



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

06TACD2025

Between

██████████

Appellant

and

The Revenue Commissioners

Respondent

Determination

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 ██████████ (“the Appellant”) regarding the assessment to tax raised by the Revenue Commissioners (“the Respondent”) in its Statement of Liability dated 17 February 2024.
2. In accordance with the provisions of section 949U of the TCA 1997, this appeal is adjudicated and determined without a hearing.

Background

3. On 11 January 2024 the Appellant submitted a tax return for the year 2023 to the Respondent.
4. On 17 January 2024 the Respondent issued a Statement of Liability for the year 2023 to the Appellant. The Respondent’s Statement of Liability stated that the Appellant was entitled to a refund of overpaid tax in the sum of €1,020.73. This amount was refunded by the Respondent to the Appellant.

5. On 17 February 2024 the Respondent issued a revised Statement of Liability for the year 2023 (“Revised Statement of Liability for 2023”) to the Appellant. The Respondent’s Revised Statement of Liability for 2023 stated that the Appellant had underpaid universal social charge (“USC”) in the amount of €690.03 and that the unpaid USC was due and owing by the Appellant to the Respondent.
6. On 24 February 2024 the Appellant submitted his Notice of Appeal to the Commission.
7. On 15 March 2024 the Respondent sent a letter to the Appellant stating its reasons as to why the Revised Statement of Liability for 2023 was issued.
8. On 2 September 2024 the Commission advised both parties that the Appeal Commissioner (“the Commissioner”) had determined that the appeal matter would be determined by her on the material submitted to the Commission and without an oral hearing further to the provisions of section 949U of the TCA 1997. The parties were further advised that if either of them had an objection to this they should notify the Commission within a specified period.
9. The Respondent replied to the Commission and instructed that it had no objection to the appeal being determined further to the procedures set out in section 949U of the TCA 1997.
10. The Appellant did not reply to the Commission’s letter of 2 September 2024. The Appellant had not replied to the Commission’s earlier letters of 16 April 2024, 26 April 2024 and 22 May 2024 when the Commission requested the Appellant submit his Statement of Case to the Commission.

Legislation

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

Section 960C of the TCA 1997: Tax to be due and payable to Revenue Commissioners.

Tax due and payable under the Acts shall be due and payable to the Revenue Commissioners.

Section 960E of the TCA 1997: Collection of tax, issue of demands, etc. provides inter alia that

(1) Tax due and payable to the Revenue Commissioners by virtue of section 960C shall be paid to and collected by the Collector-General, including tax charged in all

assessments to tax, particulars of which have been given to the Collector-General under section 959G.

Section 531AS of the TCA 1997: Universal social charge payable by chargeable persons (within the meaning of Part 41).

(1) Universal social charge payable for a tax year in respect of an individual's aggregate income for a tax year, being an individual who is a chargeable person (within the meaning of Part 41A(2), shall be due and payable in all respects as if it were an amount of income tax due and payable by the chargeable person under the Income Tax Acts, but without regard to section 1017 or 1031C.

Section 531AL of the TCA 1997: Universal Social Charge. Provides inter alia that
Definitions (Part 18D)

In this Part

“aggregate income for the tax year”, in relation to an individual and a tax year, means the aggregate of the individual's—

- (a) relevant emoluments in the tax year, including relevant emoluments that are paid in whole or in part for a tax year other than the tax year during which the payment is made, and
- (b) relevant income for the tax year;

“Collector-General” means the Collector-General appointed under section 851;

“employee” and “employer” have the same meanings as in section 983;

“excluded emoluments” means emoluments which have been gifted to the Minister for Finance under section 483;

“income levy” has the meaning assigned to it by section 531B;

“income tax month” means a calendar month;

“Income Tax Regulations” means the Income Tax (Employments) Regulations 2018 (S.I. No. 345 of 2018);²

“inspector” means an inspector of taxes or other officer of the Revenue Commissioners;

[...] ³

“relevant emoluments” and “relevant income” shall be construed in accordance with paragraphs (a) and (b), respectively, of the Table to section 531AM(1);

.....

“tax year” means a year of assessment within the meaning of the Tax Acts;

“universal social charge” has the meaning assigned to it by section 531AM.

Section 531AM of the TCA 1997: Charge to universal social charge.

(1) With effect from 1 January 2011, there shall be charged, levied and paid, in accordance with the provisions of this Part, a tax to be known as “universal social charge” in respect of the income specified in paragraphs (a) and (b) of the Table to this subsection.

TABLE

- (a) The income described in this paragraph (in this Part referred to as “relevant emoluments”) is emoluments to which Chapter 4 of Part 42 applies or is applied, including—*
 - (i) any allowable contributions referred to in [Regulation 31 of the Income Tax Regulations,*
 - (ii) the initial market value (within the meaning of section 510(2)) of any shares, excluded from the charge to income tax by virtue of section 510(4), appropriated in accordance with Chapter 1 of Part 17, except where such shares were held by an employee share ownership trust, approved in accordance with Schedule 12, before 1 January 2011,*
 - (iii) the market value (determined in accordance with section 548) of the right referred to in section 519A(1) or 519D(1),[...]*
 - (iv) any gain exempted from income tax by virtue of section 519A(3) or 519D(3) after such a gain is reduced by the market value of the right referred to in subparagraph (iii), and*
 - (v) the “specified amount” as defined in section 825C,*

but not including—

 - (I) social welfare payments and similar type payments,*

- (II) *excluded emoluments,*
 - (III) *emoluments disregarded by an employer on [following receipt of a notification issued by an inspector under section 984(1)]7,[...]*
 - (IV) *any amount in respect of which relief is due under section 201(5)(a) and paragraphs 6 and 8 of [Schedule 3,*
 - [(V) *any amount transferred by an administrator [under section 782A(3),]10*
 - [...]
 - (VI) *emoluments in the nature of a contribution by an employer to a PRSA [(within the meaning of Chapter 2A of Part 30), and*
 - (VII) *emoluments in the nature of a contribution by an employer to a PEPP (within the meaning of Chapter 2D of Part 30).*
- (b) *The income described in this paragraph (in this Part referred to as “relevant income”) is income, without regard to any amount deductible from or deductible in computing total income, from all sources as estimated in accordance with the Tax Acts, other than—*
- (i) *relevant emoluments,*
 - (ii) *any emoluments, payments, expenses or other amounts referred to in [subparagraphs (I) to (V)]14 of paragraph (a)...of this Table,*
 - (iii) *any gains, income or payments to which any of the following provisions apply—*
 - (I) *Chapter 4 of Part 8;*
 - (II) *Chapter 5 of Part 8;*
 - (III) *Chapter 7 of Part 8;*
 - (IV) *Chapter 5 of Part 26;*
 - (IV) *Chapter 6 of Part 26;*
 - (V) *Chapter 1A of Part 27;*
 - (VI) *Chapter 4 of Part 27,*

- (iv) *where section 825A applies in respect of an individual for a tax year, an amount equal to the difference between—*
 - (I) *the individual's total income for the tax year had that section not applied for that year, and*
 - (II) *the amount of total income which if charged to income tax for the year would have given an amount of income tax payable equal to that which would be payable by virtue of the operation of that section,*
- (v) *where section 1025 applies in respect of an individual, the amount of any deduction for any payment to which that section applies, made by an individual pursuant to a maintenance arrangement (within the meaning of that section) relating to the marriage for the benefit of the other party to the marriage unless section 1026 applies in respect of such payment,*
- (va) *where section 1031J applies in respect of an individual, the amount of any deduction for any payment to which that section applies, made by an individual pursuant to a maintenance arrangement (within the meaning of that section) for the benefit of his or her civil partner or former civil partner unless section 1031K applies in respect of such payment,*
- (vb) *where section 1031Q applies in respect of an individual, the amount of any deduction for any payment to which that section applies, made by a qualified cohabitant pursuant to a maintenance arrangement (within the meaning of that section) for the benefit of the other qualified cohabitant,*
- (vi) *where section 382 applies in respect of an individual carrying on a trade or profession, an amount equal to the amount referred to in section 531AU(1),*
- (vii) *where section 272, 284, 658 or 659 applies in respect of an individual carrying on a trade or profession, an amount equal to the amount referred to in section 531AU(2), and*
- (viii) *where section 372AP applies in respect of an individual, the amount that the individual is deemed to have received as rent in*

accordance with subsection (7) of that section where the individual received, or was entitled to receive, the deduction referred to in subsection (2) of that section on or after 1 January 2012,

and—

- (I) as if sections 140, 141, 142, 143, 195, 232, 234 and 664 were never enacted,*
- (II) without regard to any deduction—*
 - (A) in respect of double rent allowance under section 324(2), 333(2), 345(3) or 354(3),*
 - (B) under section 372AP, in computing the amount of a surplus or deficiency in respect of rent from any premises,*
 - (C) under section 372AU, in computing the amount of a surplus or deficiency in respect of rent from any premises,*
 - (D) under section 847A, in respect of a relevant donation (within the meaning of that section), or*
 - (E) under section 848A, in respect of a relevant donation (within the meaning of that section), and*
- (III) including a balancing charge in respect of any amount that would have been deducted by virtue of subparagraph (vii).*

(2) Universal social charge shall not be payable for a tax year by an individual who proves to the satisfaction of the Revenue Commissioners that his or her aggregate income for the tax year does not exceed €13,000.

Submissions

The Appellant's submissions

12. The Appellant did not submit a Statement of Case to the Commission. The grounds of appeal as per the Appellant's Notice of Appeal are as follows:

"I left Ireland almost a month ago to come back to [REDACTED]. I haven't worked in the country since December 2023. I was always deducted TAX money and I religiously agreed to have it deducted. I changed my home details and I'm being asked to make a payment for the amount of 690.03. I don't have any plans of coming back to Ireland or ever working in the country again. I do not agree with this decision and I'm positive there is some sort of mistake".

The Respondent's submissions

13. On 9 May 2024 the Respondent submitted its Statement of Case to the Commission. An extract of the Respondent's Statement of Case is as follows:

"1. Statutory provisions being relied on

1.1 Section 960C of the Taxes Consolidation Act 1997

1.2 Section 112(1) of the Taxes Consolidation Act 1997

2. Outline of relevant facts

The Appellant submitted their online 2023 tax return on 11 January 2024. The Appellant confirmed pay & tax information for his employments with [REDACTED] Recruitment Limited and [REDACTED] Ireland Limited. These are set out below for convenience.

[REDACTED] Recruitment Limited Pay Information

Pay for Income Tax €3,299.94

Income Tax Deducted €575.04

Pay for Universal Social Charge €3,299.94

Universal Social Charge Deducted €124.30 [REDACTED]

[REDACTED] Ireland Limited

Pay Information Pay for Income Tax €669.60

Income Tax Deducted €267.83

Pay for Universal Social Charge €669.60

Universal Social Charge Deducted €53.56

The Appellants 2023 Statement of Liability issued on 11 January 2024 advising of an overpayment of income tax amounting to €1,020.73. The refund was issued to the Appellant's bank account on 19 January 2024.

Regrettably, an internal systems error had led to incorrect pay & tax information being displayed on the Appellant's online return in relation to their employment with [REDACTED]. The system error was corrected on 16 February 2024 with the correct payroll now recorded for [REDACTED] Limited as outlined below.

[REDACTED] Recruitment Limited Pay Information.

Pay for Income Tax €1,862.34

Income Tax Deducted €0

Pay for Universal Social Charge €1,862.34

Universal Social Charge Deducted €9.31

An amended 2023 Statement of Liability issued to the Appellant on 17 February 2024 advising of an underpayment of €690.03.

The Appellant contacted Revenue through MyEnquiries on 20 February 2024 stating:

'I'm being told that I'm on an underpayment of nearly 700€. I left the country last month and I changed my address, and I don't plan on coming back to Ireland in a long time, and it would only be for a couple days. The Appellant lodged and [sic] appeal with the Tax Appeals Commission on 24 February 2024 stating: I left Ireland almost a month ago to come back to [REDACTED]. I haven't worked in the country. [sic] since December 2023. I was always deducted TAX money and I religiously agreed to have it deducted. I changed my home details and I'm being asked to make a payment for the amount of 690.03. I don't have any plans of coming back to Ireland or ever working in the country again. I do not agree with this decision and I'm positive there is some sort of mistake'.

On 15 March 2024, the following letter issued to the Appellant advising of an internal systems error when the Appellants income tax return for 2023 was processed. The Appellant was advised that they now had an underpayment of income tax and was provided with instructions on how to repay the over refunded tax.

'Dear [REDACTED],

I am writing to you regarding your PAYE Income Tax Return for 2023 and to advise you of an error that Revenue has made in your Statement of Liability. This error affected the amount of tax that was recently refunded to you. The error was made when processing your tax Return when an incorrect pay and tax amount was used by us when calculating your final position for 2023.

Regrettably this resulted in a refund issuing to you that was not due. We have now corrected the error and recently issued you with an amended Statement of Liability for 2023. This was sent to your 'My Documents' in your Revenue myAccount. It sets out the amount of the incorrect refund (referred to in the Statement as an 'Underpayment') and advises you that this should be repaid. I regret that this error occurred, and I assure you that your record has now been corrected. I also sincerely apologise for the inconvenience that this has caused. You can make a full repayment of the amount due by selecting the 'Make a Payment' option in myAccount. If you have any questions on the above or if you wish to make an alternative repayment proposal, please contact us through the myEnquiries service which is available to you on your Revenue myAccount - please insert PAYEoverpayments@revenue.ie into the 'For Attention Of' field to help us ensure that your query receives prompt attention. I again wish to sincerely apologise for this error and inconvenience.

Yours faithfully,"

The Respondent sincerely regrets the systems error which led to the issuing of an incorrect refund in this matter. The Respondent apologises to the Appellant for the distress experienced by them in this case. However, despite the circumstances of this case, as per the amended Statement of Liability issued to the Appellant on 17 February an outstanding liability of €690.03 is due and payable by the Appellant as per Section 960C TCA 1997.

3. Relevant case law Menolly Homes Ltd v Appeal Commissioners and Revenue Commissioners: [2010] ITR 75 states that 'The burden of proof in this appeal process is, as in all taxation appeals, on the taxpayer' (para. 22).

The onus, therefore, is on the Appellant to show that the Respondent has misapplied the tax liability of €690.03 for tax year 2023. In Income Tax Law, 2009, at page 172, para. 2.205, Judge, while referring to Bolands Limited v Revenue Commissioners 1 ITR 34 states that the burden of proof falls on "he who asserts", i.e. it generally falls on the taxpayer appellant who asserts the assessment is excessive. Furthermore, in the case of MacEachern v Carr [1996] STC 282, it was observed that one of the reasons the onus is justified is because it is only the taxpayer who has access to the full facts relating to his personal tax situation. In this case, the Respondent can find no evidence to remove the Appellants income tax liability from his record for 2023."

14. On 27 August 2024 the Respondent submitted additional documentation for consideration by the Commission. Additional Documentation submitted by the Respondent:

PAYE Notice 2023 Refund 15 March 2024;

P21 Balancing Statement 2023 17 January 2024;

P21 Balancing Statement 2023 17 February 2024;

Section 960C Tax to be due and payable to Revenue Commissioners.

Material Facts

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

15.1. On 11 January 2024 the Appellant submitted a tax return for the year 2023 to the Respondent.

15.2. On 17 January 2024 the Respondent issued a Statement of Liability for the year 2023 to the Appellant that the Appellant was entitled to a refund of overpaid income tax in the sum of €1,020.73.

15.3. On 17 February 2024 the Respondent issued the Revised Statement of Liability for 2023 to the Appellant that the Appellant owed €690.03 in unpaid USC and this amount was due and owing by the Appellant to the Respondent.

15.4. On 24 February 2024 the Appellant submitted his Notice of Appeal to the Commission.

Analysis

16. The Commission is a statutory body created by the Finance (Tax Appeals) Act 2015. As a statutory body, the Commission only has the powers that have been granted to it by the Oireachtas. The powers of the Commission to hear and determine tax appeals are set out in Part 40A of the TCA 1997.

17. In this regard, the jurisdiction of an Appeal Commissioner is well established and was considered by the Court of Appeal in *Lee v the Revenue Commissioners* [2021] IECA 18 (“*Lee*”) wherein Murray J. stated at paragraph 20:

“The Appeal Commissioners are a creature of statute, their functions are limited to those conferred by the TCA, and they enjoy neither an inherent power of any kind, nor a general jurisdiction to enquire into the legal validity of any particular assessment.”

Insofar as they are said to enjoy any identified function, it must be either rooted in the express language of the TCA or must arise by necessary implication from the terms of that legislation”.

18. The Commissioner also refers to the judgment of *Fahy v the Revenue Commissioners* [2023] IEHC 710; wherein Quinn, J. stated at paragraph 47:

“ Applying the rationale of the jurisprudence summarised and analysed in Lee, the function of the TAC is limited to what is provided in the legislation and factual and legal questions arising therefrom. There is no inherent jurisdiction to consider broader questions ...”.

19. The Commission is entitled to consider that any assessment issued by the Respondent is valid and has no statutory jurisdiction to question the validity of that assessment. This was confirmed by the High Court in *J.S.S, J.S J, T S, D S, P S v Tax Appeals Commission* [2024] IEHC 565.

20. 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”.

21. 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..."

22. 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.”

23. All material submitted to the Commission has been assessed by the Commissioner before making this determination.
24. Section 960C of the TCA 1997 provides that tax due and payable under the Acts shall be due and payable to the Respondent. The Respondent submits that this provision entitles it to receive the amount of tax raised against the Appellant and further that it obliges the Appellant to pay the raised amount of tax to the Respondent.
25. Section 531AM(1) of the TCA 1997 provides inter alia that with effect from 1 January 2011 USC shall be charged, levied and paid, in accordance with the provisions of the TCA 1997 in respect of the income specified in the legislation.
26. Section 531AS of the TCA 1997 provides inter alia that USC payable by a chargeable person in respect of an individual's aggregate income for a tax year, being an individual who is a chargeable person (within the meaning of Part 41A(2) of the TCA 1997), shall be due and payable in all respects as if it were an amount of income tax due and payable by the chargeable person under the Income Tax Acts, but without regard to section 1017 or 1031C of the TCA 1997.
27. As stated already, the Commission does not have any statutory entitlement to question the validity of the assessment raised in the Revised Statement of Liability for 2023. Section 531AM(1) of the TCA 1997 provides inter alia that with effect from 1 January

2011 USC shall be charged, levied and paid, in accordance with the provisions of the TCA 1997 in respect of the income specified in the Tax Acts. Section 531AS of the TCA 1997 provides that the treatment of USC under the Tax Acts shall be shall be due and payable in all respects as if it were an amount of income tax due and payable by the chargeable person under the Income Tax Acts. Section 960C of the TCA 1997 provides that tax due and payable under the Acts shall be due and payable to the Respondent. Accordingly, the Commissioner finds that the Respondent was entitled under the Tax Acts to raise the Revised Statement of Liability for 2023.

28. The Appellant's grounds of appeal inter alia are that he "... left Ireland almost a month ago to come back to [REDACTED]. I haven't worked in the country since December 2023. I was always deducted TAX money and I religiously agreed to have it deducted. I changed my home details and I'm being asked to make a payment for the amount of 690.03". The Commissioner has assessed all before her and finds that the guidance from the Superior Courts is that the burden of proof rests on the Appellant in appeals cases before the Commission and that it is the Appellant who must satisfy the Commission at the threshold of the balance of probabilities, that the assessment to tax made against him is incorrect. The Commissioner finds that the Appellant has not discharged that burden.

Determination

29. The Commissioner has assessed all matters in this appeal and finds that for the reasons set out above that the Respondent was entitled to issue the Revised Statement of Liability for 2023.
30. Accordingly, for the reasons set out above the Commissioner finds that the Appellant's appeal in this matter is unsuccessful and the assessment of the Respondent in the Revised Statement of Liability for 2023 further to the provisions of section 949AK(1) of the TCA 1997 shall stand.
31. The Commissioner acknowledges that the Appellant was within his rights to appeal the Respondent's decision and to have clarity of his legal rights. The Commissioner understands that the Appellant may be disappointed with the outcome of his appeal.
32. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular sections 949AK(1) 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

33. This determination complies with the notification requirements set out in section 949AJ of the TCA 1997, in particular section 949AJ(1) 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

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
23 October 2024