



AN COIMISIÚN UM ACHOMHAIRC CHÁNACH  
TAX APPEALS COMMISSION

Between

40TACD2026

[REDACTED]

**Appellant**

and

**The Revenue Commissioners**

**Respondent**

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**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 section 949I of the Taxes Consolidation Act 1997 (“the TCA 1997”) brought by the Appellant against P21 PAYE/USC Statements of Liability (“the SoLs”) issued by the Revenue Commissioners (“the Respondent”) for the tax years 2022, 2023 and 2024 (“the relevant years”) assessing income tax and Universal Social Charge (“USC”) underpayments totalling €9,121.77 for those three years.
2. On 26 August 2025, the Appellant submitted a Notice of Appeal to the Commission. On 11 November 2025, the Appellant provided a Statement of Case (“SoC”) to the Commission which built on the Notice of Appeal. On 7 November 2025, the Respondent submitted its SoC. On 16 January 2026, following a direction issued by the Commissioner pursuant to section 949E of the TCA 1997, the Respondent submitted an amended SoC correcting an error in its original SoC. On 19 January 2026, the Appellant submitted comments on the Respondent’s amended SoC. The Commissioner has considered all submissions received from both parties in making this determination.
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. The Appellant has indicated that the information contained in this appeal is private and hence the determination will be redacted on publication.

## **Background**

4. The Appellant was subject to income tax and USC during the relevant years on income arising from a number of employments. He was subject to joint assessment for income tax purposes during the relevant years.
5. The Appellant worked for a company (“Company A”) from [REDACTED] 2022 to [REDACTED] 2024. The Appellant did not receive a written employment contract from Company A. The Appellant submitted that he received an email from a representative of Company A in 2022 confirming that Company A would manage the tax on his employment income from that company. Furthermore, the Appellant understood that the fortnightly payments which Company A paid to him during the period he worked with the company were net of Pay As you Earn (“PAYE”) income tax and USC deductions made at source.
6. In addition to his work with Company A, the Appellant was employed by two other companies during the relevant years, and those two companies were not related to Company A or to each other. The Appellant worked for a second company (Company B)

for [REDACTED]. The Appellant worked for a third company (Company C) during the three-month period from [REDACTED] to [REDACTED].

7. Following the submission of the Appellant’s tax returns for the relevant years, on the Respondent’s MyAccount service (“MyAccount”), the Respondent issued SoLs for each of the relevant years computing income tax and USC underpayment results in each year. The relevant details in the SoLs are summarised below:

	2022	2023	2024
<b>SoL date</b>	■ June 2025	■ September 2025	■ September 2025
<b>Gross employment income declared – from Company A</b>	€ [REDACTED]	€ [REDACTED]	€ [REDACTED]
<b>Credit for income tax deducted by Company A (via PAYE)</b>	€0	€0	€0
<b>Credit for USC deducted by Company A (via PAYE)</b>	€ [REDACTED]	€ [REDACTED]	€ [REDACTED]
<b>Income tax result (underpayment)</b>	€2,482.72	€2,848.37	€2,587.94
<b>USC result (underpayment)</b>	€468.24	€558.34	€176.16 *
<b>Total underpayment</b>	€2,950.96	€3,406.71	€2,764.10

\* The Appellant’s USC underpayment result for 2024 was € [REDACTED]. The Appellant’s spouse had a USC overpayment result of € [REDACTED] in 2024. As the Appellant is jointly

assessed with his spouse, the figure stated in the table above is the total of both USC results.

8. The income tax and USC underpayment results computed in the SoLs for the relevant years sum up to €9,121.77.
9. On 14 July 2025, following an enquiry from the Appellant to the Respondent sent via the Respondent's MyEnquiries email service ("MyEnquiries") regarding the underpayment result for 2022, the Respondent issued an email to the Appellant via MyEnquiries stating:

*"[...]*

*Your employer [Company A] did not operate your payroll as per [the Respondent's] instruction which has resulted your underpayment of tax. While the obligation is on the employer to submit the pay and tax, the onus is on the taxpayer to ensure they are paying the correct amount of tax. The liability is yours.*

*[...]"*

10. On 15 July 2025, via MyEnquiries, the Appellant requested information on the procedure for making an appeal. On 11 August 2025, the Respondent replied to the Appellant via MyEnquiries, providing a link to the page on the Respondent's website referring to appeals to the Commission.

### **Legislation and Guidelines**

11. The legislation relevant to this appeal is set out below.
12. Section 112 of the TCA 1997, Basis of assessment, persons chargeable and extent of charge, provides:

*"(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.*

[...]

[...].”

13. Section 960C of the TCA 1997, Tax to be due and payable to Revenue Commissioners, provides:

*“Tax due and payable under the Acts shall be due and payable to the Revenue Commissioners.”*

14. Section 531AL of the TCA 1997, Definitions, provides:

*“In this Part -*

*“aggregate income for the tax year” in relation to an individual and a tax year, means the aggregate of the individual’s -*

- (a) relevant emoluments in the tax year, including relevant emoluments that are paid in whole or in part for a tax year other than the tax year during which the payment is made, and*
- (b) relevant income for the tax year;*

[...]

*“employee” and “employer” have the same meanings as in section 983;*

[...]

*“relevant emoluments” and “relevant income” shall be construed in accordance with paragraphs (a) and (b), respectively, of the Table to section 531AM(1);*

*“similar type payments” means payments which are of a similar character to social welfare payments but which are made by -*

- (a) the Department of Education and Skills,*
- (b) the Department of Agriculture, Food and the Marine,*
- (c) the Health Service Executive,*
- (d) an education and training board in relation to attendance at a non-craft training course funded by An tSeirbhís Oideachais Leanúnaigh agus Scileanna,*
- (e) a sponsor in respect of participation in programmes known as the Community Employment Scheme and the Jobs Initiative Scheme, or*

(f) any other state or territory;

"social welfare payments" means payments made under the Social Welfare Acts;

[...]

"universal social charge" has the meaning assigned to it by section 531AM."

15. Section 531AM of the TCA 1997, Charge to universal social charge, provides:

"(1) With effect from 1 January 2011, there shall be charged, levied and paid, in accordance with the provisions of this Part, a tax to be known as 'universal social charge' in respect of the income specified in paragraphs (a) and (b) of the Table to this subsection.

TABLE

(a) The income described in this paragraph (in this Part referred to as 'relevant emoluments') is emoluments to which Chapter 4 of Part 42 applies or is applied [...]

(b) The income described in this paragraph (in this Part referred to as 'relevant income') is income, without regard to any amount deductible from or deductible in computing total income, from all sources as estimated in accordance with the Tax Acts, other than -

(i) relevant emoluments,

[...].

[...]"

16. Section 531AN of the TCA 1997, Rate of charge, provides:

"(1) For each tax year an individual shall be charged to universal social charge on his or her aggregate income for the tax year [...].

[...]"

17. Chapter 4 of Part 42 of the TCA 1997, Collection and recovery of income tax on certain emoluments (PAYE system), provides for the operation of the PAYE system. The first section within that chapter, section 983, Interpretation, provides:

"In this Chapter, except where the context otherwise requires -

[...]

*"emoluments" means anything assessable to income tax under Schedule E, and references to payments of emoluments include references to payments on account of emoluments;*

*"employee" means any person in receipt of emoluments;*

*"employer" means any person paying emoluments;*

*[...]*

*"tax credits" means personal tax credits and general tax credits;*

*[...]"*

## **Submissions**

### *Appellant's submissions*

18. The Appellant submitted the following grounds of appeal in the Notice of Appeal:

*"I joined [Company A] in █████ 2022. I was promised an employment contract which I never received, nor did I receive a payslip. My nett pay was lodged to my bank account fortnightly. In █████ 2023 I discovered they had not paid any tax for me, though they did pay PRSI. I flagged this with [the Respondent], but nothing came of it at the time. Subsequently I discovered no tax was paid for me in 2023, 2024, and the info furnished to [the Respondent] by the employer was incorrect. I have been trying to raise this with [the Respondent] locally and over the phone throughout this period, as well as submitting a number of My Enquiries.*

*I now have an underpayment of ~€9K accumulated over this period and have been informed by [the Respondent's PAYE Service for Compliance division] that I am solely liable for this. Not to put too fine a point on it, I flagged this issue in █████ 2023 and my concerns were dismissed. I find it incredulous that I must foot the bill for my employer's misdemeanours over a period of 3 yrs."*

19. In his SoC, the Appellant stated the following:

*"[...]*

*I took up a position [...] with [Company A] in █████ 2022. Prior to taking up the role it was agreed that [Company A] would pay me €████ fortnightly to my bank account. On provision of my PPS details, they would deal with my tax liabilities. A contract was to be provided asap after commencement of employment. No contract was provided despite numerous requests. In █████ 2023 I noticed that [Company A] had not paid any*

tax on my behalf [REDACTED]. When I queried this with the local tax office, I was advised this was not unusual, the employer would probably pay the tax owing by year end. This never happened.

[...]

I have pursued this matter on an ongoing basis with [Company A] while I worked there, and with [the Respondent] contemporaneously, and since leaving [Company A]. I have been lied to, misled and poorly advised (by [the Respondent]) at every hands turn. [The Respondent] are now adamant the tax liability of ~€9,000 that has accrued is my debt. After many requests, I finally received wage slips from [Company A] in [REDACTED] [REDACTED]. They had not paid any tax on my behalf for 2022, 2023, 2024. [REDACTED] [REDACTED] [REDACTED]” (sic)

20. On 19 January 2025, the Appellant submitted the following comments on sections 4 and 5 of the Respondent’s amended SoC (see below):

*“[Response to section 4, Relevant case law, etc., of the Respondent’s amended SoC]*  
*This is factually incorrect in my case. I did not receive a payslip from [Company A] until [REDACTED]. In [REDACTED] 2023 when I suspected there was an issue, I went to my local [Respondent] office to flag this. I was pretty much fobbed off by the official I met when he said it was not unusual for employers to pay the previous year’s PAYE contributions in the following tax year (2023). Of the 3 parties to this matter, I was the one with no access to the facts, while the other 2 parties had all the information at their disposal.*

*[Response to section 5, Summary, subsection ii, of the Respondent’s amended SoC]*  
*This statement assumes that I had the benefit of monies which should have been paid to [the Respondent]. This also is factually incorrect. Throughout my employment with [Company A] my nett salary was paid to my bank account. If [Company A] did not pay what they should have to [the Respondent], then surely they were the ones who enjoyed the benefit referred to by [the Respondent].*

*[Response to section 5, Summary, subsection iv, of the Respondent’s amended SoC]*  
*Not I, nor any employee, is in a position to compel their employer to pay PAYE on their behalf as required. I can only assume [the Respondent] has some power to enforce the employer to comply. This was why I went to my local [Respondent] office in July 2023, but as I already stated, I got no comfort there.”*

*Respondent's submissions*

21. In its amended SoC, the Respondent submitted the following:

*[...]*

**2. Outline of Relevant Facts.**

*i. On 1 December 2021, the Respondent issued the Appellant with their 2022 Tax Credit Certificate [...] confirming their allocation of tax credits and rate bands for this period as follows:*

<b>Employment</b>	<b>Tax Credits</b>	<b>Rate Bands</b>
<i>[Company B]</i>	<i>€3,450.00</i>	<i>€20,980.00</i>
<i>[Company C]</i>	<i>€0.00</i>	<i>€24,773.00</i>

*ii. On [REDACTED], [Company C] confirmed to the Respondent that the Appellant had ceased working for them on [REDACTED]. On foot of this update an amended Tax Credit Certificate [...] issued to the Appellant which confirmed that all tax credits and rate bands were now assigned to the Appellants employment with [Company B].*

*iii. On [REDACTED], [Company A] provided an update to the Respondent and registered the Appellant as commencing employment with them from [REDACTED] 2022.*

*iv. On [REDACTED], an amended Tax Credit Certificate issued to the Appellant to confirm their allocation of tax credits and rate bands as follows:*

<b>Employment</b>	<b>Tax Credits</b>	<b>Rate Bands</b>
<i>[Company B]</i>	<i>€3,414.00</i>	<i>€45,569.00</i>
<i>[Company A]</i>	<i>€0.00</i>	<i>€0.00</i>

*v. On foot of the amended Tax Credit Certificate issuing to the Appellant, a Revenue Payroll Notification (RPN) was made available to both employers, which confirmed the tax credit and rate band allocations of the Appellant as listed above.*

vi. On 9 December 2022, the Respondent issued the Appellant with a 2023 Tax Credit Certificate [...] which confirmed the Appellants tax credit and rate band allocations for this period:

<b>Employment</b>	<b>Tax Credits</b>	<b>Rate Bands</b>
[Company B]	€3,675.00	€48,952.00
[Company A]	€0.00	€0.00

vii. On [REDACTED] 2023, the Appellant contacted the Respondent via MyEnquiries and enquired where could they find their PPSN on myAccount.

viii. On 25 July 2023, the Respondent replied to the Appellant and confirmed how they could locate their PPSN on myAccount.

ix. On 11 December 2023, the Respondent issued the Appellant with a Tax Credit Certificate [...] for 2024 which confirmed their allocation of tax credits and rate bands for this period as follows:

<b>Employment</b>	<b>Tax Credits</b>	<b>Rate Bands</b>
[Company B]	€4,465.00	€50,952.00
[Company A]	€0.00	€0.00

x. On 28 December 2024, the Appellant submitted an online enquiry advising that no income tax had been deducted from their payroll with [Company A]. Additionally, the Appellant noted that they had not received payslips for this period.

xi. On 15 January 2025, the Respondent replied to the Appellant and confirmed their employment with [Company A] was registered on their record.

xii. On 15 January 2025, the Appellant replied to the Respondent and stated that they had failed to get clarification from [Company A] as to why no income tax was deducted from this employment.

xiii. On 26 February 2025, the Respondent replied to the Appellant to advise they had referred the matter to the relevant business division to investigate the case further.

xiv. On 24 June 2025, the Appellant completed their 2022 PAYE Income Tax Return via myAccount.

xv. On 24 June 2025, the Respondent issued the Appellant with their 2022 [SoL] which confirmed an underpayment of €2,950.96.

[...]

xvi. On 8 July 2025, the Appellant attended the [Respondent's] Public Office [REDACTED] and provided the Respondent with copies of their payslips from [Company A].

xvii. The payslips submitted by the Appellant outline their employer's payroll submissions made on behalf of the Appellant.

[...]

xviii. On 9 September 2025, the Appellant completed their 2023 PAYE Income Tax Return via myAccount.

xix. On 9 September 2025, the Respondent issued a [SoL] to the Appellant for 2023 which confirmed an underpayment for this period of €3,406.71. [...]

[...]

xx. On 16 September 2025, the Appellant completed their 2024 PAYE Income Tax Return via myAccount.

xxi. On 16 September 2025, the Respondent issued the Appellant with a [SoL] for 2024 which confirmed an underpayment of €2,764.10.

[...]

#### **4. Relevant case law, etc.**

i. *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).

[...]

#### **5. Summary**

i. The matter under appeal is whether the Appellant should be liable to discharge the underpayment of €9,121.77 which arose on their record in 2022, 2023 and 2024.

*ii. The Appellant benefited from not having income tax deducted from their employment with [Company A] for the periods under appeal.*

*iii. Consequently, following the submission of PAYE Income Tax Returns from the Appellant for the abovementioned periods, underpayments arose due to the under collection of income tax in these years.*

*iv. In their submissions on this matter the Appellant has sought to question the management of their tax affairs, which is not an appealable matter within the confines of the TCA 1997.*

*v. To mitigate against any hardship to the Appellant in this matter, the Respondent will collect the underpayment on record for 2022 – 2024 through a reduction of the tax credits of the Appellant, commencing in 2026, as follows:*

*2026 €2,000 per year*

*2027 €2,000 per year*

*2028 €2,000 per year*

*2029 €2,000 per year*

*2030 €1.121.77 per year*

*[...]" (sic)*

## **Material Facts**

22. Having considered the documentation and submissions in this appeal, the Commissioner makes the following findings of material fact:

22.1. The Appellant is an individual who is subject to income tax and USC on his income in each of the relevant years.

22.2. The Appellant was jointly assessed for income tax purposes for each of the relevant years.

22.3. The Appellant was employed by Company A during the period from [REDACTED] 2022 to [REDACTED] 2024 pursuant to a verbal employment contract between the Appellant and Company A.

22.4. The Appellant was not provided with a written employment contract during his employment with Company A.

- 22.5. There is no dispute between the parties that the Appellant was an employee of Company A during the period from [REDACTED] 2022 to [REDACTED] 2024.
- 22.6. The Appellant was paid by Company A on a fortnightly basis during the period from [REDACTED] 2022 to [REDACTED] 2024.
- 22.7. Company A notified the Respondent of the Appellant's employment with Company A, for PAYE purposes, for the period from [REDACTED] 2022.
- 22.8. The Respondent issued tax credit certificates to the Appellant for each of the relevant years that included allocations of €nil personal tax credits and standard rate band to the employment with Company A for PAYE deduction purposes.
- 22.9. The Respondent was employed by a second company, Company B, [REDACTED].
- 22.10. The Respondent was employed by a third company, Company C, during the period [REDACTED] to [REDACTED].
- 22.11. The income tax deducted, returned and paid to the Respondent by Company A, via the PAYE system, in respect of the Appellant's employment with that company, was €nil for each of the relevant years.
- 22.12. The USC deducted, returned and paid by Company A to the Respondent, via the PAYE system, in respect of the Appellant's employment with that company was as follows for each of the relevant years:
- 2022: € [REDACTED]
  - 2023: € [REDACTED]
  - 2024: € [REDACTED]
- 22.13. The Appellant filed income tax returns for each of the relevant years online via the Respondent's MyAccount service.
- 22.14. Following the filing of the income tax returns, the Respondent issued SoLs for each of the relevant years including the following details:

	2022	2023	2024
<b>SoL date</b>	■ June 2025	■ September 2025	■ September 2025
<b>Gross employment income declared – from Company A</b>	€ ■■■■■	€ ■■■■■	€ ■■■■■
<b>Credit for income tax deducted by Company A (via PAYE)</b>	€0	€0	€0
<b>Credit for USC deducted by Company A (via PAYE)</b>	€ ■■■	€ ■■■	€ ■■■
<b>Income tax result (underpayment)</b>	€2,482.72	€2,848.37	€2,587.94
<b>USC result (underpayment)</b>	€468.24	€558.34	€176.16
<b>Total underpayment</b>	€2,950.96	€3,406.71	€2,764.10

22.15. The 2024 SoL computed the Appellant's USC underpayment result for that year in the amount of €■■■■.

22.16. The 2024 SoL assessed the Appellant's spouse as having overpaid USC in the amount of €■■■■ for 2024.

22.17. As the Appellant is jointly assessed with his spouse for the relevant years, the SoL for 2024 computed the net total USC underpayment in 2024 was €176.16.

22.18. The SoLs assessed the total income tax and USC underpayment for the relevant years in the amount of €9,121.77.

## **Analysis**

### *Burden of proof in tax appeals*

23. The appropriate starting point for this analysis is to confirm that in an appeal before the Commission, the burden of proof rests on the Appellant, who must prove on the balance of probabilities that the assessment to tax or the decision of the Respondent is incorrect.

24. This proposition is now well established by case law. For example, in the High Court case of *Menolly Homes Ltd v Appeal Commissioners and another* [2010] IEHC 49 (“*Menolly Homes*”), at paragraph 22, Charleton J. stated:

*“The burden of proof in this appeal process is, as in all taxation appeals, on the taxpayer. This is not a plenary civil hearing. It is an enquiry by the Appeal Commissioners as to whether the taxpayer has shown that the relevant tax is not payable.”*

25. The Commissioner considers it helpful to set out paragraph 12 of the judgment of Charleton J. 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 [...]”*

26. The Court of Appeal affirmed this position recently in the case of *JSS & Others v Tax Appeals Commissioner* [2025] IECA 96. In that case, at paragraph 34, McDonald J. stated:

*“[...] the taxpayer bears the burden of demonstrating that a tax assessment is wrong.”*

### *Charge to income tax*

27. Section 112 of the TCA 1997 provides the basis of the charge to income tax for individuals who are employees, on the income derived from employment, under what is referred to as “*Schedule E*”. Section 112(1) of the TCA 1997 provides:

*“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.”*

28. Section 960C of the TCA 1997 provides:

*“Tax due and payable under the Acts shall be due and payable to the Revenue Commissioners.”*

29. In accordance with the provisions of section 112(1) of the TCA 1997, an employee is chargeable to income tax under Schedule E on employment income as the *“person having or exercising”* the employment and that charge arises *“in respect of all salaries, wages, perquisites or profits whatsoever therefrom”*. Therefore, section 112(1) has the effect of making the employee the chargeable person for the income tax arising on the employment income. By virtue of section 960C of the TCA 1997, the tax charge on the employee that arises in respect of employment income, pursuant to section 112(1) of the TCA 1997, is *“due and payable”* to the Respondent.

30. There is no dispute between the parties regarding the Appellant’s employment status with Company A. The Commissioner has made a finding of material fact that the Appellant was employed by Company A, pursuant to a verbal employment contract, during the period from [REDACTED] 2022 to [REDACTED] 2024. Therefore, it follows that the Appellant is subject to the charge to income tax on the employment income derived from his employment with Company A pursuant to the provisions of section 112(1) of the TCA 1997, for the period from [REDACTED] 2022 to [REDACTED] 2024. Furthermore, pursuant to section 960C of the TCA 1997, that income tax charge is due and payable, by the Appellant, to the Respondent.

#### *Charge to USC*

31. The Commissioner will now consider the charge to USC on employment income. Section 531AN(1) of the TCA 1997 provides:

*“For each tax year an individual shall be charged to universal social charge on his or her aggregate income for the tax year [...].”*

32. Section 531AL of the TCA 1997 defines *“aggregate income for the tax year”* as including *“the aggregate of the individual’s [...] relevant emoluments in the tax year”*. Section 531AM defines *“relevant emoluments”* as *“emoluments to which Chapter 4 of Part 42 [of the TCA 1997] applies or is applied”*. Within Chapter 4 of Part 42 of the TCA 1997, at section 983, the term *“emoluments”* is defined as *“anything assessable to income tax under Schedule E”*.

33. The Commissioner has already found above that the Appellant's employment income from his employment with Company A is chargeable to income tax under section 112(1) of the TCA 1997 and is therefore assessable to income tax under Schedule E. It follows that the employment income is included in the Appellant's "aggregate income" for USC purposes. Therefore, the Commissioner finds that the Appellant is chargeable to USC on the employment income derived from his employment with Company A.

*No discretion available within the income tax and USC charging provisions*

34. The Commissioner notes the use of the word "shall" in sections 112(1), 960C and 531AN(1) of the TCA 1997 means that the income tax and USC charging provisions considered above are mandatory in nature. The legislation does not afford any discretion in the application of these charging provisions. In particular, the Commissioner notes that the legislation does not provide for any exceptions to the charge to income tax and USC arising on the employee, in relation to employment income, in cases where the employer has not operated PAYE deductions correctly on the income. Therefore, the Commissioner finds that the Appellant is chargeable to income tax and USC on the employment income derived from Company A, regardless of the fact that the correct PAYE deductions for income tax and USC were not made, returned and paid by Company A during each of the relevant years.

35. It is not in dispute between the parties that the Appellant had an employment contract with Company A from [REDACTED] 2022 to [REDACTED] 2024. The Commissioner has found, as a material fact, that the Appellant was employed by Company A for the duration of that period, and that the income earned by the Appellant from this employment contract with Company A, during the relevant years, was employment income. The Commissioner notes that the contract of employment was a verbal one and a written contract was not provided by Company A to the Appellant. The Commissioner notes the Appellant's submission that he requested a written employment contract from Company A. The Commissioner is satisfied that the verbal nature of the employment contract does not change the analysis above. The Appellant's charge to income tax and USC arises on the employment income because the income is derived from an employment. There is nothing in the charging legislation that provides an exception to the charge where the employment contract is verbal as opposed to written.

36. The Commissioner is satisfied that there is no discretion provided in the legislation to disapply the charging provisions in circumstances where the Appellant and Company A had a verbal agreement that the amount paid to the Appellant every fortnight was to be

the net amount after the correct PAYE deductions, where such correct deductions were not in fact made.

*Credits for income tax and USC deducted at source via PAYE*

37. It is not in dispute between the parties that PAYE was not operated correctly on the employment income in question in this appeal. No reason for this was submitted in the appeal.
38. The Commissioner has found as material facts that:
  - 38.1. The income tax deducted and returned by Company A to the Respondent, via the PAYE system, was €nil for each of the relevant years; and
  - 38.2. The USC deducted and returned by Company A to the Respondent, via the PAYE system, was €[REDACTED] (2022), €[REDACTED] (2023) and €[REDACTED] (2024).
39. As stated above, the Commissioner has concluded that the Appellant is chargeable to income tax and USC on his gross employment income from Company A, in accordance with the relevant charging legislation. The Commissioner finds that, as the credits included in the SoLs for income tax and USC deducted via the PAYE system reflect the actual amounts that were returned and paid by Company A via the PAYE system in respect of that income, the credit amounts allocated in the SoLs are correct.
40. The Commissioner notes the Appellant's submissions that he understood, from his discussions with a representative of Company A, that the fortnightly payment amount he had agreed with Company A was the net amount, after deduction of income tax, USC and employee PRSI via the PAYE system. However, the Commissioner is satisfied that this is a matter between the Appellant and Company A, and outside the scope of the Commissioner's jurisdiction in this tax appeal. The Commissioner empathises with the Appellant's position in this case. However, the Commissioner is satisfied that the tax legislation imposes a charge to income tax and USC on the Appellant in respect of his employment income in the relevant years and that the SoLs provided credits to the Appellant for the amounts actually deducted, returned and paid to the Respondent by Company A via the PAYE system of deduction at source. Therefore, the Commissioner finds that the Appellant has not discharged the burden of proof that resides with him in this appeal. The Appellant has not demonstrated that, on the balance of probabilities, the tax legislation that applies the charge to income tax and USC on employment income and provides credits for amounts deducted by the employer via the PAYE system, was incorrectly applied by the Respondent in the SoLs issued for the relevant years. In respect of each of the relevant years, the Appellant has not shown that the income tax and USC

charge and credit position in the SoLs was not correctly computed. Therefore, the Commissioner is satisfied that the SoLs for the relevant years must stand.

*Jurisdiction of the Appeal Commissioner*

41. Finally, the Commissioner notes the Appellant's proactive efforts to raise and seek to resolve the underpayment issue with the Respondent when the issue came to his attention in 2023. Furthermore, the Appellant alleges that the Respondent did not assist in resolving the matter.
42. It is appropriate at this point for the Commissioner to summarise the scope of the Appeal Commissioner's jurisdiction in tax appeals. In *Lee v Revenue Commissioners* [2021] IECA 18 ("*Lee*"), the Court of Appeal made clear that the function of the Appeal Commissioner is to determine by reference to applicable legislation the correct amount of tax owed. At paragraph 20, Murray J. stated:

*"The Appeal Commissioners are a creature of statute, their functions are limited to those conferred by the TCA, and they enjoy neither an inherent power of any kind, nor a general jurisdiction to enquire into the legal validity of any particular assessment. Insofar as they are said to enjoy any identified function, it must be either rooted in the express language of the TCA or must arise by necessary implication from the terms of that legislation."*

43. In *Lee*, Murray J. continued at paragraph 76:

*"[...] 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."*

44. The Commissioner empathises with the Appellant's difficulties in this case. However, the Commissioner is satisfied that she does not have jurisdiction to set aside a decision of the Respondent, that was made in accordance with tax legislation, on the basis of the Appellant's position that he was inadequately or incorrectly advised by the Respondent when he raised the PAYE underpayment issue with the Respondent. The Commissioner does not have jurisdiction in relation to complaints regarding the Respondent's customer service.
45. The Commissioner notes the Appellant's submission that he had received an assurance from a representative of Company A regarding the operation of PAYE on his employment income, such that he understood his fortnightly net pay was received after all appropriate PAYE deductions had been made by Company A. Furthermore, the Appellant submitted

he pursued this matter with Company A over an extended period of time in an effort to resolve the PAYE issue. While the Commissioner understands and empathises with the Appellant's difficulties in this regard, she is satisfied that she does not have jurisdiction to consider such matters in making her determination in this tax appeal. The Commissioner's determination is made within the confines of the powers conferred on her under the Part 40A of the TCA 1997, Appeals to Appeals Commissioners. These grounds of appeal are not appealable matters within Part 40A of the TCA 1997.

### *Conclusions*

46. Having considered the relevant legislation and the submissions from both parties, the Commissioner concludes as follows:

46.1. In an appeal before the Commission, the burden of proof rests on the Appellant who must prove on the balance of probabilities that an assessment to tax or a decision of the Respondent is incorrect. For the reasons set out in the analysis above, the Commissioner is satisfied that the Appellant has not discharged the burden of proof that, on the balance of probabilities, the SoLs issued by the Respondent for the relevant years were not correct.

46.2. Pursuant to the charging legislation, the Appellant is chargeable to income tax and USC on the gross employment income arising from his employment contract with Company A in each of the relevant years.

46.3. The Appellant is entitled to a credit for the income tax and USC deducted, returned and paid to the Respondent by Company A via the PAYE system

46.4. The apparent failure by Company A to correctly operate PAYE deductions on the Appellant's employment income, such that the income tax and USC deductions made at source by Company A were insufficient, is most unfortunate. This has resulted in a significant income tax and USC underpayment result for the Appellant in each of the relevant years. However, there is no basis in the tax legislation to eliminate or reduce the charge to income tax and USC on the Appellant's gross employment income from Company A in such circumstances.

46.5. The Commissioner does not have discretion to disapply the charge to income tax and USC arising pursuant to the relevant tax legislation, where the PAYE system was not operated correctly on the Appellant's employment income from Company A.

46.6. The Commissioner does not have jurisdiction to set aside the SoLs issued by the Respondent for the relevant years where the Appellant has alleged poor customer

service from the Respondent when he brought the PAYE underpayment to its attention.

47. The Commissioner notes that the Respondent has offered to spread the collection of the income tax and USC underpayments for the relevant years by way of reduction in the Appellant's personal tax credits over five tax years from 2026 to 2030. This offer is made pursuant to an extra-statutory concession. The Commissioner encourages the Appellant to engage with the Respondent in this regard.

### **Determination**

48. As such and for all the reasons set out above, the Commissioner determines that this appeal is denied and the SoLs issued by the Respondent in respect of each of the relevant years shall stand.
49. This Appeal is determined in accordance with Part 40A of the TCA 1997 and, in particular, section 949AK 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**

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.



Suzanne Carter  
Appeal Commissioner  
12 February 2026