



Between

99TACD2024

██████████

Appellant

and

REVENUE COMMISSIONERS

Respondent

Determination

Introduction

1. This is an appeal to the Tax Appeals Commission (“the Commission”) brought by ██████████ (“the Appellant”) regarding a Statement of Liability (“SOL”) issued by the Revenue Commissioners (“the Respondent”) in respect of the tax year 2022, which showed an underpayment of income tax in the amount of €1,126.37.
2. In accordance with the provisions of section 949U of the Taxes Consolidation Act 1997 as amended (“TCA 1997”) and by agreement with the parties, this appeal is determined without a hearing.

Background

3. On 11 January 2024, the Appellant made an application for the Help to Buy scheme. As part of this process, the Appellant was required to submit income tax returns for the tax years 2021 to 2023. Following the submission of his returns, on 19 January 2024, SOLs issued in respect of the tax years 2021, 2022 and 2023.

4. The SOL for the 2022 tax year showed an underpayment of €1,126.37 (PAYE €945.43 + USC €180.94). On 6 February 2024, the Appellant appealed to the Commission against the 2022 SOL.
5. On 7 May 2024, the Commission notified the parties that the Commissioner considered the appeal suitable for determination without an oral hearing, pursuant to section 949U of the TCA 1997. They were informed that they could object to the Commissioner proceeding without an oral hearing within 21 days of the notice, and that they could also submit any additional documentation that they wished the Commissioner to consider within 21 days. Neither party objected to the appeal being determined without a hearing. The Commissioner is satisfied that it is appropriate to determine this appeal without an oral hearing.

Legislation

6. Section 949A of the TCA 1997 provides that an “appealable matter” means “*any matter in respect of which an appeal is authorised by the Acts.*”

Submissions

Appellant

7. The Appellant submitted that

“The matter under dispute concerns the total amount of €1,126.37 which was deemed an ‘underpayment’ by the [Respondent].

However, to my understanding, a change in employment was the sole cause of this and the problem then lay with the [Respondent] as I never amended my tax or changed anything.

The [Respondent has] responded to my appeal and the evidence also suggests that the mistake was on [its] behalf.

In [its] response - “The underpayment arose when you changed employment from [the first employer] to [the second employer]. When you moved employments, your tax credits were moved to [the second employer] and a Revenue Payroll Notification (RPN) was issued to this employer. However, the RPN issued did not note your previous pay & tax information from your employment with [the first employer].”

Respondent

8. The Respondent submitted that

“The Respondent would note that the underpayment for tax year 2022 materialised when the Appellant changed employments during 2022. The Appellant was employed by [the first employer] in 2022 before changing employments to [the second employer] in November 2022.

On 21 October 2022, [the first employer] registered a second employment on the record of the Appellant to process a payment. This second employment was ceased on the same date it was registered. However, the original employment from [the first employer] remained active on the record of the Appellant at this time.

On 4 November 2022, following a call to the PAYE Helpline, a caseworker manually transferred all tax credit, rate band and Universal Social Charge (USC) allocations to the new employment of the Appellant; [the second employer]. The taxation basis for the new employment was cumulative tax basis, but this information did not include all previous pay and tax information from his [first employer] employment. Instead, it just included the payment reported on the second [first employer] employment, which meant that not all payroll from 1 January 2022 was available to the new employer of the Appellant when they operated his first payment from them in November 2022.

The Respondent can confirm that a Revenue Payroll Notification 8 (RPN) issued to [the second employer] on 4 November 2022 and this RPN only contained the pay & tax information relating to the second employment for [the first employer]. The RPN did not have any details of income received by the Appellant from 1 January 2022 – 25 September 2022, therefore, the Appellant was incorrectly in receipt of additional tax credit and rate band allocations for his remaining pay periods 2022.

The Respondent would further note that tax credits which had been previously used by the Appellant in his former employment with [the first employer] between January – September 2022 were utilised again by his new employer through no fault of their own or the Appellant. Unfortunately, in this case, the caseworker that spoke with the Appellant on 4 November 2022, should not have amended his taxation position to cumulative basis, and instead should have left his taxation basis on a week 1 basis until the former employments of the Appellant were fully ceased on his record. Due to this oversight, the Appellant received a refund of €838.95 in their payroll with [the second employer] on 17 November 2022 and had the benefit of additional tax credit and rate band allocations for the remainder of 2022.

For the remainder of 2022, the Appellant did not have any income tax or USC deducted from his employment with [the second employer]. The former employer of the Appellant updated their details on 19 November 2022 and ceased the main employment on the

record of the Appellant. They also amended the payroll on record from the second employment to nil and updated this income on the main employment. No revised Revenue Payroll Notification issued to [the second employer], therefore leaving the Appellant in receipt of previously used tax credit and rate band allocations for the remainder of 2022. Unfortunately, as the Appellant received this benefit in year, he had an underpayment on record when he finalised his income tax position for 2022 in January 2024.

The Respondent has engaged with the Appellant regarding his underpayment for 2022 in correspondence sent to him on 11 March 2024. While sympathetic to the position of the Appellant, the Respondent is satisfied that the underpayment for 2022 is correct.”

Material Facts

9. Having read the documentation submitted by the parties, the Commissioner makes the following findings of material fact:
 - 9.1. The Appellant received a SOL for the tax year 2022 which showed an underpayment of income tax in the amount of €1,126.37.
 - 9.2. The underpayment arose following the Appellant’s change of employment in 2022. While the underpayment did not arise due to the fault of the Appellant, he had not shown that the underpayment as stated on the SOL was incorrect.

Analysis

10. The burden of proof in this appeal rests on the Appellant, who must show that the SOL for 2022 incorrectly stated that he had underpaid income tax for 2022 in the amount of €1,126.37. In the High Court case of *Menolly Homes Ltd v. Appeal Commissioners* [2010] IEHC 49 (“*Menolly Homes*”), 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.*” (emphasis added)
11. In this appeal, the Appellant has not disputed that the underpayment arose for 2022, but has argued that it was due to a mistake on the part of the Respondent. The Respondent has stated that the underpayment arose when the Appellant’s tax credit, rate band and Universal Social Charge allocations were transferred, by the Respondent on 4 November 2022, from his first employer to his second employer. However, this did not include all the previous pay and tax information from his first employer. The Respondent accepts that this was an error on its behalf.

12. It seems that this error arose as a result of the fact that the Appellant's first employer had registered a second employment on his record, which ceased on the same date it was registered. On 4 November 2022, the Respondent utilised the information regarding this second employment record, rather than the Appellant's first, which meant that not all of his payroll details from 1 January 2022 were available to the second employer. As a result, the Appellant incorrectly received additional tax credit and rate band allocations for his remaining pay periods in 2022.
13. The Commissioner has considerable sympathy for the Appellant in this instance. It is clear to him that the underpayment arose due to no fault of the Appellant. Rather, the confusion caused by the second employment opened by his first employer, together with the Respondent's error in the allocation of his tax credits and rate band when he commenced employment with his second employer, resulted in an underpayment of income tax for 2022.
14. However, while the Commissioner has sympathy for the Appellant, he is satisfied that the appeal cannot succeed. This is because it is clear to the Commissioner that the underpayment did actually occur in 2022. The Respondent has provided a detailed explanation of how it arose, and the Appellant has not disputed the facts as presented by the Respondent, or indeed denied that an underpayment arose at all.
15. As stated in *Menolly Homes*, as quoted above, the role of the Commission is to enquire as to "*whether the taxpayer has shown that the relevant tax is not payable.*" The Commission does not have a supervisory role over the manner in which the Respondent conducts its affairs. Its role is limited to considering "*appealable matters*", which are defined by section 949A of the TCA 1997 as "*any matter in respect of which an appeal is authorised by the Acts.*" The Commissioner is satisfied that the TCA 1997 does not authorise the making of an appeal on the basis of the Respondent's management of a taxpayer's tax affairs.
16. Consequently, as he is satisfied that the Appellant has not shown that the relevant tax as stated in the 2022 SOL is not payable, the Commissioner determines that the SOL should stand. The Commissioner appreciates that this determination will be disappointing for the Appellant, who was entitled to check whether the SOL was correct. However, for the reasons set out herein, the Commissioner is satisfied that the SOL issued by the Respondent to the Appellant for 2022 was correct, and therefore the appeal is unsuccessful.

Determination

17. In the circumstances, and based on a review of the facts and a consideration of the submissions, material and evidence provided by both parties, the Commissioner is satisfied that the Statement of Liability for the tax year 2022 that issued to the Appellant was correct, and therefore the Statement of Liability stands.
18. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular sections 949AK and 949U thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

Notification

19. This determination complies with the notification requirements set out in section 949AJ of the TCA 1997, in particular section 949AJ(5) and section 949AJ(6) of the TCA 1997. For the avoidance of doubt, the parties are hereby notified of the determination under section 949AJ of the TCA 1997 and in particular the matters as required in section 949AJ(6) of the TCA 1997. This notification under section 949AJ of the TCA 1997 is being sent via digital email communication **only** (unless the Appellant opted for postal communication and communicated that option to the Commission). The parties will not receive any other notification of this determination by any other methods of communication.

Appeal

20. Any party dissatisfied with the determination has a right of appeal on a point or points of law only within 42 days after the date of the notification of this determination in accordance with the provisions set out in section 949AP of the TCA 1997. The Commission has no discretion to accept any request to appeal the determination outside the statutory time limit.



Simon Noone
Appeal Commissioner
5 June 2024