



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

161TACD2024

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”) regarding the decision by the Revenue Commissioners (“the Respondent”) to refuse the Appellant’s claim for a refund of income tax (“Income Tax”) paid by the Appellant for the taxable period from 1 January 2018 to 31 December 2018 (“2018 Income Tax Year”) and from 1 January 2019 to 31 December 2019 (“2019 Income Tax Year”). The Respondent submits that the Appellant is not entitled to a refund of Income Tax for the 2018 Income Tax Year nor the 2019 Income Tax Year as the Appellant submitted [REDACTED] returns for Income Tax for the 2018 Income Tax Year and the 2019 Income Tax Year and her claims for refund after the expiry of four years from the end of the relevant taxable period.
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. On [REDACTED] February 2024 a return for Income Tax for the 2018 and the 2019 Income Tax Years were submitted to the Respondent. The return filed by the Appellant with the Respondent for the 2018 Income Tax Year showed an overpayment of Income Tax in the amount of €1,760. The return filed by the Appellant with the Respondent for the 2019 Income Tax Year showed an overpayment of Income Tax in the amount of €1,900.
4. The Respondent advised the Appellant that [REDACTED] was not entitled to receive a repayment of the overpayment paid by [REDACTED] of Income Tax for the 2018 and the 2019 Income Tax Years as [REDACTED] had filed [REDACTED] return for the 2018 and the 2019 Income Tax Years and [REDACTED] claims for refunds on [REDACTED] February 2024 which was after the expiry of four years from the end of the 2018 and the 2019 Income Tax Years.
5. On 21 February 2024 the Appellant submitted [REDACTED] Notice of Appeal to the Commission in respect of [REDACTED] claims for refunds for overpayments of income tax for the 2018 and the 2019 Income Tax Years. An extract of the Appellant’s grounds of appeal regarding [REDACTED] claim for repayment for the 2019 Income Tax Year is as follows:

“1. I was not aware that I needed to file for tax returns being a non resident in 2019. I relocated to Ireland in 2023 and learned of this. I had my real estate agent pay the taxes on a rental income and did not know that I needed to file a tax return form.

2. I was not aware that tax returns needed to be filed within 4 years for replay.

3. I have payed taxes an a non resident landlord and would appreciate receiving the repayment for the taxes owed to me.”

6. The Appellant submitted a separate Notice of Appeal regarding her claim for repayment of the overpayment of Income Tax paid for the 2018 Income Tax Year is similar terms as the above Notice of Appeal save and except that the claim relates to ■■■ not being a resident in 2018 and the amount of the overpayment was €1,760.00.
7. In April 2024 the Appellant submitted two separate Statements of Case to the Commission in respect of ■■■ claims for repayment in respect of the 2018 and the 2019 Income Tax Years.
8. In May 2024 the Respondent submitted two separate Statements of Case to the Commission.

Legislation

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

Section 959I (1) of the TCA 1997.

Section 865 of the TCA 1997.

Submissions

The Appellant's Submissions:

10. The Commissioner sets out hereunder a summary and extracts of the Appellant's submissions as per ■■■ Statement of Case pertaining to her appeal in respect of the claim for repayment of the overpayment for the 2019 Income Tax Year. The Commissioner notes that with the exception of the exceptions highlighted at paragraph 6 hereof that the Appellant's Statement of Case concerning ■■■ appeal in respect of the claim for repayment of the overpayment for the 2018 Income Tax Year is without significant difference and it is not required to set out below separately.

That she had been living in ■■■ and ■■■ was unaware of the changes to tax returns. That ■■■ was unable to travel to Ireland during the years of 2020 and 2021 due to Covid travel restrictions. ■■■ ■■■ which also contributed to the stress the family were under. In August 2023 ■■■ returned to Ireland to relocate and begin life in Ireland and ■■■ completed all tax returns that were outstanding for the period 2018-2022. ■■■ remitted all rental taxes to the Respondent for the duration of the period ■■■ had rented out ■■■ property. ■■■ was unaware of the changes relating to filing of returns to the Respondent within a four year period.

█ requested that the overpayment made by █ be repaid to █. █ *“....is under financial hardship and in good faith has always remitted taxes to revenue on █ rental property”*. █ was unaware *“.....of the law changes related to filing of taxes to receive tax return given that █ had been living abroad up until August 2023”*.

The Respondent's Submissions:

11. The Commissioner sets out hereunder a summary and extracts of the Respondent's submissions as per its Statement of Case in respect of the Appellant's appeal regarding the 2019 Income Tax Year. For the same reasons as set out at paragraph 10 hereof of the Respondent's Statement of Case concerning the Appellant's appeal in respect of the claim for repayment of the overpayment for the 2018 Income Tax Year is without significant difference and it is not required to set out below separately. For the sake of clarity in the extract exhibited below regarding the 2019 Income Tax Year the details in the Statement of Case regarding the 2018 Income Tax Year under the title *“Outline of relevant facts”* are that the Form 11 Income Tax Return for the year ended 31st December 2018 was submitted to Revenue and it resulted in an overpayment of €1760 and that as the return was filed more than 4 years after the end of the 2018 tax year, the overpayment is statute barred and repayment of tax cannot be made.

“Statutory provisions being relied on

Section 959I (1) Taxes Consolidation Act 1997

Section 865 Taxes Consolidation Act 1997

Section 959I (1) Obligation to make a return. Every chargeable person shall as respects a chargeable period prepare and deliver to the Collector- General on or before the specified return date for the chargeable period a return in the prescribed form.

Section 865 Repayment of Tax

Section 865 (1)

(1) “valid claim” shall be construed in accordance with paragraph (b).

(b) For the purposes of subsection (3) –

(i) where a person furnishes a statement or return which is required to be delivered by the person in accordance with any provision of the Acts for a chargeable period, such a statement or return shall be treated as a valid claim in relation to a repayment of tax where –

(I) all the information which the Revenue Commissioners may reasonably require to enable them determine if and to what extent a repayment of tax is due to the person for that chargeable period is contained in the statement or return, and

(II) the repayment treated as claimed, if due—

(A) would arise out of the assessment to tax, made at the time the statement or return was furnished, on foot of the statement or return, or

(B) would have arisen out of the assessment to tax, that would have been made at the time the statement or return was furnished, on foot of the statement or return if an assessment to tax had been made at that time,

(ii) where all information which the Revenue Commissioners may reasonably require, to enable them determine if and to what extent a repayment of tax is due to a person for a chargeable period, is not contained in such a statement or return as is referred to in subparagraph (i), a claim to repayment of tax by that person for that chargeable period shall be treated as a valid claim when that information has been furnished by the person, and

(iii) to the extent that a claim to repayment of tax for a chargeable period arises from a correlative adjustment, the claim shall not be regarded as a valid claim until the quantum of the correlative adjustment is agreed in writing by the competent authorities of the two Contracting States.

Section 865 (2)

Subject to the provisions of this section, where a person has, in respect of a chargeable period, paid, whether directly or by deduction, an amount of 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 tax, would not have been due from the person the person shall be entitled to repayment of the tax so paid.

Section 865 (3)

A repayment of tax shall not be due under subsection (2) unless a valid claim has been made to the Revenue Commissioners for that purpose.

(3A) (a) Subject to paragraph (b), subsection (3) shall not prevent the Revenue Commissioners from making, to a person other than a chargeable person (within the meaning of [Part 41A]) a repayment in respect of tax deducted, in accordance

with Chapter 4 of Part 42 and the regulations made thereunder, from that person's emoluments for a year of assessment where, on the basis of the information available to them, they are satisfied that the tax so deducted, and in respect of which the person is entitled to a credit, exceeds the person's liability for that year.

(b) A repayment referred to in paragraph (a) shall not be made at a time at which a claim to the repayment would not be allowed under subsection (4).

Section 865 (4)

Subject to subsection (5), a claim for repayment of tax under the Acts for any chargeable period shall not be allowed unless it is made –

- a) in the case of claims made on or before 31 December 2004, under any provision of the Acts other than subsection (2), in relation to any chargeable period ending on or before 31 December 2002, within 10 years,*
- b) in the case of claims made on or after 1 January 2005 in relation to any chargeable period referred to in paragraph (a), within 4 years, and*
- c) in the case of claims made-*
 - i. under subsection (2) and not under any other provision of the Acts, or*
 - ii. in relation to any chargeable period beginning on or after 1 January 2003 within 4 years, after the end of the chargeable period to which the claim relates.*

2: Outline of relevant facts

The Form 11 Income Tax Return for the year ended 31st December 2019 was submitted to Revenue on 6th February 2024. This resulted in an overpayment of €1900. As the return was filed more than 4 years after the end of the 2019 tax year, the overpayment is statute barred and repayment of tax cannot be made.

In accordance with Section 959(1) a chargeable person shall deliver a return to the Collector General for each year that they are/were a chargeable person.

The Appellant did not deliver the return for the period ended 31st December 2019 until the ■ February 2024. In order to be within the 4-year time limit, the return should have been filed by 31st December 2022 for the 2019 tax period.

In accordance with Section 865(1)(a) a "valid claim" shall be construed in accordance with paragraph (b). Per Section 865(1)(b) a valid claim to the repayment of tax arises

when a person furnishes a return as required to be delivered in accordance with any provision of the Tax Acts. In this case as a chargeable person the Appellant was required to file Form 11 Income Tax returns for the period 31st December 2019.

Per Subsection 865(4) a claim for the repayment of tax under the Acts for any chargeable period shall not be allowed unless it is made within 4 years after the end of the chargeable period to which the claim relates.

The Revenue Commissioners submit that a claim for repayment of tax must be made within four years after the end of the tax year to which the claim relates. The Revenue Commissioner's position is that no valid claim for repayment had been made by the Appellant within the four- year limitation period per s.865(4) TCA 1997 and that as a result, the repayment claim in respect of the tax year of assessment 2019, is out of time.

In order for the Appellant's claim to be a valid claim for the repayment of tax, the tax return required to be filed in accordance with Section 959(I) must have been filed by 31st of December 2023 for the 2019 tax period (4 years). As the Appellant did not file the return until 6th February 2024 the repayment shall not be allowed in accordance with Section 865(4) and is statute barred.

3. Relevant case law:

Tax Appeal Commission Determinations: 18TACD2016, 19TACD2016, 21TACD2016, 26TACD2016, 2TACD2017, 8TACD2017, 11TACD2017, 26TACD2017, 11TACD2017, 26TACD2017, 9TACD2018, 12TAC2018, 16TACD2018, 19TACD2018, 25TACD2018, 29TACD2018, 03TACD2019, 4TACD2019, 14TACD2019, 20TACD2019, 69TACD2019, 70TACD2019, 01TACD2020, 17TACD2020, 78TCD2020, 80TACD2020, 81 TACD2020, 82 TACD2020, 83TACD2020, 85TACD2020, 86TACD2020, 95TACD2020, 96TACD2020, 103TACD2020,105TACD2020, 87TACD2021, 104TACD2021, 111TCAD2021, 125TACD 2021, 03TACD2022, 04TACD2022, 05TACD2022, 25TACD2022, 26TACD2022, 154TACD2023 and 135TACD2023.

In each of the above listed cases the Tax Appeal Commission has determined that "the use of the word 'shall' per s.865(4) TCA 1997, indicates an absence of discretion in the application of this provision. The wording of the provision does not provide for extenuating circumstances in which the four year rule might be mitigated. In short, I do not consider that I have the authority or jurisdiction to direct that a repayment be made

to the Appellant where the claim for repayment is outside the four-year period specified in s.865(4) TCA 1997’.

Material Facts

12. Having considered and assessed the documentation submitted by the parties in this appeal, the Commissioner makes the following findings of material fact:
13. In February 2024 returns for Income Tax for the 2018 and the 2019 Income Tax Years were filed by the Appellant with the Respondent which stated an overpayment by the Appellant in the sum of €1,760 for the 2018 Income Tax Year and €1,900.00 for the 2019 Income Tax Year.
14. The Respondent refused the Appellant’s claim for a refund to ■■■ of the overpayment of Income tax paid by her for the 2018 and the 2019 Income Tax Years.
15. On 21 February 2024 the Appellant filed ■■■ Notice of Appeal with the Commission appealing the refusal by the Respondent to make a repayment to ■■■ of the overpayment of Income Tax made by her for the 2018 and the 2019 Income Tax Years.

Analysis

16. 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”.

17. 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..."

18. 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.”

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

Section 865 of the TCA 1997 inter alia provides:

(1) (a) In this section and section 865A—

“Acts” means the Tax Acts, the Capital Gains Tax Acts, Part 4A, Part 18A, Part 18C, Part 18D, Part 22A and Part 22B and instruments made thereunder;

“chargeable period” has the meaning assigned to it by section 321;

“tax” means any income tax, corporation tax, capital gains tax, income levy, domicile levy, [universal social charge, residential zoned land tax or vacant homes tax or IIR top-up tax, UTPR top-up tax or domestic top-up tax (each within the meaning of Part 4A) and includes—

(i) any interest, surcharge or penalty relating to any such tax, levy or charge,

(ii) any sum arising from the withdrawal or clawback of a relief or an exemption relating to any such tax, levy or charge,

(iii) any sum required to be deducted or withheld by any person and paid or remitted to the Revenue Commissioners or the Collector-General, as the case may be, and

(iv) any amount paid on account of any such tax, levy or charge or paid in respect of any such tax, levy or charge;

“valid claim” shall be construed in accordance with paragraph (b).

(b) For the purposes of subsection (3) –

(i) where a person furnishes a statement or return which is required to be delivered by the person in accordance with any provision of the Acts for a chargeable period, such a statement or return shall be treated as a valid claim in relation to a repayment of tax where –

(I) all the information which the Revenue Commissioners may reasonably require to enable them determine if and to what extent a repayment of tax is due to the person for that chargeable period is contained in the statement or return, and

(II) the repayment treated as claimed, if due—

(A) would arise out of the assessment to tax, made at the time the statement or return was furnished, on foot of the statement or return, or

(B) would have arisen out of the assessment to tax, that would have been made at the time the statement or return was furnished, on foot of the statement or return if an assessment to tax had been made at that time,

(ii) where all information which the Revenue Commissioners may reasonably require, to enable them determine if and to what extent a repayment of tax is due to a person for a chargeable period, is not contained in such a statement or return as is referred to in subparagraph (i), a claim to repayment of tax by that person for that chargeable period shall be treated as a valid claim when that information has been furnished by the person, and

(iii) to the extent that a claim to repayment of tax for a chargeable period arises from a correlative adjustment, the claim shall not be regarded as a valid claim until the quantum of the correlative adjustment is agreed in writing by the competent authorities of the two Contracting States.

(2) Subject to the provisions of this section, where a person has, in respect of a chargeable period, paid, whether directly or by deduction, an amount of 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 tax, would not have been due from the person, the person shall be entitled to repayment of the tax so paid.

(2A) Where a chargeable person (within the meaning of Part 41A) makes a claim under subsection (2) for repayment of tax which, but for an error or mistake referred to in that subsection, would not have been due it shall not constitute a valid claim for the purposes of subsection (3) unless the return and self assessment for the period to which the claim relates is amended, in accordance with section 959V, to correct the error or mistake.

(2B) Where a chargeable person (within the meaning of section 950) makes a claim under subsection (2) for repayment of tax which, but for an error or mistake referred to in that subsection, would not have been due and the claim relates to an accounting period which commenced before 1 January 2013 or to a year of assessment before the year of assessment 2013 it shall not constitute a valid claim for the purposes of subsection (3) unless the person's return for the accounting period or year of assessment, as the case may be, to which the claim relates is amended in accordance with section 959V to correct the error or mistake, and for this purpose section 959V shall apply to such an amendment as if—

(a) subsections (2) and (4) of that section were deleted,

(b) references in that section to "return and a self assessment", "return and the self assessment" and "return or self assessment" were references to "return", and

(c) references in that section to section 959Z were references to section 956.

(3) A repayment of tax shall not be due under subsection (2) unless a valid claim has been made to the Revenue Commissioners for that purpose.

(3A) (a) Subject to paragraph (b), subsection (3) shall not prevent the Revenue Commissioners from making, to a person other than a chargeable person (within the meaning of Part 41A), a repayment in respect of tax deducted, in accordance with Chapter 4 of Part 42 and the regulations made thereunder, from that person's emoluments for a year of assessment where, on the basis of the information available to them, they are satisfied that the tax so deducted, and in respect of which the person is entitled to a credit, exceeds the person's liability for that year.

(b) A repayment referred to in paragraph (a) shall not be made at a time at which a claim to the repayment would not be allowed under subsection (4).

(4) Subject to subsection (5), a claim for repayment of tax under the Acts for any chargeable period shall not be allowed unless it is made –

(a) in the case of claims made on or before 31 December 2004, under any provision of the Acts other than subsection (2), in relation to any chargeable period ending on or before 31 December 2002, within 10 years,

(b) in the case of claims made on or after 1 January 2005 in relation to any chargeable period referred to in paragraph (a), within 4 years, and

(c) in the case of claims made –

(i) under subsection (2) and not under any other provision of the Acts, or

(ii) in relation to any chargeable period beginning on or after 1 January 2003, within 4 years, after the end of the chargeable period to which the claim relates.

(5) Where a person would, on due claim, be entitled to a repayment of tax for any chargeable period under any provision of the Acts other than this section, and –

(a) that provision provides for a shorter period, within which the claim for repayment is to be made, which ends before the relevant period referred to in subsection (4), then this section shall apply as if that shorter period were the period referred to in subsection (4), and

(b) that provision provides for a longer period, within which the claim for repayment is to be made, which ends after the relevant period referred to in subsection (4), then that provision shall apply as if the longer period were the period referred to in subsection (4).

(6) Except as provided for by this section, section 865A or by any other provision of the Acts, the Revenue Commissioners shall not –

(a) repay an amount of tax paid to them, or

(b) pay interest in respect of an amount of tax paid to them.

(7) Where any person is aggrieved by a decision of the Revenue Commissioners on a claim to repayment by that person, in so far as that 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, within the period of 30 days after the date of the notice of that decision.

20. The Commissioner refers to section 865(2) of the TCA 1997 which provides that a person is entitled to a repayment of tax paid where an amount of tax paid is not due from that person.
21. The Commissioner refers to the section 865(3) of the TCA 1997 which provides that a repayment of tax is not due to the claimant unless a valid claim has been made to the Respondent.
22. The Commissioner refers to section 865(1)(b)(i) of the TCA1997 which provides that where a person furnishes a return which is required to be delivered by the person for a chargeable period, such a return shall be treated as a valid claim in relation to a repayment of tax where all the information which the Respondent may reasonably require to enable them determine if and to what extent a repayment of tax is due is contained in the return furnished by the person.
23. The Commissioner refers to section 865(1)(b)(ii) of the TCA1997 which provides that where all the information which the Respondent may reasonably require to enable it to determine if and to what extent a repayment of tax is due is not contained in the return furnished by the applicant, a claim for repayment of tax shall be treated as a valid claim when that information has been furnished by the applicant.
24. The Commissioner notes that it is a Material Fact that the Appellant did file returns for the 2018 and the 2019 Income Tax Years in February 2024 and that ■■■ did make a claim for repayment of the overpayment made by ■■■ in the 2018 and the 2019 Income Tax Years in February 2024.
25. The Commissioner refers to section 865(4) of the TCA 1997 which provides that “...a claim for repayment of tax under the Acts for any chargeable period shall not be allowed unless it is made- (ii) in relation to any chargeable period beginning on or after 1 January 2003, within 4 years.”
26. The Commissioner has assessed the above provisions and finds that the legislation provides that the word “shall” means that the application of the four years rule is mandatory and that there is no leeway and/or discretion. The Commissioner having assessed the circumstances of the appeal and the Material Facts finds that the claim for repayment of the overpayment of Income Tax for the 2018 and the 2019 Income Tax Years was made after the expiry of four years from the end of the 2018 and the 2019 Income Tax Years and that section 865(4) of the TCA 1997 mandates and dictates that the Respondent cannot give any repayment to the Appellant in respect of any

overpayment of Income Tax for the 2018 Income Tax Year and the 2019 Income Tax Year.

27. The Commissioner states that she has no discretion to direct that repayments be made or credits allocated to the Appellant where the claim for repayment was made after the expiry of four years from the end of the relevant taxable period as specified at section 865(4) of the TCA 1997.
28. The Commissioner has assessed all matters in this appeal and finds that the Appellant has not established on the balance of probabilities that the Respondent erred in not making a repayment to the Appellant of the overpayment of Income Tax for the 2018 Income Tax Year and the 2019 Income Tax Year. Accordingly, for the reasons set out above the Commissioner finds that the Appellant's appeal is unsuccessful in respect of both appeals in respect of both the 2018 Income Tax Year and the 2019 Income Tax Year.

Determination

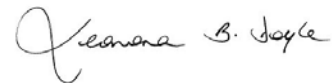
29. Having assessed all the material, documentation and submissions furnished by the parties and the prevailing legislation, the Commissioner finds that the Appellant has not established on the balance of probabilities that the Respondent erred in its decision that it cannot give a repayment to the Appellant of the overpayment made by the Appellant in respect of Income Tax for the 2018 Income Tax Year and the 2019 Income Tax Year.
30. The Commissioner for the reasons set out above finds that the Appellant has not been successful in ■■■ appeal. The Commissioner finds that the decision by the Respondent to refuse the Appellant's claim for a refund of Income Tax paid by the Appellant for the 2018 and the 2019 Income Tax Years shall stand further to the provisions of section 949 AL (1) (b) of the TCA 1997.
31. The Commissioner acknowledges that the Appellant was within ■■■ rights to seek an appeal of the decision by the Respondent to refuse the Appellant's claim for a refund of Income Tax paid by the Appellant for the 2018 and the 2019 Income Tax Year. The Commissioner understands that the Appellant may be disappointed with the outcome of ■■■ appeal.
32. 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

33. 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. This determination is final and conclusive. 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

34. 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
14 August 2024