



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

14TACD2025

Between

████████████████████

Appellant

and

The Revenue Commissioners

Respondent

Determination

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Introduction

1. This is an appeal to the Tax Appeals Commission (“the Commission”) brought by ██████████ (“the Appellant”) under section 949I of the Taxes Consolidation Act 1997 (“the TCA 1997”), in relation to a notice of amended assessment for the year 2022 (“the Amended Assessment”) issued by the Revenue Commissioners (“the Respondent”) on 30 March 2024.
2. On 20 September 2024, the Commission notified the Appellant and the Respondent that the Commissioner intended to adjudicate on this appeal without a hearing and informed the parties that they could request a hearing within 21 days of that notification. Neither of the parties has objected or requested a hearing. Accordingly, this appeal is adjudicated without a hearing, under section 949U of the TCA 1997.

Background

3. On 30 March 2024, the Respondent issued the Amended Assessment.
4. On 15 April 2024, the Appellant submitted a Notice of Appeal to the Commission, which enclosed a copy of the Amended Assessment. In his Notice of Appeal, the Appellant stated that the quantum of tax was €526.28.
5. On 25 June 2024, the Respondent submitted a Statement of Case and on 9 September 2024, the Appellant submitted a Statement of Case. The Commissioner has considered all of the documentation submitted by the parties in this appeal.

Legislation and Guidelines

6. The legislation relevant to this appeal is as follows:
7. Section 959Y of the TCA 1997 provides:

“(1) Subject to the provisions of this Chapter, a Revenue officer may at any time -

(a) make a Revenue assessment on a person for a chargeable period in such amount as, according to the officer's best judgment, ought to be charged on the person,

(b) amend a Revenue assessment on, or a self assessment in relation to, a person for a chargeable period in such manner as he or she considers necessary, notwithstanding that -

(i) tax may have been paid or repaid in respect of the assessment, or

[REDACTED]

The amended tax amount is €3,949.78, the imposition of this tax penalty only adds to the burden I already carry. I am now able and am committed to fulfilling my original tax amount of €3,423.42 ASAP. I kindly request a review of my case and a waiver of the imposed penalty.

[REDACTED]

9. In his Statement of Case, the Appellant submitted (among other things):

“ [REDACTED]

[REDACTED] *I have already paid the amended amount which included the late penalty so I’m just looking for a refund of the penalty.”*

Respondent

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

“The Appellant’s agent filed the Appellant’s 2022 Income Tax return on 21 December 2023 in which they self-assessed a tax liability of €3,423.42. This amount included a late filing surcharge they imposed themselves in the amount of €163.02. As this liability did not agree with Revenue’s calculations, the return was reviewed by Revenue and a Notice of Amended Assessment issued to the Appellant on 30 March 2024 advising that the correct liability for the 2022 tax year was €3,949.78. It is this decision that the Appellant is appealing.

In his Notice of Appeal, the Appellant humbly requests that the late payment penalty of €526.36 be waived by Revenue as he was only late in paying his tax liability due to financial strain he faced in early 2024. The Appellant's appeal is based on the mistaken assumption that the additional €526.36 imposed by Revenue on his original submission is a penalty for late payment. This is not the case.

On 25 January 2023 the Appellant filed a Form 12 under the PAYE system which indicated an overpayment of tax by the Appellant in the amount of €689.38. This amount was refunded by Revenue to the Appellant's bank account on 30 January 2023. The Appellant's 2022 Income Tax return, did not include this PAYE refund, and it was for this reason that Revenue amended his return.

As stated earlier, when the Appellant's agent self-assessed his tax liability for 2022, he included a late filing surcharge of €163.02 in error. Without this surcharge, the Appellant assessed a tax liability of €3,260.40. Following Revenue's amendment to include the PAYE refund received by the Appellant for the 2022 tax year, this liability rose to €3,949.78 (i.e. €3,260.40 + €689.38)".

Material Facts

11. Having read the documentation submitted, the Commissioner makes the following findings of material fact:
 - 11.1. On 21 December 2023, the Appellant (through his agent) filed an income tax return for the year 2022 which assessed a tax liability of €3,423.42 ("the Self-Assessment").
 - 11.2. On 30 March 2024, the Respondent issued the Amended Assessment, which assessed a tax liability of €3,949.78.
 - 11.3. On 15 April 2024, the Appellant submitted a Notice of Appeal to the Commission.

Analysis

12. This appeal relates to a notice of amended assessment issued by the Respondent on 30 March 2024 for the tax year 2022.
13. In an appeal before the Commission, the burden of proof rests on the Appellant, who in this appeal must show that he is entitled to a repayment of part of the income tax liability assessed in the Amended Assessment. 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”.

14. In his Notice of Appeal and Statement of Case, the Appellant sought a repayment of an amount representing the difference between the income tax assessed in the Self-Assessment and that assessed in the Amended Assessment (approximately €526.00). The Appellant referred to the difference in amount as a “penalty”. In support of his appeal, the Appellant provided details of his financial and work circumstances. However, the Appellant failed to identify any statutory basis on which the amount charged to income tax in the Amended Assessment was incorrect, or on which a repayment of the amount of income tax sought was due.
15. In its Statement of Case, the Respondent outlined a chronology of events relating to this appeal. The Respondent advised that the difference between the amount of income tax assessed in the Self-Assessment and that assessed in the Amended Assessment was not a penalty. The Respondent stated that the difference in amount reflected a refund which had been undeclared in the Self-Assessment.
16. The Commissioner notes that the Appellant submitted his Statement of Case over two months after receiving the Respondent’s Statement of Case and that at no stage has he disputed the facts as outlined by the Respondent.
17. The Commissioner finds that the Appellant has not established that the amount charged to income tax in the Amended Assessment was incorrect, or that a repayment of the amount of income tax sought was due. The Commissioner therefore considers that there is no ground on which to conclude that the Appellant is entitled to a repayment of part of the income tax assessed in the Amended Assessment.
18. The Commissioner appreciates that this decision will be disappointing for the Appellant. The Commissioner acknowledges the financial circumstances which the Appellant outlined on appeal. However, the Commissioner must apply the legislation in making a determination.

Determination

19. For the reasons set out above, the Commissioner determines that the Appellant has not succeeded in showing that he is entitled to a repayment of income tax in the amount sought and accordingly the Amended Assessment stands.

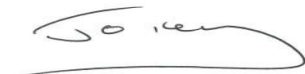
20. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular section 949U thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

Notification

21. 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

22. 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
8 November 2024