



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

150TACD2024

Between



Appellant

and

REVENUE COMMISSIONERS

Respondent

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 [REDACTED] (“the Appellant”) in relation to a decision made by the Revenue Commissioners (“the Respondent”) dated 20 December 2023 (“Decision”) refusing the Appellant’s claim for a refund of repayment of local property tax (“LPT”) made by the Appellant to the Respondent for the years 2013-2018 inclusive. The Respondent submits that the Appellant is not entitled to a refund of the repayment of LPT for the years 2013-2018 inclusive as the repayment claim was made by the Appellant after the expiry of the four year time period permitted by the Finance (Local Property Tax) Act 2013 (as amended (“the LPT Act”).
2. 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.

Background

3. The Appellant is the owner of a property at [REDACTED] [REDACTED] (Property ID [REDACTED]) (“the Property”).
4. On [REDACTED] November 2023 the Appellant contacted the Respondent requesting an amendment downwards to the valuation of the Property from Band 2 (€100,001 - €150,000) (“Band 2”) to Band 1 (€0 - €100,000) (“Band 1”) with regard to LPT for the valuation period 2013 to 2021. The Appellant made a repayment claim for the years 2013-2021. The Appellant advised the Respondent that he had paid property tax since 2013 but had paid at the incorrect valuation band. The Appellant stated that he had overpaid LPT each year since 2013. The Appellant’s request to the Respondent to amend the valuation band for the purposes of LPT for the Property was supported by a professional valuation by [REDACTED] Auctioneers (“the Valuation”). The Valuation stated that the Property in 2013 had a valuation in the region of €70,000 and in January 2023 had a valuation in the region of €190,000. The letter dated [REDACTED] November 2023 from the Appellant to the Respondent was taken as a repayment claim for LPT overpaid by the Appellant for the period 2013 to 2021 (inclusive).
5. On [REDACTED] December 2023 the Respondent wrote to the Appellant in respect of the repayment claim. As part of that correspondence, the Respondent stated: (i) that the LPT account had been amended to valuation Band 1 for 2013 to 2021 inclusive; (ii) a refund in the amount of €405 would issue to the Appellant in respect of an overpayment of LPT for the years 2019 to 2021; (iii) the claim for a repayment of LPT for the years 2013 to 2018 was

refused on the basis that the claim was made outside of the four year time limit provided by section 26 of the LPT Act. The Respondent also stated that the four year time limit is statutory and that the Respondent has no discretion regarding the application of the limit and therefore cannot make a repayment once the four year term has expired.

6. On [REDACTED] January 2024 the Appellant's [REDACTED] ("the Appellant's [REDACTED]") submitted a Notice of Appeal on behalf of the Appellant and [REDACTED] submitted [REDACTED] "... [REDACTED] has lived on his own for many many years and [REDACTED] [REDACTED] then became fully involved with [REDACTED] financial affairs I can state honestly that [REDACTED] is not up to date with phone or Internet technology. [REDACTED] paid [REDACTED] property tax in good faith from day one but never asked or sought advise as to what band [REDACTED] should be in. On these grounds I hope you can look favourably on this appeal and allow the repayment for 2013-2018."
7. On 16 February 2024 the Respondent in reply to the Notice of Appeal from the Appellant against the refusal by the Respondent to refund an overpayment of LPT for the years 2013 to 2018 inclusive stated:

"LPT is administered in accordance with the Finance (Local Property Tax) Act 2012 (as amended). Section 26 of the Act applies the usual 4-year time limit on repayments of overpaid tax that applies to other taxes, to LPT.

Section 26(2)(b) specifically states that Revenue shall not make a repayment of LPT unless the claim for repayment is made within 4 years after the end of the year in which the liability date in respect of which the payment was made falls. As the claim made by [REDACTED] was made more than 4 years after the end of the year of the LPT liability dates for the LPT years 2013 - 2018, Revenue cannot make a repayment for those years.

LPT is a self-assessed tax. Property owners are required to determine the market value of their property as at the valuation date of 1 May 2013. This valuation applies to properties for a nine-year period up to and including 2021.

For the valuation period 2013-2021, LPT is calculated based on valuation bands of €50,000 in width, for properties valued between €100,001 and €1,000,000. The use of bands rather than a specific value allows property owners to place their properties in the appropriate valuation band with reasonable confidence and makes the valuation process as straightforward as possible. Revenue provides detailed guidance for property owners to help them value their property.

A property owner may self-correct their LPT return in cases where an incorrect valuation is submitted. The revised LPT liability replaces the original liability declared for 2013, and also forms the basis for the 2014, 2015, 2016, 2017, 2018, 2019, 2020 and 2021 liability.

When LPT was introduced in 2013, property owners were obliged to file an LPT 1 Return, based on their self-assessed valuation of their properties as of 1st May 2013. The first liability date for LPT is the 1st of May 2013 covering the period 1st July 2013 to 31st December 2013. The liability date for any other year is 1st November of the previous year- e.g. the liability date for 2021 is 1st November 2020.

Revenue issued a letter to [the Appellant] in March 2013 advising him that ■ is the liable person for LPT on the residential property at ■. An LPT 1 was enclosed for completion. ■ was advised that Revenue's estimated value for the property was in band 3 (€150,001 – €200,000).

The LPT return was filed in May 2013. No valuation band was declared on the return, and it was deemed that ■ accepted the Revenue estimated valuation in band 3 (150,001-€200,000). At the time of filing the LPT return in May 2013, payment of €112, the LPT charge appropriate to band 2 (€100,001 to €150,000), was made by ■. In October 2013 a compliance notice issued to ■ and on foot of contact from ■ the valuation of the property was amended downwards to band 2 (€100,001-€150,000). LPT was paid for all subsequent years up to 2021 based on this valuation band.

In November 2023, ■ requested an amendment downwards to the valuation of his property to band 1, (0 – €100,000) for the valuation period 2013 to 2021. The request was supported by a professional valuation.

When Revenue processed this amendment, it resulted in an LPT overpayment for all years from 2013 to 2021 inclusive. A refund of €405.00 for the years 2019 to 2021 issued to ■. However, in accordance with Section 26(2)(b) of the Finance (Local Property Tax) Act 2012 (as amended), Revenue cannot repay the overpayments for the years 2013 – 2018, as the claim for repayment for these years was made over four years after the years in which the relevant liability dates occurred.

Revenue considers this a valid appeal in accordance with Section 26(4) of the Finance (Local Property Tax) Act 2012 (as amended) which states that a liable person who is aggrieved by a decision of the Revenue Commissioners not to make a repayment

because of the 4-year time limit, may appeal the decision to the Appeal Commissioners, in accordance with section 949I of the TCA Act of 1997.

Relevant legislation

Section 15. Valuation in accordance with Revenue guidelines.

(1) Subject to subsection (2), where a liable person—

(a) makes a self-assessment in a return which is delivered on or before the relevant return date in accordance with guidelines referred to in subsection (3), and

(b) pays the amount of the self-assessment, the Revenue Commissioners shall not seek to displace the self-assessment by the making of a Revenue assessment.

(2) Subsection (1) shall not apply in the case of a relevant residential property the chargeable value of which exceeds €1,000,000.

(3) The Revenue Commissioners shall, as soon as may be after the passing of this Act, prepare and publish guidelines in relation to the matter of ascertaining the chargeable value of relevant residential properties.

Section 26. Repayment of local property tax.

(1) Subject to the provisions of this section, where a person has, in respect of a liability date, paid, whether directly or by deduction, an amount of local property tax which is not due from that person or which, but for an error or mistake in a return or statement made by the person for the purposes of an assessment to local property tax, would not have been due from the person, the person shall be entitled to repayment of the local property tax so paid.

(2) The Revenue Commissioners shall not make a repayment of the local property tax referred to in subsection (1) unless—

(a) a claim for repayment has been made to them,

(b) the claim for repayment referred to in paragraph (a) is made within 4 years after the end of the year in which the liability date in respect of which the payment was made falls,

(c) a true and complete return has been prepared and delivered under Part 7, and

(d) all the information that the Revenue Commissioners may reasonably require to enable them to determine if and to what extent a repayment to local property tax is due to the person has been provided to them.

(3) Where the Revenue Commissioners make a repayment of local property tax, they may repay any such amount directly into an account, specified by the person to whom the amount is due, in a financial institution.

(4) Where a liable person is aggrieved by a decision of the Revenue Commissioners on a claim to repayment by the person, insofar as the decision is made by reference to any provision of this section, the person may appeal [the decision to the Appeal Commissioners, in accordance with section 949I of the Act of 1997, within the period of 30 days after the date of the notice of that decision.]

Section 949I Notice of appeal.

(1) Any person who wishes to appeal an appealable matter shall do so by giving notice in writing in that behalf to the Appeal Commissioners.

(2) A notice of appeal shall specify—

(a) the name and address of the appellant and, if relevant, of the person acting under the appellant's authority in relation to the appeal,

(b) in the case of an appellant who is an individual, his or her personal public service number (within the meaning of section 262 of the Social Welfare Consolidation Act 2005) or, in the case of any other person, whichever of the numbers in respect of the person specified in paragraphs (b) and (c) of the definition of "tax reference number" in section 885(1) is appropriate,

(c) the appealable matter in respect of which the appeal is being made,

(d) the grounds for the appeal in sufficient detail for the Appeal Commissioners to be able to understand those grounds, and

(e) any other matters that, for the time being, are stipulated by the Appeal Commissioners for the purposes of this subsection.

(3) Where the provisions of the Acts relevant to the appeal concerned require conditions specified in those provisions to be satisfied before an appeal may be made, a notice of appeal shall state whether those conditions have been satisfied.

(4) Where an appeal is a late appeal, the notice of appeal shall state the reason the appellant was prevented from making the appeal within the period specified by the Acts for doing so.

(5)A copy of the notification that was received from the Revenue Commissioners (that is to say, the notification in respect of the matters the subject of the appeal) shall be appended to a notice of appeal.”

8. On 11 March 2024 the Appellant's [REDACTED] submitted a Statement of Case to the Commission on behalf of the Appellant. The Statement of Case states that the appeal relates to a refund of LPT overpaid for the years 2013 and 2018 inclusive. The Appellant's [REDACTED] submits the circumstances as to why [REDACTED] is involved in the Appellant's personal matters and [REDACTED] understanding of the background to the matter and the reason and the justification for the appeal as set out in the Notice of Appeal.
9. On 28 March 2024 the Respondent submitted its Statement of Case to the Commission.
10. On 6 June 2024 the Respondent submitted its Outline of Arguments.

Legislation

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

The Finance (Local Property Tax) Act 2013/ the LPT Act.

Section 949I of the Taxes Consolidation Act 1997/ the TCA 1997.

Submissions

The Appellant's submissions:

12. The Commissioner sets out hereunder a summary of the submissions made on behalf of the Appellant, as set out in the Appellant's Notice of Appeal;

The Appellant *"...has lived on his own for many many years and [REDACTED]
[REDACTED]
[REDACTED] I then became fully involved with his [REDACTED] financial affairs I can state honestly that [REDACTED] is not up to date with phone or Internet technology. [REDACTED] paid his property tax in good faith from day one but never asked or sought advise as to what band [REDACTED] should be in. On these grounds I hope you can look favourably on this appeal and allow the repayment for 2013-2018".*

The Respondent's submissions:

13. The Commissioner sets out hereunder an extract of the submissions made by the Respondent, as set out in its Statement of Case:

"The statutory provisions being relied upon:

Section 15 of the Finance (Local Property Tax) Act 2012 (as amended) provides that a liable person determines the market value of a property in accordance with Revenue Guidelines.

Section 26 of the Finance (Local Property Tax) Act 2012 (as amended) applies the usual 4-year time limit on repayment of overpaid taxes that applies to other types of taxes to LPT.

Section 26(4) allows for liable person to appeal a decision by Revenue not to allow a repayment.

Section 26. Repayment of local property tax.

(1) Subject to the provisions of this section, where a person has, in respect of a liability date, paid, whether directly or by deduction, an amount of local property tax which is not due from that person or which, but for an error or mistake in a return or statement made by the person for the purposes of an assessment to local property tax, would not have been due from the person, the person shall be entitled to repayment of the local property tax so paid.

(2) The Revenue Commissioners shall not make a repayment of the local property tax referred to in subsection (1) unless—

(a) a claim for repayment has been made to them,

(b) the claim for repayment referred to in paragraph (a) is made within 4 years after the end of the year in which the liability date in respect of which the payment was made falls,

(c) a true and complete return has been prepared and delivered under Part 7, and

(d) all the information that the Revenue Commissioners may reasonably require to enable them determine if and to what extent a repayment to local property tax is due to the person has been provided to them.

(3) Where the Revenue Commissioners make a repayment of local property tax, they may repay any such amount directly into an account, specified by the person to whom the amount is due, in a financial institution.

(4) Where a liable person is aggrieved by a decision of the Revenue Commissioners on a claim to repayment by the person, insofar as the decision is made by reference to any provision of this section, the person may appeal [the decision to the Appeal

Commissioners, in accordance with section 949I of the Act of 1997, within the period of 30 days after the date of the notice of that decision.]49

Section 35 of the Finance (Local Property Tax) Act 2012 (as amended) requires a liable person to prepare and deliver a return.

Section 949I of the Taxes Consolidation Act 1997 provides that any person who wishes to appeal an appealable matter shall do so by giving notice in writing to the Appeal Commissioners.

Background to the case

The LPT return was filed in May 2013. No valuation band was declared on the return, and it was deemed that ██████ accepted the Revenue estimated valuation in band 3 (€150,001-€200,000). At the time of filing the LPT return in May 2013, payment of €112, (which was the LPT charge appropriate to band 2 (€100,001 to €150,000)), was made by ██████ In October 2013 a compliance notice issued to ██████ and on foot of subsequent contact from ██████ the valuation of the property was amended downwards to band 2 (€100,001-€150,000). LPT was paid for all subsequent years up to 2021 based on this valuation band.

In November 2023, ██████ requested an amendment downwards to the valuation of his property to band 1, (0 – €100,000) for the valuation period 2013 to 2021. The request was supported by a professional valuation. When Revenue processed this amendment, it resulted in an LPT overpayment for all years from 2013 to 2021 inclusive. A refund of €405.00 for the years 2019 to 2021 issued to ██████ However, in accordance with Section 26(2)(b) of the Finance (Local Property Tax) Act 2012 (as amended), Revenue cannot repay the overpayments for the years 2013 – 2018, as the claim for repayment for these years was made over four years after the years in which the relevant liabilities were due.

3 (b) Legislative and Administrative basis for refusal to refund the overpayments arising for the years 2013 to 2018 inclusive.

LPT is administered in accordance with the Finance (Local Property Tax) Act 2012 (as amended). Revenue provides detailed guidance including an interactive valuation tool at www.Revenue.ie, for property owners to help them value their property. Revenue also issued an information booklet to all residential property owners, along with the 2013 LPT Return.

LPT is a self-assessed tax. Section 15 of the Act outlines that a liable person must value their property and make a Local Property Tax self-assessment return in accordance with Revenue guidelines. Property owners are required to determine the market value of their property as at the valuation date of 1 May 2013. This valuation applies to properties for a nine-year period up to and including 2021.

A property owner may self-correct their LPT return in cases where an incorrect valuation is submitted. The revised LPT liability replaces the original liability declared for 2013, and forms the basis for the 2014, 2015, 2016, 2017, 2018, 2019, 2020 and 2021 liability.

Section 26(2)(b) of the Finance (Local Property Tax) Act 2012 (as amended) specifically states that Revenue shall not make a repayment of LPT unless the claim for repayment is made within 4 years after the end of the year in which the liability date in respect of which the payment was made falls. As the claim made by [REDACTED] was made more than four years after the end of the years in which the relevant liability dates in respect of which the payments were made falls, Revenue cannot make a repayment for those years 2013 – 2018.

3 (c) Grounds for appeal

The appeal application was made by [REDACTED] on behalf of [REDACTED]. In the appeal application, [REDACTED] states that [REDACTED] is not up to date with phone or internet technology. She states that he paid his property tax in good faith from day one but never asked or sought advise as to what band [REDACTED] should be in. [REDACTED] states on these grounds [REDACTED] hopes we can look favourably on this appeal and allow the repayment for the years 2013 to 2018.

3 (d) Revenue's position

Revenue accepted [REDACTED] downward valuation of the property from Band 2, (100,001 – 150,000) to Band 1 (0 – 100,000). Revenue subsequently refunded the overpayment of LPT that arose for 2019, 2020 and 2021. Revenue is precluded from refunding the years 2013, 2014, 2015, 2016, 2017 and 2018 as the claim for repayment for these years was made over four years after the end of the years in which the relevant liability dates in respect of which the payments were made falls.”

Material Facts

14. Having considered and assessed the documentation submitted by the parties in this appeal, the Commissioner makes the following findings of material fact:

15. The Appellant is the owner of the Property. The Appellant is assisted in bringing ■ appeal to the Commission by the Appellant's ■.
16. Section 3 of the LPT Act defines the meaning of a "*relevant residential property*" and the Property is a relevant residential property for the purposes of section 3 of the LPT Act.
17. Section 11 of the LPT Act defines a liable person to LPT and the Appellant is a liable person for the purposes of section 11 of the LPT Act.
18. In November 2023 the Appellant advised the Respondent that ■ had paid LPT since 2013 at the incorrect valuation band and that ■ had overpaid LPT each year since 2013. The Appellant requested an amendment downwards to the valuation of the Property from Band 2 (€100,001 - €150,000) to Band 1 (€0 - €100,000) with regard to LPT for the valuation period 2013 to 2021.
19. On 20 December 2023 the Respondent issued its Decision and advised that: the LPT account had been amended to valuation Band 1 for 2013 to 2021 inclusive; a refund in the amount of €405 would issue to the Appellant in respect of the overpayment of LPT for the years 2019 to 2021; the claim for a repayment of LPT for the years 2013 to 2018 was refused on the basis that the claim was made outside of the four year time limit provided by section 26 of the LPT Act and that the four year time limit is statutory and the Respondent has no discretion regarding the application of the limit and therefore cannot make a repayment once the four year term has expired.
20. On 17 January 2024 the Appellant's Notice of Appeal was submitted to the Commission appealing the Decision of the Respondent not to refund the over payment made by the Appellant in respect of LPT for the years 2013-2018 inclusive.

Analysis

21. The Commissioner is bound by the prevailing legislation and guiding case law from the Superior Courts which has found, that in any appeal before the Commission, the burden of proof rests on the Appellant and that it is the Appellant who must satisfy the Commission at the threshold of the balance of probabilities, that an assessment to tax made against them is incorrect. This binding legal principle was stated in the High Court case of *Menolly Homes Ltd v Appeal Commissioners and Anor*. [2010] IEHC 49, wherein 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”.

22. The Commissioner also refers to paragraph 12 of the High Court case of *Menolly Homes*, wherein Charleton. J, 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...”.

23. The Commission is a statutory entity and it can only lawfully operate within the confines of empowering and enabling legislation. The Commissioner refers to *Lee v The Revenue Commissioners* [2021] IECA 18, wherein Murray, J. stated at paragraph 76:

“The jurisdiction of the Appeal Commissioners is limited to determining whether an assessment correctly charges the relevant taxpayer in accordance with the relevant provisions of the TCA. That means that 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. They may make findings of fact and law that are incidental to that inquiry. Noting the possibility that other provisions of the TCA may confer a broader jurisdiction and the requirements that may arise under European Law in a particular case, they do not in an appeal of the kind in issue in this case enjoy the jurisdiction to make findings in relation to matters that are not directly relevant to that remit, and do not accordingly have the power to adjudicate upon whether a liability the subject of an assessment has been compromised, or whether Revenue are precluded by legitimate expectation or estoppel from enforcing such a liability by assessment, or whether Revenue have acted in connection with the issuing or formulation of the assessment in a manner that would, if adjudicated upon by the High Court in proceedings seeking Judicial Review of that assessment, render it invalid.”

24. The Commissioner refers to the legislation relevant to this appeal:

Section 3 of the LPT Act: “relevant residential property”.

Subject to sections 3A to 10, where a building in the State is a residential property on a liability date, it shall, for the purposes of this Act, be a relevant residential property in relation to that liability date.

Section 11 of the LPT Act: Liable persons.

(1) Subject to the provisions of this section, a person who holds any estate, interest or right in a relevant residential property entitling that person to—

(a) the immediate possession of such a property for a period that may equal or exceed 20 years, or

(b) the receipts of rents or profits of such property for a period that may equal or exceed 20 years, Shall, for the purposes of this Act, be a liable person to that property.

Section 16 of the Finance (Local Property Tax) Act 2012 (as amended): Charge to local property tax.

(1) Subject to and in accordance with the provisions of this Act commencing with the year 2013, there shall be charged, levied and paid a tax to be known, and which is referred to in this Act, as “local property tax” in respect of the chargeable value of a relevant residential property.

(2) Subject to subsection (4), the local property tax shall be payable by the person who is the liable person in relation to the relevant residential property.

(3) Where more than one person is a liable person in relation to a relevant residential property, those persons shall be jointly and severally liable for the local property tax payable in respect of the property.

(4) Notwithstanding subsection (2), local property tax may be paid by another person on behalf of a liable person.

Section 17 of the Finance (Local Property Tax) Act 2012 (as amended): Amount of local property tax.

(1) In this section, a reference to the number of the band into which a relevant residential property falls is a reference to the number specified in column (1) of the Table to this section opposite the valuation band specified in column (2) of that Table into which the chargeable value (rounded down to the nearest euro) of the property falls.

Section 26 of the Finance (Local Property Tax) Act 2012 (as amended): Repayment of local property tax.

(1) Subject to the provisions of this section, where a person has, in respect of a liability date, paid, whether directly or by deduction, an amount of local property tax which is not due from that person or which, but for an error or mistake in a return or statement

made by the person for the purposes of an assessment to local property tax, would not have been due from the person, the person shall be entitled to repayment of the local property tax so paid.

(2) The Revenue Commissioners shall not make a repayment of the local property tax referred to in subsection (1) unless—

(a) a claim for repayment has been made to them,

(b) the claim for repayment referred to in paragraph (a) is made within 4 years after the end of the year in which the liability date in respect of which the payment was made falls,

(c) a true and complete return has been prepared and delivered under Part 7, and

(d) all the information that the Revenue Commissioners may reasonably require to enable them determine if and to what extent a repayment to local property tax is due to the person has been provided to them.

(3) Where the Revenue Commissioners make a repayment of local property tax, they may repay any such amount directly into an account, specified by the person to whom the amount is due, in a financial institution.

(4) Where a liable person is aggrieved by a decision of the Revenue Commissioners on a claim to repayment by the person, insofar as the decision is made by reference to any provision of this section, the person may appeal [the decision to the Appeal Commissioners, in accordance with section 949I of the Act of 1997, within the period of 30 days after the date of the notice of that decision.

Section 949I of the Taxes Consolidation Act 1997

(1) Any person who wishes to appeal an appealable matter shall do so by giving notice in writing in that behalf to the Appeal Commissioners.

25. The Commissioner has assessed all before the Commission and finds the following:
26. The Appellant paid LPT in respect of the Property for the years 2013-2018 but the valuation band the Property was declared to be in by the Appellant was too high and consequently the rate of LPT the Appellant was registered for and the amount of LPT paid by the Appellant was too high.
27. The Appellant notified the Respondent in November 2023 of the overpayment made by ■■■ of LPT for the years 2013-2018 and the Appellant claimed a refund of the overpayment amounts made by ■■■ for the years 2013-2018.

28. Section 26(2)(b) of the LPT Act provides inter alia that the Respondent shall not make a repayment of LPT unless the claim for repayment is made within four (4) years after the end of the year in which the liability date in respect of which the payment was made falls.

(2) The Revenue Commissioners shall not make a repayment of the local property tax referred to in subsection (1) unless—

(b) the claim for repayment referred to in paragraph (a) is made within 4 years after the end of the year in which the liability date in respect of which the payment was made falls,

29. The Commissioner notes that as the claim for repayment of the overpayment of LPT made for the years 2013-2018 was not made until November 2023, it was made outside of the statutory period within which to bring a claim of four years after the end of the years 2013-2018. The Commissioner further notes that accordingly, the Respondent is not permitted to make a repayment of the overpayment of LPT for the years 2013-2018 and that the Respondent is statutorily prohibited from doing so.

30. Having assessed all the material, documentation and submissions furnished by the parties and the prevailing legislation, the Commissioner finds that the Appellant has not established on the balance of probabilities that the Respondent erred in its Decision that it cannot give a repayment to the Appellant of the overpayment made by the Appellant in respect of LPT for the Property for the years 2013-2018.

31. Having assessed all submissions, material and evidence provided by both parties, the Commissioner determines that further to the provisions of section 949 AL (1) (b) of the TCA 1997 that the that the Decision of the Respondent shall stand.

Determination

32. The Commissioner for the reasons set out above finds that the Appellant has not been successful in ■■■ appeal.

33. The Commissioner acknowledges that the Appellant was within ■■■ rights to seek an appeal of the Respondent's Decision. The Commissioner understands that the Appellant may be disappointed with the outcome of ■■■ appeal.

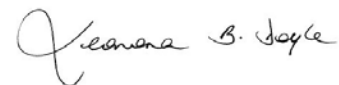
34. This Appeal is determined in accordance with the provisions of Part 40A of the TCA 1997 and in particular section 949U thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

Notification

35. 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

36. 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
12 August 2024