



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH  
TAX APPEALS COMMISSION

195TACD2024

Between

[REDACTED]

**Appellant**

and

**The Revenue Commissioners**

**Respondent**

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**Determination**

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## **Contents**

Introduction .....	3
Background.....	3
Legislation and Guidelines .....	4
Submissions .....	5
Appellant .....	5
Respondent.....	5
Material Facts .....	6
Analysis .....	7
Section 26 of the Finance (Local Property Tax) Act 2012 .....	7
Determination .....	8
Notification .....	8
Appeal .....	9

## **Introduction**

1. This is an appeal to the Tax Appeals Commission (“the Commission”) brought by [REDACTED] [REDACTED] (“the Appellant”) under section 26(4) of the Finance (Local Property Tax) Act 2012 and section 949I of the Taxes Consolidation Act 1997 (“the TCA 1997”), against a refusal by the Revenue Commissioners (“the Respondent”) of a claim made by the Appellant for a repayment of local property tax (“LPT”) in respect of a property with property ID [REDACTED] (“the Property”) in the amount of €2,047.00 for the tax years 2013, 2014, 2015, 2016, 2017, 2018 and 2019 (“the relevant years”), on the ground that the Appellant’s claim for a repayment of overpaid LPT for the relevant years was made outside the statutory timeframe.
2. By agreement with the parties, this appeal is adjudicated without a hearing, under section 949U of the TCA 1997.

## **Background**

3. On 14 May 2024, the Appellant contacted the Respondent to state that she had been paying LPT without knowing that she was exempt, in circumstances where her property was built to meet the needs of [REDACTED]. She requested a repayment of all LPT paid.
4. On 23 May 2024, the Respondent contacted the Appellant to acknowledge a fully completed claim form for exemption from LPT. The Respondent stated that the Property met the criteria for exemption from 2013 onwards. The Respondent informed the Appellant that a repayment in respect of 2020 onwards was being reviewed, but repayments for the relevant years were not available. On the same date, the Appellant replied to the Respondent that she was entitled to the full amount of LPT paid and she expected it to be repaid.
5. On 30 May 2024, the Respondent wrote to inform the Appellant that repayments claimed four years after the end of the year in which the overpayment arises cannot be repaid and accordingly, repayments for the relevant years were not available after the end of 2023 and only repayments for the years 2020 – 2024 were approved.
6. On 11 June 2024, the Appellant submitted a Notice of Appeal and correspondence between herself and the Respondent to the Commission. On 14 August 2024, the Appellant submitted a Statement of Case. In neither her Notice of Appeal nor her Statement of Case did the Appellant dispute that she had claimed overpaid LPT for the relevant years in 2024.

7. On 30 August 2024, the Respondent submitted a Statement of Case, with enclosures. The Commissioner has considered all of the documentation submitted by the parties in this appeal.

### **Legislation and Guidelines**

8. The legislation relevant to this appeal is as follows:
9. Section 26 of the Finance (Local Property Tax) Act 2012 provides:

*“(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.”*

## Submissions

### Appellant

10. In her Notice of Appeal, the Appellant submitted:

*"I would like to lodge a formal complaint against the LPT1 of Revenue Commissioners. I am a full time Carer of [REDACTED]. I have been paying Property Tax since 2012. I was unaware that I was EXEMPT from this payment as my bungalow was purpose built to care [REDACTED]. I only discovered this recently and highlighted this with Revenue. I was also caring for [REDACTED]. Any letters arriving to my home were therefore not being looked at in great detail. They are only refunding me for the past 4 years, however I am still due €2,047 since 2012. They are stating laws to me, however [REDACTED] was always eligible as was my home. I would like that you can help me obtain my refund. Their website provided me with no information nor did any of their letters."*

11. In her Statement of Case, the Appellant reiterated the submission made in her Notice of Appeal and also submitted the following (among other things):

*"At no point in time did I receive any publications from the Revenue to state that properties lived in by persons with disabilities which are adapted are exempt...Even though the 4 year rule exists, the Revenue Commissioners have access to my circumstances. They can see clearly that I am in receipt of Carer's Allowance for [REDACTED]. I am trying at the moment to save for a wheelchair accessible vehicle and the amount of €2,047 would help me to purchase this to make life easier for us...There should be a clear visual option or exemption button to help people like me... As well as caring for [REDACTED]. ...To say that I have been under immense pressure is an understatement...I was not in a position to read any small print on websites or watch television. I had no support with regard [to] home care and I had no time for myself. Such a situation should therefore be considered with compassion."*

### Respondent

12. In its Statement of Case, the Respondent submitted (among other things):

*"Upon receipt of the completed Form LPT7 and review of the case, an exemption from LPT was approved for both valuation periods (2013-2021 and 2022-2025) and the Appellant was advised of this. When Revenue approved the exemption, it generated an LPT overpayment for all years from 2013 to 2024 inclusive. A refund of the LPT*

*paid for 2020, 2021, 2022, 2023 and 2024 (€986) issued to the Appellant. 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 – 2019 (€2047), as the claim for repayment for these years was made over four years after the years in which the relevant liability dates occurred...*

*In May 2013 the Appellant self-assessed the value of the property as of 1 May 2013 and filed the LPT return online for the first valuation period (2013-2021), declaring the property valuation in Band 3 (150,001 – 200,000) and she did not claim an exemption. The LPT return advised property owners to refer to the exemption list in the LPT Booklet provided with the return. The Appellant paid the associated LPT charge for all years from 2013 to 2021.*

*In November 2021 the Appellant self-assessed the value of the property as of 1 November 2021 and filed an LPT return online for the second valuation period (2022-2025), declaring the property valuation in Band 1 (0 – 200,000) and she did not claim an exemption for properties purchased, adapted or built for use by incapacitated persons.*

*The Appellant wrote to Revenue in May 2024 stating she had been paying her LPT without the knowledge that she was exempt from the charge to LPT. Following receipt of the completed Form LPT7 and review of the application for an exemption, Revenue accepted the Appellant's application for an exemption from LPT of a "Residence of a severely incapacitated individual" for all years from 2013 to 2025. Revenue refunded the overpayment of LPT that arose for 2020, 2021, 2022, 2023 and 2024. Revenue is precluded from refunding the years 2013, 2014, 2015, 2016, 2017, 2018 and 2019 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**

13. Having read the documentation submitted, the Commissioner makes the following findings of material fact:
  - 13.1. The Appellant paid LPT in respect of the Property for the years 2013 to 2024.
  - 13.2. On 14 May 2024, the Appellant contacted the Respondent regarding exemption from LPT in respect of the Property and requested a repayment of all LPT paid.

- 13.3. On 23 May 2024, the Respondent acknowledged receipt of a fully completed claim form for exemption from LPT and informed the Appellant that the Property met the criteria for exemption from 2013 onwards.
- 13.4. On 30 May 2024, the Respondent confirmed to the Appellant that a repayment for the years 2020 – 2024 had been approved. The Respondent refused a repayment of the overpaid LPT for the relevant years on the ground that the Appellant had claimed repayment outside the four year statutory time limit.

### **Analysis**

14. This appeal relates to the Respondent's refusal of the Appellant's claim for a repayment of overpaid LPT for the relevant years. The Commissioner is confined to considering whether that decision was in accordance with the applicable legislation.
15. In an appeal before the Commission, the burden of proof rests on the Appellant, who in this appeal must show that the Respondent was incorrect to refuse a claim for repayment of the amount of LPT overpaid by the Appellant for the relevant years. In the High Court case of *Menolly Homes Ltd v Appeal Commissioners and another* [2010] IEHC 49, Charleton J. stated at paragraph 22 that:

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

#### *Section 26 of the Finance (Local Property Tax) Act 2012*

16. Section 26(1) of the Finance (Local Property Tax) Act 2012 provides that a person is entitled to a repayment of tax paid where that tax is not due from that person. However, section 26(2) of the Finance (Local Property Tax) Act 2012 provides (among other things) that "*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,*" (emphasis added).
17. In this appeal, the relevant tax years were 2013, 2014, 2015, 2016, 2017, 2018 and 2019. Therefore, the claims for a repayment of LPT must have been made on or before 31 December 2017, 31 December 2018, 31 December 2019, 31 December 2020, 31 December 2021, 31 December 2022 and 31 December 2023 respectively. The Appellant has not disputed that she claimed a repayment of the overpaid LPT for the relevant years

in May 2024. Having regard to this, the Commissioner is satisfied that the Appellant's claim fell outside the four year time limit prescribed in section 26(2) of the Finance (Local Property Tax) Act 2012.

18. The use of the word "shall" in section 26(2) of the Finance (Local Property Tax) Act 2012 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. The legislation does not afford the Commissioner any discretion to disapply the rule.
19. Previous determinations of the Commission have addressed the matter of repayment in the context of the four year statutory limitation period. These determinations may be found on the Commission website<sup>1</sup>.
20. The Commissioner appreciates that this decision will be disappointing for the Appellant. The Commissioner acknowledges the family circumstances and caring responsibilities which the Appellant outlined on appeal. The Appellant was entitled to check whether the Respondent's refusal of her claim for a repayment of LPT was correct. However as noted above, the legislation does not afford the Commissioner any discretion on this matter.

### **Determination**

21. For the reasons set out above, the Commissioner determines that the Appellant has not succeeded in showing that the Respondent was incorrect to refuse the Appellant's claim for a repayment of LPT in the amount of €2,047.00 for the relevant years, under section 26(2) of the Finance (Local Property Tax) Act 2012.
22. This Appeal is determined in accordance with 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**

23. 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

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<sup>1</sup> [www.taxappeals.ie](http://www.taxappeals.ie)



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**

24. 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.



Jo Kenny  
Appeal Commissioner  
9 October 2024