



**Ref: 79TACD2020**

**BETWEEN/**

**REDACTED**

**Appellant**

**V**

**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 Vehicle Registration Tax ('VRT').
2. On agreement of the parties this appeal is determined 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, is a **REDACTED**, registration **REDACTED**. The Appellant purchased the vehicle for stg £180,000 (€204,000 approx.) in the UK on 22 November 2017 and imported the vehicle to the State on 27<sup>th</sup> February 2018. The vehicle was first registered in the UK on 21 January 2016. The vehicle was registered with the National Car Testing Service (NCTS) on 31 March 2018.
4. An OMSP of €294,000 was assigned by the Respondent, resulting in a VRT charge of €105,840 and a late fee charge of €3,492. On appeal to the Central VRT office, the late fee charge of €3,492 was refunded to the Appellant but the Respondent did not revise the OMSP in that first level appeal. The Appellant did not accept the findings in the Respondents examination of the matter in relation to the OMSP applied and appealed to the Tax Appeals Commission on 20 July 2018.

**Legislation**

Section 146 of the Finance Act 2001:

Section 133 Finance Act, 1992, as amended:

## **Submissions**

### 5. The Appellant Submitted:

- a. That the VRT imposed amounted to a premium of 52% on the Euro value of the cost of the vehicle.
- b. That the vehicle is a 2015 model but first registered in the UK in 2016 and no consideration of the model year was taken into consideration by the Respondent.
- c. The vehicle model is no longer in production and has been replaced by a different model.
- d. That the type of vehicle in question is slow to sell and listed prices are aspirational, not a reflection on final prices but subject to discounts of 10 to 15% of advertised prices.
- e. That there was only one comparable car for sale in Ireland at the time of making his appeal at a price of €184,151. The Appellant did not provide any evidence of the price of that car.
- f. Prices for similar cars in the UK and in the USA showing prices ranging from €174,00 to €193,000. The Appellant provided website screenshots of these prices as evidence.
- g. That there is no market in Ireland for his car and contended that the best OMSP achievable for his car would not exceed €250,000.
- h. That the OMSP assigned would suggest his car being the 4<sup>th</sup> most expensive car in Ireland. He concluded this by adding the Respondents OMSP (€294,000) and the VRT imposed (€105,840) to arrive at a price in Ireland of €399,840.
- i. A number of suggestions around how the OMSP should be ascertained including using the invoice price paid by him, using the difference between his considered OMSP (per g above) or splitting these figures.

### 6. The Respondent submitted:

- a. That the matter had been examined in some detail and in correspondence dated 21 June 2018, the Respondent expressed its satisfaction with the initial OMSP provided in quantifying the VRT as paid by the Appellant.



- b. That on 7 June 2018 an officer in the Central Vehicle Office in Wexford contacted three dealers, (two by telephone and one by email) to request their opinion as to the likely OMSP for the vehicle concerned.
- c. That the results of those enquiries provided valuations of €290,000, €294,000 and a mid-range figure of €310,000.
- d. That an average of these three valuations with a further unexplained reduction of €4,000 was used to confirm the initial and reviewed OMSP of €294,000. The Respondent concluded that the OMSP for the vehicle in question was fair and reasonable.
- e. That the advertised valuations presented by the Appellant were for vehicles for sale in the UK and the USA and as such were not used as a basis in determining the OMSP.

## **Analysis**

7. All vehicles are subject to VRT on first registration in the State. The rate of VRT is based solely on the level of CO2 emissions. The OMSP of a vehicle is determined in accordance with section 133 Finance Act 1992, as amended i.e. on the price, inclusive of all taxes and duties, which, in the opinion of the Revenue Commissioners, the vehicle might reasonably be expected to fetch on a first arm's length sale thereof in the State.
8. The OMSP assigned in relation to the vehicle the subject matter of this appeal was €294,000. The Appellant's ground of appeal in relation to the OMSP assigned, was that it was excessive.
9. The Appellant in support of his appeal offered a choice of valuations – evidence of the price paid for the vehicle, advertising evidence from UK and US websites specialising in the type of car in question and his own estimate of the Irish attainable price.
10. The Appellant submitted that the asking price of some high value vehicles is often reduced, however, the Appellant did not provide evidence in support of this submission.
11. The Respondent's initial calculation on 31 March 2018, of the VRT payable was not provided in evidence. However, the Respondent submits that the evidence gathered in telephone and email conversations with the car dealers on 7 June 2018 supports



the initial determination of the VRT payable as ascertained on 31 March 2018.

12. The Respondent provided a worksheet in evidence to support the prices obtained in the telephone and email contacts on 7 June 2018 with the named car dealers in Dublin and Wicklow.

### **Conclusion**

13. The market for this particular car is extremely small even in global terms. I am therefore influenced by the arguments of the Appellant that the OMSP for this car if offered for sale in Ireland would not exceed €250,000. I am also influenced by the Appellant's assertion that the acceptance of the OMSP as ascertained by the Respondent in its unsupported determination of the OMSP in March 2018 and in its limited telephone and email survey of the market in June 2018, would indicate that the Appellant's vehicle would be the fourth most expensive car in Ireland
14. The Respondent did not offer any evidence of having sought out valuations or prices from any dealer with stocks of this type of vehicle in the State or indeed sought any evidence of stocks of the particular vehicle type from the three dealers who provided the three valuations by telephone or email.
15. I have found the Appellant's evidence compelling in relation to the OMSP of the particular vehicle. On the other hand, I have found that the Respondent has not provided sufficient evidence in support of its assertion in relation to the OMSP allocated in its initial and reviewed position.
16. Based on a consideration of the evidence and submissions together with a review of the documentation, I determine €250,000 to be a fair and reasonable OMSP in relation to the particular vehicle and that the Appellant is entitled to a refund of €15,840 being the excess VRT paid based on the Respondent's OMSP of €294,000.
17. This appeal is determined in accordance with section 949AL TCA 1997.

**COMMISSIONER CHARLIE PHELAN**

**16 January 2020**

