



74TACD2020

BETWEEN/

APPELLANT

Appellant

V

REVENUE COMMISSIONERS

Respondent

DETERMINATION

Introduction

1. This appeal concerns the refusal by the Respondent to make a refund of residual Vehicle Registration Tax (VRT) arising from the export of a vehicle by the Appellant.
2. By agreement of the parties this appeal is adjudicated without a hearing in accordance with section 949U of the Taxes Consolidation Act 1997, as amended ('TCA 1997').

Background

3. The vehicle, the subject matter of the appeal, was exported from the State by the Appellant in January 2019.
4. Subsequent to exporting the car, the Appellant sought a repayment of the residual VRT. The Appellant made an unsuccessful first stage appeal to the Respondent who refused to make the refund. The Appellant did not accept the findings in the matter and appealed to the Tax Appeals Commission on 12 May 2019.

Legislation

Section 135D of the Finance Act 1992 (See Appendix 1)

Statutory Instrument No. 110 of 2013 (Commencement Order for the Scheme)

Submissions

5. The Respondent submitted that the Appellant stated in a letter to them dated 11 February 2019, “that he was not fully aware of the (Irish) VRT reclaim process, so he followed the UK import process.” In this letter the Appellant also stated “that he did not take the vehicle to the (Irish) NCTS for examination prior to the export (from the State), and the vehicle is currently registered in the UK.”
6. The Appellant accepts that he did not bring the vehicle to the NCTS for examination prior to export, as required. However, he contends that “I have in principle overpaid VRT on the vehicle” and “at this point, I still have not been given options to rectify the situation”. The Appellant submitted that “being offered a satisfactory solution will help ensure the interpretation of legislation is not prejudicial towards my ability to move a good from one jurisdiction to another, in line with EU treaties.”
7. The Appellant submitted that subsequent to the export of the vehicle he cancelled an inspection with the NCTS as the “centre advised me they would be unable to process the test without a Vehicle Registration Certificate (VRC). I attempted, to no avail, to retrieve the VRC from the Driver Vehicle Licensing Agency (DVLA)” (in the UK).
8. The Appellant stated that he “would be happy to bring the vehicle to any NCT centre to conduct the test and would be amenable to a, potentially lower, VRT valuation taken at a later date to actual export.”
9. The Respondent confirmed in subsequent correspondence with the Appellant “that as the vehicle is now registered in the UK it has been removed from the Irish Register and therefore could not be examined for export.”



Analysis

10. S.135D (1) (d) Finance Act 1992 states that;

(1) *The Commissioners may repay to a person an amount calculated in accordance with this section of vehicle registration tax based on the open market selling price of a vehicle which has been removed from the State, where—*

.....

(d) within 30 days prior to being so removed—

(i) the vehicle and any documentation to which paragraph (b) or (c) relates, and

(ii) where applicable, a valid test certificate (within the meaning of the Road Traffic (National Car Test) Regulations 2014 (S.I. No. 322 of 2014)) in respect of the vehicle,

have been examined by a competent person and all relevant matters have been found by that person to be in order,

11. The Appellant does not dispute the fact that he failed to comply with S.135D Finance Act 1992.

12. The legislation in the matter is clear and unambiguous: - the vehicle must be presented for inspection within 30 days of its removal from the State.

13. The Appellant did not qualify for a refund of the residual VRT because he did not present the vehicle for inspection prior to removal of the vehicle from the State.

Conclusion

14. The Appellant, has not satisfied the conditions necessary to qualify for a refund of the residual VRT. I have determined that the Respondent has acted correctly in refusing a repayment of the residual VRT amount following the export of the vehicle from the State.





15. This appeal is determined in accordance with section 949AL TCA 1997.

PAUL CUMMINS
APPEAL COMMISSIONER
20 FEBRUARY 2020





APPENDIX 1

Legislation

Section 135D – Finance Act 1992

Repayment of amounts of vehicle registration tax on export of certain vehicles.

135D. (1) The Commissioners may repay to a person an amount calculated in accordance with this section of vehicle registration tax based on the open market selling price of a vehicle which has been removed from the State, where—

- (a) the vehicle is a category M1 vehicle,
- (b) the vehicle has been registered under section 131 and the vehicle registration tax has been paid,
- (c) the vehicle was, immediately prior to being so removed, registered under section 131,
- (d) within 30 days prior to being so removed—
 - (i) the vehicle and any documentation to which paragraph (b) or (c) relates, and
 - (ii) where applicable, a valid test certificate (within the meaning of the Road Traffic (National Car Test) Regulations 2014 (S.I. No. 322 of 2014)) in respect of the vehicle, have been examined by a competent person and all relevant matters have been found by that person to be in order,
- (e) at the time of examination to which paragraph (d) relates, the open market selling price of the vehicle (being the price to which subsection (2) relates) is not less than €2,000, and
- (f) the requirements of subsection (3) have been complied with.

.....





(3) A claim for repayment for an amount of vehicle registration tax under this section shall be made in such manner and in such form as may be approved by the Commissioners for that purpose and shall be accompanied by—

(a) documentation to prove to the satisfaction of the Commissioners that the vehicle was removed from the State within 30 days of its examination under this section, and

(b) proof that the vehicle has subsequently been registered in another Member State or has been permanently exported outside the European Union.

