deliver a statement containing the matters and particulars contained in the return or to have been required by a notice under section 879, 880 or 884 to deliver the return, as the case may be.

(4) A chargeable person shall prepare and deliver to the Collector-General, a return for a chargeable period as required by this Chapter notwithstanding that the chargeable person has not received a notice to prepare and deliver a statement or return for that period under section 877, 879, 880 or 884, as the case may be.

(5) Nothing in the specified provisions or in a notice given under any of those provisions shall operate so as to require a chargeable person to deliver a return for a chargeable period on a date earlier than the specified return date for the chargeable period."

11. Section 959K of the TCA 1997 provides:

"*In the case of a chargeable person who is chargeable to corporation tax for an accounting period, the return required by this Chapter shall include -*

(a) all such matters, information, accounts, statements, reports and further particulars in relation to the accounting period as would be required to be contained in a return delivered pursuant to a notice given to the chargeable person under section 884, and

(b) such information, accounts, statements, reports and further particulars as may be required by the prescribed form."

12. Section 959AF(1A) of the TCA 1997 provides:

"No appeal lies against an assessment or an amended assessment where the sole matter on which the person, on whom the assessment or amended assessment, as the case may be, was made, is aggrieved relates to a surcharge imposed under section 1084(2), other than where that person's ground for the appeal relates to -

(a) a matter referred to in section 1084(1)(b),

(b) the date on which the return of income for a chargeable period was delivered, or

(c) the compliance by that person, on or before the specified return date for the chargeable period, with a requirement -

(i) to prepare and deliver a return under Part 7 of the Finance (Local Property Tax) Act 2012, or

(ii) to pay any local property tax payable under that Act."

13. Section 1084(1)(b) of the TCA 1997 provides:

"For the purposes of this section –

(i)

(I) subject to clause (II), where a person deliberately delivers an incorrect return of income as set out in section 1077E(2) or carelessly delivers an incorrect return of income as set out in section 1077E(5) or deliberately or carelessly delivers an incorrect return of income as set out in section 1077F(2), as appropriate, on or before the specified return date for the chargeable period, the person shall be deemed to have failed to deliver the return of income on or before that date unless the error in the return of income is remedied on or before that date,

(II) clause (I) shall not apply where a person –

(A) deliberately delivers an incorrect return of income as set out in section 1077E(2) or carelessly delivers an incorrect return of income as set out in section 1077E(5) or deliberately or carelessly delivers an incorrect return of income as set out in section 1077F(2), as appropriate, on or before the specified return date for the chargeable period, and

(B) pays the full amount of any penalty referred to in either of the provisions referred to in subclause (A) to which the person is liable,

(ia) where a person who is a specified person in relation to the delivery of a specified return for the purposes of any regulations made under section 917EA delivers a return of income on or before the specified return date for the chargeable period but does so in a form other than that required by any such regulations the person shall be deemed to have delivered an incorrect return on or before the specified return date for the chargeable period and subparagraph (ii) shall apply accordingly,

(ib) where a person delivers a return of income for a chargeable period (within the meaning of section 321(2)) and fails to include on the prescribed form the details required by the form in relation to any exemption, allowance, deduction, credit or other relief the person is claiming (in this subparagraph referred to as the "specified details") and the specified details are stated on the form to be details to which this subparagraph refers, then, without prejudice to any other basis on which a person may be liable to the surcharge referred to in subsection (2), the person shall be deemed to have failed to deliver the return of income on or before the specified return date for the chargeable period and to have delivered the return of income before the expiry of 2 months from that specified return date; but this subparagraph shall not apply unless, after the return has been delivered, it had come to the person's notice or had been brought to the person's attention that specified details had not been included on the form and the person failed to remedy matters without unreasonable delay,

(ii) where a person delivers an incorrect return of income on or before the specified return date for the chargeable period but does so neither deliberately nor carelessly and it comes to the person's notice (or, if he or she has died, to the notice of his or her personal representatives) that it is incorrect, the person shall

be deemed to have failed to deliver the return of income on or before the specified return date for the chargeable period unless the error in the return of income is remedied without unreasonable delay,

(iii) where a person delivers a return of income on or before the specified return date for the chargeable period but the inspector, by reason of being dissatisfied with any statement of profits or gains arising to the person from any trade or profession which is contained in the return of income, requires the person, by notice in writing served on the person under section 900, to do any thing, the person shall be deemed not to have delivered the return of income on or before the specified return date for the chargeable period unless the person does that thing within the time specified in the notice, and

(iv) references to such of the specified provisions as are applied, subject to any necessary modifications, in relation to capital gains tax by section 913 shall be construed as including references to those provisions as so applied."

14. Section 1084(2)(a) of the TCA 1997 provides:

"Subject to paragraph (b), where in relation to a year of assessment or accounting period a chargeable person fails to deliver a return of income on or before the specified return date for the chargeable period, any amount of tax for that year of assessment or accounting period which apart from this section is or would be contained in an assessment to tax made or to be made on the chargeable person shall be increased by an amount (in this subsection referred to as "the surcharge") equal to -

(i) 5 per cent of that amount of tax, subject to a maximum increased amount of €12,695, where the return of income is delivered before the expiry of 2 months from the specified return date for the chargeable period, and

(ii) 10 per cent of that amount of tax, subject to a maximum increased amount of €63,485, where the return of income is not delivered before the expiry of 2 months from the specified return date for the chargeable period,

and, except where the surcharge arises by virtue of subparagraph (ib) of subsection (1)(b), if the tax contained in the assessment is not the amount of tax as so increased, then, the provisions of the Tax Acts and the Capital Gains Tax Acts (apart from this section), including in particular those provisions relating to the collection and recovery of tax and the payment of interest on unpaid tax, shall apply as if the tax contained in the assessment to tax were the amount of tax as so increased."

Submissions

Appellant

15. In its Notice of Appeal, the Appellant submitted (among other things):

> *"The amended assessment included a 'surcharge for late submission of returns' of €63,485. The company's corporation tax return for the period was submitted on 6 September 2019. However, given* [redacted] *the circumstances and requirement with regard to iXBRL was not evident at that time. Therefore due to an oversight, the company's iXBRL financial statements for the period were not submitted until 22 November 2024, following notification from Revenue that the financial statements were outstanding. We can confirm that subsequent iXBRL Financial Statements were filed on time. Given the unique circumstances of this case, we are writing to request a waiver of the surcharge.*
>
> *The real purpose of s.884 TCA 1997 as highlighted by subsection (2A) (above) is to provide a return that contains sufficient information to enable chargeable profits to be determined. In our view, the profits of the company could be and were determined from the corporation tax return Form CT1, in which the profits and tax liability of the company were declared under self-assessment. The chargeable profits of the company were not changed by the submission of the iXBRL financial statements. The purpose of the iXBRL financial statements is for cross checking and not to provide "sufficient information to enable chargeable profits to be determined." The stated purpose according to Revenue's Tax and Duty Manual Part 41A-03-01 at paragraph 1.2 'Why iXBRL' is: "Financial Statements contain key data needed for the purposes of assessing possible tax risks. The ability to accept Financial Statements in machine-readable format via ROS greatly enriches the data set available to Revenue for the purposes of risk analysis. The electronic data received allows Revenue to: a) Compare key accounting ratios across companies; b) Automatically prepare company profiles; c) Automatically generate statistical information for management purposes; d) Perform basic audit checks / reconciliations (e.g. reconciling loss relief/claims within a group); and e) Develop predictive analytical models to identify tax risk. In addition, electronic Financial Statements will be available to help caseworkers prepare for audits and other Revenue compliance interventions." In other words, there is nothing in the above which suggests the determining of chargeable profits […] the tax return was filed on time and no late filing surcharge should be levied under s.1084 TCA 1997.*

Please note that the company can appeal against the assessment under s.959AF TCA 1997, as the ground for the appeal relates to "the date on which the return of income for a chargeable period was delivered."

16. In its Statement of Case, the Appellant reiterated the points made in its Notice of Appeal and stated that: "*The dispute relates to the surcharge for late filing of returns*."

17. In its additional submissions, the Appellant submitted (among other things):

"*There is no requirement or provision in the Taxes Consolidation Act for iXBRL financial statements to be submitted as part of a company's tax return […]*

In summary, the tax return was filed on time (i.e. on 6 September 2019) with "sufficient information to enable the chargeable profits of the company to be determined" and therefore no late filing surcharge should have been levied under s.1084 TCA 1997 […]

Effectively, subsection 884(2A) provides that the accounting information to be appended to tax returns is specified either in a notice to the company or in the CT1 return itself. Without being specified in a notice, it is simply not conceptually possible for the taxpayer to glean what "may be required" […]

[T]here is nothing in [Revenue's Tax and Duty Manual Part 41A-03-01 at paragraph 1.2] which relates to the determining of chargeable profits. On that basis, iXBRL financial statements are not accounts within the meaning of s.884(2A). The submission of iXBRL financial statements was referenced in the Form CT1 corporation tax return for the period in question. The company selected the option 'My tax affairs are dealt with in Revenue's Large Cases Division or I am not excluded from filing financial statements in iXBRL format under options 3, 4 or 5 below', thus indicating that iXBRL financial statements were to be filed for the period. However, this filing does not form part of the tax return itself. It is clearly a separate and distinct matter.

In the case of Stanley v The Revenue Commissioners [2017] IECA 279, the Court of Appeal distinguished between the return (Parts 1-7 of the prescribed form in that instance) and the assessment made on that return […] Similarly, in this case, the iXBRL financial statement filing, although a required submission, is a distinct obligation separate from the filing of the tax return.S.1084(2) TCA 1997 is clear and unambiguous and imposes the surcharge where there has been a failure to deliver a return of income on or before the specified return date for the chargeable period. The Appellant filed the return of income within the prescribed time and therefore the failure to file the iXBRL financial statements on or before the specified return date for the chargeable period does not invoke a surcharge liability […]

While there is no doubt as to the interpretation and application of s.1084 TAC 1997, if there is a doubt in the interpretation of that provision, the principle of doubtful penalisation should be of assistance to the Commissioner where O'Donnell J. in Bookfinders v Revenue Commissioners [2020] IESC 60, confirmed at paragraph 54: "… The general principles of statutory interpretation are tools used to achieve a clear understanding of a statutory provision. It is only if, after that process has been concluded, a court is genuinely in doubt as to the imposition of a liability, that the principle against doubtful penalisation should apply and the text construed given a strict construction so as to prevent a fresh and unfair imposition of liability by the use of oblique or slack language."[…]

Section 959AA TCA 1997 provides for a four-year time limit on the making and amending of assessments on chargeable persons… As outlined above, the tax return submitted by the company was complete and included sufficient information for the issuing of an assessment by Revenue. The Assessment was invalid, being made ultra vires the powers of the Revenue Commissioners since it was issued after the end of the chargeable period in which the company delivered a correct corporation tax return. It is therefore respectfully submitted that the amended corporation tax assessment be reduced to nil."

Respondent

18. In its Statement of Case, the Respondent submitted (among other things):

"*In accordance with Section 959A TCA 1997, a return made by electronic means must be filed no later than day 23 of the 9th month after a company's accounting period end. Section 884(2)(aa) TCA 1997 extends the definition of a Corporation Tax Return to encompass such information, accounts, statements, reports and further particulars as may be specified in the prescribed form. The prescribed form requires that companies dealt with in Large Corporates Division file financial statements in iXBRL format. Concessionally Revenue permits an additional three months for relevant taxpayers to file their financial statements in iXBRL format (per TDM 41A-03-01 Section 2.1.1).*

In the event that any part of the return – being in this instance both the form CT1 and the iXBRL financial statements – is filed after the due date, a surcharge shall be due under Section 1084 TCA 1997.

The appellant was due to file its return for financial year-end 31 December 2018 by 23 September 2019 and further that it must file iXBRL financial statements by 23 December 2019. In fact, it filed its return for year-end 31 December 2018 on 6

September 2019 and filed its iXBRL financial statements on 22 November 2024. Because the financial statements were filed more than three months late, the company became liable to a surcharge of €63,485 in accordance with Section 1084 TCA 1997.

The company confirmed in its return that its tax affairs were dealt with in Large Cases/Corporates Division, at which time it would have been advised of the requirement to file iXBRL financial statements. The taxpayer has not offered a legislative basis as to why the surcharge should not be applied. Two previous TAC Determinations (80TACD2022 and 190TACD2020) dealt with the imposition of a surcharge on the appellants for the late filing of their iXBRL returns. In both determinations, TAC was satisfied that Revenue was correct in applying the surcharge in accordance with Section 1084(2)(a)(ii) TCA 1997."

Material Facts

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

    19.1. On 6 September 2019, the Appellant filed a CT1 for the accounting period 2018.

    19.2. The Appellant filed iXBRL financial statements for the accounting period 2018 on 22 November 2024.

    19.3. The submission of iXBRL financial statements was referenced in the CT1 for the accounting period 2018 and the Appellant selected the option: "My tax affairs are dealt with in Revenue's Large Cases Division or I am not excluded from filing financial statements in iXBRL format under options 3, 4 or 5 below".

    19.4. The Appellant filed iXBRL financial statements for the accounting period 2018 after the filing deadline.

    19.5. On 22 November 2024, the Respondent issued a Notice of Amended Assessment which showed a surcharge for late submissions in the amount of €63,485.00 for the accounting period 2018.

Analysis

20. This appeal relates to a surcharge imposed by the Respondent on the Appellant for the late filing of iXBRL financial statements for the accounting period 2018. 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".

21. The Court of Appeal recently confirmed this position in *JSS, JSJ, TS, DS and PS 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.*"

22. A preliminary issue arises in this appeal as to whether the appeal should be refused on the ground that it does not relate to an appealable matter. It is therefore appropriate for the Commissioner to address this question first.

Whether this appeal relates to an appealable matter

23. The Commission is a statutory body created by the Finance (Tax Appeals) Act 2015. As a statutory body, the Commission only has the powers that have been granted to it by the Oireachtas. The powers of the Commission to hear and determine tax appeals are set out in Part 40A of the TCA 1997. Section 949J of the TCA 1997 states that an appeal shall be valid if "*it is made in relation to an appealable matter*".

24. Section 949A of the TCA 1997 defines an "*appealable matter*" as "*any matter in respect of which an appeal is authorised by the Acts*". Therefore, in order for an appeal to be valid, it must be a matter in respect of which an appeal is authorised by the Tax Acts. The Commission does not have a general or residual power to hear appeals into matters where no appeal is authorised by the Tax Acts.

25. The Commission's jurisdiction was considered by the Court of Appeal in the case of *Lee v Revenue Commissioners* [2021] IECA 18, in which Murray J stated that:

> "*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"*.

26. It follows from the above that for an appeal to be a valid appeal that may be accepted by the Commission, there must exist some provision in legislation conferring on a taxpayer the right to appeal a specific decision to the Commission.

27. Section 959AF(1) of the TCA 1997 provides a right of appeal in respect of assessments or amended assessments. Section 959AF(1A) provides that no such right of appeal lies against the imposition of a surcharge under section 1084(2), unless one of three prescribed exceptions applies**.** In this appeal, there is no dispute that the Respondent imposed a surcharge under section 1084(2) of the TCA 1997. Accordingly, to determine whether the Appellant has a right to appeal that surcharge, the Commissioner must consider whether any of the three prescribed exceptions applies.

28. The first exception is that the ground of appeal relates to a matter referred to in section 1084(1)(b) of the TCA 1997. Section 1084(1)(b) contains a number of provisions concerning circumstances where an incorrect return has been filed on or before the specified return date. The second exception is that the ground of appeal relates to the date on which the return of income for a chargeable period was delivered. The third exception is where the ground of appeal relates to the filing of a return and payment concerning local property tax.

29. As noted above, the Commissioner directed the parties to make submissions in relation to section 959AF(1A) of the TCA 1997. On the one hand, the Respondent submitted that there was no right of appeal and there was no dispute about the date on which the return of income was delivered, as the Appellant accepted that the iXBRL statements were filed on 22 November 2024. On the other hand, the Appellant submitted that there was a right of appeal and as the CT1 was filed before the specified return date, the tax return was in fact filed on time, with the later submission of iXBRL statements not changing the date of filing. Having regard to this ground of appeal, the Commissioner considers that irrespective of whether the Appellant's submissions are correct on the matter (which the Commissioner addresses below), the appeal "relates to", or has a connection with, the date of delivery of the return.

30. Given this, the Commissioner is satisfied to proceed on the basis that the Appellant's appeal relates to an "appealable matter", on the ground that it falls within an exception provided for in section 959AF(1A) of the TCA 1997.

Filing Obligations

31. In this appeal, it was uncontested that the Appellant filed a CT1 for the accounting period 2018 on 6 September 2019 and filed iXBRL financial statements for the accounting period 2018 on 22 November 2024. The Commissioner has found these to be material facts and will now proceed to consider the Appellant's submissions.

32. In the first instance, the Appellant contended that it had filed the iXBRL financial statements on 22 November 2024 due to an oversight but had an excellent history of tax compliance and requested a waiver of the surcharge in view of unique circumstances. However, that ground of appeal falls outside the exceptions provided for under section 959AF(1A) of the TCA 1997. Moreover and in any event, the legislation confers no authority on the Commissioner to grant a waiver of the surcharge, as requested.

33. The Appellant's principal contention was that the Appellant had in fact filed the return on time and no surcharge should apply under section 1084 of the TCA 1997, for reasons outlined in its submissions, as set out above.

34. Turning then to the legislation, the Commissioner notes the following. Section 959I of the TCA 1997 obliges every chargeable person to deliver a tax return on or before the specified date. Section 884(2)(aa) of the TCA 1997 enables the Respondent to require a company to file accounts with its corporation tax return. Section 959K of the TCA 1997 provides that the return required for corporation tax purposes shall include information that would be contained in a return delivered under section 884, which includes "such information, accounts, statements, reports and further particulars" as are required by the CT1. Section 917EA of the TCA 1997 empowers the Respondent to make regulations requiring specified taxpayers to submit their returns by electronic means. SI 223/2011, titled "Tax Returns and Payments (Mandatory Electronic Filing and Payment of Tax) Regulations 2011", required all companies to file returns electronically from 1 June 2011.

35. Having regard to the legislation outlined above, the Commissioner is satisfied that the Appellant was obliged to file its accounts for the accounting period 2018 electronically together with the CT1. In this appeal, there was no dispute that the Appellant was required to file a corporation tax return on or before the specified return date. Additionally, the Appellant's submissions stated that: "[t]*he submission of iXBRL financial statements was referenced in the Form CT1 corporation tax return for the period in question. The company selected the option 'My tax affairs are dealt with in Revenue's Large Cases Division or I am not excluded from filing financial statements in iXBRL format under options 3, 4 or 5 below', thus indicating that iXBRL financial statements were to be filed for the period*." The Commissioner observes that this is consistent with the Respondent's submissions, which stated that: "*The company confirmed in its return that its tax affairs were dealt with in Large Cases/Corporates Division, at which time it would have been advised of the requirement to file iXBRL financial statements*" and has found it to be a material fact.

36. Consequently, the Commissioner is satisfied that the Appellant was required to file its accounts for the accounting period 2018 electronically as part of the information, accounts, statements, reports and further particulars required by the CT1, together with the CT1, which was required to be filed on or before the specified return date, pursuant to the statutory obligations outlined above.

37. The Commissioner notes the Appellant's submission that the obligation to file iXBRL financial statements was distinct from the obligation to file the tax return and its reference to *Stanley v The Revenue Commissioners* [2017] IECA 279 in that respect. Yet the distinction drawn in *Stanley*, and to which the Appellant referred, was as between a tax return and an assessment. The Commissioner therefore does not find that judgment to assist in considering the distinction which the Appellant seeks to draw.

38. The Commissioner also notes the Appellant's submission that the purpose of section 884 is to provide a return with sufficient information to determine chargeable profits, which in the Appellant's view can be done using the CT1 and that as paragraph 1.2 of the Respondent's Manual does not relate to chargeable profits, iXBRL financial statements are not accounts under the legislation. The Commissioner observes that paragraph 1.2 of the Respondent's Tax and Duty Manual Part 41A-03-01 contains a list of certain things which iXBRL financial statements enable the Respondent to do. However, the Commissioner does not consider it to follow from the content of this particular list that the legislation did not require the Appellant to file iXBRL financial statements together with the CT1, or that such financial statements were not accounts. The Commissioner is satisfied that the legislation, as outlined above, empowered the Respondent to require the filing of accounts electronically as part of the information, accounts, statements, reports and further particulars required by the CT1, together with the CT1, and that this is what occurred on the facts of this appeal.

39. Section 959A of the TCA 1997 provides that the specified date for filing returns electronically is the 23rd day of the ninth month following the end of the relevant accounting period. For completeness, the Commissioner notes the Respondent's administrative practice of allowing for the filing of accounts in iXBRL format within three months after the due date for filing the CT1, as set out in the Respondent's Tax and Duty Manual Part 41A-03-01. As the Appellant did not file electronic accounts within that three month time-frame, this point does not arise for further consideration in this case. Section 1084(2)(a) of the TCA 1997 provides for the imposition of surcharges for late return where a chargeable person fails to deliver a return on or before the specified return date. The

accounting period at issue in this appeal was 2018. Therefore the accounts were due to be filed electronically on or before 23 September 2019.

40. It follows from the above that the Commissioner finds that while the Appellant filed a CT1 for the accounting period 2018 on time, the Appellant did not file accounts in iXBRL format for that accounting period on or before the specified return date, as required under the legislation. As the Appellant did not file its accounts for 2018 electronically on or before the specified return date, the Commissioner finds that Respondent was entitled to impose a surcharge under section 1084 of the TCA 1997.

41. For completeness, as the Commissioner is not in doubt as to the imposition of a surcharge under section 1084 of the TCA 1997, the Commissioner does not consider the principle of doubtful penalisation to arise for consideration in this case.

42. Section 1084(2)(a)(ii) of the TCA 1997 provides that a surcharge is to be applied as follows: "*10 per cent of that amount of tax, subject to a maximum increased amount of €63,485, where the return of income is not delivered before the expiry of 2 months from the specified return date for the chargeable period,*". The Notice of Amended Assessment which the Respondent issued on 22 November 2024 for the accounting period 2018 showed an amount of tax chargeable to be €668,143.62 and the surcharge for late submission of returns to be €63,485; i.e. the maximum amount specified. The Commissioner is satisfied that the Respondent was correct in imposing this surcharge, under section 1084(2)(a)(ii) of the TCA 1997.

New Ground of Appeal

43. In an additional submission made after the Notice of Appeal, the Appellant contended that under section 959AA of the TCA 1997, the Respondent was not entitled to raise the assessment on 22 November 2024, as that date fell outside the four year period from when the Appellant filed its CT1 on 6 September 2019. The Appellant submitted that the amended assessment should therefore be reduced to nil. The Commissioner observes that this was a new ground of appeal which was not raised in the Notice of Appeal. Both the Notice of Appeal and the Statement of Case were clear in that the matter under appeal was the surcharge, and neither document made submissions on section 959AA of the TCA 1997. Section 949I(6) of the TCA 1997 provides that the Appellant may not rely on any grounds of appeal not stated in a Notice of Appeal unless the Commissioner is satisfied that there was a good reason for not stating those grounds in the Notice of Appeal. In this case, the Appellant proffered no reason for not stating that ground previously and no such reason is apparent from the documentation presented. Therefore the Commissioner is not satisfied that the Appellant may rely on that ground.

44. For the avoidance of doubt, the Commissioner considers that even if she had found that the Appellant could rely on that new ground of appeal, it would not have availed the Appellant. In circumstances where the Commissioner has found that the Appellant did not file its accounts for 2018 electronically on or before the specified return date, as required under the legislation, the Commissioner would have found that in 2019 the Appellant did not deliver a return for a chargeable period and make in the return a full and true disclosure of all material facts (see *The Revenue Commissioners v Tobin* [2024] IEHC 196 and *O'Sullivan v The Revenue Commissioners* [2024] IEHC 611).

45. The Commissioner appreciates that this decision will be disappointing for the Appellant and acknowledges the circumstances outlined on appeal. The Appellant was entitled to check whether the imposition of a surcharge by the Respondent was correct. However, for the reasons set out above, the Commissioner is satisfied that the Respondent was correct to impose a surcharge on the Appellant.

Determination

46. For the reasons set out above, the Commissioner determines that the Appellant has not succeeded in showing that the Respondent was incorrect to impose a surcharge for the accounting period 2018, and the Notice of Amended Assessment issued on 22 November 2024 shall stand.

47. 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.

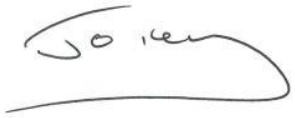
Notification

48. 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

49. 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
7 August 2025

The Tax Appeals Commission has been requested to state and sign a case for the opinion of the High Court in respect of this determination, pursuant to the provisions of Chapter 6 of Part 40A of the Taxes Consolidation Act 1997.