



44TACD2019

Appellant

Appellant

V

THE REVENUE COMMISSIONERS

Respondent

DETERMINATION

Introduction

1. This appeal concerns a claim for repayment of additional Vehicle Registration Tax ("VRT") charged on the late registration of a vehicle. On agreement of the parties this appeal is determined in accordance with section 949U of the Taxes Consolidation Act 1997, as amended ("TCA 1997").

Background

2. The vehicle, the subject matter of this appeal, was purchased by the Appellant on 23 April 2018 from a private seller in Northern Ireland. The vehicle was registered with the National Car Testing Service ("NCTS") on 03 May 2018. A VRT amount of €4,977 was charged on the vehicle plus an additional VRT amount ("late registration fee") of €1,353 for late registration of the vehicle. The Appellant paid the full amount of €6,330.
3. The Appellant appealed the application of the late registration fee on the grounds that the Appeals Officer at the first stage appeal was of the erroneous view that the vehicle was first imported into the State in 2017; that the vehicle was delivered to an address in the Republic of Ireland in 2017 which belonged to the husband of the vendor; that the sale invoice (being the original purchase by the vendor) incorrectly included the vendor's husband's work address in the Republic of Ireland as the delivery address. The Appellant says she can prove she first imported the vehicle into the State on 23

April 2018 and therefore she had registered the vehicle within 30 days of purchase and that a late registration fee should not therefore apply.

4. The Appellant did not accept that she should be liable for any late registration fee and duly appealed the decision of the Respondent by notice of appeal to the Tax Appeals Commission on 14 June 2018.

Legislation

5. Section 146 of the Finance Act 2001:

"A person who is aggrieved by a determination of the Commissioners under section 145 may, in accordance with this section, appeal to the Appeal Commissioners against such determination and the appeal is to be heard and determined by the Appeal Commissioners whose determination is final and conclusive unless a case is required to be stated in relation to it for the opinion of the High Court on a point of law."

6. Section 132 Finance Act, 1992, as amended:

(1) [Subject to the provisions of this Chapter] and any regulations thereunder, with effect on and from the 1st day of January, 1993, a duty of excise, to be called vehicle registration tax, shall be charged, levied and paid [at whichever of the rates specified in subsection (3) is appropriate] on—

(a) the registration of a vehicle, and

(b) a declaration under section 131(3).

(2) Vehicle registration tax shall become due and be paid at the time of the registration of a vehicle or the making of the declaration under section 131(3), as may be appropriate, by—

(a) an authorised person in accordance with section 136(5)(b),

(b) the person who registers the vehicle,

(c) the person who has converted the vehicle where the prescribed particulars in relation to the conversion have not been declared to the Commissioners in accordance with section 131(3),

(d) the person who is in possession of the vehicle that is a converted vehicle which has not been declared to the Commissioners in accordance with section 131(4),



and where under paragraphs (a) to (d), more than one such person is, in any case, liable for the payment of a vehicle registration tax liability, then such persons shall be jointly and severally liable.]

(3) This subsection deals with rates of VRT and is not repeated here.

(3A) Notwithstanding subsection (3), where the Commissioners are of the opinion that a vehicle has not been registered at the time specified in Regulation 8 of the Vehicle Registration and Taxation Regulations 1992 ([S.I. No. 318 of 1992](#)), the amount of vehicle registration tax due and payable in accordance with subsection (3) shall be increased by an amount calculated in accordance with the following formula:

$$A \times P \times N$$

Where –

A is the amount of vehicle registration tax calculated in accordance with subsection (3),

P is 0.1 per cent, and

N is the number of days from the date the vehicle should have been registered in accordance with Regulation 8 of the vehicle Registration and Taxation Regulations 1992 and the date of registration of the vehicle.

7. S.I No. 318/1992 – Vehicle Registration and Taxation Regulation, 1992, Regulation 8

(1) (a) A person not being an authorised person who manufactures or brings into the State a vehicle which is not exempt from registration under section 135 of the Act shall—

(i) make an appointment for a pre-registration examination with the competent person concerned not later than 7 days after the manufacture or arrival in the State of the vehicle, and

(ii) register the vehicle to the satisfaction of the Commissioners not later than 30 days after its manufacture or arrival in the State.



Submissions

8. The Appellant submits that she purchased the vehicle in Northern Ireland on 23 April 2018 which she then imported into the State on that date. The Appellant further submits that she registered the vehicle at the NCTS on 03 May 2018, and that this was within the 30-day time frame for registration of the vehicle.
9. The Respondent contends that the vehicle the subject matter of the appeal was imported into the country in 2017. As the vehicle was not registered until 03 May 2018, a late registration fee applies and is calculated using the following formula:

$$A \times P \times N$$

Where –

A is the amount of vehicle registration tax calculated in accordance with subsection (3),

P is 0.1 per cent, and

N is the number of days from the date the vehicle should have been registered in accordance with Regulation 8 of the vehicle Registration and Taxation Regulations 1992 and the date of registration of the vehicle.

10. The application of this formula resulted in a late registration fee of €1,353.
11. The Appellant accepted that an amount of €4,977 was due on registration of the vehicle but did not accept that the registration of the vehicle was late. She appealed the application of the late registration fee to the central appeals office in the Office of the Revenue Commissioners.
12. Having received the Appellant's notice of appeal the Respondent refused by letter dated 18/05/2018 to refund the late registration fee. The refusal was on the basis that the vehicle was imported to an address in the Republic of Ireland in 2017 and



hence the registration of the vehicle on 03 May 2018 was outside the prescribed 30-day period for registration purposes and hence was late.

13. The Appellant appealed this decision to the Tax Appeals Commission on the basis that the Appeals Officer's decision was based on an erroneous record and on the basis she can prove the vehicle was purchased from a vendor in Northern Ireland which she verified by a statement signed by the vendor to this effect. Furthermore, the Appellant provided additional evidence in the form of a copy of VRTVPD2, a copy invoice from a car supermarket in the UK, a copy receipt from the vendor dated 23/04/2018, a copy of the NCT vehicle import receipt, a copy letter from the vendor confirming the delivery address, and a copy of the Revenue appeal decision of 18/05/2018. In addition, the Appellant provided a copy consignment note from a transport company in Northern Ireland which confirms that they delivered the vehicle to their address in Northern Ireland and that the vehicle was originally collected by the vendor from their premises in Northern Ireland.

Analysis

14. When a car is brought into the State it must be registered within 30 days of importation in accordance with Regulation 8 of Statutory Instrument No. 318/1992. Section 132(2) requires that the VRT be paid by the person who registers the vehicle in the State. The vehicle the subject matter of the appeal was imported on 23 April 2018 and was registered on 03 May 2018 within the prescribed 30-day period.
15. I am satisfied that the Appeals officer made an erroneous decision by relying solely, on the invoice which included an incorrect delivery address. Furthermore, I am satisfied based on the evidence provided by the Appellant that she registered the vehicle within the prescribed 30-day period. Thus, I conclude that the late registration fee should be set aside.



Conclusion

16. In appeals before the Tax Appeals Commission, the burden of proof rests on the Appellant who must prove on the balance of probabilities that the relevant tax is not payable.
17. In the High Court case of *Menolly Homes Ltd v Appeal Commissioners and another*, [2010] IHEC 49, at para. 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.'*
18. Based on a consideration of the evidence and submissions together with a review of the documentation I determine that the late registration fee of €1,353 shall be set aside and refunded to the Appellant.
19. The appeal hereby is determined in accordance with section 949AL TCA 1997.

PAUL CUMMINS

APPEAL COMMISSIONER

11th October 2019

