



**AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH**  
**TAX APPEALS COMMISSION**

Between

16TACD2025

[REDACTED]

**Appellant**

and

**THE REVENUE COMMISSIONERS**

**Respondent**

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**Determination**

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## Introduction

1. This matter comes before the Tax Appeal Commission (hereinafter the “Commission”) as an appeal against Pay As You Earn (hereinafter “PAYE”) and Universal Social Charge (hereinafter “USC”) Statements of Liability raised by the Revenue Commissioners (hereinafter the “Respondent”) for the year 2022 on 10 January 2024 showing an underpayment of €5,979.82 and for the year 2023 raised by the Respondent on 11 January 2024 showing an under payment of €5,763.34.
2. The total amount of tax under appeal is €11,743.16.

## Background

3. [REDACTED] (hereinafter the “Appellant”) is a PAYE taxpayer who is a Brazilian national.
4. The Appellant was married to his now former wife and together they had a son who was born in [REDACTED].
5. On 13 September 2013 the Appellant was granted a decree of divorce by a Brazilian Court which made the following orders:

“...

*In view of the above, I RATIFY by judgment the agreement formulated between the parties for the purpose of decreeing the divorce of the couple, ending the marriage of both, a divorce will be governed by the clauses and conditions outlined in the agreement.*

*With regards to the minor, he should receive for alimony purposes the amount of R\$4.000,00 per month (R\$1.000.00 per week), which must be corrected applying the official indices (INPC or IPCA) every year until the minor is of age.*

*The judgement that has become final on this date is considered irrevocable.*

*This decision will serve as a warrant of registration, for due legal purposes, to be submitted by the requesting party to the competent registry office.”*

6. For the years 2022 and 2023, the Appellant made claims for relief from income tax pursuant to sections 1025 and 1026 of the Taxes Consolidation Act 1997 (hereinafter the “TCA 1997”). The deductions claimed are in respect of maintenance payments which the Appellant claims he made for the benefit of his former spouse and which the Appellant

claims were made pursuant to the court order made by the Brazilian court on 13 September 2013.

7. The Respondent commenced a compliance intervention in relation to the Appellant's tax affairs and, and as part of the compliance intervention, the Respondent disallowed the claims for relief from income tax made by the Appellant for the years 2022 and 2023 on the basis that the payments made by the Appellant were made for the benefit of his minor child and did not relate to spousal maintenance.

### **Legislation and Guidelines**

8. The legislation relevant to this appeal is as set out below.

#### Section 1025 of the TCA1997 – “Maintenance in Case of Separated Spouses”:

*“(1)In this section—*

*“maintenance arrangement” means an order of a court, rule of court, deed of separation, trust, covenant, agreement, arrangement or any other act giving rise to a legally enforceable obligation and made or done in consideration or in consequence of—*

*(a)the dissolution or annulment of a marriage, or*

*(b)such separation of the parties to a marriage as is referred to in section 1015(2),*

*and a maintenance arrangement relates to the marriage in consideration or in consequence of the dissolution or annulment of which, or of the separation of the parties to which, the maintenance arrangement was made or arises;*

*“payment” means a payment or part of a payment, as the case may be;*

*a reference to a child of a person includes a child in respect of whom the person was at any time before the making of the maintenance arrangement concerned entitled to relief under section 465.*

*(2) (a)This section shall apply to payments made directly or indirectly by a party to a marriage under or pursuant to a maintenance arrangement relating to the marriage for the benefit of his or her child, or for the benefit of the other party to the marriage, being payments—*

*(i)which are made at a time when the wife is not living with the husband,*

*(ii)the making of which is legally enforceable, and*

*(iii) which are annual or periodical;*

*but this section shall not apply to such payments made under a maintenance arrangement made before the 8th day of June, 1983, unless and until such time as one of the following events occurs, or the earlier of such events occurs where both occur—*

*(I) the maintenance arrangement is replaced by another maintenance arrangement or is varied, and*

*(II) both parties to the marriage to which the maintenance arrangement relates, by notice in writing to the inspector, jointly elect that this section shall apply,*

*and where such an event occurs in either of those circumstances, this section shall apply to all such payments made after the date on which the event occurs.*

*(b) For the purposes of this section and of section 1026 but subject to paragraph (c), a payment, whether conditional or not, which is made directly or indirectly by a party to a marriage under or pursuant to a maintenance arrangement relating to the marriage (other than a payment of which the amount, or the method of calculating the amount, is specified in the maintenance arrangement and from which, or from the consideration for which, neither a child of the party to the marriage making the payment nor the other party to the marriage derives any benefit) shall be deemed to be made for the benefit of the other party to the marriage.*

*(c) Where the payment, in accordance with the maintenance arrangement, is made or directed to be made for the use and benefit of a child of the party to the marriage making the payment, or for the maintenance, support, education or other benefit of such a child, or in trust for such a child, and the amount or the method of calculating the amount of such payment so made or directed to be made is specified in the maintenance arrangement, that payment shall be deemed to be made for the benefit of such child, and not for the benefit of any other person.*

*(3) Notwithstanding anything in the Income Tax Acts but subject to section 1026, as respects any payment to which this section applies made directly or indirectly by one party to the marriage to which the maintenance arrangement concerned relates for the benefit of the other party to the marriage—*

*(a) the person making the payment shall not be entitled on making the payment to deduct and retain out of the payment any sum representing any amount of income tax on the payment,*

*(b) the payment shall be deemed for the purposes of the Income Tax Acts to be profits or gains arising to the other party to the marriage, and income tax shall be charged on that other party under Case IV of Schedule D in respect of those profits or gains, and*

*(c) the party to the marriage by whom the payment is made, having made a claim in that behalf in the manner prescribed by the Income Tax Acts, shall be entitled for the purposes of the Income Tax Acts to deduct the payment in computing his or her total income for the year of assessment in which the payment is made.*

*(4) Notwithstanding anything in the Income Tax Acts, as respects any payment to which this section applies made directly or indirectly by a party to the marriage to which the maintenance arrangement concerned relates for the benefit of his or her child—*

*(a) the person making the payment shall not be entitled on making the payment to deduct and retain out of the payment any sum representing any amount of income tax on the payment,*

*(b) the payment shall be deemed for the purposes of the Income Tax Acts not to be income of the child,*

*(c) the total income for any year of assessment of the party to the marriage who makes the payment shall be computed for the purposes of the Income Tax Acts as if the payment had not been made, and*

*(d) for the purposes of section 465(6), the payment shall be deemed to be an amount expended on the maintenance of the child by the party to the marriage who makes the payment and, notwithstanding that the payment is made to the other party to the marriage to be applied for or towards the maintenance of the child and is so applied, it shall be deemed for the purposes of that section not to be an amount expended by that other party on the maintenance of the child.*

*(5) (a) Subsections (1) and (2) of section 459 and section 460 shall apply to a deduction under subsection (3)(c) as they apply to any allowance, deduction, relief or reduction under the provisions specified in the Table to section 458.*

*(b)Subsections (3) and (4) of section 459 and paragraph 8 of Schedule 28 shall, with any necessary modifications, apply in relation to a deduction under subsection (3)(c)."*

Section 1026 of the TCA1997 – "Separated and divorced persons: adaptation of provisions relating to married persons.":

*(1)Where a payment to which section 1025 applies is made in a year of assessment by a party to a marriage (being a marriage which has not been dissolved or annulled) and both parties to the marriage are resident in the State for that year, section 1018 shall apply in relation to the parties to the marriage for that year of assessment as if—*

*(a)in subsection (1) of that section " , where the wife is living with the husband," were deleted, and*

*(b)subsection (4) of that section were deleted.*

*(2)Where by virtue of subsection (1) the parties to a marriage elect as provided for in section 1018(1), then, as respects any year of assessment for which the election has effect—*

*(a)subject to subsection (1) and paragraphs (b) and (c), the Income Tax Acts shall apply in the case of the parties to the marriage as they apply in the case of a husband and wife who have elected under section 1018(1) and whose election has effect for that year of assessment,*

*(b)the total income or incomes of the parties to the marriage shall be computed for the purposes of the Income Tax Acts as if any payments to which section 1025 applies made in that year of assessment by one party to the marriage for the benefit of the other party to the marriage had not been made, and*

*(c)income tax shall be assessed, charged and recovered on the total income or incomes of the parties to the marriage as if an application under section 1023 had been made by one of the parties and that application had effect for that year of assessment.*

*(3)Notwithstanding subsection (1), where a payment to which section 1025 applies is made in a year of assessment by a spouse who is a party to a marriage, that has been dissolved, for the benefit of the other spouse, and—*

*(a)the dissolution was under either—*

*(i)section 5 of the Family Law (Divorce) Act, 1996, or*





13. He stated that Brazilian law is constructed in a manner which seeks to protect the children of marriages and as such ensures that maintenance payments are assigned to the children of marriages.
14. However, he stated, he and his former wife have an informal agreement that 50% of the value of the Court ordered payment would be spousal maintenance for her and 50% would be for the benefit of their son.

## **Submissions**

### *Appellant*

15. The following is a summary of the submissions made both in writing and orally to the Commissioner on behalf of the Appellant. The Commissioner has had regard to all of the submissions whether written, oral or documentary received when considering this determination.
16. In support of this appeal the Appellant submitted the following documentation:
  - 16.1. Copy of translation of Brazilian Court Order dated 13 September 2013;
  - 16.2. Copy of untranslated Brazilian divorce law L6.515;
  - 16.3. Copy of untranslated Brazilian Civil law 10.406.
17. The Appellant submitted the following in his Statement of Case:

*“Dear Appeal Commissioners Officers,*

*Firstly, I would like to express my sincere appreciation to the entire commission for providing me with the opportunity to present my case through this appeal process. I am thankful for the careful consideration given to matters of such importance. It is recognised that many individuals may find themselves hesitant to engage in the appeals process when contesting decisions made by the state, particularly the Revenue authority, for various reasons. Nevertheless, I believe in the importance of upholding fairness and justice.*

*I am writing to provide clarification on my case and ask for a review on my Level 1 Compliance Intervention.*

*Briefly explanation – I moved to Ireland in 2021 for work. I was informed by my accountant that Irish Revenue offers relief for those who pay some type of maintenance to former partners (extracted from the Revenue website on the 26th of January):*

*This section explains what types of maintenance payments can be made to a former partner and how they are taxed.*

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*It also explains when and how you can claim relief if you pay maintenance to your former partner.*

*A former partner refers to a:*

*separated or former spouse*

*separated or former civil partner*

*former cohabitant who you lived with for:*

*two or more years, where you have children together*

*five or more years, where you have no children together.*

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*On the 09th of November a Level 1 Compliance Intervention was initiated. During the intervention, the officer requested several pieces of evidence, which I promptly shared.*

*The evidence offered regarding the maintenance payment demonstrates that the payment was in force since 2013 ( I am attaching the full document later):*

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*COURT ORDER*

*ENROLLMENT*

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*TO KNOW, on the tenth day of September of the year two thousand and thirteen (10/09/2013), in this city, I approve of the benefits of Free Justice.*

*The request satisfies the requirements and statutory exigences of Article 226, § 6 of the Federal Constitution, combined with Article 40, § 2 of Law 6.515/77, exempted from proof of the time lapse by the advent of Constitutional Amendment 66/2010.*

*In view of the above, I RATIFY by judgment the agreement formulated between the parties for the purpose of decreeing the divorce of the couple, ending the marriage of both, a divorce that will be governed by the clauses and conditions outlined in the agreement.*



*The officer also said: “Regarding the document you supplied the Maintenance Payments refer to the minor (your son) therefore Tax Relief does not apply and these claims will be withdrawn. As your son is a minor it would be normal practice for the payments to be sent to his guardian your ex-wife for her to use to maintain your son”*

*Even though I respect the officer’s decision, this decision must be amended as the officer did not evaluate the particularities of Brazilian Law.*

*Firstly, let’s discuss the child support:*

*Child support in Brazil is regulated by the Brazilian Civil Code. According to Article 1,694, parents have the duty to provide for the subsistence of their children, ensuring them food, housing, education, and medical assistance. Furthermore, Article 1,696 emphasises that this duty persists even in cases of separation or divorce.*

*In cases of divorce, Article 1,694, § 1º, establishes that child support will be determined based on the needs of the child and the financial capabilities of the paying party. In case of non-compliance, legal action can be taken against the liable party.*

*Spouse support:*

*Spousal support in Brazil is regulated by the Brazilian Civil Code and also by the Divorce Law (Law No. 6,515/77). According to Article 1,694, § 2º, spousal support is determined considering the standard of living during the marriage, the financial capacity of the liable party, and the needs of the supported party.*

*It’s important to note that, in some cases and according to Article 1,696 of the Brazilian Civil Code, the duty to provide support among relatives is reciprocal, and closer relatives take precedence over more distant ones.*

*Furthermore, Article 1,707 explicitly states that the support owed to children has precedence over that owed to the spouse. This legal precedence is grounded in the recognition of the special duty parents have towards their children, emphasising the importance of ensuring the well-being and sustenance of the younger members of the family unit.*

*In practical terms, this means that in cases where a couple with children is undergoing divorce or separation, the child support obligation takes precedence over any spousal support obligation.*

*The value of R\$ 4,000 was 5.8x higher than the monthly minimum wage in Brazil in 2013: <https://www.invertexto.com/valor-salario-minimo/2013>*

*It is evident that a child of 2 years old at that time did not need such amount of money. The court, in exercising its discretion, may consider the circumstances when ensuring the needs of both spouse and children. In this context, the court determined that my former spouse, being a full-time mother, needed a higher amount so this explains such an inflated amount.*

*The refusal to accept my court-issued maintenance payment order suggests a lack of readiness to deal with different legal systems and their nuances. It is imperative to approach these significant matters with a degree of flexibility, recognising the variations in laws across different jurisdictions. This is not a crossword puzzle when a single word would fit in its place. Otherwise, why do we have an official to evaluate case by case? An automation response would be sufficient in these cases. I am cautious that such important topics cannot be analysed so shallowly, or it may inadvertently result in misinterpretations that could have profound implications in my life.*

*To recap:*

*1. Reciprocal Duty of Support (Article 1,696 of Brazilian Civil Code (Law No. 10,405/02))*

*a. The Brazilian Civil Code, in Article 1,696, establishes a reciprocal duty of support among relatives. This means that individuals are obliged to provide support to their family members, and this obligation is reciprocal.*

*2. Precedence of Closer Relatives (Article 1,696 of Brazilian Civil Code (Law No. 10,405/02))*

*a. According to the same Article 1,696, the duty of support is stronger for closer relatives, and they take precedence over more distant ones. This principle is crucial in determining the hierarchy of support obligations within a family.*

*3. Specific Priority for Child Support (Article 1,707 of Brazilian Civil Code (Law No. 10,405/02))*

*a. Article 1,707 explicitly states that in cases of support obligations, the needs of children take precedence over the obligations owed to the spouse. This reflects a legal recognition of the unique duty parents have towards their children, emphasising the importance of safeguarding the interests and well-being of the younger family members.*

*4. Equitable Adjustment by the Court (Article 1,707 of Brazilian Civil Code (Law No. 10,405/02))*

*a. The same Article 1,707 empowers the court to equitably adjust support obligations based on the circumstances. In cases of divorce or separation, the court may exercise discretion to reduce spousal support in favor of ensuring that the needs of the children are adequately met.*

*5. Recognition of Children's Rights (Brazilian Federal Constitution)*

*a. The Federal Constitution of Brazil, in its broader context, recognises and protects the rights of children. Ensuring their material and emotional well-being is a constitutional imperative, and this principle is reflected in family laws, including those governing support obligations.*

*In summary, the legal framework in Brazil, as outlined in the Civil Code and supported by constitutional principles, emphasises the reciprocal duty of support among relatives, gives precedence to closer relatives, and explicitly prioritises child support over spousal support.*

*As additional evidence, I am attaching the court order along with a copy of the Brazilian Civil Code law and its translation.*

*I trust that this information clarifies the legal precedence established by the Brazilian Civil Code and its implications for prioritising child support over spousal support. That said, I hope my maintenance payment evidence can be accepted and reverted the decision.”*

*Respondent*

18. The following is a summary of the submissions made both in writing and orally to the Commissioner on behalf of the Respondent. The Commissioner has had regard to all of the submissions whether written, oral or documentary received when considering this determination.

19. The Respondent submitted that, as the Brazilian Court Order of 10 September 2013 provides that the maintenance payments of R\$4,000 per month are to be paid for the benefit of the Appellant's son, the maintenance payments made by the Appellant do not qualify for a tax credit as sections 1025 and 1026 of the TCA 1997 provide that maintenance payments for the benefit of minor children are ignored for income tax purposes.

## Material Facts

### *Uncontested Material Facts*

20. The following material facts are not at issue in the within appeal and the Commissioner accepts same as material facts:
21. The Appellant is a PAYE taxpayer who is a Brazilian national.
22. The Appellant was married to his now former wife and together they had a son who was born in [REDACTED].
23. On 13 September 2013 the Appellant was granted a decree of divorce by a Brazilian Court which made the following orders:

“ ...

*In view of the above, I RATIFY by judgment the agreement formulated between the parties for the purpose of decreeing the divorce of the couple, ending the marriage of both, a divorce will be governed by the clauses and conditions outlined in the agreement.*

*With regards to the minor, he should receive for alimony purposes the amount of R\$4.000,00 per month (R\$1.000.00 per week), which must be corrected applying the official indices (INPC or IPCA) every year until the minor is of age.*

*The judgement that has become final on this date is considered irrevocable.*

*This decision will serve as a warrant of registration, for due legal purposes, to be submitted by the requesting party to the competent registry office.”*

24. For the years 2022 and 2023, the Appellant made claims for relief from income tax pursuant to sections 1025 and 1026 of the TCA 1997. The deductions claimed are in respect of maintenance payments which the Appellant claims he made for the benefit of his former spouse and which the Appellant claims were made pursuant to the court order made by the Brazilian court on 13 September 2013.
25. The Respondent commenced a compliance intervention in relation to the Appellant's tax affairs and, as part of the compliance intervention, the Respondent disallowed the claims for relief from income tax made by the Appellant for the years 2022 and 2023 on the basis that the payments made by the Appellant were made for the benefit of his minor child and did not relate to spousal maintenance.

### *Contested Material Facts*

26. The following material facts are at issue in the within appeal:

26.1. Whether 50% of the payments made by the Appellant were spousal maintenance.

27. The appropriate starting point for the examination of material facts is to confirm that in an appeal before the Commissioner, the burden of proof rests on the Appellant, who must prove on the balance of probabilities that an assessment to tax is incorrect. This proposition is now well established by case law; for example in the High Court case of *Menolly Homes Ltd v Appeal Commissioners and another*, [2010] IEHC 49 (hereinafter "*Menolly Homes*"), 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".*

28. The standard of proof applicable in an appeal to an Appeal Commissioner is the balance of probabilities.

29. The Commissioner has considered the submissions received from both parties to this appeal, whether written, oral or documentary.

#### *Whether 50% of the payments made by the Appellant were spousal maintenance.*

30. On the one hand, the Appellant claims that 50% of the payments made by him pursuant to the Brazilian court order of 13 September 2013 were, in fact, spousal maintenance. This, he stated, was as a result of an informal arrangement between him and his former wife.

31. The Appellant does, however, accept that the Brazilian court order of 13 September 2013 does not contain an express order for spousal maintenance.

32. On the other hand, the Respondent submitted that any informal apportionment of the maintenance payment between the Appellant and his former wife is just that, informal, and, as it is not reflected in the Brazilian court order of 13 September 2013, it is not spousal maintenance.

33. The Appellant did not adduce any evidence or submit any documentation which tends to establish that an informal arrangement and agreement exists between him and his former wife which provides that 50% of the payments made by him are for the benefit of his



former wife. The Commissioner notes that it was open to the Appellant to submit copies of emails or other communications between him and his former wife to establish his claim. He did not.

34. On foot of the submission made by the Appellant, at the end of the oral hearing, the Commissioner asked the Appellant whether he was legally trained in Brazil. The Appellant stated that he was a lawyer in Brazil although he had not practiced for the previous 10 years. As such, the Commissioner considers that the Appellant is aware of the importance of documentation in establishing his claim.
35. The Commissioner has already found as a material fact that on 13 September 2013 the Appellant was granted a decree of divorce by a Brazilian Court which made the following orders:

“... ”

*In view of the above, I RATIFY by judgment the agreement formulated between the parties for the purpose of decreeing the divorce of the couple, ending the marriage of both, a divorce will be governed by the clauses and conditions outlined in the agreement.*

*With regards to the minor, he should receive for alimony purposes the amount of R\$4.000,00 per month (R\$1.000.00 per week), which must be corrected applying the official indices (INPC or IPCA) every year until the minor is of age.*

*The judgement that has become final on this date is considered irrevocable.*

*This decision will serve as a warrant of registration, for due legal purposes, to be submitted by the requesting party to the competent registry office.”*

36. Nothing in the Brazilian Court order provides that spousal maintenance was payable by the Appellant. The entirety of the payment amount is expressly stated as being for the benefit of the minor child, that is to say the Appellant's son.
37. As a result of the above, the Commissioner is not satisfied that the Appellant has discharged the burden of proof to establish that 50% of the payments which he made on foot of the Brazilian Court order of 13 September 2013 were spousal maintenance.
38. The Commissioner therefore finds as a material fact that the payments which the Appellant made on foot of the Brazilian Court order of 13 September 2013 were not spousal maintenance.

### *Findings of Material Facts*

39. For the avoidance of doubt, the Commissioner makes the following findings of material fact:

39.1. The Appellant is a PAYE taxpayer who is a Brazilian national.

39.2. The Appellant was married to his now former wife and together they had a son who was born in [REDACTED].

39.3. On 13 September 2013 the Appellant was granted a decree of divorce by a Brazilian Court which made the following orders:

“... ”

*In view of the above, I RATIFY by judgment the agreement formulated between the parties for the purpose of decreeing the divorce of the couple, ending the marriage of both, a divorce will be governed by the clauses and conditions outlined in the agreement.*

*With regards to the minor, he should receive for alimony purposes the amount of R\$4.000,00 per month (R\$1.000.00 per week), which must be corrected applying the official indices (INPC or IPCA) every year until the minor is of age.*

*The judgement that has become final on this date is considered irrevocable.*

*This decision will serve as a warrant of registration, for due legal purposes, to be submitted by the requesting party to the competent registry office.”*

39.4. For the years 2022 and 2023, the Appellant made claims for relief from income tax pursuant to sections 1025 and 1026 of the TCA 1997. The deductions claimed are in respect of maintenance payments which the Appellant claims he made for the benefit of his former spouse and which the Appellant claims were made pursuant to the court order made by the Brazilian court on 13 September 2013.

39.5. The Respondent commenced a compliance intervention in relation to the Appellant's tax affairs and, and as part of the compliance intervention, the Respondent disallowed the claims for relief from income tax made by the Appellant for the years 2022 and 2023 on the basis that the payments made by the Appellant were made for the benefit of his minor child and did not relate to spousal maintenance.

39.6. The payments which the Appellant made on foot of the Brazilian Court order of 13 September 2013 were not spousal maintenance.

### **Analysis**

40. It is not in dispute between the parties that the Brazilian Court order of 13 September 2013 ordered that:

*“With regards to the minor, he should receive for alimony purposes the amount of R\$4.000,00 per month (R\$1.000.00 per week), which must be corrected applying the official indices (INPC or IPCA) every year until the minor is of age.”*

41. The Commissioner is satisfied that the Brazilian Court order of 13 September 2013 provides for child maintenance payments by the Appellant.

42. In addition, the Commissioner has found as a material fact that the payments which the Appellant made on foot of the Brazilian Court order of 13 September 2013 were not spousal maintenance.

43. Section 1025(4) of the TCA 1997 provides that:

*“Notwithstanding anything in the Income Tax Acts, as respects any payment to which this section applies made directly or indirectly by a party to the marriage to which the maintenance arrangement concerned relates for the benefit of his or her child—*

*(a) the person making the payment shall not be entitled on making the payment to deduct and retain out of the payment any sum representing any amount of income tax on the payment,*

*(b) the payment shall be deemed for the purposes of the Income Tax Acts not to be income of the child,*

*(c) the total income for any year of assessment of the party to the marriage who makes the payment shall be computed for the purposes of the Income Tax Acts as if the payment had not been made, and*

*(d) for the purposes of section 465(6), the payment shall be deemed to be an amount expended on the maintenance of the child by the party to the marriage who makes the payment and, notwithstanding that the payment is made to the other party to the marriage to be applied for or towards the maintenance of the child and is so applied, it shall be deemed for the purposes of that section not to be an amount expended by that other party on the maintenance of the child.”*

44. The meaning of section 1025(4) of the TCA 1997 and its application to the facts of this appeal, is clear. Court ordered payments made by one spouse to the other for the benefit of their child cannot effect the computation of the paying spouse's total income.
45. As a result of the above, it follows that the payments made on foot of the Brazilian Court order of 13 September 2013, which were payments for the benefit of his son, do not entitle the Appellant to relief from income tax pursuant to sections 1025 and 1026 of the Taxes Consolidation Act 1997.

### **Determination**

46. The Commissioner determines that the Appellant has not succeeded in showing that the Respondent was incorrect to issue the Statements of Liability on 10 January 2024 for the year 2022 showing an underpayment of €5,979.82 and on 11 January 2024 for the year 2023 showing an under payment of €5,763.34
47. The Statements of Liability dated 10 January 2024 and 11 January 2024 raised by the Respondent therefore stand.
48. This appeal is determined in accordance with Part 40A of the TCA 1997 and in particular sections 949AK thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

### **Notification**

49. 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**

50. 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.



Clare O'Driscoll  
Appeal Commissioner  
8 November 2024