



**61TACD2019**

**BETWEEN/**

**NAME REDACTED**

**Appellant**

**-and-**

**THE REVENUE COMMISSIONERS**

**Respondent**

**DETERMINATION**

**Appeal**

1. This is an appeal to the Appeal Commissioners pursuant to section 146 of the Finance Act, 2001 (as amended) against a determination made by the Revenue Commissioners. The appeal concerns an amount of vehicle registration tax charged pursuant to section 132(3A) of the Finance Act, 1992 (as amended) on the basis that the vehicle was not registered at the time specified in Regulation 8 of the Vehicle Registration and Taxation Regulations 1992 (S.I. No. 318 of 1992) (as amended), being the date of arrival of the vehicle in the State.
2. This appeal is adjudicated in accordance with section 949U of the Taxes Consolidation Act, 1997.



### **Facts**

3. The vehicle, the subject matter of this appeal, is a Nissan Qashqai N-TEC 1.5 DCI 5DR (2010), bearing registration number [REDACTED]. The Appellant registered the vehicle on 24 February 2017. A Declaration signed by Appellant at the National Car Testing Service (NCTS) centre on 24 February 2017 describes the date of first registration of the vehicle as [REDACTED] 2010 and mileage at the date of registration of 71,044.
  
4. An OMSP of €10,872 was originally determined for the vehicle resulting in a VRT charge of €2,065 (a calculation of €10,872 @ 19%). The amount of VRT was increased in accordance with section 132(3A) of the Finance Act, 1992 (as amended) by an amount of €429. The Appellant appealed to the Revenue Commissioners. On appeal a revised OMSP was determined by the Revenue Commissioners giving rise to a refund to the Appellant of €507. On appeal the Revenue Commissioners determined that the increased amount of VRT of €429 was due and payable. The Appellant was aggrieved by the determination of the Revenue Commissioners in relation to the increased amount of VRT of €429 and appealed to the Appeal Commissioners against that determination. A notice of appeal was received by the Tax Appeals Commission on 23 June 2017.

### **Legislation**

5. Section 146 of the Finance Act, 2001 (as amended) provides:

*“(1) Except where section 145(3) applies, any person who –*

- (a) has paid an amount of excise duty,*
- (b) has received a notice of assessment under section 99A, or is otherwise called upon by the Commissioners to pay an amount of excise duty that, in their opinion, that person is liable to pay, or*



(c) *has received a repayment of excise duty or has made a claim for such repayment that has been refused,*

*and is aggrieved by any of the matters referred to in paragraphs (a) to (c), may, subject to subsection (3), in respect of the liability to excise duty concerned or the amount of that liability, or the amount of the repayment or the refusal to repay, appeal to the Appeal Commissioners in accordance with section 949I of the Taxes Consolidation Act, 1997 within the period specified in subsection (2).*

(1A) *Any person aggrieved by any of the following matters may appeal to the Appeal Commissioners in accordance with section 949I of the Taxes Consolidation Act, 1997 within the period specified in subsection (2)*

(a) *a determination of the Commissioners under section 145;*

(b) *a refusal to authorise a person as an authorised warehousekeeper, or to approve a premises as a tax warehouse, under section 109, or a revocation under that section of any such authorisation or approval;*

(c) *a refusal to authorise a person as a registered consignee under section 109IA or a revocation under that section of any such authorisation.*

(d) *a refusal to authorise a person as a registered consignor under section 109A or a revocation under that section of any such authorisation;*

(e) *a refusal to approve a person as a tax representative under section 109U(2) or a revocation under that section of any such approval;*

(f) *a refusal to grant a licence under section 101 of the Finance Act 1999 or a revocation under that section of any such licence that has been granted.*



- (2) *The period specified for the purpose of making an appeal under this section is the period of 30 days after the date of –*
- (a) *the payment of excise duty in the case of an appeal under subsection (1)(a),*
  - (b) *the notice of assessment or other notice calling for payment of the amount concerned in the case of an appeal under subsection (1)(b),*
  - (c) *the repayment or the notice of the refusal to repay in the case of an appeal under subsection (1)(c), or*
  - (d) *the notice of the determination, refusal or revocation concerned in the case of an appeal under subsection (1A).”*
6. Regulation 8 of the Vehicle Registration and Taxation Regulations, 1992 (as amended) provides:

“(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.”*

7. Section 132 of the Finance Act, 1992 (as amended) provides:

“(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 entered the State to the date of registration of the vehicle.*

### **Submissions and Analysis**

8. All vehicles are subject to VRT on first registration in the State. Section 132(3A) of the Finance Act, 1992 (as amended) provides that the amount of VRT due and payable shall be increased by an amount calculated by reference to the number of days the vehicle should have been registered on entering the State and the actual date of registration.
  
9. The Appellant submits that the vehicle the subject matter of the appeal entered the State on 26 January 2017. In support of the appeal, the Appellant provided a Certificate of Insurance which records the period of cover from 15.30 hrs on 26 January 2017 to 23.59 hrs on 25 February 2017. The Certificate of Insurance records the vehicle covered as bearing registration number [REDACTED]. The Appellant provided an invoice dated 26 January 2017 from [NAME REDACTED] of [ADDRESS REDACTED] for a recovery service for a vehicle bearing registration number [REDACTED] from [LOCATION IN NORTHERN



- IRELAND] to [LOCATION IN THE STATE]. The Appellant provided a further invoice dated 1 March 2017 from [NAME REDACTED] which describes storage for the vehicle bearing registration number [REDACTED] from 26 January 2017 to 16 February 2017. The Appellant registered the vehicle on 24 February 2017.
10. The Appellant submits that at the NCTS centre it was advised that the calculation of the increased amount of VRT of €429 was based on a position that the date of registration should have been the date the road tax for vehicle bearing registration [REDACTED] had expired in Northern Ireland. The Appellant further submits that the NCTS centre provided a printout (from [www.vehicleenquiry.service.gov.uk](http://www.vehicleenquiry.service.gov.uk) and dated 24 February 2017) for vehicle registration [REDACTED] which described the vehicle as ‘*Untaxed - Tax due: 26 July 2016*’ and ‘*No MOT – Expired: 31 July 2016*’.
  11. In a letter dated 8 May 2017 the Revenue Commissioners stated that ‘*the additional VRT is payable due to the late registration of the vehicle (outside the legal limit of 30 days), it doesn’t relate to the N Ireland road tax situation.*’ The Revenue Commissioners did not provide details of the date that the vehicle should have been registered, but simply referred to the method of calculating the increased amount of VRT of €429 in accordance with section 132(3A).
  12. Based on the formula  $A \times P \times N$  where A is €2,065, P is 0.1% and N is unknown, and which formula equals €429, this would mean that N is 208 days. If the date of registration is 24 February 2017 then working backwards for 208 days would give a date of 31 July 2016.
  13. In the circumstances, and based on a review of the facts and the submissions, material and evidence provided by the parties, and in the absence of evidence to the contrary from the Revenue Commissioners, I am satisfied that the Appellant





complied with the requirements of Regulation 8 by registering the vehicle by 24 February 2017, being not later than the 30 days prescribed therein.

**Determination**

14. Based on a review of the facts and a consideration of the submissions, material and evidence provided by both parties I will allow the Appellant's appeal and determine that the increased amount of VRT of €429 is not due and payable by the Appellant. This appeal is hereby determined in accordance with section 949AL of the Taxes Consolidation Act, 1997.

**COMMISSIONER FIONA McLAFFERTY**

**4<sup>th</sup> NOVEMBER 2019**

