



5. Following correspondence between the parties, on 5 May 2024 the Appellant appealed against the amended SOL to the Commission. On 24 June 2024, the Commission notified the parties that the Commissioner considered the appeal suitable for determination without an oral hearing, pursuant to section 949U of the TCA 1997. They were informed that they could object to the Commissioner proceeding without an oral hearing within 21 days of the notice, and that they could also submit any additional documentation that they wished the Commissioner to consider within 21 days. Neither party objected to the appeal being determined without a hearing. The Commissioner is satisfied that it is appropriate to determine this appeal without an oral hearing.

### **Legislation**

6. Section 960C of the TCA 1997 states that “*Tax due and payable under the Acts shall be due and payable to the Revenue Commissioners.*”

### **Submissions**

#### *Appellant*

7. The Appellant submitted that:

*“The evidence of my aggregate income provided and shown in the attached statements should be enough required proof to satisfy the Revenue Commissioners that I did in fact not exceed the €13,000.00 threshold and should therefore be exempt from paying Universal Social Charges.*

*[...]*

*I was a foreign student to learn English, in the jobs I had it was my employers who recorded all the information so I didn't understand that something was wrong.*

*On the other hand, when I made my declaration, I went to the page and the system gave me all the complete information. Not understanding it very well, I just said following, considering that the information was correct.*

*At this moment I do not have the resources to pay this amount of taxes that I did not know were wrong, when they informed me I no longer had that money because I considered it to be legally mine.”*

#### *Respondent*

8. The Respondent has provided a detailed and helpful submission to the Commission. It stated, *inter alia*, that:

*“The Appellant commenced in employment with two employers in 2023: [REDACTED] [REDACTED]. The Appellant commenced in her employment with [REDACTED] [REDACTED] 2023. This employment was not originally recorded on the Revenue record of the Appellant as the Appellant did not have their PPSN available to register the employment on record. Consequently, the payroll originally submitted by this employer was not linked to the Appellant’s record.*

*Following the registration of the above-mentioned employment by the Appellant on [REDACTED] [REDACTED] 2023, the payroll submissions proper to the record of the Appellant were allocated to her Revenue record. Regrettably, a systems error led to incorrect pay & tax information being linked to the Appellant’s record, in addition to their actual income.*

*The Respondent can confirm that the correct pay for income tax figure for the Appellants employment with [REDACTED] was €1,364.94 with no income tax deducted. Unfortunately, due to the error referenced previously, the stated amounts for the [REDACTED] employment linked to the Appellants record was as follows.*

[REDACTED]	<b>Pay Information</b>
<i>Pay for Income Tax</i>	<i>€4,262.13</i>
<i>Income Tax Deducted</i>	<i>€1,158.87</i>
<i>Pay for Universal Social Charge</i>	<i>€4,262.13</i>
<i>Universal Social Charge Deducted</i>	<i>€231.78</i>

*The Appellant ceased in their employment with [REDACTED] on [REDACTED] 2024. However, when the employment was ceased the incorrect information as outlined in the above table remained on record. The information automatically went across to her employer [REDACTED] on a cumulative tax basis, meaning they operated the next payroll submission for the Appellant using incorrect financial information. Consequently, the Appellant received an erroneous in-year refund from her employer [REDACTED]. In their payroll submission of [REDACTED] 2023, the Appellant received a refund of €1,770.40.*

*As previously referenced a systems error overstated the payroll information of the Appellant from her employer [REDACTED]. As a result, the Appellant received an erroneous in year refund through payroll of [REDACTED] on [REDACTED] 2024. Furthermore, as a result of incorrect information on record, the Appellant also received*

a subsequent erroneous refund of €1,072.72 when they completed their 2023 income tax return.

On 3 January 2024, the Appellant completed her 2023 income tax return. The incorrect financial information in relation to her employment with ██████████ remained on record when she finalised her income tax return for the 2023 tax period. When completing her income tax return, the Appellant confirmed the reported income for her employments was correct. Unfortunately, as incorrect payroll information was confirmed on her submitted return, an additional refund of €1,072.72 issued to the Appellant and this was not correct.

Following an internal investigation, the errors with the payrolls reported on the record of the Appellant was corrected on 16 February 2024 and the correct payroll was now recorded for ██████████ as outlined below.

<b>██████████</b>	<b>Pay Information</b>
<i>Pay for Income Tax</i>	€1,364.94
<i>Income Tax Deducted</i>	€0
<i>Pay for Universal Social Charge</i>	€1,364.94
<i>Universal Social Charge Deducted</i>	€0

An amended 2023 Statement of Liability issued to the Appellant on 17 February 2024, advising that she had an underpayment of €2,463.37. The underpayment is a direct result of refunds incorrectly issuing to the Appellant both in year 2023 and after the submission of her 2023 income tax return on 3 January 2024.

The below table confirms the correct pay and tax information for the Appellant in 2023, as well as refunds received for that period. This table confirms the underpayment on record of €2,463.37 is correct and in order.

<b>Employments</b>	<b>Pay Information</b>
<i>Pay for Income Tax</i>	€ 3,822.20
<i>Income Tax Deducted</i>	€0
<i>Refunds received Income Tax</i>	€2,231.59

<i>Pay for Universal Social Charge</i>	€3,822.20
<i>Universal Social Charge Deducted</i>	€0
<i>Refunds received Universal Social Charge</i>	€231.78
<i>Total underpayment outstanding</i>	€2,463.37

*The Respondent is satisfied that the amended Statement of Liability issued to the Appellant on 17 February 2024 confirms her correct taxation position for the 2023 tax period.*

*[...]*

*The Respondent sincerely regrets the systems error which led to the issuing of incorrect refunds in this matter. The Respondent apologises to the Appellant for the distress experienced by them in this case. However, despite the circumstances of this case, as per the amended Statement of Liability issued to the Appellant on 17 February 2024 an outstanding liability of €2,463.37 is due and payable by the Appellant as per Section 960C TCA 1997.”*

### **Material Facts**

9. Having read the documentation submitted by the parties, the Commissioner makes the following findings of material fact:
  - 9.1. The Appellant received an amended SOL for 2023 which showed an underpayment of €2,463.37.
  - 9.2. The underpayment arose from an error on the part of the Respondent, which resulted in the Appellant incorrectly receiving refunds of income tax of €2,231.59 and of Universal Social Charge (“USC”) of €231.78. The Appellant had not shown that the underpayment did not occur or that the amended SOL was incorrect.
  - 9.3. The amended SOL stated that the underpayment would be collected by reducing the Appellant’s tax credits for the years 2025 to 2028.

### **Analysis**

10. The burden of proof in this appeal rests on the Appellant, who must show that the amended SOL for 2023 incorrectly stated that she had an underpayment of €2,463.37. In the High Court case of *Menolly Homes Ltd v. Appeal Commissioners* [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.*”

11. In this appeal, the Appellant has stated that she earned less than €13,000 in 2023, and therefore was not liable to USC. However, the Commissioner is satisfied that she has not been incorrectly charged to USC by the Respondent; rather, the underpayment arose because the Appellant incorrectly received refunds of income tax in 2023 to which she was not entitled.
12. The Respondent has explained how the incorrect refunds arose, and has apologised for the error on its part that led to the refunds being paid to the Appellant. The Commissioner has considerable sympathy for the Appellant, as it is clear that the underpayment arose through no fault of her own. It is also clear from her submissions, and the copies of correspondence between her and the Respondent provided to the Commissioner, that the underpayment has caused her stress and worry.
13. However, while the Commissioner has sympathy for the Appellant, he is satisfied that the appeal cannot succeed. This is because it is clear to the Commissioner that the underpayment did actually occur for the 2023 tax year. The Respondent has provided a detailed explanation of how it arose, and the Appellant has not disputed the facts as presented by the Respondent, or indeed denied that an underpayment arose at all.
14. While the underpayment arose due to an error by the Respondent, the Commission does not have a supervisory role over the manner in which the Respondent conducts its affairs. Its role is limited to considering “*appealable matters*”, which are defined by section 949A of the TCA 1997 as “*any matter in respect of which an appeal is authorised by the Acts.*” The Commissioner is satisfied that the TCA 1997 does not authorise the making of an appeal on the basis of the Respondent’s management of a taxpayer’s tax affairs.
15. Finally, the Commissioner considers that it is important that the Appellant understands how the Respondent has stated it will collect the underpayment. The Respondent has not demanded that the Appellant repay the sum directly to it by way of cheque or bank transfer. Rather, it has stated that it will reduce the Appellant’s tax credits for the years 2025 to 2028. Therefore, the Appellant would be liable to pay additional tax on any income earned by her in the State during the years 2025 to 2028.
16. In conclusion, the Commissioner determines that the amended SOL should stand. The Commissioner appreciates that this determination will be disappointing for the Appellant,

who was entitled to check whether the amended SOL was correct. However, for the reasons set out herein, the Commissioner is satisfied that the amended SOL issued by the Respondent to the Appellant for 2023 was correct, and therefore the appeal is unsuccessful.

### **Determination**

17. In the circumstances, and based on a review of the facts and a consideration of the submissions, material and evidence provided by both parties, the Commissioner is satisfied that the amended Statement of Liability for the tax year 2023 that issued to the Appellant on 17 February 2024 was correct, and therefore the amended Statement of Liability stands.
18. 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**

19. 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**

20. 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.



Simon Noone  
Appeal Commissioner  
01 August 2024