



20TACD2020

BETWEEN/

APPELLANT

Appellant

V

REVENUE COMMISSIONERS

Respondent

DETERMINATION

Introduction

1. This appeal relates to the refusal by the Respondent of a repayment of residual vehicle registration tax ('VRT') and residual value added tax ('VAT') charged in relation to the adaptation of a used motor vehicle in accordance with S.I. No. 353/1994 – *Disabled Drivers and Disabled Passengers (Tax Concessions) Regulations, 1994*.
2. Paragraph 15 of regulation 353/1994 deals with refunds to the Revenue Commissioners. A repayment of VAT / VRT (previously refunded by the Revenue under the Disabled Drivers and Disabled Passengers (Tax Concession) Regulations 1994 (S.I.N0.353 of 1994)) is due to be repaid to Revenue if the beneficiary sells the vehicle, disposes of it, claims a repayment in respect of a subsequent vehicle or ceases to use the first mentioned vehicle as a disabled driver or for transport of a disabled passenger, within 2 years of the date of purchase.



3. The matter in dispute between the parties relates to the amount, if any, that the Appellant should have to repay to the Revenue Commissioners under paragraph 15.
4. This Appeal, by agreement of the parties, is determined without a hearing, in accordance with Section 949U Taxes Consolidation Act 1997.

Background

5. The Appellant purchased a **redacted** motor vehicle in 2014 and arranged for it to be adapted as required for use by his disabled wife, as a passenger. The Appellant lodged a claim in 2014 for repayment of VAT and VRT on the Ford Focus in accordance with S.I. 353/1994. The Respondent processed the repayment of €1,980 at that time. Due to the deterioration in the Appellant's wife's health, the vehicle was no longer suitable for the Appellant's wife's needs, so this car was sold (less than 2 years after purchase) and a wheelchair accessible vehicle was purchased in 2016 by the Appellant.
6. In order to qualify for admission for a repayment of VAT and VRT under the Disabled Drivers and Disabled Passengers repayment scheme in respect of the 2016 vehicle, it was required of the Appellant that he repay to the Revenue Commissioners a portion (determined by a formula) of the VAT / VRT repayment in respect of the earlier purchased vehicle, since this was purchased less than two years previously.
7. This latter repayment to the Revenue was calculated at €1,584. This amount was paid back to Revenue by the Appellant. It is this payment of €1,584 of VAT / VRT which is the subject of this appeal.
8. Subsequently, the Appellant claimed and received from the Respondent a refund of residual VAT / VRT of €2,224 on the second vehicle, purchased in 2016.
9. The Appellants wife died in December 2016.
10. In July 2017, the Appellant wrote to the Revenue Commissioners requesting a review of his case and the circumstances in which he was required to repay €1,584 residual VAT/VRT.
11. On 7 November 2017 Revenue wrote to the Appellant setting out the basis of the repayment of €1,584 in accordance with Regulation 15 of S.I. 353 of 1994 as amended.



The appeal was refused on the ground that the Appellant did not own the vehicle for two years and thus had to repay the €1,584, before being admitted to the scheme again (in order to claim back VAT / VRT on the Wheelchair adapted vehicle bought in 2016).

12. Following further correspondence with Revenue, the Appellant appealed Revenue's decision to the Tax Appeals Commission on 28 September 2018.

13. On 27 February 2019, the Revenue Commissioners (the Respondent) wrote to Appellant, following representations from a Senator, in the following terms:

"...I calculate that the refund (owing) to Revenue at €1,307. As you paid €1,584, I propose refunding you the balance of €277 (€1,584-€1,307) ... If you agree with my proposal please let me have your agreement in writing and the withdrawal of your appeal. I will then arrange for a refund to you of €277."

14. On the 8 March, the Appellant wrote to the Respondent in the following terms:

"...I am slightly confused with the offer of €277. Was this a miscalculation on Revenue's behalf and should it not be rectified regardless of my decision to continue with the tax appeals commission"

15. On the 13 March 2019, the Respondent replied to the Appellant in the following terms:

"When calculating the refund due by you...Revenue did not have the OMSP (Open Market Selling Price) at the date of sale/disposal...Because of this they took 80% of the relief got by you when you entered the scheme (i.e.80% of €1,980=€1,584). Per my records this figure was agreed between you and Revenue before you refunded the €1,584."

The Respondent used the Revenue Calculator to arrive at the lower figure of €1,307.

16. The Respondent also stated to the Appellant:

*"I note that your wife died on **redacted**. This was five months after you obtaining relief of €2,224 on your second vehicle. Under the circumstances Revenue were entitled to look for a refund of some of the relief granted as the vehicle was no longer been used under the Scheme, and it is a condition of the Scheme that it should be used for a period of two years."*



However, Revenue did not look for any refund, and this point has been taken into account when considering the appeal.”

Legislation

17. As set out in Appendix I below, the relevant legislative provisions are;

- S.I. No. 353/1994 – Disabled Drivers and Disabled Passengers (Tax Concessions) Regulations, 1994

The most pertinent sections of the legislation relevant to this appeal are set out below:

Regulation 2 (1) S.I. 353/1994 provides;

"disabled passenger" means a severely and permanently disabled person who possesses a certificate of the kind referred to in paragraph (a) or (b) of Regulation 4 and for whom a vehicle has been specially constructed or adapted to the extent prescribed in Regulation 10 (1) (a), to take account of that passenger's disablement;

"residual value-added tax" means an amount determined by the Revenue Commissioners as being equivalent to the amount of value-added tax which would be included in the open market selling price of a vehicle if it were sold by an authorised person at the time specified in these Regulations;

"residual vehicle registration tax" means an amount determined by the Revenue Commissioners as being equivalent to the amount of vehicle registration tax which would be chargeable if that vehicle were liable for such tax at the time specified in these Regulations;

.....

Regulation 10 S.I. 353/1994 provides;

Reliefs for disabled passengers

10. (1) *Where a person satisfies the Revenue Commissioners that that person is a severely and permanently disabled passenger or a family member of such a disabled passenger residing with and responsible for the transportation of that disabled passenger and such person has borne or paid value-added tax, vehicle*



registration tax or residual vehicle registration tax in respect of a vehicle or in respect of the adaptation of a vehicle which—

(a) has been specially constructed or adapted for use by that disabled passenger, and where the vehicle is so adapted, the cost of such adaptation excluding value-added tax consists of not less than the amount specified for the purpose in section 92 (1) of the Finance Act, 1989 :

.....

(4) (b) Where a person receives a repayment or remission under paragraph (3) that person shall undertake—

- (i) to use the vehicle in question for the transportation of the disabled passenger in question, for a period of 2 years from the date on which the Revenue Commissioners receive the application for repayment, and to inform the Revenue Commissioners immediately if any circumstances arise during that period where the vehicle is sold or otherwise disposed of by that person, and*
- (ii) to abide by the provisions of Regulation 15.*

(c) Where the Revenue Commissioners accept a claim under this Regulation in respect of the transport of a disabled passenger, they shall not accept a claim (other than in the circumstances to which Regulation 15 applies) relating to any further vehicle in respect of the transport of the same passenger for a period of 2 years from the date of purchase of the vehicle for which the claim was accepted where such claim was made under the provisions of paragraph (1) or (2), and a period of 2 years from the date of receipt of the application by the Revenue Commissioners, where such application was made under the provisions of paragraph (3).

(d) Where the Revenue Commissioners have accepted a claim for repayment of vehicle registration tax in respect of the transport of a



disabled person as passenger under the Disabled Drivers (Tax Concessions) Regulations, 1989, they shall not accept a claim relating to any further vehicle in respect of the transport of the same passenger for a period of 2 years from the date of purchase of the vehicle for which the claim was accepted:

Provided that the Revenue Commissioners may waive this provision in exceptional circumstances subject to the refund of a portion of the repayment, calculated in accordance with the formula set out in Regulation 15(1).

Regulation 15 S.I. 353/1994 provides:

Refunds to the Revenue Commissioners

15. *(1) Where a beneficiary of a repayment or remission under Regulation 8 or 10 in respect of a vehicle (in this Regulation referred to as “the first-mentioned vehicle”)-*

(a) sells it or otherwise disposes of it within 2 years of the date of purchase or, in the case of a person referred to in Regulation 8(3) or 10(3), within 2 years of the date on which the Revenue Commissioners receive the application for repayment,

(b) claims a repayment or remission under the same Regulation in respect of a subsequent vehicle purchased by that person within 2 years of purchasing the first-mentioned vehicle, or, in the case of a person referred to in Regulation 8(3) or 10(3), within 2 years of the date on which the Revenue Commissioners receive the application for repayment, or

(c) ceases to use the first-mentioned vehicle as a disabled driver or for the transport of the disabled passenger concerned within 2 years of the date of purchase or, in the case of a person referred to in Regulation 8(3) or 10(3), within 2 years of the date on which the Revenue Commissioners receive the claim for repayment,

such person shall refund to the Revenue Commissioners a portion of the amount which was either or both repaid and remitted on the first-mentioned vehicle, calculated by the Revenue Commissioners according to the following formula:



$$A \times \frac{B}{(C + D)}$$

where:

A is the open market selling price of the first-mentioned vehicle on the date of its sale or disposal or on the date of purchase of the subsequent vehicle, whichever is applicable,

B is the total amount repaid or remitted in respect of the first-mentioned vehicle and any adaptations thereto,

C is the open market selling price of the first-mentioned vehicle at the time of its purchase by the beneficiary, and

D is the cost including value-added tax of any adaptations to the first-mentioned vehicle on which repayment was claimed by the beneficiary.

.....

(5) The Revenue Commissioners shall not repay or remit any tax or residual vehicle registration tax under Regulation 8, 10 or 12 or in accordance with Regulation 8A, 10A or 12A in respect of any vehicle unless the provisions of paragraph (2) or (4), as the case may be, have been fulfilled.

(6) In exceptional cases, and subject to such conditions as they consider necessary in each such case, the Revenue Commissioners may reduce the amount of the refund required under this Regulation (Emphasis added).

Submissions

18. The Appellant stated the following within his submission:

*“In 2014 I received VRT relief, under the Drivers and Passengers with Disabilities Scheme, for a **redacted** which had the passenger seat adapted into a swivel seat. This adaptation had to be carried out for my wife, **redacted** who has since passed away. **Redacted’s** mobility had suddenly declined due to Parkinson’s disease and she was bound to a wheelchair. At the time the swivel seat sufficed as she was able to walk a few steps with*



two people supporting her at either side. Over the next year and a half my wife's mobility continued to decline rapidly. She had more and more hospital appointments to attend and we had to acquire the help of in-home care. We were advised by several healthcare workers to stop putting physical strain on redacted by lifting her in and out of bed / up and down the stairs and in and out of the car. We resolved this issue by getting her carers to use a hoist to get her in and out of bed, installing a stairlift and using a wheelchair accessible taxi to get her to and from any appointments. As you can imagine the taxi was extremely costly and often hard to come by as there are not many wheelchair accessible taxis in redacted. We came to the decision that I would buy a wheelchair accessible vehicle as it was no longer feasible to pay a taxi several times a week.

I understand the condition of obtaining the vehicle for two years from the date which the Revenue Commissioners receive the application for VRT repayment. However, I do wish that you would look at the unique circumstances of this case. I was no longer able to use my car, it was not viable to be paying a taxi every week and my wife was only leaving the house for hospital appointments. The decision to sell the redacted and buy a wheelchair vehicle was not made lightly. I can assure you it was an essential as it allowed me to bring my wife to all her hospital appointments and I was no longer relying on taxis. It also allowed her to attend redacted”

19. The Respondent stated the following within its submission:

“The appellant got relief, under The Disabled Driver/Passenger Scheme, of €1,980 on vehicle purchased on 27/11/2014.

Under the Scheme you are required to keep the vehicle in your possession for a specified period (in this case two years). Disposal of the vehicle during the two-year period can only be allowed on the basis that you make a refund to Revenue of all or a portion of the relief given, including VRT remitted, if applicable.

The appellant ceased to use the vehicle in question as a disabled vehicle, in July 2016 as he purchased a different vehicle which he wished to claim relief on.

For the second vehicle to be entered into the scheme it is a requirement that VRT be repaid to Revenue in respect of the first vehicle.

An amount of €1,584 was agreed with the appellant and this amount was repaid to Revenue.

The appellant received VRT relief of €2,224 on the second vehicle.”

Analysis



20. Regulation 10 (4)(a) deals with the conditions where a person seeks relief under the regulations for a second vehicle, within 2 years of having previously claimed relief. It requires “that person shall undertake (i) to use the vehicle in question for the transportation of the disabled passenger in question, for a period of 2 years from the date on which the Revenue Commissioners receive the application for repayment, and to inform the Revenue Commissioners immediately if any circumstances arise during that period where the vehicle is sold or otherwise disposed of by that person, and (ii) to abide by the provisions of Regulation 15.”

21. Regulation 15 deals with Refunds to the Revenue Commissioners. A repayment of VAT / VRT (previously refunded by the Revenue under the Disabled Drivers and Disabled Passengers (Tax Concession) Regulations 1994 (S.I.N0.353 of 1994)) is due to Revenue if the beneficiary sells the vehicle, disposes of it, claims a repayment in respect of a subsequent vehicle or ceases to use the first mentioned vehicle as a disabled driver or for transport of a disabled passenger, within 2 years of the date of purchase.

22. It would appear that the Appellant has fully complied with the terms of Regulation 10 in so far that the Respondent granted him relief on the 2016 Wheel Chair friendly vehicle and he paid the amount requested by Revenue under Regulation 15.

23. By making his application for relief (and succeeding) for the second (2016) vehicle, the Appellant has “undertaken... to abide by the provisions of Regulation 15.” Regulation 15 has been operated by the Revenue, fully in accordance with its provisions with the agreement of the Appellant, so that his claim on the second vehicle (2016) could be progressed. Paragraph 4(D) of Regulation 10 allows the Revenue to amend the two-year rule for a second claim as follows:

“Provided that the Revenue Commissioners may waive this provision in exceptional circumstances subject to the refund of a portion of the repayment, calculated in accordance with the formula set out in Regulation 15 (1).”

24. In this instance it is clear that Revenue did allow the second claim by the Appellant notwithstanding the first claim was made in respect of a vehicle purchased less than two years previously.



25. Regulation 15 paragraph (6) allows Revenue, to adjust the amount required to be repaid as follows:

“(6) In exceptional cases, and subject to such conditions as they consider necessary in each such case, the Revenue Commissioners may reduce the amount of the refund required under this Regulation.”

26. It would appear that Revenue have used this provision as a basis for not seeking a refund from the Appellant upon the death of his wife, some 5 months after his claim for relief on the 2016 vehicle.

27. It seems to me that the Respondent has considered the circumstances of the Appellant carefully and is not minded to treat his repayment of €1,584 on the 2014 vehicle as “exceptional”. Instead, the Respondent appears to have treated the Appellant’s bereavement as “exceptional” by not seeking any repayment on the 2016 vehicle, upon the death of his wife. This appears to me to be a reasonable application of the regulations by the Respondent.

28. I believe that the Respondent’s revised calculation of €1,308 due on the 2014 vehicle should be apply to the Appellant when calculating the refund due to Revenue under Regulation 15.

Conclusion

29. In accordance with the provisions of S.I. No. 353/1994, I determine that the repayment due by the Appellant pursuant to the regulation in respect of the Ford Focus (2014 vehicle) falls to be calculated in accordance with Regulation 15(1) S.I. 353/1994, which limits the repayment amount to residual value-added tax and residual vehicle registration tax appropriate to the vehicle at the time such person disposes of the vehicle.

30. I determine that the repayment owing by the Appellant is €1,308.

31. I determine that since the Appellant has already paid €1,584, a refund of €276 should be made to the Appellant.

32. This appeal is determined in accordance with s.949AL TCA 1997.



PAUL CUMMINS
APPEAL COMMISSIONER
15 JANUARY 2020



APPENDIX I – Legislation

S.I. No: 353 of 1994

Disabled drivers and disabled passengers (tax concessions) regulations, 1994

1. These Regulations may be cited as the Disabled Drivers and Disabled Passengers (Tax Concessions) Regulations, 1994, and shall come into operation on the 1st day of December, 1994.

2. (1) In these Regulations—

"adapted", in relation to a vehicle, does not include adaptations of production line models which are available from the manufacturer or assembler thereof as an optional extra, and "adaptation" shall be construed accordingly;

"authorised person" means a person authorised under section 136 of the Finance Act, 1992 (No. 9 of 1992);

"Board medical certificate" means a certificate duly completed in the form prescribed in the Second Schedule and issued by the Disabled Drivers Medical Board of Appeal or a certificate duly completed in the form prescribed in the Second Schedule to the Disabled Drivers (Tax Concessions) Regulations, 1989 (S.I. No. 340 of 1989), and so issued under those Regulations;

"conversion" has the meaning assigned to it in section 130 of the Finance Act, 1992 ;

"disabled driver" means a severely and permanently disabled person who possesses a certificate of the kind referred to in paragraph (a) or (b) of Regulation 4 and whose disablement is of such a nature that the person concerned could not drive a vehicle unless it is specially constructed or adapted to take account of that disablement;

"disabled passenger" means a severely and permanently disabled person who possesses a certificate of the kind referred to in paragraph (a) or (b) of Regulation 4 and for whom a



vehicle has been specially constructed or adapted to the extent prescribed in Regulation 10 (1) (a), to take account of that passenger's disablement;

"disabled person" means a person who is severely and permanently disabled, fulfilling one or more of the medical criteria set out in Regulation 3;

"licensing authority" has the meaning assigned to it in section 130 of the Finance Act, 1992 ;

"purchased" does not include any form of lease arrangement;

"qualifying organisation" means a philanthropic organisation which is not funded primarily by—

(a) the State,

(b) any board established by statute, or

(c) any public or local authority,

which organisation is chiefly engaged, in a voluntary capacity on a non-commercial basis, in the care and transport of severely and permanently disabled persons and which is recognised as such, for the purposes of these Regulations, by the Revenue Commissioner;

"registered" has the meaning assigned to it in section 130 of the Finance Act, 1992 ;

"residual value-added tax" means an amount determined by the Revenue Commissioners as being equivalent to the amount of value-added tax which would be included in the open market selling price of a vehicle if it were sold by an authorised person at the time specified in these Regulations;

"residual vehicle registration tax" means an amount determined by the Revenue Commissioners as being equivalent to the amount of vehicle registration tax which would be chargeable if that vehicle were liable for such tax at the time specified in these Regulations;

"vehicle" has the meaning assigned to it in section 130 of the Finance Act, 1992 .



(2) In these Regulations a reference to a Regulation or Schedule is to a Regulation of, or Schedule to, these Regulations and a reference to a paragraph or subparagraph is to a paragraph or subparagraph of the provision in which the reference occurs.

Medical criteria

3. For the purposes of section 92 (2) (a) of the Finance Act, 1989, the eligibility on medical grounds of disabled persons who are severely and permanently disabled shall be assessed by reference to any one or more of the following medical criteria:

(a) persons who are wholly or almost wholly without the use of both legs;

(b) persons wholly without the use of one of their legs and almost wholly without the use of the other leg such that they are severely restricted as to movement of their lower limbs;

(c) persons without both hands or without both arms;

(d) persons without one or both legs;

(e) persons wholly or almost wholly without the use of both hands or arms and wholly or almost wholly without the use of one leg;

(f) persons having the medical condition of dwarfism and who have serious difficulties of movement of the lower limbs.

4. Without prejudice to Regulation 5, a claim for repayment or remission under these Regulations shall be allowed only where the person who makes the claim, or in connection with whom the claim is made, is in possession of either—

(a) a primary medical certificate duly completed in the form prescribed in the First Schedule as evidence of qualifying disablement, signed, dated and endorsed with the official stamp by the appropriate Director of Community Care and Medical Officer of Health, or

(b) a Board medical certificate duly completed in the form prescribed in the Second Schedule as evidence of qualifying disablement, signed and dated by a member of the Disabled Drivers Medical Board of Appeal:



Provided that compliance with this Regulation may be waived by the Revenue Commissioners in the case of a claim made by a qualifying organisation.

5. Any person who is deemed, by virtue of section 92 (3) (b) of the Finance Act, 1989 , to be a person who possesses a primary medical certificate shall be deemed to have satisfied the Revenue Commissioners and the licensing authority concerned that that person is a disabled driver or a disabled passenger as the case may be.

.....

Reliefs for disabled passengers

10. (1) Where a person satisfies the Revenue Commissioners that that person is a severely and permanently disabled passenger or a family member of such a disabled passenger residing with and responsible for the transportation of that disabled passenger and such person has borne or paid value-added tax, vehicle registration tax or residual vehicle registration tax in respect of a vehicle or in respect of the adaptation of a vehicle which—

(a) has been specially constructed or adapted for use by that disabled passenger, and where the vehicle is so adapted, the cost of such adaptation excluding value-added tax consists of not less than the amount specified for the purpose in section 92 (1) of the Finance Act, 1989 :

Provided that in calculating the cost of adaptation of such vehicle, if the Revenue Commissioners so approve, there shall be included—

(i) the cost of conversion of that vehicle, excluding the additional vehicle registration tax incurred in such conversion, and

(ii) the purchase cost excluding value-added tax of any adaptations previously fitted to another vehicle adapted for use by that disabled passenger, and refitted to the vehicle in question,

(b) has been purchased by the disabled passenger or by the said family member of that disabled passenger for the purpose of transporting that person, and



(c) is fitted with an engine whose capacity is not greater than 4,000 cubic centimetres,

the person who has borne or paid the said amounts of tax and residual vehicle registration tax shall be entitled to be repaid same, subject to the limit specified in Regulation II for the purposes of this Regulation:

Provided that the Revenue Commissioners shall repay residual vehicle registration tax only where the said person has purchased the vehicle in question from an authorised person.

(2) Where at the time of registration of a vehicle by a severely and permanently disabled passenger or by a family member of a severely and permanently disabled passenger residing with and responsible for the transportation of that disabled person and the vehicle in question complies with the provisions set out at subparagraphs (a), (b) and (c) of paragraph (1), the Revenue Commissioners shall remit the vehicle registration tax payable, subject to the limit specified in Regulation 11 for the purposes of this Regulation.

(3) Where, after these Regulations come into force, a person becomes a severely and permanently disabled person who fulfils one of the medical criteria set out in Regulation 3 after that person or a family member of that person residing with and responsible for the transportation of that person has purchased a vehicle which complies with the provision set out at paragraph (1) (c) and the vehicle is adapted to the extent outlined in paragraph (1) (a) for the disabled person's use as a passenger, the person who has purchased the vehicle shall be entitled to be repaid—

(a) the amount of residual value-added tax and residual vehicle registration tax appropriate to the vehicle at the time such person lodges a claim with the Revenue Commissioners, and

(b) the value-added tax charged in respect of the adaptation of that vehicle,

subject to the limit specified in Regulation 11 for the purposes of this Regulation.

(4) (a) Where a person receives a repayment or remission under paragraph (1) or (2) of this Regulation that person shall undertake—

(i) to use the vehicle in question for the transportation of the disabled passenger in question, for a period of 2 years from the date of purchase, and to inform the Revenue



Commissioners immediately if any circumstances arise during that period where the vehicle is sold or otherwise disposed of by that person, and

(ii) to abide by the provisions of Regulation 15.

(b) Where a person receives a repayment or remission under paragraph (3) that person shall undertake—

(i) to use the vehicle in question for the transportation of the disabled passenger in question, for a period of 2 years from the date on which the Revenue Commissioners receive the application for repayment, and to inform the Revenue Commissioners immediately if any circumstances arise during that period where the vehicle is sold or otherwise disposed of by that person, and

(ii) to abide by the provisions of Regulation 15.

(c) Where the Revenue Commissioners accept a claim under this Regulation in respect of the transport of a disabled passenger, they shall not accept a claim (other than in the circumstances to which Regulation 15 applies) relating to any further vehicle in respect of the transport of the same passenger for a period of 2 years from the date of purchase of the vehicle for which the claim was accepted where such claim was made under the provisions of paragraph (1) or (2), and a period of 2 years from the date of receipt of the application by the Revenue Commissioners, where such application was made under the provisions of paragraph (3).

(d) Where the Revenue Commissioners have accepted a claim for repayment of vehicle registration tax in respect of the transport of a disabled person as passenger under the Disabled Drivers (Tax Concessions) Regulations, 1989, they shall not accept a claim relating to any further vehicle in respect of the transport of the same passenger for a period of 2 years from the date of purchase of the vehicle for which the claim was accepted:

Provided that the Revenue Commissioners may waive this provision in exceptional circumstances subject to the refund of a portion of the repayment, calculated in accordance with the formula set out in Regulation 15(1).

.....

Refunds to the Revenue Commissioners



15. (1) Where a beneficiary of a repayment or remission under Regulation 8 or 10 in respect of a vehicle (in this Regulation referred to as "the first-mentioned vehicle")—

(a) sells it or otherwise disposes of it within 2 years of the date of purchase or, in the case of a person referred to in Regulation 8 (3) or 10 (3), within 2 years of the date on which the Revenue Commissioners receive the application for repayment, or

(b) claims a repayment or remission under the same Regulation in respect of a subsequent vehicle purchased by that person within 2 years of purchasing the first-mentioned vehicle, or, in the case of a person referred to in Regulation 8 (3) or 10 (3), within 2 years of the date on which the Revenue Commissioners receive the application for repayment,

such person shall refund to the Revenue Commissioners a portion of the amount which was either or both repaid and remitted on the first-mentioned vehicle, calculated by the Revenue Commissioners according to the following formula:

$$A \times \frac{B}{(C+D)}$$

where:

A is the open market selling price of the first-mentioned vehicle on the date of its sale or disposal or on the date of purchase of the subsequent vehicle, whichever is applicable,

B is the total amount repaid or remitted in respect of the first-mentioned vehicle and any adaptations thereto,

C is the open market selling price of the first-mentioned vehicle at the time of its purchase by the beneficiary, and

D is the cost including value-added tax of any adaptations to the first-mentioned vehicle on which repayment was claimed by the beneficiary.



(2) The refund referred to in paragraph (1) shall be paid to the Revenue Commissioners within one month of the sale or disposal of the first-mentioned vehicle, but where the circumstances referred to at paragraph (1) (b) apply, not later than the time of the repayment or remission of any tax in respect of the subsequent vehicle.

(3) Where a qualifying organisation which receives a repayment or remission under Regulation 12 in respect of a vehicle sells it or otherwise disposes of it within 2 years of the date of purchase such organisation shall refund to the Revenue Commissioners a portion of the amount which was either or both repaid and remitted on the vehicle, calculated by the Revenue Commissioners according to the following formula:

$$A \times \frac{B}{(C+D)}$$

where:

A is the open market selling price of the vehicle on the date of its sale or disposal,

B is the total amount repaid or remitted in respect of the vehicle and any adaptations thereto,

C is the open market selling price of the vehicle at the time of its purchase by the organisation, and

D is the cost including value-added tax of any adaptations to the vehicle on which repayment was claimed by the organisation.

(4) The refund referred to in paragraph (3) shall be paid to the Revenue Commissioners within one month of the sale or disposal of the vehicle in question.

(5) The Revenue Commissioners shall not repay or remit any tax or residual vehicle registration tax under Regulation 8, 10 or 12 in respect of any vehicle unless the provisions of paragraph (2) or (4), as the case may be, have been fulfilled.

(6) In exceptional cases, and subject to such conditions as they consider necessary in each such case, the Revenue Commissioners may reduce the amount of the refund required under this Regulation.

