



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

25TACD2025

Between

██████████

**Appellant**

and

**The Revenue Commissioners**

**Respondent**

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**Determination**

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## **Introduction**

1. This is an appeal to the Tax Appeals Commission (“the Commission”) brought by ██████ (“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 ██████ (“the Property”) in the amount of €528.00 for the tax years 2013 - 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. On 30 October 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 objected or requested a hearing of the appeal. Accordingly, this appeal is adjudicated without a hearing, under section 949U of the TCA 1997.

## **Background**

3. The Respondent outlined the following chronology of events (in summary). In March 2013, the Respondent issued an LPT return to the Appellant’s spouse, which advised that the estimated value for the Property was in valuation band 4 (€200,001 - €250,000). Neither the Appellant’s spouse nor the Appellant filed an LPT return in respect of the Property in May 2013. The Respondent issued a reminder notice in July 2013. From September 2013 onwards, payment of LPT in respect of the Property was deducted at source from the salary of the Appellant’s spouse, for the years 2013 - 2021. In May 2024, the Appellant provided a self-assessed property valuation for the Property for the valuation period 2013 – 2021, declaring valuation band 3 (€150,001 - €200,000) as appropriate. This resulted in an LPT overpayment for the years 2013 – 2020.
4. On 6 July 2024, the Appellant asked the Respondent to review the overpayments for the relevant years.
5. On 8 July 2024, the Respondent informed the Appellant that due to the four year repayment limit, the Respondent could not allow the repayment of LPT for the relevant years.
6. On 19 July 2024, the Appellant submitted a Notice of Appeal to the Commission. The Appellant enclosed the correspondence between the Appellant and the Respondent on 6 and 8 July 2024, as well as a history of payments of LPT in respect of the Property.

7. On 18 October 2024, the Respondent submitted a Statement of Case.
8. On 29 October 2024, the Appellant informed the Commission that he did not wish to complete a Statement of Case and that the Commission had received all the necessary documentation. At no point in the Appellant's correspondence did the Appellant dispute that he had claimed a repayment of overpaid LPT for the relevant years in 2024, or contest any of the facts set out in the Respondent's Statement of Case.
9. The Commissioner has considered all of the documentation submitted by the parties in this appeal.

### **Legislation and Guidelines**

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

12. In his Notice of Appeal, the Appellant submitted (among other things):

*“I am writing to formally appeal for a refund of Local Property Tax (LPT) for the period from 2013 to 2019. Details of the appeal are as follows: - **\*\*Amount Due\*\***: €528.00 - **\*\*Reason for Appeal\*\***: Revenue incorrectly included our property in the wrong valuation band. This error has since been rectified by Revenue. In accordance with the corrected valuation, I believe a refund of €528.00 is owed to me which we would like to add to the year 2023/2024. I have attached documentation verifying the correct valuation band and the subsequent rectification by Revenue for your review.”*

### Respondent

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

*“In 2013 when LPT was introduced, ██████████ was linked as the designated liable person for the property ██████████ ██████████. Following contact from the Appellant on 21 May 2024, ██████████ requested that his name to be added to the LPT record as a liable person for this property. Land Registry records confirm that ██████████ was a joint owner of the property and the LPT record was updated to show ██████████ as a liable person for the property with effect from 2013.*

*In March 2013 Revenue issued a LPT Return to the Appellant’s wife and joint owner of the property ██████████ (“the Appellant’s Wife”) along with a Notice of Estimate for the property. She was advised that Revenue’s estimated value for the property was in Valuation Band 4 (€200,001–€250,000).*

*The Appellant’s wife failed to file the LPT Return in May 2013, and a reminder notice issued on 29 July 2013 advising that failure to file the LPT Return and pay the appropriate LPT liability would result in Revenue collecting the estimated LPT charge by Mandatory Deduction at Source (MDaS) from ██████████ salary in accordance with Sections 65 to 69 and section 120 of the Finance (Local Property Tax) Act 2012 (as amended). As the Appellant and his wife had failed to file the LPT Return*

or pay the LPT liability, Revenue commenced collection of the 2013 LPT in September 2013 from ██████████ employment income.

In December 2013, Revenue issued another reminder notice to the Appellant's wife in relation to the LPT due for 2014 and again advised that failure to file the LPT Return and pay the appropriate LPT liability would result in Revenue collecting the 2014 estimated LPT charge by Mandatory Deduction at Source (MDaS) from ██████████ salary. As she failed to file the LPT Return and declare a property valuation, payment of the 2014 estimated LPT was deducted from her salary in 2014.

Payment of the estimated LPT liability in band 4 (€200,001-€250,000) continued by MDaS for the years 2014, 2015 and 2016 and the return remained outstanding. When ██████████ employment ceased in January 2017, the estimated LPT for 2017 was not collected in that year. Further reminder notices issued on 15 February and 21 May 2018 informing the Appellant's wife that failure to file the LPT Return and pay the appropriate LPT liability would result in Revenue once more collecting the estimated LPT charge by MDaS from her new employment. As the owners again failed to file the LPT Return, Revenue commenced collection of the 2017 and 2018 LPT in June 2018 from ██████████ employment income. Payment of the estimated LPT liability in band 4 (€200,001-€250,000) continued by MDaS for the years 2019, 2020 and up until 31 March 2021 when ██████████ employment again ceased.

On 14 November 2022 the Appellant submitted the LPT Return for the first valuation period (2013-2021), declaring a self-assessed property valuation in band 7 (€350,001-€400,000), resulting in additional LPT liabilities for all years from 2013-2021. This additional LPT was not paid by the Appellant or collected by Revenue.

In May 2024, the Appellant provided an amended self-assessed property valuation for the property, as of 1 May 2013, for the valuation period 2013-2021, declaring valuation band 3 (€150,001-€200,000) as appropriate. That amended return resulted in an LPT overpayment for all years from 2013 to 2020. The self-assessed valuation was supported by documentary evidence of property sales for comparable properties in the local area in or around May 2013. Revenue do not dispute the valuation submitted in May 2024.

When Revenue processed this amendment in May 2024, it resulted in an LPT overpayment for the years from 2013 to 2020 inclusive. The overpayment in 2020 was offset to cover the LPT balance due for 2021 and 2023 LPT. 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, as the claim for

*repayment for these years was made over four years after the years in which the relevant liability dates occurred.”*

### **Material Facts**

14. Having read the documentation submitted, the Commissioner makes the following findings of material fact:

- 14.1. The Property was jointly owned by the Appellant and the Appellant’s spouse.
- 14.2. LPT was paid in respect of the Property for the relevant years in valuation band 4 (€200,001 - €250,000), through mandatory deduction at source from the salary of the Appellant’s spouse.
- 14.3. In May 2024, the Appellant provided a self-assessed property valuation for the Property for the valuation period 2013 - 2021, declaring valuation band 3 (€150,001 - €200,000) as appropriate.
- 14.4. The valuation provided in May 2024 resulted in an LPT overpayment for the years 2013 to 2020.
- 14.5. On 6 July 2024, the Appellant asked the Respondent to review the overpayments for the relevant years.
- 14.6. On 8 July 2024, the Respondent refused a repayment of the overpaid LPT for the relevant years on the ground that the Appellant had claimed a repayment of the overpaid LPT outside the four year statutory time limit.

### **Analysis**

15. 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.

16. 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*

17. Section 26(1) of the Finance (Local Property Tax) Act 2012 provides that a person is entitled to a repayment of LPT paid where that LPT 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).
18. 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 he 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.
19. 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.
20. 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>.
21. The Commissioner appreciates that this decision will be disappointing for the Appellant. The Appellant was entitled to check whether the Respondent’s refusal of his claim for a repayment of LPT was correct. However as noted above, the legislation does not afford the Commissioner any discretion on this matter.

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



## Determination

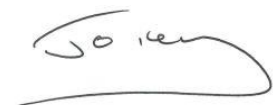
22. For the reasons set out above, the Commissioner determines that the Appellant has not succeeded in showing that the Respondent was incorrect to refuse the Appellant's claim for a repayment of LPT in the amount of €528.00 for the relevant years, under section 26(2) of the Finance (Local Property Tax) Act 2012.
23. 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

24. 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

25. 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  
**03 December 2024**