



AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

Between

29TACD2026

[REDACTED]

Appellant

and

THE REVENUE COMMISSIONERS

Respondent

Determination

Contents

Introduction	3
Background.....	3
Legislation and Guidelines	4
Submissions	5
Appellant’s Submissions.....	5
Respondent’s Submissions	7
Material Facts	7
Analysis	9
Determination	11
Notification	12
Appeal	12

Introduction

1. This matter comes before the Tax Appeal Commission (from here on referred to as the “Commission”) as an appeal against the outcome of a review of his 2024 tax affairs carried out by the Revenue Commissioners (from here on referred to as the “Respondent”).
2. The amount of tax under appeal is €34,103.37.

Background

3. The Appellant is a taxpayer who, in 2018, suffered an accident which rendered him unfit for the work in which he had been employed since 1993. Delays due to COVID-19 meant that a complete diagnosis of the Appellant’s condition, and his unfitness for work, was not available until 2023.
4. In 2023, the Appellant’s employer granted him early retirement on ill-health grounds and backdated the date of his retirement to the date of his accident in 2018.
5. On 30 April 2024, the Appellant received arrears of pension relating to the years 2018 to 2022 from his employer totalling €96,624.82 as follows:

Year	Arrears Amount Received
2018	€6,134.68
2019	€21,803.36
2020	€22,157.22
2021	€22,534.41
2022	€23,995.15

6. The arrears amount paid to the Appellant was subjected to income tax which was processed through the Appellant’s employer’s payroll system.
7. The Appellant requested the Respondent to review the imposition of income tax to the pension arrears amounts which were paid to him.

8. The Respondent, having corresponded with the Appellant's employer, confirmed to the Appellant that the pension arrears amounts which were paid to him on 30 April 2024 had been correctly subjected to income tax.
9. On 31 May 2025, the Appellant submitted an appeal seeking to challenge the outcome of the Respondent's review.
10. On 11 November 2025, the Commission wrote to the parties informing them that the Commissioner intended to determine this appeal without an oral hearing pursuant to the provisions of section 949U of the Taxes Consolidation Act 1997 (from here on referred to as the "TCA 1997"). Neither party has objected to this course of action.

Legislation and Guidelines

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

Section 112 of the TCA 1997:

"(1) Income tax under Schedule E shall be charged for each year of assessment on every person having or exercising an office or employment of profit mentioned in that Schedule, or to whom any annuity, pension or stipend chargeable under that Schedule is payable, in respect of all salaries, fees, wages, perquisites or profits whatever therefrom, and shall be computed on the amount of all such salaries, fees, wages, perquisites or profits whatever therefrom for the year of assessment.

(2) (a) In this section, "emoluments" means anything assessable to income tax under Schedule E.

(b) Where apart from this subsection emoluments from an office or employment would be for a year of assessment in which a person does not hold the office or employment, the following provisions shall apply for the purposes of subsection (1):

(i) if in the year concerned the office or employment has never been held, the emoluments shall be treated as emoluments for the first year of assessment in which the office or employment is held, and

(ii) if in the year concerned the office or employment is no longer held, the emoluments shall be treated as emoluments for the last year of assessment in which the office or employment was held.

(3) Notwithstanding subsection (1) and subject to subsections (4) and (6), the income tax under Schedule E to be charged for the year of assessment 2018 and subsequent

years of assessment in respect of emoluments to which Chapter 4 of Part 42 applies or is applied shall be computed on the amount of the emoluments paid to the person in the year of assessment.

(4) Where emoluments chargeable under Schedule E arise in the year of assessment 2017, and those emoluments are also chargeable to income tax in accordance with subsection (3) for the year of assessment 2018 or a subsequent year of assessment, the amount of the emoluments chargeable to income tax for the year of assessment 2017 shall, on a claim being made by the person so chargeable, be reduced to the amount of emoluments that would have been charged to income tax had subsection (3) applied for that year of assessment.

(5) Where a person dies and emoluments are due to be paid to that deceased person, the payment of such emoluments shall be deemed to have been made to the deceased person immediately prior to death.

(6) (a) In this subsection, “proprietary director” has the same meaning as it has in section 472.

(b) Subsection (3) shall not apply to—

(i) emoluments paid directly or indirectly by a body corporate (or by any person who is connected (within the meaning of section 10) with the body corporate) to a proprietary director of the body corporate, or

(ii) emoluments in respect of which a notification has issued under section 984(1).”

Submissions

Appellant's Submissions

12. The Appellant submitted the following ground of appeal in his Notice of Appeal:

“I worked for the [REDACTED] as a [REDACTED] from 1993. I was contracted to work until my 55th birthday, when I would then retire and go on an occupational pension.

I suffered a serious accident on 15.09.2018 which left me certified unfit for any work. My injuries were complex, requiring multiple consultations across a range of medical disciplines. This was due and considerably frustrated by COVID and attendant administrative delays. I was not finally diagnosed suitably to allow me to retire formally on health grounds in 2023. My diagnosis was backdated to the date of my accident in

2018 and only then was [sic] the intervening years 2018 – 2023 pension arrears paid to me. In those years I subsisted on disability benefit (which I must now repay).

On 30.04.2024 I received my pension arrears for these intervening years, a sum of €89,772.55. This attracted a tax liability of €34,103.37. My yearly pensionable pay is €25,185.71 and ordinarily, had I received this over the intervening years, it would not have incurred this tax.

I am seeking some facility in which I might receive my entitlement, if I cannot be reimbursed, then perhaps this figure can be offset or used to pay my debt to social welfare for disability payments totalling c €55,000. ”

13. In his Statement of Case, the Appellant submitted that he is contesting the Statement of Liability for the tax year 2023. He stated that:

“I had been employed as a [REDACTED] since September 1993 with the [REDACTED] [REDACTED] before my accident ended my career abruptly on 15.09.2018. Due process in multidisciplinary medical assessments compounded by the COVID outbreak and its concomitant administrative delays prevented a fulsome diagnosis to enable the [REDACTED] Occupational Health Dept from retiring me on health grounds until 15.09.2023.

I went off pay in early 2019 and, after incurring unmanageable debts, and in an administrative Limbo, I subsisted on Disability Benefit from 2019 to 2023. When finally diagnosed in October 2023 I was allowed retire on health grounds, the date of which was applied retrospectively to that of my accident 15.09.2018. I was thus eligible to receive unpaid pension arrears between 15.09.2018 and 15.09.2023.

My annual pension entitlement upon retirement in 2018, much reduced on account of my inability to continue contributions, was calculated at €21,471.21. Cumulative arrears, calculated as a total of €89,772.55 were paid to me finally on 30.04.2024.

However, falling as a single sum in one tax year, this total figure was taxed accordingly as per the requirements of the legislation and I was liable for €34,103.37 in income tax. As my annual pension entitlements for years 2018, '19, '20, '21 and '22 were €6,314.68, €21,803.36, €22,157.22, €22,534.41 and €23,995.15 respectively,

The circumstances surrounding the delay in receipt of my pension entitlement were anomalous, extraordinary and unfortunate and as such I believe that, in my own appeal for facility in remediating my own case, an opportunity for precedent may materialize

which will sharpen fiscal legislation for application in an individually fair manner without the need for overhaul.

I contacted the Revenue Commissioners to query whether there existed a facility for a possible rebate or any ad hoc possibility for remediation of what I felt was effectively punitive. I wish to make clear that the Revenue Commissioners were sympathetic to my case and were very informative and helpful in all my dealings with them. And while they understood the unfortunate nature of my circumstances they explained that the tax legislation is clear and unequivocal.

'Section 112 of the Taxes Consolidation Act (TCA) 1997, as amended by the Finance Act 2017, is clear in its meaning. Subsection (3) therein provides that income tax to be charged under Schedule E for the year 2018 onwards must be computed on the basis of the amount of income received by a taxpayer in that year. On that basis the legislation is clear in providing that all income is to be charged to the year in which it was paid, which in this instance is 2024.'

I had accepted this as the end of the matter until I read in the Revenue Commissioners correspondence that I had the option of appeal to the Tax Appeals Commission.

I am now beyond the age I would have expected to retire ordinarily, with an unfulfilled career, chronic ill health and a reduced pension and lump sum, one third of which I have been relieved of in income tax.

In my fruitless search for precedent relating to my search I did come across the Irish Tax Institute, its Mission Statement. Here it is reiterated more than once, the need for continuous review of tax legislation, its efficacy and its development, responding to changes time brings while at the same time enjoying the confidence of taxpayers. I would imagine that equity and fairness are paramount in this and that fiscal application can be more fine-tuned to apply these principles in individual, anomalous cases."

Respondent's Submissions

14. The Respondent submitted that the arrears of pension amounts paid to the Appellant on 30 April 2024 were correctly subjected to income tax pursuant to the provisions of section 112 of the TCA 1997.

Material Facts

15. The material facts are not in dispute in this appeal and the Commissioner accepts the following as material facts:

- 15.1. The Appellant is a taxpayer who, in 2018, suffered an accident which rendered him unfit for the work in which he had been employed since 1993. Delays due to COVID-19 meant that a complete diagnosis of the Appellant's condition, and his unfitness for work, was not available until 2023.
- 15.2. In 2023, the Appellant's employer granted him early retirement on ill-health grounds and backdated the date of his retirement to the date of his accident in 2018.
- 15.3. On 30 April 2024, the Appellant received arrears of pension relating to the years 2018 to 2022 from his employer totalling €96,624.82 as follows:

Year	Arrears Amount Received
2018	€6,134.68
2019	€21,803.36
2020	€22,157.22
2021	€22,534.41
2022	€23,995.15

- 15.4. The arrears amount paid to the Appellant was subjected to income tax which was processed through the Appellant's employer's payroll system.
- 15.5. The Appellant requested the Respondent to review the imposition of income tax to the pension arrears amounts which were paid to him.
- 15.6. The Respondent, having corresponded with the Appellant's employer, confirmed to the Appellant that the pension arrears amounts which were paid to him on 30 April 2024 had been correctly subjected to income tax.
- 15.7. On 31 May 2025, the Appellant submitted an appeal seeking to challenge the outcome of the Respondent's review.

Analysis

16. Charleton J. confirmed that the burden of proof rests on Appellants in *Menolly Homes v Appeal Commissioners* [2010] IEHC 49 (from here on referred to as “*Menolly Homes*”) when he stated at paragraph 22:

"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 Commissioner as to whether the taxpayer has shown that the relevant tax is not payable."

17. This has most recently been confirmed by the Court of Appeal by McDonald J. in *JSS & Ors v A Tax Appeal Commissioner and the Criminal Assets Bureau* [2025] IECA 96 when he stated at paragraph 34 that:

"Both s. 949AK(1) of the 1997 Act and s. 50(6) of the 1970 Statute proceed on the basis that the assessment will stand unless it is established that the assessment is wrong. As outlined above, there is a long line of case law on both sides of the Irish Sea which has taken the consistent view that, under the provisions of these sections (and their respective predecessor provisions), the taxpayer bears the burden of demonstrating that a tax assessment is wrong..."

18. The standard of proof in tax appeals is the civil standard of the balance of probabilities.
19. Section 112 of the TCA 1997 is the basis for the charge to income tax under what is known as “*Schedule E*” and is entitled “*Basis of assessment, persons chargeable and extent of charge*”. Section 112(1) of the TCA 1997 provides that:

"Income tax under Schedule E shall be charged for each year of assessment on every person having or exercising an office or employment of profit mentioned in that Schedule, or to whom any annuity, pension or stipend chargeable under that Schedule is payable, in respect of all salaries, fees, wages, perquisites or profits whatever therefrom, and shall be computed on the amount of all such salaries, fees, wages, perquisites or profits whatever therefrom for the year of assessment."

20. Section 112(3) of the TCA 1997 provides that:

"... the income tax under Schedule E to be charged for the year of assessment 2018 and subsequent years of assessment in respect of emoluments to which Chapter 4 of Part 42 applies or is applied shall be computed on the amount of the emoluments paid to the person in the year of assessment."

21. Section 112(2)(a) of the TCA 1997 defines emoluments as meaning “*anything assessable to income tax under Schedule E*”.
22. There is no dispute between the parties, and the Commissioner has found as a material fact, that on 30 April 2024 the Appellant received arrears of pension relating to the years 2018 to 2022 from his employer totalling €96,624.82. The Commissioner is satisfied that this pension payment falls within the provisions for the imposition of income tax under Schedule E of the TCA 1997 as provided for in section 112 of the TCA 1997.
23. As the Appellant received the pension arrears payments in the tax year 2024, it follows that the income tax on the arrears which arose for 2018 - 2022 fall to be computed as part of the Appellant’s emoluments for the year 2024 as set out in section 112(1) of the TCA 1997
24. The use of the work “*shall*” in section 112(1) of the TCA 1997 indicates that the Commissioner does not have discretion in the application of this provision.
25. The Commissioner notes the contents of the Appellant’s Notice of Appeal and Statement of Case wherein he highlights the exceptional circumstances of his early retirement on ill-health grounds from his former employment. The Commissioner has every sympathy with the unfortunate position in which he has found himself following his accident in 2018.
26. In *Cape Brandy Syndicate v Inland Revenue Commissioners* [1921] 1 K.B. 64 at page 71, Rowlatt J set out principles for interpreting taxation legislation on the basis that the statute must clearly impose the obligation.

“ . . . in a taxing statute one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to a tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the language used.” (emphasis added)
27. This was reiterated by Charleton J in *Menolly Homes* at paragraph 12 of his judgment where 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...”
28. The functions of an Appeal Commissioner are set out at section 6 of the Finance (Tax Appeals) Act 2015 as being:

(1) The Commissioners may perform such functions as are assigned to them by this Act and by the Taxation Acts.

(2) Without prejudice to the generality of subsection (1), the Commissioners shall perform the following functions in relation to the Taxation Acts -

- (a) deciding whether or not to accept an appeal,*
- (b) deciding whether to declare, under section 949N(3) (inserted by section 34) of the Act of 1997, that a refusal to accept an appeal is final,*
- (c) deciding on the appropriate procedure to be adopted in relation to an adjudication of an appeal,*
- (d) giving directions to the parties to an appeal,*
- (e) fixing dates, times and places for the hearing of appeals,*
- (f) hearing an appeal where the Commissioners have decided that a hearing is the appropriate method of adjudicating on the appeal,*
- (g) determining appeals,*
- (h) providing written determinations,*
- (i) publishing determinations,*
- (j) stating and signing cases stated for the opinion of the High Court, and*
- (k) [deleted]*
- (l) doing all such other things as they consider conducive to the resolution of disputes between appellants and the Revenue Commissioners and the establishment of the correct liability to tax of appellants."*

29. As a result of the above, in considering this appeal, the Commissioner is restricted to considering and interpreting the provisions of the TCA 1997 as they apply to the facts of the Appellant's appeal. The Commissioner is not permitted to allow considerations of equity to influence her determination.

Determination

30. Having considered the facts and circumstances of this appeal, together with the submissions from both parties, the Commissioner determines that the arrears of pension payments for the years 2018 to 2022 received by the Appellant on 30 April 2024 were

correctly subjected to income tax pursuant to the provisions of section 112 of the TCA 1997.

31. This Appeal is determined in accordance with Part 40A of the TCA 1997 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

32. 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

33. 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.



Clare O'Driscoll
Appeal Commissioner
16 January 2026