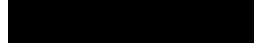




AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

136TACD2024

Between



Appellant

and

CRIMINAL ASSETS BUREAU

Respondent

Determination

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Introduction

1. This is an appeal to the Tax Appeals Commission (“the Commission”) by [REDACTED] (“the Appellant”) in respect of assessments to income tax raised by the Criminal Assets Bureau (“the Respondent”) for the income tax years 2012-2021 (“2012-2021 Income Tax Years”). The total amount of tax at issue is €332,958.00.
2. The Appellant claims in his Notice of Appeal dated [REDACTED] September 2023 that the amounts set out in the notices of assessment issued by the Respondent for the 2012-2021 Income Tax Years are excessive and do not reflect the actual income details of the Appellant.
3. The Respondent claims the Appellant’s expenditure exceeds his known income and accordingly the Appellant has been assessed to income tax on this additional income.

Background

4. The Appellant is [REDACTED] and he [REDACTED] children. He [REDACTED] worked [REDACTED] and had some other [REDACTED] interests.
5. The Respondent contends that the income returned by the Appellant in his tax returns did not reflect his income and profits. The Respondent raised the following assessments to income tax against the Appellant in the Notices of Assessment dated [REDACTED] August 2023 for the 2012-2021 Income Tax Years (“Notices of Assessment 2012-2021”):

Year	Miscellaneous Income €	Additional Trading income €	Balance of tax due and payable (including surcharge for late returns) €
2012	20,000	0	8,074.00
2013	25,000	0	11,935.00
2014	37,000	0	19,657.00
2015	9,500	0	1,235.00
2016	68,500	0	32,289.00
2017	5,000	0	1,596.00
2018	178,500	0	100,584.00

2019	227,500	0	131,264.00
2020	26,500	0	13,108.00
2021	5,500	21,750	13,216.00
TOTAL	603,000	21,750	332,958.00

6. The Appellant claims that the Notice of Assessment for the year 2012 shows Schedule D income of €20,000 (“Miscellaneous Income”) and that the basis of such determination has not been explained or proven to the Appellant. The Appellant claims that for the other years, 2013-2021, the sole document provided by the Respondent is the first page of the Notices of Assessment and that the background pages (pages 2-4) setting out income details, tax credits and computation of liability was not disclosed. The Appellant claims that the Notices of Assessments 2012-2021 were issued on foot of litigation commenced by the Respondent against ██████████ ██████████ in the High Court under proceeds of crime legislation. The Appellant claims he has no connection with ██████████ and ██████████ other than through property investment opportunities he made with them in the total amount of €124,200. The Appellant denies the Respondent’s claim that he had invested a total amount of €518,500 with ██████████ and ██████████.
7. The hearing proceeded in the offices of the Commission on █ July 2024. The Appellant was represented by counsel who was attended by the Appellant’s solicitor and the Appellant’s tax advisor was in attendance as a witness. The Respondent was represented by counsel and was attended by its solicitor with two officers of the Respondent also in attendance and Garda ██████████ was called to give testimony as the Respondent’s witness.

Legislation

8. Section 58 of the Taxes Consolidation Act 1997 (“the TCA 1997”): Charge to tax of profits or gains from unknown or unlawful source states that:

“(1) Profits or gains shall be chargeable to tax notwithstanding that at the time an assessment to tax in respect of those profits or gains was made -

(a) the source from which those profits or gains arose was not known to the inspector,

(b) the profits or gains were not known to the inspector to have arisen wholly or partly from a lawful source or activity, or

(c) the profits or gains arose and were known to the inspector to have arisen from an unlawful source or activity,

and any question whether those profits or gains arose wholly or partly from an unknown or unlawful source or activity shall be disregarded in determining the chargeability to tax of those profits or gains.

(2) Notwithstanding anything in the Tax Acts, any profits or gains which are charged to tax by virtue of subsection (1) or charged to tax by virtue of or following any investigation by any body (in this subsection referred to as "the body") established by or under statute or by the Government, the purpose or one of the principal purposes of which is -

(a) the identification of the assets of persons which derive or are suspected to derive, directly or indirectly, from criminal activity,

(b) the taking of appropriate action under the law to deprive or to deny those persons of the assets or the benefit of such assets, in whole or in part, as may be appropriate, and

(c) the pursuit of any investigation or the doing of any other preparatory work in relation to any proceedings arising from the purposes mentioned in paragraphs (a) and (b),

shall be charged under Case IV of Schedule D and shall be described in the assessment to tax concerned as "miscellaneous income", and in respect of such profits and gains so assessed -

(i) the assessment -

(I) may be made solely in the name of the body, and

(II) shall not be discharged by the Appeal Commissioners or by a court by reason only of the fact that the income should apart from this section have been described in some other manner or by reason only of the fact that the profits or gains arose wholly or partly from an unknown or unlawful source or activity,

and

(ii) (I) the tax charged in the assessment may be demanded solely in the name of the body, and

(II) on payment to it of the tax so demanded, the body shall issue a receipt in its name and shall forthwith -

(A) lodge the tax paid to the General Account of the Revenue Commissioners in the Central Bank of Ireland, and

(B) transmit to the Collector-General particulars of the tax assessed and payment received in respect of that tax”

Evidence

The Appellant – Direct examination

9. In his direct evidence, the Appellant stated in reply to his counsel that he engaged [REDACTED] Accountant (“the Appellant’s Tax Advisor”) in 2020/2021 to prepare income tax returns for him. The Appellant stated he did not have an accountant prior to that time. The Appellant stated that his filed tax returns for the 2012-2021 Income Tax Years were before the Commission.
10. The Appellant stated the Respondent is incorrect in its assessment of his income and profits for the 2012-2021 Income Tax Years and that in any event the Respondent has not at all substantiated its claims and assessments made that the Appellant was in receipt of additional income as per the Notices of Assessment 2012-2021.

The Appellant – Cross examination

11. On cross examination, the Appellant stated that since 2012 he provided for himself with supports from [REDACTED] and he also saved. He also stated that from 2010-2015 he worked at telecommunications and insurance and customer service. He also stated that from 2015-2021 he worked [REDACTED]. He stated that he did receive pay slips for this period of employment but he cannot remember the name of the employer on the pay slips. He stated he stopped working [REDACTED] in [REDACTED] and he is now [REDACTED].
12. In his evidence the Appellant stated he did not know if income returns were filed for his [REDACTED] business partnership.
13. The Appellant stated that he set up a [REDACTED] business partnership and between him and his partner they earned a lot of income doing it.
14. The Appellant in reply to the Respondent’s counsel who referred to various amounts included in the returns made by the Appellant for income tax for the years 2012-2021

described as “*Day Trading*” stated that he did not know the details of this and that he would have to check.

15. The Appellant stated he lived at home until he was [REDACTED] and in [REDACTED] he moved into an [REDACTED] which he rented with [REDACTED] and [REDACTED]. He has no evidence of how he paid his contribution to the rent and [REDACTED] paid the rent to the landlord through [REDACTED] account.
16. The Appellant stated that since [REDACTED] he has lived in a house at [REDACTED]. He stated that he bought the house for €330,000 with a mortgage for €220,000. He stated that he has [REDACTED] children and he owns a car.
17. The Appellant stated when he lived at home with his parents he did not pay money to his parents for living expenses.
18. The Appellant stated he had a modest income and he went on holidays. He also stated he had a social life and he bought clothes.
19. In reply to the Respondent’s counsel as to the source of the lodgements to his bank account [REDACTED] in [REDACTED] the Appellant stated they were because [REDACTED] had given a man called [REDACTED] money with which to buy a [REDACTED] in [REDACTED] for him. And after [REDACTED] the money was repaid to him [the Appellant] by way of a number of payments by/from [REDACTED]. The Appellant stated he was not calling [REDACTED] as a witness as it is difficult to make contact with him.
20. The Appellant stated for the period 2012-2014/15 he funded his day to day living expenses from money he earned from selling [REDACTED] and [REDACTED] and before that he did brand promotions at festivals. He stated he does not know how much he earned from these businesses/sales.
21. In reply to the Respondent’s counsel as to why was there no sign of routine shopping and expenses such as for a mobile phone in his bank account statements he stated that he did not always have a phone and [REDACTED] helped him out with expenses incurred.
22. The Appellant stated he bought an [REDACTED] car in 2014 and he has no evidence of how he bought it as [REDACTED] gave him the money to buy the car and [REDACTED].
23. The Appellant stated he bought another car and he used finance from [REDACTED] to help to buy it.

24. The Appellant agreed with the Respondent's counsel that he had invested €90,000 in a pub business called [REDACTED] even though his PAYE earnings were €15,000 per annum at that time. He stated he funded it by €59,000 received back from [REDACTED], €12,500 from a personal injury award and the rest from [REDACTED]. He also stated he has no documentary evidence of the receipt of these payments.
25. The Appellant stated he invested €124,200 in [REDACTED] business from the money he received back from [REDACTED]. He stated his [REDACTED] had no objection to him receiving this money which was due to [REDACTED] estate for his own purposes and investments.
26. The Respondent's counsel referred to a document described as an email from [REDACTED] to his solicitor [REDACTED] dated [REDACTED] February 2020, which states that the Appellant had invested the sum of €518,500 in [REDACTED] business ("Email from [REDACTED] to his Solicitor"). The Appellant stated that the Email from [REDACTED] to his Solicitor was not true.
27. The Appellant stated that the document An Garda Síochána state they seized and removed from his property on [REDACTED] ("the Account Document") was not his and was not shown to him on that date. The Appellant stated the details on the document are not correct and that he only invested the sum of €124,200 in [REDACTED] business and not €518,500.00 as is stated on the Account Document.

The Appellant - On re-examination

28. The Appellant's counsel referred to entries in the Appellant's bank account which were before the Commission and in particular an entry on [REDACTED] 2020 in the amount of €196.90 and counsel asked the Appellant what that payment was for? The Appellant stated this was a repayment for the finance arrangement with [REDACTED] for his car.

The Appellant's Tax Advisor – the Appellant's Witness - Examination by the Appellant's counsel

29. In his evidence the Appellant's Witness stated he became involved with the Appellant to assist in the making of returns for his [REDACTED] business.
30. The Appellant's Witness stated that the inclusion of entries in the Appellant's Income Tax Returns of "Day Trading" relates to the buying and selling of shares.

31. The Appellant's Witness stated that the claim made by the Respondent that the Appellant had invested €518,500 in [REDACTED] and/or [REDACTED] business was without evidence and that the financial records do not reflect this figure.
32. The Appellant's Witness stated that he never saw the Account Document submitted by the Respondent.
33. The Appellant's Witness stated that the Respondent should be asked to discover to the Appellant and to the Commission documents to support its claim that the Appellant had invested in [REDACTED] business in the amount and to the extent claimed by the Respondent.

The Appellant's Tax Advisor – the Appellant's Witness - Examination by the Respondent's counsel.

34. In his evidence the Appellant's Witness stated he had no documentary evidence/supports for the claims of income received by the Appellant from "Day Trading".
35. The Appellant's Witness stated the Appellant had some "complex arrangements" which included a [REDACTED] business; his involvement with [REDACTED]; his investment in [REDACTED]. and [REDACTED] from people.
36. The Appellant's Witness stated he was instructed by the Appellant that the large lodgements to the Appellant's bank accounts were from money owed from his [REDACTED] friends.
37. The Appellant's Witness stated he did not file any returns for capital gains tax on behalf of the Appellant as it would be ".....impossible to assess".

Garda [REDACTED] of An Garda Síochána – the Respondent's Witness- Examination by the Respondent's counsel.

38. In his evidence the Respondent's Witness stated the document submitted in the Respondent's Booklet [REDACTED] [referred to herein as the Account Document] was obtained by the Respondent on foot of a search warrant to search the Appellant's property on [REDACTED]. In his evidence he stated that during the search of the Appellant's property on [REDACTED] members of An Garda Síochána searched the Appellant's car at the Appellant's property and they found the Account Document.

39. The Respondent's Witness stated he showed the Account Document to the Appellant with other items seized on that date and he then gave to the Appellant a document with a list of the items seized from the Appellant's property specified thereon.

The Respondent's Witness- Examination by the Appellant's counsel.

40. In his evidence the Respondent's Witness stated that he had the original Account Document in his folder which he had with him at the hearing.

41. In response to the Appellant's counsel's request to produce the Account Document for examination by the parties at the hearing, the Respondent's Witness removed a document from a folder and held it up and stated that the document in his hand was the actual document that An Garda Síochána found at the Appellant's property in the Appellant's car and which he had showed to the Appellant on [REDACTED] and that he then advised the Appellant that he was seizing it and other items.

42. The Respondent's Witness stated the document he held up at the hearing was included on the receipt letter given to the Appellant on [REDACTED] and that it was included as part of the description "assorted documents".

43. The Respondent's Witness in reply to the Appellant's counsel stated he did not get the Appellant to initial the receipt letter as he would never do that in such a situation.

44. The Respondent's Witness stated the document produced for inspection at the hearing [referred to herein as the Account Document] is the actual document taken from the Appellant's car and it is not a later insertion as suggested by the Appellant's counsel.

45. The Respondent's Witness stated he did not know how the document was made, nor why the particular format and style of the detail on it were used and that he was unable to answer counsel's questions about the form/type/font of the document.

Submissions

The Appellant - Written submissions.

46. In written submissions, it was submitted that the Appellant is a tax-payer and for the years under review the Appellant derived his income from employment, taxed under Schedule E Regulations, Self-Employment activities and Investment Income, as follows:

Year	Sch E	Sch D Case 1 Partnership	Sch D Case 1	Sch D Case 1 Day Trading
2021	29,288	16,308	5,908	2,328

2020	30,616			4,085
2019	28,580			
2018	26,097			2,299
2017	27,964			2,750
2016	14,209			2,750
2015	9,245			
2014	26,277			
2013	22,562			
2012	18,225			

47. It was submitted that the Notices of Assessment 2012-2021 issued by the Respondent failed to set out any details of the type of taxable income deemed to be the subject of those assessments. That for the years 2013 to 2021, no details for taxable “Miscellaneous Income” are given and that for the year 2012 “.....a somewhat unconvincing round sum of €20,000 is set out” and that the Appellant has a right to know the basis of the estimated assessed taxable figures made against him by the Respondent.

Year	Sch E Income	Miscellaneous Income
2021		No details
2020		No details
2019		No details
2018		No details
2017		No details
2016		No details
2015		No details
2014		No details
2013		No details
2012	18,225	20,000

48. It was submitted that the claim by the Respondent that the sum of €518,500 was invested by the Appellant in [REDACTED] business(es) is “.....*singularly positioned as to disclose an amount of wealth in the hands of the Appellant over and above what his records disclose, this argument must fail on the basis of pure facts. There is to hand no details of the purported sum of €518,500; details such as date and relevant amounts and bank account on which the sums were drawn by way of financial instrument.*”

The Appellant - Oral submissions by the Appellant’s counsel.

49. In oral submissions, the Appellant’s counsel submitted that in evidence the Appellant stated he did not see the Account Document which the Respondent and the Respondent’s Witness claim was taken from the Appellant’s car and shown to him on [REDACTED].

50. The Appellant’s counsel submitted that the Respondent’s Witness refused to answer questions about the provenance of the Account Document and that therefore it was not a reliable document nor a reliable piece of evidence.

51. The Appellant’s counsel submitted that the “Day Trading” income came from share dealings and that the Appellant had been confused and led astray by the form and the manner in which the Respondent’s counsel conducted her line of questioning of the Appellant and it was difficult for the Appellant to give his testimony.

52. The Appellant’s counsel submitted that the claims made about and around the lifestyle of the Appellant and how was he able to fund it based on his declared income were merely allegations and there was no evidence of the Appellant having an expensive lifestyle.

The Respondent - Written submissions

53. In written submissions, it was submitted by the Respondent that the Appellant held PAYE employments earning a modest salary:

Year	Employment Income €	Social Welfare Income €
2012	18,225	1,500
2013	22,562	N/A
2014	26,277	N/A
2015	9,245	N/A
2016	14,426	N/A

2017	27,964	N/A
2018	26,097	N/A
2019	28,580	N/A
2020	30,616	N/A
2021	29,288	N/A

54. It was submitted that an analysis of the Appellant's bank accounts shows that the Appellant made the following net lodgements which were not from known sources such as PAYE or Social Welfare income:

Year	Net Lodgements €
2012	20,013
2013	15,865
2014	6,114
2015	895
2016	59,094
2017	0.00
2018	9,910
2019	2,394
2020	5,535
2021	5,574

55. It was submitted that for several of the years the Appellant's bank accounts do not show sufficient debits from his bank accounts to fund even a basic lifestyle.

56. It was submitted that the Appellant purchased [REDACTED] in [REDACTED] [REDACTED] for €333,000 and that the house was acquired with a mortgage of €230,000, a gift of €37,000 from [REDACTED] and the remaining balance of €66,000 was paid by the Appellant.

57. It was submitted that the Appellant purchased an [REDACTED] (registration no. [REDACTED]) on [REDACTED] 2014 but that there is no record of this payment being made in the Appellant's bank accounts.
58. It was submitted that the Appellant also purchased a [REDACTED] (registration no. [REDACTED]) on [REDACTED] 2020 for €18,642 but that there is no record of this payment being made in the Appellant's bank accounts.
59. It was submitted that the Appellant invested the sum of €89,525 in [REDACTED] [REDACTED] in [REDACTED] 2015.
60. It was submitted by the Respondent that the Appellant claims he invested only €124,200 via his bank accounts in [REDACTED] which was an investment company owned by [REDACTED] and another. It was submitted by the Respondent that in the Email from [REDACTED] to his Solicitor [REDACTED] acknowledged that [REDACTED] owed the Appellant the sum of €518,500 and that this document supports the Respondent's claims that the Appellant made additional investments of €394,300 in [REDACTED] [REDACTED] business which were not recorded in the Appellant's bank accounts.
61. It was submitted by the Respondent that on foot of a search authorised by search warrant of the Appellant's home on [REDACTED] a document was obtained, referred to herein as the Account Document which is submitted by the Respondent to contain details of the Appellant's total investment in [REDACTED]. Further it is submitted by the Respondent that the Account Document details the bank transfers of €124,200 and an additional sum of €394,300 invested between [REDACTED] 2018 and [REDACTED] 2019. Further it is submitted by the Respondent that the Account Document details a "grand total" investment of €518,500.
62. It was submitted by the Respondent that in 2020, the Appellant set up a partnership with [REDACTED] called "[REDACTED]" with a description of "*retail sale of [REDACTED]*". It was submitted by the Respondent that the Appellant's bank accounts show that on [REDACTED] 2021, the Appellant received a lodgement of €17,000 from the business bank account of [REDACTED] and that on [REDACTED] 2021, the Appellant received a further payment of €4,750 from the business bank account of [REDACTED].
63. It was submitted by the Respondent that the legislative basis for the Respondent's claims are the provisions of section 58 of the TCA 1997.
64. It was submitted by the Respondent that the Appellant bears the onus of proof and that in the context of tax appeals, the burden of proof to show that an appellant is entitled to

the relief claimed falls on the taxpayer. This accords with the general law in civil cases that the burden of proof falls on he who asserts. This onus may be justified on the basis that only the taxpayer has access to the full facts relating to his personal tax situation. In *Menolly Homes Ltd. v Appeal Commissioners & Revenue Commissioners*, at para 79 Charleton J. stated:

"This reversal of the burden of proof onto the taxpayer is common to all forms of taxation appeals in Ireland"

and

"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"

65. It was submitted by the Respondent that the Appellant is subject to tax on a self-assessment basis and the responsibility to establish that the tax the Appellant says is due is actually due rests with him only.

The Respondent - Oral submissions by the Respondent's counsel.

66. In oral submissions, the Respondent's counsel submitted the onus of proof is on the Appellant as the Appellant is best placed to advise the Commission as to his affairs. Counsel submitted that the Appellant has very little knowledge of his own tax affairs and that the Appellant was vague in his replies. Counsel submitted that the Appellant has no evidence of his claims and has no corroboration of his claims.

67. The Respondent's counsel submitted that the Appellant did not know the origin of the lodgements of large sums of money to the Appellant's bank account.

68. The Respondent's counsel submitted that the Appellant's inability to give details of his income was not credible and that the account given by him of his various income sources such as selling [REDACTED] and [REDACTED] and doing promotions for brands evolved as the Appellant gave his evidence at hearing. Counsel submitted that the Appellant was not able to give details regarding how much non PAYE income he earned from selling [REDACTED] and [REDACTED] and doing brands promotions.

69. The Respondent's counsel submitted that there was no mention of the share dealing in his direct evidence and that the Appellant's counsel did not re-examine the Appellant on the issue of share dealing.

70. The Respondent's counsel submitted that the Appellant's testimony and evidence are not credible.

Material Facts

71. Having read the documentation submitted, and having listened to the oral evidence and submissions at the hearing, the Appeal Commissioner ("the Commissioner") makes the following findings of material fact:

72. On [REDACTED] August 2023 the Respondent issued the Notices of Assessment 2012-2021 with a total amount of income tax claimed in the sum of €332,958.00.

73. The Appellant disputes the assessments of income and profit in the Notices of Assessment 2012-2021 and consequently disputes the amount claimed as due and owing in respect of income tax.

74. The Appellant states his income and profits are as set out in his returns.

75. The Appellant states he was able to make investments in [REDACTED] from money which was given to him by a third party, a court award and money from [REDACTED].

76. The Appellant states he was able to fund his everyday expenses from business interests he had such as [REDACTED] and [REDACTED] and doing brand promotions. The Appellant did not give any details as to how much income he earned from these business activities/interests. The Appellant did not submit any documentary supports or corroborative proofs in support of his claims that he earned income from selling [REDACTED] [REDACTED] and [REDACTED] and doing brand promotions.

77. The Respondent submits that the Account Document and the Email from [REDACTED] [REDACTED] to his Solicitor are evidentiary supports that the Appellant invested €518,500 in [REDACTED] business and that there is no evidence of this amount of income in the Appellant's bank accounts.

78. The Appellant claims he invested only €124,200 in [REDACTED] business and did so from money he received from people. The Appellant claims that the Account Document is not a genuine document and that the Email from [REDACTED] to his Solicitor is incorrect.

Analysis

79. The Commissioner notes that the burden of proof in this appeal rests on the Appellant, who must show that the Respondent was incorrect to raise the Notices of Assessment 2012-2021 to income tax against the Appellant. The Commissioner refers to the High

Court case of *Menolly Homes Ltd v. Appeal Commissioners* [2010] IEHC 49, in which 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.*”

The Notices of Assessment 2012-2021

80. The Commissioner notes in the Notice of Appeal an objection was made that the Respondent had not disclosed all the information which should have been included in the Notices of Assessment 2012-2021. The Commissioner notes that this matter was not raised by the Appellant and/or his counsel at hearing. The Commissioner notes the Appellant’s Tax Agent was also at the hearing and was called as a witness and he did not raise the matter. Accordingly, the Commissioner is satisfied that she does not need to consider this issue to be relevant to this appeal.

81. The Commissioner refers to the Appellant’s claims as to his income and profits for the years 2012-2021

Year	Sch E	Sch D Case 1 [REDACTED] Partnership	Sch D Case 1 [REDACTED]	Sch D Case 1 Day Trading
2021	29,288	16,308	5,908	2,328
2020	30,616			4,085
2019	28,580			
2018	26,097			2,299
2017	27,964			2,750
2016	14,209			2,750
2015	9,245			
2014	26,277			
2013	22,562			
2012	18,225			

82. The Commissioner notes the Appellant agreed with the Respondent’s counsel at hearing that his returned income for this period 2012-2021 was a modest income.

83. The Commissioner notes the Appellant claims in addition to the above returned income for the period 2012-2021 he received/earned the following unreturned income/supports/benefits:

82.1 Financial support from his [REDACTED].

82.2 The benefit of repaid loans from third parties due to [REDACTED].

82.3 The proceeds of a personal injuries award.

82.4 Financial support from [REDACTED].

82.5 Financial support from [REDACTED].

82.6 Income from a [REDACTED] business/partnership.

82.7 Income from selling [REDACTED].

82.8 Income from selling [REDACTED].

82.9 Income from brand promotions.

82.10 Income from Day Trading/selling shares.

84. The Commissioner notes the Appellant has not furnished any documentary supports/evidence in support of his claims that he received the aforementioned additional payments/incomes.

The Respondent's claims about the Appellant's investment in [REDACTED] business

85. The Commissioner refers to the Account Document and notes that the Appellant refutes that it was found on his property on [REDACTED], that he refutes it refers to him and further that he refutes that he was shown the seized document on [REDACTED] by the Respondent's Witness. The Appellant refutes the veracity of the Account Document and refutes the corroborative value of the document.

86. The Commissioner refers to the Email from [REDACTED] to his Solicitor and notes that the Appellant claims the email is incorrect and is untrue and that he had only invested €124,200 in [REDACTED] business and not €518,500 as stated in the Email from [REDACTED] to his Solicitor and as stated in the Account Document.

87. The Commissioner notes the Appellant's Tax Advisor also refutes the veracity of the Account Document and the Email from [REDACTED] to his Solicitor. The Commissioner notes the Appellant's Tax Advisor claims there is no documentary support

for the Respondent's claims that the Appellant had invested €518,500 in [REDACTED] business.

88. The Commissioner refers to the examination under oath of the Respondent's Witness as to the circumstances around the seizure of the Account Document from the Appellant's property on [REDACTED]. The Commissioner refers to the detailed testimony given by the said witness under direct and cross examination. The Commissioner having assessed all matters herein finds that the account and testimony given by the Respondent's Witness about the discovery of the Account Document in the Appellant's car at the Appellant's property on [REDACTED] and further that later on the same date he caused it to be shown to the Appellant and that he advised the Appellant he was seizing and retaining it on behalf of the Respondent were coherent, persuasive and credible.

Whether Respondent entitled to raise the Notices of Assessment 2012-2021

89. The Commissioner's role in this appeal is to determine if the Appellant has shown that the Respondent was not entitled to raise the Notices of Assessment 2012-2021. On the basis of the evidence before her, the Commissioner is satisfied that the Appellant has not established that the Respondent was not entitled to raise the Notices of Assessment 2012-2021. The Commissioner notes the Appellant agreed with the Respondent's counsel that for the period 2012-2021 he was in receipt of a modest income but the Commissioner notes the Appellant has been unable to document and/or support his claims of receiving benefit/financial support(s)/income from other sources/parties for this same period. The Commissioner notes that despite the Appellant obtaining the benefit of legal representation and tax/accountancy advice with regard to this appeal the Appellant has not submitted any documentary supports to show that he was in receipt of income/earnings/financial supports from additional sources from which he was able to fund his investments and also his living expenses. The Commissioner notes that with regard to some claims made by the Appellant as to the claimed source(s) of additional supports/payments/benefits made to him that they could have been corroborated and/or supported upon the making of reasonable enquiries with parties/entities such as his legal representatives, family members etc. The Commissioner having assessed all matters herein notes that there are no credible documentary proofs submitted to support the Appellant's claim that he was in receipt of additional income from various sources for the period 2012-2021. Accordingly, the Commissioner finds that the Appellant has not explained credibly how he was able to pay for his investment in [REDACTED]. Further the Commissioner finds that for the same reasons as aforesaid the Appellant has not explained credibly how was he able to pay his investment in [REDACTED] business. The Commissioner finds that the lack of clarity and the lack of

corroboration of the Appellant's claims concerning him receiving additional income/sources is not credible.

90. For the reasons set out above the Commissioner is satisfied that the Respondent was entitled to raise the Notices of Assessment 2012-2021.

Conclusion

91. In conclusion, the Commissioner is satisfied that the Appellant has not met the burden of proof in establishing that the Respondent was not entitled to raise the Notices of Assessment 2012-2021. The Commissioner finds having assessed all before the Commission that the Appellant's appeal is unsuccessful.

Determination

92. 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 determines that Respondent was correct in raising the Notices of Assessment 2012-2021 and therefore the Notices of Assessment 2012-2021 shall stand. The Commissioner makes this finding further to the provisions of section 949AK (1)(c) of the TCA 1997.
93. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular section 949AK thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

Notification

94. 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

95. 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.



Leonora B. Doyle
Appeal Commissioner
2 August 2024