



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

38TACD2025

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 [REDACTED] [REDACTED] (“the Appellant”) under section 949I of the Taxes Consolidation Act 1997 (“the TCA 1997”), against a refusal by the Revenue Commissioners (“the Respondent”) of claims made by the Appellant for a dependent relative tax credit for the years 2020, 2021, 2022 and 2023 (“the relevant years”).
2. On 8 November 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 Appellant made claims for a dependent relative tax credit in respect of relatives who reside in [REDACTED], for the relevant years. On 31 January 2024 and in subsequent correspondence, the Respondent requested that the Appellant complete DR1 forms in respect of the relatives claimed for, with supporting documentation. On 14 May 2024, the Appellant submitted DR1 forms in respect of six individuals.
4. On 21 May 2024, the Respondent issued amended statements of liability to the Appellant’s spouse for the years 2020, 2021 and 2022 and on 23 May 2024, it issued an amended statement of liability for the year 2023. On 23 May 2024, the Respondent wrote to the Appellant to inform her of its decision to remove the Appellant’s claim to dependent relative tax credit, on the ground that requested medical and income documentation had not been provided.
5. On 21 June 2024, the Appellant submitted a Notice of Appeal to the Commission, which enclosed supporting documentation. The Notice of Appeal stated that the appeal concerned the removal of dependent relative tax credit for the relevant years, and health expenses for 2020 and 2021. On 2 August 2024, the Respondent submitted a Statement of Case and on 27 August 2024, the Appellant submitted a Statement of Case. On 24 October 2024, the Respondent submitted additional documentation and on 31 October 2024, the Appellant submitted additional documentation. 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 466 of the TCA 1997 provides (among other things):

“(1) In this section "specified amount" means an amount which does not exceed by more than €280 the aggregate of the payments to which an individual is entitled in a year of assessment in respect of an old age (contributory) pension at the maximum rate under the Social Welfare Consolidation Act 2005, if throughout that year of assessment such individual were entitled to such a pension and -

(a) has no adult dependant or qualified children (within the meaning, in each case, of that Act),

(b) is over the age of 80 years (or such other age as may be specified in that Act for the time being in place of 80 years),

(c) is living alone, and

(d) is ordinarily resident on an island.

(2) Where for any year of assessment a claimant proves that he or she maintains at his or her own expense any person, being -

(a) a relative of the claimant, or of the claimant's spouse, incapacitated by old age or infirmity from maintaining himself or herself,

(b) the widowed father or widowed mother of the claimant or of the claimant's spouse, whether incapacitated or not, or

(c) a child of the claimant who resides with the claimant and on whose services the claimant, by reason of old age or infirmity, is compelled to depend,

and being an individual whose total income from all sources for that year of assessment does not exceed a sum equal to the specified amount, the claimant shall be entitled in respect of each individual whom the claimant so maintains to a tax credit (to be known as the 'dependent relative tax credit') of €245 for the year of assessment.”

Submissions

Appellant

8. In her Notice of Appeal and Statement of Case, the Appellant submitted (among other things):

[REDACTED]

[REDACTED]

[REDACTED]

The above-mentioned dependent relatives that we are now helping have helped us for shelter, feeding and school fess when we were younger, [REDACTED] [REDACTED] They are not civil servants; they are not paying tax because they are living from hands to mouth doing mining farming.

[REDACTED]

6. Only one is a friend whose wife has a medical challenge among the forms that we filled and submitted to you. I can print some of our conversations and his appreciations of the financial help that I rendered to him.”

Respondent

9. In its submissions, the Respondent submitted (among other things):

“The customer applied for the Dependant Relative Tax Credit on the 27/01/2024 for 2 widowed/surviving parents, and 2 brothers/sisters. [REDACTED] also claimed for 2 brother/sisters and an aunt/uncle on the 13/03/2023 for Tax year 2022, 5 dependants (relationships unspecified on eForm 12) on the 31/05/2022 for Tax year 2021 and 4 dependants (relationships unspecified on eform 12) on the 04/02/2021 for Tax year 2020.

Compliance Intervention opened on the 30/01/2024 to query Tuition Fee’s, Dependant Relative and Government Payments for 2020, 2021, 2022 & 2023 ...

First correspondence issued to the customer on 31/01/24 asking for information on the Dependent Relative Tax Credit (2020-2023), Tuition Fees (2020-2022) and Government Payments (2020).

Reminder letter issued by post and through Revenue's MyEnquiries on the 13/03/24 as initial correspondence was not opened. Phone call received by caseworker (CMC) on the 19/03/24 from customer advising that supporting documents would be submitted by post.

Customer provided supporting documentation for tuition fees on 3/04/24. The following adjustments were made in reference to the documents submitted- 2020 tuition fees reduced from €3,569 to €3,319, 2021 tuition fees increased from €575 to €691.70 & 2022 tuition fees increased from €3,000 to €3,150. Proof of payments made to Dependent relatives also received, however no income certificates or proof of incapacity received for any of the dependants. Customer confirmed government payments relate to further education and training payments, which are exempt from Income tax and USC.

Correspondence issued to customer by caseworker (CMC) on 13/05/24 requesting a DR1 to be fully completed for each dependant along with proof of infirmity and proof of income from their relevant Tax authority. Compliance Intervention was also extended to request supporting receipts for Health Expenses claimed in 2020 (€1,010), 2021 (€1,316), 2022 (€1,524) & 2023 (€683).

DR1 forms submitted by customer on the 16/05/24 for 6 dependants. Dependent relative disallowed as the taxpayer was unable to provide income certificates in relation to her claimants. It should also be noted that the t/p has not provided proof of incapacity.

Receipts relating to Health Expenses received, relief amended accordingly- 2020 Health Expenses reduced from €1,010 to €743.96, 2021 Health Expenses reduced from €1,316 to €425 & 2023 Health Expenses increased from €683 to €745.44.

Decision made on the 21/05/24 by caseworker (CMC) to remove the dependent relative credit from 2020, 2021, 2022 and 2023.

Finalisation letter issued to customer on the 23/05/24 advising that a tax refund of €234.41 was due. Refund in 2023 of €2,702.48 reduced by offsets against PAYE €383.21 (2020), PAYE €1379.86 (2021) & PAYE €705.00 (2022). The finalisation letter noted that the dependant relative tax credit had not been granted as proof of infirmity and proof of dependants income had not been received."

Material Facts

10. Having read the documentation submitted, the Commissioner makes the following findings of material fact:
 - 10.1. The Appellant made claims for a dependent relative tax credit in respect of relatives who reside in [REDACTED], for the relevant years. On 14 May 2024, the Appellant submitted DR1 forms in respect of six individuals.
 - 10.2. On 21 May 2024 and 23 May 2024, the Respondent issued amended statements of liability to the Appellant.
 - 10.3. On 23 May 2024, the Respondent wrote to the Appellant to inform her of its decision to remove the Appellant's claim to dependent relative tax credit.
 - 10.4. On 21 June 2024, the Appellant submitted a Notice of Appeal to the Commission.

Analysis

11. At the outset, the Commissioner notes that the Appellant's Notice of Appeal referred to health expenses and the Appellant provided medical expense receipts to the Commission. However, the Appellant failed to specify any grounds of appeal in relation to that matter in her appeal documentation. As the Appellant has not specified the grounds of appeal in relation to health expenses in sufficient detail for the Appeal Commissioners to be able to understand those grounds, as required by section 949I of the TCA 1997, the Commissioner does not consider this aspect of the appeal further.
12. Accordingly, this appeal relates to the Respondent's refusal of the Appellant's claim for a dependent relative tax credit for the relevant years under section 466 of the TCA 1997.
13. 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 dependent relative tax credit. 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".

17. The Commissioner acknowledges the Appellant's submission on the financial assistance which she provides to her relatives and notes supporting documentation which shows money transfers from the Appellant's spouse. The Commissioner also acknowledges the Appellant's submissions on the lack of a welfare system in [REDACTED] and the economic and health circumstances of the individuals concerned.
18. However, the Commissioner notes that the Appellant has not submitted documentary evidence to verify the identities of all the individuals listed and their relationship to the Appellant or the Appellant's spouse. Furthermore, the Appellant has not submitted documentary evidence to establish that the individuals are unable to maintain themselves due to incapacity (in the case of relatives who are not a widowed mother or father). Finally, the Appellant has not submitted any documentary evidence to establish that the total income of the individuals concerned falls below a sum equal to the specified amount. While the Appellant has submitted medical letters to show the age and health conditions of two of the individuals concerned, it remains the case that the Appellant has not presented documentary evidence to verify their relationships to the Appellant or the Appellant's spouse, or that they meet the financial criteria required under the legislation.
19. In the circumstances outlined, the Commissioner is not satisfied that the Appellant has proven that she meets the conditions of eligibility set out in section 466 of the TCA 1997.
20. The Commissioner appreciates that this decision will be disappointing for the Appellant and acknowledges the circumstances set out on appeal. The Appellant was entitled to check whether the Respondent's refusal of her claim for a dependent relative tax credit was correct.

Determination

21. 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 dependent relative tax credit under section 466 of the TCA 1997.
22. 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.

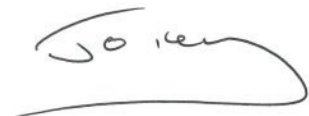
Notification

23. 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

24. 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.

A handwritten signature in black ink, appearing to read 'Jo Kenny', with a long horizontal flourish underneath.

Jo Kenny
Appeal Commissioner
13 January 2025