



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

35TACD2025

Between

██████████

Appellant

and

REVENUE COMMISSIONERS

Respondent

Determination

Introduction

1. This is an appeal by ██████████ (“the Appellant”) against a Statement of Liability for the tax year 2020 issued by the Revenue Commissioners (“the Respondent”) which shows an underpayment of €2,195.29. The underpayment arose on foot of the receipt by the Appellant of Covid-19 pandemic unemployment payments (“PUP”) that were not taxed at source.
2. In accordance with the provisions of section 949U of the Taxes Consolidation Act 1997 as amended (“TCA 1997”), this appeal is determined without a hearing.

Background

3. On 13 September 2024, the Respondent issued a Statement of Liability to the Appellant for the tax year 2020, which showed an underpayment of tax in the amount of €2,195.29. The statement stated that the underpayment would be recovered by way of a reduction in the Appellant’s tax credits of €548 for each year from 2025 to 2028.
4. On 18 September 2024, the Appellant appealed against the Statement of Liability to the Commission. On 6 November 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

5. Section 126(3) of the TCA 1997 provides that

“(a) This subsection shall apply to the following benefits payable under the Acts...

(iib) the payments, commonly known as the pandemic unemployment payments, made under section 202 of the Act of 2005 on and after 13 March 2020 to the relevant date (within the meaning of section 7 of that Act),

(iic) Covid-19 pandemic unemployment payment (within the meaning of the Act of 2005)...

(b) Amounts to be paid on foot of the benefits to which this subsection applies... shall be deemed (i) to be profits or gains arising or accruing from an employment (and accordingly tax under Schedule E shall be charged on every person to whom any such benefit is payable in respect of amounts to be paid on foot of such benefits, and tax so chargeable shall be computed under section 112(1))...”

6. Section 960C of the TCA 1997 states that *“Tax due and payable under the Acts shall be due and payable to the Revenue Commissioners.”*

Submissions

Appellant

7. In his Notice of Appeal, the Appellant stated that

“My grounds for appeal as previously stated are

1/ It was not through any fault of mine that the covid payments were not taxed at source, I am a PAYE employee so all income should be taxed at source and had been up to 2020.

2/ We are now on the lower tax bracket therefore it would only seem fair that we should be allowed to pay the tax on that unearned income at the lower rate.

3/ Our circumstances, as advised previously, have dramatically changed since [REDACTED] both of us are now retired therefore a considerable drop in annual income.

The decision to code the underpayment will drastically [affect] our pension income over the next 4 years.

Also I would like to point out that I advised that I was in the process of gathering medical receipts and that I would then be in a position to review my Income Tax year 2020. I was shocked to receive the statement of liability for 2020 without this request being considered.”

Respondent

8. In its Statement of Case, the Respondent stated that

“The Appellant received payments from the Department of Social Protection (DSP) in Covid-19 Pandemic Unemployment Payments (PUP) in the amount of €7,350.00 in 2020, pursuant to section 202 of the Social Welfare Consolidation Act 2005. In this instance PUP payments made to the Appellant during 2020 were not taxed in year.

In this case, the Respondent wrote to the Appellant on 19 June 2024 and required, under section 879 TCA, that they complete an income tax return for 2020 prior to 5 August 2024.

As the Appellant failed to respond to this requirement by the stated deadline, the Respondent generated a Statement of Liability for 2020 which issued to the Appellant on 11 September 2024. The Statement of Liability confirmed an underpayment on record for 2020 of €2,255.29.

The Appellant submitted an income tax return for 2020 on 13 September 2024, inclusive of additional health expenses claim of €300.00. An amended Statement of Liability issued to the Appellant dated 13 September 2024 which included the health expenses tax credit $€300 / 20\% = €60$. The amended Statement of Liability confirmed an underpayment on record for 2020 of €2,346.13 income tax and overpayment of €150.84 Universal Social Charge (USC), resulting in an overall underpayment of €2,195.21.

[...]

The Respondent has also sought to mitigate any potential hardship to the Appellant by spreading out the underpayment in this case over a 4-year period via a reduction of his tax credits.

The Respondent respectfully submits that this appeal must fail as the Appellant has not offered a valid legislative argument as to why the liability outlined in his 2020 Statement of Liability is not due in the said year.”

Material Facts

9. Having read the documentation submitted by the parties, the Commissioner makes the following findings of material fact:
 - 9.1. In 2020, the Appellant received PUP in the total amount of €7,350. The payments were not taxed at source.
 - 9.2. On 13 September 2024, the Respondent issued a Statement of Liability for 2020 to the Appellant which showed an underpayment of €2,195.29. The underpayment arose on foot of the PUP received by the Appellant. The Respondent stated that it would collect the underpayment by way of a reduction in the Appellant’s tax credits of €548 per year for 2025 until 2028 (inclusive).

Analysis

10. The burden of proof in this appeal rests on the Appellant, who must show that the Statement of Liability for 2020 incorrectly stated that he had an underpayment of €2,195.29. In the High Court case of *Menolly Homes Ltd v. Appeal Commissioners* [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.”*
11. The Commissioner is satisfied that the Appellant has not demonstrated that the Statement of Liability was incorrect. Indeed, he has not alleged that it is incorrect. He has stated that the PUP received by him in 2020 was not taxed at source, which was not due to a fault on his part. This may be the case; however, the Commissioner is satisfied that section 126(3) of the TCA 1997 clearly states that PUP are subject to income tax.
12. Further, as the payments were received by him in 2020, the Commissioner is satisfied that the Respondent correctly assessed the Appellant to tax on them for that year. The Commissioner does not consider that there is any legislative basis that would allow the Respondent to assess the Appellant to tax on income received in 2020 in a later tax year, as sought by the Appellant.
13. The Appellant has also stated that the collection of the underpayment by the Respondent will *“drastically [affect] our pension income over the next 4 years.”* However, the

Commissioner is satisfied that the underpayment of tax is owed to the Respondent, as per section 960C of the TCA 1997. The Commission has no jurisdiction to consider matters concerning the manner of collection of tax due to the Respondent, as these are not “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 [Tax] Acts.*” However, the Commissioner notes the submission of the Respondent that it has chosen to collect the underpayment by way of a reduction in the Appellant’s tax credits over a four year period in order “*to mitigate any potential hardship to the Appellant*”.

14. In conclusion, the Commissioner appreciates that this determination will be disappointing for the Appellant. However, for the reasons set out herein, he is satisfied that the Appellant has not demonstrated that the Statement of Liability for 2020 was incorrect, and therefore the appeal is unsuccessful.

Determination

15. 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 2020 dated 13 September 2024, which showed an underpayment of €2,195.29, was correct, and therefore the Statement of Liability stands.
16. 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

17. 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

18. 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
09 January 2025