



**133TACD2020**

**BETWEEN/**

**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. Upon the agreement of the parties, this appeal is determined without an oral hearing 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 an agent acting for the Appellant, on 19 July 2019 from a car auction house in the UK. The vehicle arrived in the State on 2 August 2019 and registration was completed with the National Car Testing Service ("NCTS") on 16 September 2019. A VRT amount of €8,277 was charged on the vehicle. In addition, as the vehicle was registered 45 days after it was brought into the State, an additional VRT amount ("late registration fee") of €372 was charged by the Respondent. The Appellant paid the full amount of €8,649.
3. The Appellant appealed the application of the late registration fee to the VRT appeals officer on the grounds that he was not the one responsible for the delay in registering the vehicle and, based on the particular circumstances that gave rise to the delay, he should not be charged the late registration fee. The Appellant outlined that he had

initially booked a pre-registration examination by the NCTS within the required time limits and his failure to meet the deadline was due to a documentation error caused by the vehicle auction house and not as a result of any error or delay by him. The Appellant contended that, as he made every effort to comply with the deadline by initially booking an examination within the time limit and subsequently by registering the vehicle as soon as he received the correct documentation, he should not have been charged the late registration fee.

4. The Appellant's first stage VRT appeal was refused on the basis that only 9 days of the overdue period was caused by delays within Revenue or the NCTS and the onus is on the vehicle purchaser to ensure that he/she has received the correct documents. The VRT appeals officer offered to refund €74, as the proportion of the late registration fee that related to the 9 days that it took Revenue to internally raise the required statistical code for VRT calculation purposes.
5. The Appellant did not accept that he 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 REDACTED, following correspondence between the him and the Respondent.

### Legislation

1. 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."*

2. 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 entered the State to the date of registration of the vehicle.*



3. 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**

Appellant

6. The Appellant made the following submission:

*“I wish to appeal the decision of the Stage 1 process regarding the penalties of 372.00 charged to me for the delay in registering the vehicle I imported from Britain. I engaged the services of a company named REDACTED. He bought the car on the 19/07/2019 at auction from REDACTED. The vehicle’s registration number was REDACTED. The vehicle arrived in Dublin Port on the 2/08/2018 at 19.30. I made contact with NCT/VRT office to have the vehicle inspected for VRT on the 7/8/19, I was given an appointment date of the 19/8/2019 at 16.00 (booking number REDACTED. On the 13/8/2019, while checking the documents required for registration/inspection I noticed that the V5 sent on to me by the Auction house did not match the vehicle REDACTED had brought for me. I attach the V5 sent in error. I immediately contacted REDACTED and demanded to know what was going on, they in turn made contact with the Auction house. I received a phone call from REDACTED to say that the mix up squarely lay at the door of the Auction house, an employee had placed the wrong V5 in the vehicle. I then rang NCT/VRT office (20/8/2019) to explain my situation. The call taker assigned me a new appointment date of the (7/9/2019) ID booking number REDACTED. I informed the call taker that the assigned date would take me over the deadline, to which I was told they were booked out and that I was given the*



*nearest date and if penalties had to be paid I could appeal to Revenue thereafter. I received the appropriate V5 for the vehicle by Fedex mail on the 20/08/2019 I enclose a copy of the Fedex receipt. I attended the inspection on the 7/9/2019 and presented all the documentation (5.8.5 Claims for refund) required and paid the VRT bill, I also paid the sum of 372.00 euros for penalties and I was again, told that could appeal same as this was the earliest date I could have been seen. The final figure for VRT was not given to me on the day, and I was told Revenue would get back to me. I finally got to pay the bill on the 16/9/2019 through no fault of mine.*

*At no stage did I attempt to delay or otherwise the registration/inspection of my vehicle for VRT assessment, nor did I attempt to defraud the State of Tax/Revenue due to it, I on the other hand was a victim of an error made by others, on realizing it had taking place I notified the relevant offices concerned. When I sought to obtain a new date for registration, I was given a date, to which I complained and I was told it was the nearest/earliest and to do my complaining later. I ask for a fair-minded assessment of the facts as layout. Thank you for your time."*

### Respondent

7. The Respondent made the following submission:

#### *"Background*

*The appellant purchased a REDACTED vehicle in the UK on 19/7/2019 ( bought at auction by an agent appointed by the appellant). The vehicle arrived in the State on 2/8/2019, and the appellant made an appointment for a pre-registration examination by Applus (NCTS) on 7/8/2019. He was allocated an appointment for 19/8/2019 17 days after the vehicle arrived in the State. On 13/8/2019 the appellant noted that the UK registration document (V5C) that he received with the vehicle was incorrect. He immediately made efforts to rectify this, however he could not keep his appointment for 19/8/2019 as he did not have the correct documents. The vehicle was eventually registered on 16/9/2019, and the appellant was charged €8,277 VRT and €372 VRT2.*



*The appellant appealed the VRT2 charge but as the delay in registration was not caused by either Revenue or the NCTS this appeal was unsuccessful. The following letter issued to the appellant:*

*Dear Sir,*

*I acknowledge your appeal in relation to the above, I have examined your case in detail and wish to say:*

*When you import a vehicle 'You must book your appointment with the NCTS within 7 days of the vehicle entering the State and have completed the registration within 30 days of the vehicle entering the State' this is stated on our website [www.revenue.ie](http://www.revenue.ie). The Revenue website also contains information on importing a vehicle from the UK, and the documents required [www.revenue.ie/Import Motor Vehicles / VRT /](http://www.revenue.ie/Import%20Motor%20Vehicles%20VRT/)*

*The majority of used cars are imported into the State from Northern Ireland and Great Britain. It is essential that you get the UK version of the Irish Vehicle Registration Certificate, the UK 'V5', when you are buying your vehicle. Your vehicle will not be registered without the V5.*

*Before you make a purchase, check that the V5 is available. If there is a delay in getting the correct documentation, it could result in the vehicle exceeding the 30 day requirement to have the vehicle registered once it has entered the State. If this happens, you will end up paying a charge in addition to the VRT.*

*The onus is on the vehicle purchaser to ensure that he/she has received the correct documents.*

*Where registration did not take place within the 30 days a refund can only be made when Revenue is satisfied that the registration could not be completed because of delays within Revenue or The NCTS.*

*As the delay in registration was not caused by any delays within Revenue or the NCTS, I must inform you that that your appeal in relation to the late fee charged is refused.*

*The appellant was unhappy with the wording of my letter as he felt that I was accusing him of trying to evade paying the VRT.*

*On 28/11/2019 I once again wrote to the appellant as follows:*



*Dear Sir,*

*I refer to your undated letter relating to the above received in this office on 26/11/2019.*

*I apologise for any offence caused by my letter dated 30/10/2019, however I must reiterate the fact that all vehicles imported into the State must be registered within 30-days. If not an additional charge will be raised and a refund can only be made if the delay in registration was due a delay with Revenue or with the NCTS.*

*Your vehicle entered the State on 2/8/2019, and you correctly booked your NCTS examination within 7 days and you were allocated an appointment for 19/8 (well within the 30 days). If you had the correct documents on this date the NCTS would have contacted Revenue regarding a STAT CODE for the vehicle, and taking into account the fact that it took Revenue 9 days to set this up your vehicle would have been registered on 28/8 again within the 30 day limit.*

*I note that when your vehicle was examined at NCTS on 7/9 you were not given details of the VRT due until 9 days later.*

*Your vehicle was registered 45 days after entering the State and 9 of these days were due to Revenue being required to produce a STAT CODE for the vehicle. Taking this into account I can refund the 9 days amount being €74 to you. Please let me know in writing if this is acceptable to you.*

*If you wish to appeal against my decision you must do so within a period of 30 days after the date of this refusal, by completing and submitting a "Notice of Appeal" form, to the Tax Appeals Commission (TAC). The "Notice of Appeal" form which is available on the TAC's website [www.taxappeals.ie](http://www.taxappeals.ie), contains the address to which an appeal is to be sent. You will be required to submit a copy of this refusal with your "Notice of Appeal". The TAC can be contacted by email at [info@taxappeals.ie](mailto:info@taxappeals.ie)."*

*N.B. I have enclosed extracts from the Revenue website in relation to the documents required to register a vehicle, and claims relating to VRT2 charge.*

*In this letter I noted to the appellant that as Revenue did not have a Statistical code for the vehicle (this vehicle is not sold as new in the State), and that the raising of said Statistical Code took 9 days, I was prepared to repay him a sum of €74 to account for delay. I calculated this as :*



VRT total charge for 45 days = €372. €372 divided by 45 = €8.26 per day and multiplied by 9 = €74.

*This offer was not acceptable to the appellant and so he appealed to the Tax Appeals Commission.”*

### ***Analysis***

8. The submissions by both the Appellant and the Respondent, fully set out the background to this appeal. The issue to be decided is whether the Appellant should be liable for late registration VRT in the amount of €298 (being the initial charge of €372 less the refund of €74 offered by the Respondent).
9. The regulations require the Appellant to:
  - (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.*
10. The Appellant made all reasonable attempts to register the vehicle within the 30-day time limit. Due to capacity problems within the Respondent, a date for completion of registration could not be offered until 7 September and registration completion was further delayed by the Respondent as its systems could not immediately calculate the VRT due.
11. I am satisfied, based on the submissions, that the Appellant commenced the registration process within the 30-day period and the completion of the registration process was outside his control.





## **Conclusion**

12. 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.
13. 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.'*
14. I determine that the Appellant's appeal is successful and that he should receive a refund of the late registration VRT of €372.
15. The appeal hereby is determined in accordance with section 949AL TCA 1997.

**PAUL CUMMINS**

**APPEAL COMMISSIONER**

**26 June 2020**

