



**110TACD2020**

**APPELLANT**

**Appellant**

**V**

**THE REVENUE COMMISSIONERS**

**Respondent**

**DETERMINATION**

**Introduction**

1. This appeal concerns the valuation of a vehicle for the purposes of ascertaining the open market selling price ('OMSP') in respect of the calculation of a tax repayment which arose on the disposal of a vehicle which had qualified for relief from Vehicle Registration Tax ("VRT") under the Disabled Drivers and Disabled Passengers (Tax Concessions) Regulations, 1994.
2. On 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**

3. The vehicle, the subject matter of this appeal, is a **REDACTED**, registration **REDACTED**. The vehicle was used by the Appellant to transport her mother who is a disabled person. The Appellant qualified for tax relief on the vehicle under the Disabled Drivers and Disabled Passengers tax relief scheme and had received a repayment of the tax paid of €8,590.92 which included VRT of €4,007 and VAT of €4,583.92. The repayment was made by the Respondent on 17 August 2017.
4. This appeal only concerns the VRT element of the tax repaid to the Appellant under the scheme.

5. The vehicle was badly damaged in a collision on 07 December 2017 and was deemed a write off by the Appellant's insurance company. The Appellant's insurance company took possession of the vehicle and the vehicle remained with them until it was subsequently disposed of by private sale in February 2018.
6. The legislation stipulates the circumstances, which, if they occur will trigger a repayment of a portion of the tax repaid under the scheme. These are; (a) where the vehicle is disposed of within two years of receiving the relief, (b) where the beneficiary of the relief claims relief in respect of a subsequent vehicle purchased within two years of receiving the relief, or (c) the vehicle ceases to be used for the purposes for which the relief was granted and within two years of receiving the relief. The tax to be repaid is calculated by reference to the Open Market Selling Price ("OMSP") of the vehicle.
7. A repayment of a portion of the tax relief granted became due by the Appellant subsequent to the collision.
8. The repayment is calculated by reference to the Open Market Selling Price of the vehicle.
9. The Appellant made a claim to REDACTED Insurance Company after the collision, who assigned a pre-accident value of €20,500 to the vehicle and a scrappage value of €5,500.
10. There is no dispute between the parties in respect of the fact that a repayment of a portion of the tax relieved is due. The issue between the parties is the calculation of the VRT to be repaid.
11. An OMSP of €20,500, which represented the pre-accident value of the vehicle, was used by the Respondent in calculating the tax to be repaid by the Appellant. The Appellant did not accept this value and contended that the correct value to be used in the calculation of the tax repayment should be the lower scrappage value of the vehicle, which was €5,500 and which would result in a lower amount of tax to be repaid.
12. The Appellant appealed the matter to the Respondent on 19 February 2018. The Respondent advised the Appellant by letter dated 09 March 2018 that the OMSP assigned to the vehicle would stand at €20,500. The Appellant duly appealed to the Tax Appeals



Commission on 13 March 2018. The matter to be determined in the within appeal is the correct OMSP to be used in the calculation of the tax repayment.

**Legislation** (see Appendices 1 and 2)

Section 146 of the Finance Act 2001:

*(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)]*

Statutory Instrument No. 353/1994 – Disabled Drivers and Disabled Passengers (Tax Concessions) Regulations, 1994

*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, (emphasis added)*

*( 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.* (emphasis added)

*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 or ceasing of use 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.*

## **Submissions**

13. The Appellant contends that the correct value for “A” (pursuant to the formula above) to be used in the calculation of the tax refund is the value of the vehicle on the date of the



disposal of the vehicle. The Appellant submits that the vehicle was sold in February 2018 for €5,500 and this therefore is the value which should be used in the formula for calculating the tax repayment.

14. In support of her appeal the Appellant has furnished a copy of a letter from the claims department of her insurance company, which verifies that the post-accident value of the vehicle was €5,500.

15. The Respondent contends that the repayment was triggered when the vehicle ceased to be used as transport for a disabled passenger which they contend was the day of the collision.

16. The Respondent further contends that the correct value for “A” to be used in the calculation of the tax repayment is €20,500 i.e. the pre-accident value assigned by the insurance company.

### **Analysis**

17. The tax repayment is calculated by reference to the formula  $A \times B / (C + D)$ , 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.*

18. Section 15(1) of Statutory Instrument No. 353/1994 specifies a number of situations which, if they occur, trigger a repayment of a portion of the tax relieved. A repayment is triggered where the person:

*( 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, (emphasis added)*

*( 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.”(emphasis added)

19. There is no dispute between the parties in relation to the fact that a repayment is due by the Appellant.

20. There is divergence, however, between the parties as regards the circumstance which triggered the repayment of VRT relief. The Appellant asserts that the repayment of VRT relief was triggered when the vehicle was disposed of in February 2018, that the OMSP of the vehicle on that day was €5,500 and this is the value which should be used in the calculation of the repayment of VRT due. The Respondent contends that the repayment of VRT became due when the vehicle ceased to be used for the purposes for which the relief was granted, which they state was on the date of the crash and the OMSP of the vehicle on that date was €20,500 which is the value which should be used in the calculation of the repayment of VRT due.

21. After the collision on 07 December 2017 the vehicle was deemed by the insurer uneconomical to repair. The vehicle was taken in possession by the insurance company and consequently the vehicle ceased to be used by the Appellant for the purposes for which the relief was granted.

22. It appears to me that the legislative regulations in respect of the calculation of the tax to be repaid are uncertain and ambiguous. This appears to have happened because regulation 15(1)(C), highlighted above was inserted as an amendment to the Regulations in 2015 (Reg. 14(a)(iii) S.I.634/2015) without any corresponding amendment to the formula within the Regulation. That formula was crafted when only regulation 15 (1) (a) and 15 (1) (b) were operative.

23. The formula to be used in the calculation of the repayment pursuant to section 15(1) of Statutory Instrument No. 353/1994 refers within the formula only to the OMSP of the vehicle on the date of ‘its sale or disposal’; elsewhere within section 15(1) there is reference to the use of the formula where the taxpayer “sells it or otherwise disposes of it”; it does not expressly deal with the situation of cessation of use; for example where the vehicle ceases to be used on foot of a collision, triggering an insurance claim.



24. The Appellant sold the damaged vehicle (as scrappage) in February 2018 for €5,500 thereby reducing the insurance claim. The Appellant ceased to use the vehicle for the purposes for which the relief was granted in December 2017. The Appellant has, in effect, disposed of it from its use as a vehicle for transporting her disabled mother from December 2017. The value at that date per the insurance claim was €20,500. This begs the question which value, of either €5,500 or €20,500, should be used for A in the above formula?

25. In the recent Supreme court case of *Dunne Stores v The Revenue Commissioners* (SCR No.2012/66, 2019), Judge McKechnie gave a seminal ruling on the interpretation of taxation statutes. Judge McKechnie stated:

*61...one would have thought and one is entitled to expect that the imposing measures should be drafted with due precision and in a manner which gives direct and clear effect to the underlying purpose of the legislative scheme. That can scarcely be said in this case"*

Such imprecision resides in the Regulations pertinent to this appeal.

Judge McKechnie continued:

*That being so, the various imposing provisions must be looked at critically. If however, having carried out this exercise, and notwithstanding the difficulty of interpretation involved, those provisions, when construed and interpreted appropriately, are still capable of giving rise to the liability sought, then such should be so declared...*

*64. Where however the meaning is not clear, but rather imprecise or ambiguous, further rules of construction come into play. Those rules are numerous both as to their existence, their scope and their application, It can be very difficult to try and identify a common thread which can both coherently and intelligibly explain why, in any given case one particular rule rather than another has been applied, and why in a similar case the opposite has also occurred. Aside from this however, the aim, even when invoking secondary aids to interpretation, remains exactly the same as that with the more direct approach, which is, insofar as possible, to identify the will and intention of Parliament.*



*65. When recourse to the literal approach is not sufficient, it is clear that regard to a purposeful interpretation is permissible. There are many aspects to such method of construction: of which is where two or more meanings are reasonably open, then that which best reflects the object and purpose of the enactment should prevail. It is presumed that such an interpretation is that intended by the lawmaker.*

26. The intent of the Regulations and section 15 in particular, set out in more detail in Appendices 1 and 2, is to recapture some of the VRT from the beneficiary of the original VRT repayment when he or she *sells it or otherwise disposes of it within 2 years*. This intent has two functions: i) it prevents abuse of the relief and ii) it enables the processing of a new claim for VRT relief upon a subsequent purchase of a replacement qualifying vehicle.

27. It is my view, therefore, and mindful of the dicta of McKechnie, cited above, that the value which best fits the intent of the legislation and 'A' in the formula above, for the purposes of calculating the repayment of VRT due by the Appellant, is the OMSP of the vehicle determined by the insurance company in December 2017 as being €20,500.

28. It would be anomalous in my view were the Appellant to benefit from a valuation of €20,500 when it effectively disposed of the car to the insurer yet be allowed to value the vehicle for the purposes of the disposal in the repayment formula at €5,500.

### **Conclusion**

29. Based on a careful consideration of the submissions and having regard to all of the foregoing I determine that the OMSP of the vehicle for the purposes of the calculation of the repayment of tax is €20,500.

30. Accordingly, the appeal hereby is determined in accordance with section 949AL TCA 1997.







**PAUL CUMMINS**  
**APPEAL COMMISSIONER**  
**20 April 2020**



## **APPENDIX 1 – Legislation**

### **Section 146 of the Finance Act 2001:**

*(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 the matter 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).*



## **APPENDIX 2 – 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;*

*"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 ;*

*["disability" has the meaning assigned to it in section 2 of the Disability Act 2005 (No. 14 of 2005);]*

*"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 ;*

*["new vehicle" has the meaning assigned to it by section 133 of the Finance Act 1992 (No. 9 of 1992);*

*"open market selling price" shall be construed in accordance with section 133 of the Finance Act 1992;]*

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

*["qualifying organisation" means a charitable organisation within the meaning of the Charities Act 2009 (No. 6 of 2009) —*

*(a) that is entered in the register of charitable organisations under Part 3 of that Act,*

*(b) whose purpose is to provide services to persons with a disability, and "registered"*

*(c) that, in furtherance of that purpose, is engaged in the care and transport of disabled persons;]*

*"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 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 .*

*["vehicle type-approval certificate" has the meaning assigned to it by Regulation 3 of the European Communities (Road Vehicle: Entry into Service) Regulations 2009 (S.I. No. 157 of 2009).]*

*(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.*

*[4A.(1) A Director of Community Care and Medical Officer of Health shall not consider an application under these Regulations for a primary medical certificate where a determination has been made by the Disabled Drivers Medical Board of Appeal within the period of 6 months prior to the date of the making of the application unless the application is accompanied by a medical certificate from a registered medical practitioner indicating that the practitioner has formed the opinion that the person concerned is severely and permanently disabled as respects one or more of the criteria specified in Regulation 3.*

*(2) Each subsequent application by that person for a primary medical certificate shall be accompanied by a medical certificate from a registered medical practitioner indicating that the practitioner has formed the opinion that the medical condition of the person concerned has materially dis-improved since the previous application.]*

*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,*

*( 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 6,000 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:*

*(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)...*

*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, [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:*

*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:*

*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.*

