



154TACD2020

BETWEEN/

REDACTED

Appellant

-and-

THE REVENUE COMMISSIONERS

Respondent

DETERMINATION

Appeal

1. This is an appeal to the Appeal Commissioners pursuant to section 146 of the Finance Act, 2001 (as amended) against a determination made by the Revenue Commissioners. The appeal concerns an amount of vehicle registration tax charged pursuant to section 132(3A) of the Finance Act, 1992 (as amended) on the basis that the vehicle was not registered at the time specified in Regulation 8 of the Vehicle Registration and Taxation Regulations 1992 (S.I. No. 318 of 1992) (as amended), being within 30 days of the date of arrival of the vehicle in the State.
2. The amount of tax involved is €77.



3. On agreement of the parties this appeal is adjudicated without a hearing in accordance with section 949U of the Taxes Consolidation Act, 1997.

Facts

4. The vehicle, the subject matter of this appeal, is a Hyundai 140 1.7 CRDI STYLE BLU DRIV 5DR, first registered in the United Kingdom, now bearing registration number REDACTED. The Appellant registered the vehicle and paid VRT of €2,164 based on an open market selling price (OMSP) of the vehicle as determined by the Revenue Commissioners. In addition, the Appellant paid a late registration charge of €77 due to the vehicle not being registered within 30 days of being brought into the state.
5. The Appellant appealed to the Revenue Commissioners under section 145 of the Finance Act, 2001 (as amended) against the application of the additional VRT of €77 in relation to the late registration of the vehicle. On appeal the late registration charge was not repaid by the Revenue Commissioners. This was notified to the Appellant by letter dated 20 June 2019. The Appellant was aggrieved by the determination of the Revenue Commissioners and appealed to the Appeal Commissioners against the amount of the additional VRT of €77 in relation to the late registration of the vehicle.

Legislation

6. Regulation 8 of the Vehicle Registration and Taxation Regulations, 1992 (as amended) provides:

“(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.”*

7. Section 132(3A) of the Finance Act, 1992 (as amended by Section 62 Finance Act no 2, 2008) provides:

*“(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.”



8. The Appellant submitted:

- a) That he brought the car into Ireland on 10 April 2019.
- b) That he tried to make a booking with the National Car Testing Centre (NCT) two weeks before the 30-day deadline for paying the VRT.
- c) That he made an appointment with the NCT on 1 May 2019, had the car inspected on 15 May and paid the VRT due including a late registration fee of €77.
- d) That because the ferry docked after 12 midnight on 10 April 2019 the number of days in excess of the 30 days permitted for registration was 5 days and not 6 days as per the Revenue.
- e) That he sought a refund from the Revenue office in Wexford and because he got no reply he sought a refund from Revenue offices in Meath and Dublin.
- f) That the Meath Revenue office advised him on 21 June stating that the refund cannot be made. In that letter Revenue advised him of his entitlement to appeal the matter to the Tax Appeals Commission (TAC) within 30 days

9. The Respondent submitted:

- a) That the additional VRT was charged because the Appellant failed to register the car within 30 days of importation.
- b) That the Statutory provision in relation to the matter is contained in Section 132(3A) of the Finance Act 1992 as amended.
- c) That the vehicle was imported to the State on 9 April 2019.
- d) That the Appellant made an appointment with the NCT on 1 May 2015 and presented the vehicle for inspection and paid the VRT due including the late registration charge of €77 on 15 May 2019.
- e) That the additional VRT charge was correctly applied as the vehicle concerned was in the state 36 days before being registered.

- f) That an appeal for a late-penalty fine/charge is not an appealable matter by the TAC in accordance with section 949N and 949J of the Taxes Consolidation Act 1997.

Analysis and findings

10. All vehicles are subject to VRT on first registration in the State. Section 132(3A) of the Finance Act, 1992 (as amended) provides that the amount of VRT due and payable shall be increased by an amount calculated by reference to the number of days from when the vehicle entered the State to the date of registration of the vehicle.
11. The Appellant was notified by letter dated 20 June 2019 that a refund of the late VRT charge could not be made as the vehicle was 21 days in the state before an appointment was made with the NCT.
12. The Appellant has sought to have the late registration VRT charge refunded and submitted that through no fault his own he was unable to make the appointment to avoid such a late charge. The Appellant has pointed out that the extra VRT should be for 5 days rather than 6 as the ferry docked after midnight on the 10th April 2019. The Respondent has used the date and time on the ferry booking receipt as the basis of its calculation of the formula for applying a late registration charge.
13. The late registration fee of €77 has been correctly applied (36 days) as per the formula in Section 132(3A) of the Finance Act.
14. The Revenue website contains full information on the documents required for registration, the time line (7 days from arriving in the State) for making a pre-registration appointment with the NCTS and the time line for having the

registration completed (30 days from the vehicle entering the State) to avoid additional charges to VRT.

15. The Respondent in its submission has raised the question of whether or not the late registration charge to additional VRT is an appealable matter to the TAC. The TAC has previously considered the matter of a late VRT charge in several cases and these are available on its website www.taxappeals.ie. The Respondent's submission in the matter would need to be considered in the light of these determinations. In the circumstances I am confident that the TAC has the legal authority to determine the instant appeal.
16. Based on the formula $A \times P \times N$ where A is €2,164, P is 0.1% and N is unknown, and which formula equals €77, this would mean that N is 36 days. Accordingly, the point made by the Appellant in relation to whether the ferry docked before or after midnight on 9/10 April 2020 represents only a very small sum of €2.13. In any event evidence of the ferry arrival time was not presented.
17. I have noted from previous first stage appeals to the Revenue Commissioners under section 145 of the Finance Act, 2001 (as amended) involving varying VRT charges, that in some cases Revenue waived the late registration charge in an effort to resolve the issue in advance of a hearing before the Tax Appeals Commission. This was not done in this case involving a late registration charge to VRT of €77.
18. 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 assessment to tax, raised by the Respondent is incorrect. I determine that the Appellant has not succeeded in discharging the burden of proof and has not succeeded in showing that he qualifies for a refund of the additional VRT paid due to the late registration of the vehicle.

19. In the High Court case of *Menolly Homes Ltd v Appeal Commissioners and another*, [2010] IEHC 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.’*

Determination

17. In the circumstances, and based on a review of the facts and the submissions, material and evidence provided by the parties, I am satisfied that the Appellant has not complied with the requirements of Regulation 8 by registering the vehicle on 15 May 2019 which is more than the 30 days prescribed therein. Where a vehicle has not been registered within 30 days of its arrival in the State, an additional amount of VRT is due and payable in accordance with the formula set out in Regulation 8 of the Vehicle Registration and Tax Regulations 1992.

18. I determine that the Respondent has correctly applied the additional VRT of €77 in accordance with Section 132(3A) of the Finance Act, 1992.

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

CHARLIE PHELAN
APPEAL COMMISSIONER

12 JUNE 2020