



25TACD2017

BETWEEN/

NAME REDACTED

Appellant

V

THE REVENUE COMMISSIONERS

Respondent

DETERMINATION

Introduction

1. This appeal relates to the availability of relief from VRT in accordance with section 134(1)(a) of the Finance Act 1992, as amended and S.I. No. 59/1993 - Vehicle Registration Tax (Permanent Reliefs) Regulation, 1993, hereafter referred to as '*transfer of residence relief*'. The application for exemption was made on 3/6/16, was initially refused and was refused on appeal. The Appellant paid vehicle registration tax of €4,635 and appealed to the Tax Appeals Commission on 7/8/16.

Background

2. The Appellant stated that prior to 3/6/16 he had worked and resided in the UK and he furnished documentation in support of his submission including *inter alia*, a letter confirming a tenancy in the UK for the period 3/4/15 to 26/5/16, UK bank statements for the period 14/10/15 to 23/05/16 and mobile phone bills to the tenancy address from November 2015 to May 2016.

3. The Appellant submitted that on 3/6/2016, his place of 'normal residence' for the purposes of the VRT legislation was the UK. The Appellant stated that the duration of his 'normal residence' in the UK was from 3/4/2015 to 3/6/2016.
4. The Respondent did not dispute that the Appellant lived and worked in the UK for the stated period however the Respondent submitted that the Appellant's place of normal residence for the purposes of VRT remained in the State on the basis that the Appellant's wife lived and worked in the State, the Appellant had family ties in the State and the Appellant returned regularly to the State during his period of time working in the UK.

Legislation

Section 134(1)(a) of Finance Act 1992, as amended.

(1) A vehicle may, subject to any conditions, restrictions or limitations prescribed by the Minister by regulations made by him under section 141 be registered without payment of vehicle registration tax if the vehicle is –

(a) the personal property of a private individual and is being brought permanently into the State by the individual when he is transferring his normal residence from a place outside the State to a place in the State,

Statutory Instrument No. 59/1993, Vehicle Registration Tax (Permanent Reliefs) Regulations, 1993

3. (1) In these Regulations-

" the Act" means the Finance Act, 1992 (No. 9 of 1992);

"normal residence" means the place where a person usually lives, that is to say, where he lives for at least 185 days in each year, because of personal and occupational ties, or, in the case of a person with no occupational ties, because of personal ties.

However, the normal residence of a person whose occupational ties are in a different place from his personal ties and who consequently lives in turn in different places situated in 2 or more countries shall be regarded as being the place of his personal ties



Provided that such person returns to the place of his personal ties regularly. This proviso shall not apply where the person is living in a country in order to carry out a task of a duration of less than one year

...

Transfer of Residence

4. (1) Subject to paragraph (5), the relief under section 134 (1) (a) of the Act shall be granted for any vehicle -

(a) which is the personal property of an individual transferring his normal residence to the State and which has been in the possession of and used by him outside the State for a period of at least six months before the date on which he ceases to have his normal residence outside the State

(b) which has been acquired under the general conditions of taxation in force in the domestic market of a country and which is not the subject, on the grounds of exportation or departure from the country, of any exemption from or any refund of value-added tax, excise duty or any other consumption tax, and

(c) in respect of which an application for relief, in such form as may be specified by the Commissioners, is made to the Commissioners not later than the next working day following its arrival in the State or, in case the vehicle requires the making of a customs entry on arrival in the State, not later than the next working day after its release from customs control.

... etc

Submissions and Analysis

5. The exemption pursuant to section 134(1)(a) of the Finance Act 1992, as amended, provides that a vehicle may be registered without payment of vehicle registration tax if the vehicle is being brought permanently into the State by the individual ‘*when he is transferring his normal residence from a place outside the State to a place in the State;*’ This appeal is concerned with the net issue of whether the Appellant’s place of ‘*normal residence*’ was outside the State for the period 3/4/2015 to 3/6/2016. The Appellant submitted that his place of normal residence during the stated period was the UK.



6. The meaning of the term '*normal residence*' as set out at paragraph 3 of S.I. 59/1993 specifically addresses a situation where a person may have personal ties and occupational ties in different jurisdictions. The regulation provides as follows;

'However, the normal residence of a person whose occupational ties are in a different place from his personal ties and who consequently lives in turn in different places situated in 2 or more countries shall be regarded as being the place of his personal ties: Provided that such person returns to the place of his personal ties regularly...'

7. The Appellant accepted that he returned to Ireland regularly during the stated period, sometimes returning to the family home on these occasions. He stated that marital disharmony arose between himself and his wife over the period September 2015 to May 2016 and he contended as a result, that his personal ties were not within the State during this period. He also contended that he had many friends in the UK, as well as aunts and uncles and that this supported his submission that his personal ties were in the UK for the stated period.
8. The Respondent did not dispute that the Appellant lived and worked in the UK over the stated period however the Respondent submitted that the Appellant's place of normal residence for the purposes of VRT remained in the State on the basis that the Appellant's wife lived and worked in the State, that he had family ties in the State and that the Appellant returned regularly to the State during the stated period.
9. It is clear, based on the evidence, that the Appellant's personal ties were in the State, not in the UK. The Appellant's wife, family home, parents and siblings were within the State and he returned to Ireland regularly. I am satisfied that the Appellant's personal ties were within the State during the period 3/4/2015 to 3/6/2016 and that his place of '*normal residence*' for the purposes of the transfer of residence relief in accordance with section 134(1)(a) of the Finance Act 1992, as amended and S.I. No. 59/1993, was within the State.

Conclusion

10. Based on a consideration of the evidence and submissions together with a review of the documentation furnished, I am satisfied that the Appellant's place of normal





residence for the purposes of the VRT transfer of residence relief was within the State during the period 3/4/2015 to 3/6/2016 and I determine that the Appellant is not entitled to avail of the transfer of residence relief in accordance with section 134(1)(a) of the Finance Act 1992 and S.I. No. 59/1993.

11. The appeal hereby is determined in accordance with section 949AL TCA 1997.

APPEAL COMMISSIONER

November 2017

The parties to this appeal have not requested the Appeal Commissioner to state and sign a case for the opinion of the High Court

