AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

134TACD2021

Between

Dr Áine Mitchell

Appellant

and

Revenue Commissioners

Respondent

Determination – 1 November 2021

Introduction

1. The Appellant chose to have her hearing heard in public, which is the statutory default position but is rarely chosen by appellants. The Commissioner confirmed to the Appellant that as a consequence of this choice, the determination and its contents would not be redacted. The Appellant confirmed that she understood the consequences of her choice and wished to proceed on that basis. Hence, the personal name and details of the Appellant's appeal are set out in this determination without redaction. The Appellant swore an oath to tell the truth at the commencement of the hearing.

2. The Commissioner has chosen not to include all the specific personal information about the Appellant's addresses and salaries, as a mark of the usual respect for privacy, and they are not needed to support this determination in any event. But the Commissioner must reveal some personal details, if only to demonstrate the detailed analysis of the documentation, to assist the parties in the event of this matter proceeding to another forum and to aid the general understanding for the rationale of the determination. All parties should assume that the Commissioner has taken the utmost care in reading in detail all the documentation and the decision to desist from detailing specific matters such as

addresses and names is not a signal of any default but a conscious choice on behalf of the Commissioner due to the open publication.

3. The Commissioner notes that the State is fortunate that the Appellant chose to return to Ireland in 2019 before the advent of the global pandemic. The Commissioner further notes that doctors were being asked by the State to come out of retirement to assist during the pandemic, such was the need for their skills and services. This Appellant had a speciality that was in critical demand during the pandemic, as a specialist in emergency medicine with the emphasis on geriatric medicine. The Commissioner thanked the Appellant for her service to the State at the closure of the hearing.

4. The Appellant is a highly skilled doctor, specialising in emergency medicine. She has over 13 years training as a doctor and has moved around Ireland and abroad to gain her professional experience in her chosen field. She trained as a doctor in Ireland. This is a challenging area of medicine with irregular hours and demanding shift patterns. She worked as a registrar in Sligo dealing with emergency medicine for some years before deciding for professional reasons to move to the United Kingdom (UK). She exercised her right to free movement to work in another Member State and in accordance with the long standing Common Travel Area between Ireland and the UK, which even subsists post-Brexit. The UK was still a member of the European Union (EU) when the events leading to a charge to tax occurred and hence the foundation of this appeal.

5. The Appellant moved to the UK in 2018 to gain experience in geriatric emergency medicine, as there was limited facilities to do so in Ireland. This appeal relates to her application for Vehicle Registration Tax ("VRT") that she was required to be paid by the Revenue Commissioners ("the Respondent") in 2019 on her return from the UK to Ireland at that time. As a result of being charged VRT, the Appellant appealed to the Tax Appeals Commission ("the Commission") in September 2019. The hearing took place on 27th October 2021 remotely. The Appellant attended remotely and was unrepresented. The Appellant joined from a medical conference being held in Portugal. The Respondent attended remotely with two Revenue officers from the requisite VRT unit joining the appeal from different locations.

6. The Appellant presented as an entirely honest, candid, dedicated professional committed to serving the public with her advanced medical skills. The Appellant was articulate, detailed and credible in all her answers to the Commissioner. The Appellant demonstrated considerable modesty in her responses and asked that the Commissioner address her without using her professional title. The Commissioner had no reason to doubt any of her evidence and she answered in detail on all accounts. The Appellant's oral evidence

matched the written and detailed evidence presented by her in the extensive bundle of documentation.

7. The Commissioner notes that there was considerable correspondence between the parties in agreeing the bundle of documentation. This no doubt did not assist in enhancing the Appellant's confidence in the machinery and candour of the Respondent. It appears that the Respondent's appeal officer was not passed all the Appellant's documentation in coming to his decision to refuse her appeal. That was confirmed in correspondence from the Respondent's appeal officer to the Appellant by email dated 19th February 2021. The Respondent's appeal officer confirmed he examined the additional documents but stood over his refusal of the Appellant's appeal. The Commissioner is confident that she has the full file of documentation following the efforts of the parties and makes this determination on the basis of the full file of documentation.

8. The Commissioner notes that the Appellant was tenacious in pursuing this appeal. No doubt her education, standing and personal traits assisted the Appellant with the confidence to pursue and present her appeal. Other members of the public may not be in possession of such laudable attributes.

9. The Commissioner notes that the Respondent officers presented in an honest fashion at the hearing. However, their beliefs were misguided. It appeared the Respondent applied the exception to the rule, as the rule. There appeared to be a lacuna in terms of the very foundation stone of the EU and the reason for the introduction of the legislation engaged in this appeal.

10. It is critically important that the Respondent ensures that there is an adequate understanding of the origin and the objective of statutory provisions (namely what they were brought in to ensure occurs and that objective is protected – in this case the fundamental freedom of movement of persons), they know the wording of the statutory provisions (not some inaccurate translation) and understand the EU case law and the tests set out in that case law (again not some misinterpretation of same). The decisions throughout this matter undermined the intent and objective of the legislation, namely the protection of freedom of movement of persons.

11. The Commissioner hopes that this appeal can be used as a teachable tool in ensuring the Respondent applies the correct test in other cases going forward and this determination assists in that understanding. The Respondent's officers confirmed at the appeal hearing that they had decided other VRT cases on the same criteria. If this is the case, the wrong test has also been applied in those cases.

Background

12. The Appellant worked for the State as a doctor in emergency medicine in Ireland. In 2018, the Appellant decided that she wanted to further her career and specialise in geriatric emergency medicine. This was a laudable aim and no doubt an area of medicine that is not as highly profiled as other areas. The Commissioner notes that those dedicated to geriatric medicine have no doubt carried an enormous burden during the global Covid-19 pandemic, due to the increased mortality rates amongst the older population and their increased vulnerability to the negative effects of this particular virus.

13. In 2018, the Appellant flew back and forth to the United Kingdom to secure employment, professional registration, accommodation and banking. She was offered a position in Leicester, United Kingdom to undertake a registrar position in her chosen field of geriatric emergency medicine. It was termed a fellowship position and she was offered a one-year contract in the hospital in Leicester. It is highly usual in the medical field to be offered fixed term contracts and many doctors across the globe avail of these contracts in their professional choices. The Appellant hoped that her post would lead to a consultant medical post. Again, that was a laudable and a very usual aim of a professional medical practitioner. One of the foundation stones of the EU (and indeed the Common Travel Area) was the concept of free movement of persons to take up employment to strengthen the skillsets and workforce capabilities in various countries. Both the UK and the rest of the EU have benefitted enormously from the professional training of Irish citizens and vice versa. The National Health Service (NHS) in the UK has gained enormously from the contribution of Irish medical staff since its inception.

14. The Appellant provided the Respondent and hence the Commission with her letter from the Sligo University Hospital confirming that she was taking a career break for a two year period from 28th August 2018 to 27th August 2020. The letter also confirmed that a 5 year career could be taken but if so, the Appellant's name would be removed from the superannuation register. The letter stated that the *"sole purpose of the special career break … is to enable doctors who go abroad to gain the required experience to equip them and compete for consultant posts".* The Appellant wanted to become a consultant. She chose the route that many thousands of (usually young) Irish people did before her and no doubt have done since, namely to travel to the UK to develop themselves and for increased prospects of advancement.

15. The Appellant provided the Respondent and subsequently the Commission with written evidence in relation to her job in Leicester, her new bank (copies of all bank statements were provided), and her tenancy for a year (£600 per month plus bills of £60 per month).

She commenced her post on 3rd September 2018. The Appellant also confirmed that she gave up her mortgaged home in Ireland to a relative and his wife and they had occupied the property. For all intents and purposes, the Appellant had moved her life to another country. Again, this is not an unusual phenomena for the Irish population and for most generations. It is perhaps only the most recent generation who did not expect emigration as the primary option.

16. There is no requirement on moving to a new location that an individual loses all touch with her relatives or does not still consider herself Irish or connected with Ireland. But for the period in 2018 until she returned, the Appellant considered that she had started a new life and had relocated to a new country to "better herself" and her professional prospects. The Respondent in their decision has effectively implied that an individual would have to cut off all associations with Ireland in order not to fall foul of the "Transfer of Residence" legislation. That is not a credible position and not grounded in the domestic legislative provisions or EU law.

17. The Appellant left her mortgaged home (which no doubt had taken some considerable years and many hours of work to save up for), and she went to an unknown city in a different country. She took up residence in a new home, she had a new job, a new bank, and paid taxes to another country. She was treating patients living in the UK. It was evident that the Appellant's intention was to remain in the United Kingdom for at least 2 years, if not longer. She had taken a 2 year initial career break, had registered in the UK medical record for 2 years and had medical insurance in the UK for 2 years.

18. The Appellant gave evidence in writing and at the hearing that she was a single person with no children. This is a factor in this case and the EU case law confirms that marital/domestic status and personal ties as a result of such commitments are a factor in establishing normal residence in these cases. It is important in these times when a person's marital status is not asked in most circumstances, that common sense is not a casualty of when it is important to be considered. At no stage did it appear that the Respondent took into account the Appellant's personal domestic situation. It cannot be the case that because an individual does not have a partner or children to effectively bolster up the application of residency that absence negates against an individual.

19. The Appellant worked in Leicester and served the public in that locality. She also studied geriatric medicine alongside her working in that field. But, in the 2019, it become clear to her that the possibility of advancement in that hospital to a consultant position was not going to materialise. The details on that realisation are not relevant to this decision but the written documentation and the Appellant's oral evidence explained it in detail. That was in

no way connected to the Appellant or her work. But essentially, the Appellant came to the realisation that the hope of promotion was going to be stymied due to backfill policies in that hospital and other funding arrangements. That again was not unique to the Appellant.

20. The Appellant made the difficult decision to resign from her clinical post and gave the requisite one month's notice to the hospital in Leicester. She had no long term secure position to return to in Ireland but again that is not unusual for doctors. She worked out that her last shift would be on the 4th June 2018 and her last day would be 9th June 2019. She displayed the utmost decency to continue to pay her rent for the year, as per the rental agreement. Again, the Appellant provided the Respondent and the Commission with written evidence of this payment of rent.

21. The Appellant provided her payslips from the UK's NHS in relation to her working at the hospital in Leicester. The Appellant also provided copies of her Medical Protection Insurance documentation for Ireland and then the UK. The Appellant had been insured in the UK until September 2019. She also provided her membership form for the General Medical Council in the UK. Again, she had membership until 2019.

The Purchase of the Vehicle

22. The Appellant bought a Volvo XC60 on 13th October 2018 following her move to Leicester. No doubt the Appellant took a short while to "find her feet" and then purchased the vehicle to assist in her daily life. The vehicle was purchased from a respectable dealer and all associated taxes, such as VAT paid. The Appellant gave oral evidence that she used it to drive to work, especially in the winter months. A doctor working in emergency medicine does not work a 9 am to 5 pm shift and so no doubt the Appellant was grateful for the vehicle when doing a long overnight shift. It was a one-year old vehicle when the Appellant bought it. It had 31,276 miles on the clock when she returned to Ireland. Without any offence to the Appellant, the vehicle purchased was not a high performance highly coveted vehicle but a rather sensible Volvo estate. The colour of "grey" was even "sensible". The Appellant paid £23,698 for the vehicle from a dealer in Leicester. So, it was a modest sensible vehicle, renowned for its safety features. The Appellant paid cash for the vehicle and provided her bank statement from the UK's Nationwide bank to demonstrate the purchase. The Appellant insured the vehicle with Admiral Insurance at a cost of £703.

23. The Commissioner has read through all the Appellant's bank statements that she provided. The Commissioner in doing so ended up knowing much of the Appellant's life, from where she shopped for groceries to her trips to London and other places. The Commissioner at times felt that she was intruding into the most personal details of an individual's life but recognised it was important for the fullness of the considerations in this appeal. From a

detailed review of those bank statements, the Commissioner was able to validate and corroborate the information given in the Appellant's written evidence to the Commission and at the hearing.

24. This included that she only visited Ireland for a couple of short trips, at Halloween and Christmas. Those bank statements also corroborated that she had friends in London who she visited (as there was expenditure in Selfridges London and other well-known London institutions). There are visits to Leeds, Coventry, Mansfield, Slough, and other locations. During 2019, there were no visits to Ireland according to the bank records. The Appellant booked her ferry on 27th May 2019 back to Dublin, as confirmed on her bank statements. The Appellant was a member of a gym and on the 1st of each month her gym membership was paid. The gym membership was for David Lloyd gym, an "up-market" UK national gym franchise. The Appellant's bank statements confirm that that the Appellant was living a full life in the UK and had based her life there. There was no evidence from the Respondent's that they did the same with the Appellant's bank statements to corroborate her evidence in her application. The Commissioner is satisfied that the Appellant's occupational and personal ties were in the UK for the period in 2018 and 2019 before she returned to her native country of Ireland.

25. At the hearing the Appellant gave evidence of how she had packed all her worldly belongings into the estate vehicle in June 2019 (including an armchair) and drove over on the ferry arriving in Dublin Port. She was able to confirm that there was so much in the car that the Ferry staff mentioned to her that they were surprised she could get into the vehicle herself. The description of her ferry crossing in the vehicle was vivid and the Commissioner recognised the reality of a young woman on her own with a loaded car returning somewhat disappointed to Ireland that her professional hopes and aspirations had not been realised.

26. The Appellant assumed that there would be no VRT payable on the vehicle as she had lived in the United Kingdom and had bought the vehicle more than 6 months before coming to Ireland. She had lived in the UK for more than the requisite 185 days, the vehicle was her personal property, and it had been fully taxed and had been in her possession for 6 months prior to the transfer to Ireland and had been in her use for at least 6 months prior to the transfer. The Appellant maintained that she did not return regularly to Ireland.

27. On returning to Ireland in June 2019, the Appellant completed a "Transfer of Residence" form and delivered it to the Respondent. The Appellant hand delivered the form to the Respondent's offices with all the accompanying documentation with the form. Her documentation was immaculate and complete. The form was completed on 12th June 2019

and stated that she was transferring her normal residence to the State with effect from 11th June 2019.

28. The Respondent initially accepted that she fulfilled the residency requirements and accepted that she had not returned regularly to Ireland and she had complied with the terms of the ownership of the vehicle. However, for reasons that are still not apparent or transparent to the Appellant or indeed the Commissioner, the Respondent did not accept that she was going to remain in Ireland. This is where the Appellant ended up travelling down a very challenging and winding path leading to the Commission.

29. On 21St June 2019, an officer working for the Respondent telephoned the Appellant to inform her that additional information was required in relation to the transfer of residence application. This additional information related to confirmation that she had left her employment in Sligo, had commenced employment in the UK and that she had rented a house in the UK. The next day, on 22nd June 2019, the Appellant duly sent her letter confirming her career break from the HSE to go abroad, her email notice of her resignation from her UK post as at 9th June 2019, and an email thread with the gentleman from whom she had rented her accommodation in Leicester confirming her rental and bills amount. The Appellant also confirmed this amount from her banking records. She confirmed that she had organised accommodation for the medical year 1st August 2018 to 31st July 2019. The Appellant confirmed that she was normally resident in the UK from 1st September 2018 to 11th June 2019.

30. On Appellant then received another telephone call from the same officer working for the Respondent. The officer requested further information from the Appellant. The officer confirmed that the 3 issues had been resolved (as referred to above) but now the Respondent was **not satisfied that the Appellant was going to remain in Ireland for the next 12 months** and the Appellant would now have to demonstrate that she was going to do so. There is no statutory basis for requiring an individual to demonstrate that they are going to remain in Ireland for 12 months. The EU law and the domestic provisions relate permanency to the period of 185 days in a calendar year.

31. In addition, it would not be common sense for someone to drive a vehicle from the UK to Ireland, register the vehicle in Ireland, complete a Transfer of Residence form, purchase new number plates, seek to insure the vehicle in Ireland but at the same time have the intention to return to the UK (hence the vehicle would have to be re-registered, new number plates and insurance purchased in the UK). This would all cost an individual more money and there is no credible reason why anyone would even consider such a course of action. The Respondent did not provide any explanation as to why they even sought such

information. Indeed, the Appellant was at liberty to sell the vehicle at any time and there is no statutory prohibition on such a sale.

32. Indeed, if there was any concern that the Appellant for some reason was going to sell the vehicle on returning from the UK, and somehow be in profit, that was negated by the fact that common sense would dictate that a professional doctor working in emergency medicine would need a car. In addition, as stated above, the type of vehicle was not some highly sought after high performance vehicle. The Commissioner means no offence to the Appellant's choice of vehicle but a second hand grey Volvo estate has a limited sales market and marketability.

33. As a result of this new telephone call, on 1st July 2019, the Appellant wrote to the Respondent setting out the history of her interactions with the Respondent. The Appellant confirmed the second telephone conversation had stipulated that the Respondent were not satisfied that she would remain in Ireland for the next 12 months, as her temporary contract with the HSE was finishing on 23rd August 2019 and there was an email thread from May which referred to considering work in the UK in the Autumn. The Appellant confirmed that this was not an option as there was no consultant post and by the time that she left the UK (in June) she had made the decision to permanently return to Ireland. The Appellant confirmed in this correspondence that the only concern that the officers of the Respondent had with her application was that they were not confident that she would remain in Ireland for the next 12 months.

34. There was no statutory (or even common sense) basis for the Respondent to consider future plans for such an extended period of the Appellant but as stated above, it is not credible that an individual would seek to go through all the administrative burden of taking a vehicle from the UK to Ireland, not remain in the country and presumably take it back to the UK. In addition, the Appellant could have sought a temporary exemption if that was her plan. So there was no advantage to the Appellant in taking her vehicle through the transfer of residence process. The Appellant pointed out to the Respondent that she could have availed of the temporary exemption but did not want to do so, as her intention was at all times to return to live in Ireland. The Commissioner notes that there was an absence at this time of ordinary "common sense" on behalf of the Respondent, in addition to a misunderstanding of the statutory provisions.

35. In the letter of 1st July 2019, in response to the Respondent not believing that she was coming back to live in Ireland, the Appellant confirmed to the Respondent that she was delighted to living back beside her family and home town and her plan was to remain in Ireland forever. The Appellant stated that she only had a short term temporary contract

with the Sligo hospital and that was normal practice. She confirmed that she had been offered further temporary work from the autumn with the same hospital, once a person working in that post formally resigned. She confirmed that her Plan B if that did not work out was to work in another part of Ireland and reluctantly her Plan C was to avail of jobseeker's social benefit for the first time in her life.

36. The Respondent did not believe the Appellant despite all her documentation confirming that she had informed the office throughout her application that she intended to remain in Ireland and that she was transferring permanently to the State. This was despite being an Irish national and having returned to work in Sligo hospital. The Appellant could not prove a future contract with Sligo hospital in the autumn as it was only an intention from the hospital and there was no contractual documentation confirming same.

37. Again, there does not appear to have been any consideration as to what benefit a professional doctor could derive in returning to Ireland and going through the process for transfer of residence if she was returning to the UK. It would have been better for the Appellant if she had effectively signed on for social security. The Respondent seemed to consider that all individuals are able to demonstrate future contracted or permanent position when that is not the luxury afforded to so many. The Respondent did not seek any other ways for the Appellant to demonstrate that she was going to remain in Ireland such as registering with her GP, joining a gym, taking up an evening class, or any other indications of permanency (as defined in EU and domestic law).

38. In addition, the Commissioner can find no statutory provision that requires an individual has to prove that in a transfer of residence application that they intend to remain in the new Member State for 12 months. In fact, this would be against the freedom movement provisions of EU law.

39. The transfer of residence requirements are a retrospective test relating to how long a person was residing in a place before transferring residence. It is not a prospective test to prove that you intend to live in a new place permanently for a defined period or even for the rest of one's life. In fact, on the application form for transfer of residence, there is no place requested on the form that asks an individual if they intend to remain in Ireland permanently. The only question relating to "permanently" is the declaration that the vehicle "*is being brought permanently into the State by me*". But that is very different from a requirement for an applicant that they are going to live in Ireland permanently. It is assumed that the declaration relates to the vehicle not a requirement that an individual is going to declare their full future living intentions. The applicant has to declare that they are transferring their normal residence to the State. It is assumed that by doing so, the

individual is going to live in Ireland for a period of time. But no individual could give an undertaking that it was permanently i.e. forever. At that time, they are transferring residence. In addition, it would seem a rarity that individuals (especially when they are citizens of Ireland) should be required to prove that they have future employment in order to demonstrate their intention to remain in Ireland. This appears to be moving to draconian immigration type requirements and that is not the intention of the transfer of residency legislation. The legislation is to support free movement of persons, not negate it.

40. The next step in this winding journey then proved even more confusing for the Appellant than the first. The Appellant was evidently disappointed with this decision and appealed it internally to another Revenue officer, as was her right to do so. She confirmed that she had been denied the "Transfer of Residence" on the grounds that "there was not enough documentary evidence that I am remaining in Ireland in the future". The Appellant confirmed to the appeal officer that she had never indicated she had documentary proof of a future contract in Sligo hospital to the previous officer but had confirmed the reverse. The Appellant confirmed that she was not able to produce a contract of employment due to the moratorium on recruitment at that time but was aware of a temporary contract in the autumn 2019. The Appellant questioned why there was no presumption of honesty in respect of her case. A presumption of honesty is a core value of the Respondent, as set out in their Statement of Strategy. The Appellant further confirmed that she was not able to provide evidence of something that is not happening, namely future employment in the UK. The Appellant then provided all her plans for each week up to November 2019 in terms of her work plans. This included holidays and conferences in various countries. This is consistent as the Appellant joined the Commission remotely from a medical conference in Portugal.

41. The Appellant confirmed that she had been effected financially by having to pay nearly €9,000 in VRT. She further confirmed that after completing a low paid role in the UK to advance herself, and withdrawal of the monies out of savings for the VRT, she was financially vulnerable. The Appellant questioned that many returning to Ireland must have unstable future plans and could not prove that they had employment. The Appellant again pointed out that if she had wished to return to the UK, she was at liberty of applying for temporary exemption on the vehicle. The Appellant made the point (as the Respondent had found that she had no intention of remaining in Ireland) and the appeal was on the basis that the Respondent did not consider she was going to remain in Ireland that her "personal ties" were to Ireland, with her own home, her personal affects, all her family nearby and a knowledge of employment opportunities. That was the situation that pertained in August 2019. That was due to her appeal on the grounds that the Respondent

believed she was returning to the UK. It is unfortunate that it appears very evident that Respondent then chose to use these words against the Appellant in her internal appeal. That should not have happened and her letter in August 2019 related to her status at that time and not related to her working life in the UK.

42. The Appellant asked could the Respondent give her money back in 12 months if she had returned to the UK. She stated that she could "*live with the discomfort of a short term loan to cover the current arrears caused by my VRT bill*". She found herself in a classic Catch 22 situation. The Appellant no doubt assumed that the appeal officer within Revenue would read her file and make an assessment on the full documentation. It appears from the correspondence to the Commission that the appeal officer did not have the full file when he made the determination. But, then the case took an unexpected turn and one that the Commission is having to unravel.

43. The Appellant after having to provide evidence of the future in terms of staying permanently in Ireland (despite there being no statutory requirement to do so), the Respondent's appeal officer wrote to the Appellant on 3rd September 2019 denying her appeal. This was now on the basis that she had effectively **never left Ireland and had never been resident in the UK**. So, the Appellant went from a situation whereby the Respondent would not grant her transfer of residence from the UK to her home country, Ireland on the basis that she could not demonstrate she was going to remain in Ireland and they considered she was going to return to the UK (despite the position that if she was going to do so she could have applied for temporary exemption) to one on appeal whereby the situation was now the reverse and the Respondent had determined that she **effectively had never left Ireland** due to the legislative provision in the Vehicle Registration Tax (Permanent Reliefs) Regulation, 1993. This was an upsetting position that the Appellant found herself in and that upset is evident from the correspondence.

44. The Respondent relied on section 3(1) on these Regulations on the basis that the wording

> *"normal residence means the place where a person usually lives, that is to say, where he lives for a least 185 days in each year, because of personal and occupational ties, or in the case 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."*

45. The Revenue appeal officer did not set out the information that he had considered in the appeal in coming to the decision. The letter merely stated "*the officer … has determined that your appeal is refused on the grounds that your normal residence remained in Ireland as your personal ties were in Ireland while you were employed in the UK: and the proviso regarding your returning to the State did not apply as were in the UK for less than one year"*.

46. Effectively, it appears that the Respondent had determined the decision against her on the basis that she was not remaining in Ireland and had pleaded her case that her personal ties (i.e. her family) was in Ireland, was now being utilised against her to reject her appeal on different grounds. That was confirmed in the Respondent's Statement of Case to the Commission whereby they set out the wording from her letter to them in August 2019 about her "personal ties".

47. The Commissioner has read all the documentation, domestic law and EU law and has considered the verbal evidence given at the hearing to make this determination. The Commissioner has set out in detail her considerations in the event that the Respondent decides to seek a case stated to the High Court. The Commissioner finds it regrettable that the Respondent's position in the Appellant's internal appeal to the Respondent has changed 180 degrees and on each occasion it appeared to the Appellant the proverbial "tails you lose, heads you lose".

Legislation – Domestic and European

48. The domestic legislation that is engaged in respect of this appeal is section 134 of the Finance Act 1992 and the Vehicle Registration Tax (Permanent Reliefs) Regulations 1993 ("the Regulations"). The Regulations were brought in due to EU law and Directive 2009/55/EC, **Council Directive on tax exemptions applicable to the permanent introduction from a Member State of the personal property of individuals**. Directive 2009/55/EC ("the 2009 Directive") appealed Directive 83/183/EEC as amended by 89/604/EEC, 91/680/EEC, 92/12/EEC.

49. The Commission must, in accordance with membership of the EU, ensure that the effectiveness of EU law is maintained. This applies to all State bodies including the Respondent. The Commission must apply EU law, and disapply if necessary domestic law if it contravenes EU law, in its considerations of tax appeals within its remit. The domestic provision, namely the Regulations emanated from the EU Directive 2009/55 (as referred to as the 2009 Directive) and so the Commission must ensure that that 2009 Directive is enforced and applied correctly. The original Directive 83/183/EEC and its successors was

enacted to ensure that the free movement of persons in the EU was supported and not hindered by tax and custom provisions. Hence, tax exemptions were allowed to ensure that this free movement of persons was supported.

50. The 2009 Directive states that it is in force to "*benefit private individuals*" (preamble) and to ensure that "*the tax obstacles to the introduction by private individuals of personal property into one Member State from another Member State are such as to hinder the free movement of persons within the Community. Therefore, these obstacles should be eliminated as far as possible by the introduction of tax exemptions*." (preamble).

51. The exemptions to the various taxes are set out in Article 2 of the Directive as follows :-

> *2. The exemption to which Article 1 makes provision shall be granted for personal property :*
>
> *(a) which has been acquired under the general conditions of taxation in force in the domestic market of one of the Member States and which is not the subject, on the grounds of exit from the Member State of origin, of any exemption or any refund of consumption tax. For the purposes of this Directive, goods acquired under the conditions referred to in Article 151 of Directive 2006/112/EC with the exception of point (e) of the first subparagraph of paragraph 1 thereof shall be deemed to have met those conditions;*
>
> *(b) of which the person concerned has had the actual use before the change of residence is effected or the secondary residence established. In the case of motor-driven road vehicles (including their trailers), caravans, mobile homes, pleasure boats and private aircraft, Member States may require that the person concerned should have the use of them for a period of at least six months before the change of residence.*

52. The general rules for determining residence are set out in Article 6 of the Directive. It states:

> *1. For the purpose of this Directive, 'normal residence' means the place where a person usually lives, that is for at least 185 days in each calendar year, because of personal or occupational ties or; in the case of a person with no occupational times, because of personal ties which show close links between that person and the place he is living.*
>
> *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 two or more Member States shall be regarded as being the place*

of his personal ties, provided that such person returns there regularly. This last condition need not be met where the person in living in a Member State in order to carry out a task of indefinite duration. Attendance at a university or school shall not imply transfer of residence.

53. Ireland implemented the original precursor to the 2009 Directive by the Vehicle Registration Tax (Permanent Reliefs) Regulations, 1993, (the Regulations). The wording in the Regulations almost mirrors the Directive. The term "normal residence" in the Regulations means as follows:-

"normal residence means the place where a person usually lives, that is to say, where he lives for a least 185 days in each year, because of personal and occupational ties, or in the case 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."

54. Section 4 of the Regulations sets out the Transfer of Residence provisions. It states:-

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 that country, of any exemption from or any refund of value-added tax, excise duty or any other consumption tax…

Submissions

Appellant

55. The Appellant has submitted that she left Ireland to work in the UK. She has complied with all the requirements of the Regulations with respect to living for at least 185 days in the

UK, had personal ownership of the vehicle for at least 6 months before she came back to Ireland and completed all the necessary documentation. The Appellant maintains that she has complied with all the legislative requirements. The Appellant submits that she had left Ireland to commence a new life in the UK to gain further professional qualifications and experience to assist her aim of being a consultant. She was initially refused her application for transfer of residence on the basis that she was not returning to Ireland permanently. The Appellant submits that she was living in the UK and had no intention to return to Ireland for some period. That was going to be at least 2 years. Her hopes for professional advancement did not materialise and so she chose to return to Ireland. She had not been returning regularly to Ireland once she went to the UK. She submits that she has complied with all the requirements of the legislation and so should be granted the return of the VRT paid of €8091.

Respondent

56. The Respondent no longer submits that the Appellant was denied the "Transfer of Residence" on the basis that she was not able to provide evidence that she was permanently going to remain in Ireland. The Respondent's Statement of Case confirmed that on appeal, the Respondent accepted that the Appellant did intend to continue to reside in Ireland. The Respondent submits that she was denied the "Transfer of Residence" on appeal as she had maintained personal ties with Ireland and the proviso that she had to return regularly to Ireland was not applicable as she was *"in the UK for less than a year"*. The Respondent in their Statement of Case reiterated the Appellant's letter dated 5th August 2019 (when she was attempting to convince the Respondent that she was going to remain in Ireland) that "*personal ties are in Ireland, with my own home, all my personal affects, all my family nearby, and a knowledge of employment opportunities. I have no employment nor family nor personal ties in the UK and I cannot pretend nor do not wish to maintain my residency there."*

57. The Respondent relied on information given in respect of her appeal after she had left the UK to make a decision in respect of her residency before June 2019. The Respondent submitted that Appellant was carrying out a task (UK employment) of less than a year so the proviso that she returns regularly does not apply.

58. The Respondent changed oral submissions at the hearing. Initially one officer submitted that the Appellant had returned regularly to the UK due to the visit at Halloween and Christmas. But the other officer (the appeal officer) then altered these submissions to state that regular returning to Ireland was not applicable and the decision had been made based

on the carrying out of a task of less than one year (hence the proviso of regular return was not applicable).

59. The Respondent referred to EU case law in correspondence to the Commission dated 1st February 2021 and the case of *Rigsadvokaten v Ryborg* (C-297/89) but never relied on this decision at the appeal hearing and gave no indication in submissions or in the appeal decision letter that the Respondent had applied the test in this case and the establishment of the "permanent centre of interests".

Material Facts

60. The Commissioner has considered the documentation and the verbal evidence at the hearing given under oath and makes the following findings of material facts:

    - The Appellant is a single woman with no dependent children or dependent adults to care for;
    - The Appellant is a registered doctor who sought development in the UK for geriatric emergency medicine due to the unavailability of this development opportunity in Ireland;
    - The Appellant took a two year career break from the HSE to pursue this opportunity and could have extended this career break for up to 5 years;
    - The Appellant took up a one year post with a hospital in Leicester but had the intention of remaining in the UK if she secured a consultancy as evidenced by her ensuring she was registered in the UK as a doctor for professional and insurance purposes for at least 2 years;
    - The Appellant had entered into a one year lease for rent and bills in Leicester in accordance with the medical year;
    - The Appellant had vacated her mortgaged home in Ireland and had consented to a family member and their family occupying those premises on a long term basis;
    - The Appellant as a single person and an Irish national with no dependents and in light of all the matters outlined above, had no personal ties to Ireland (other than usual familial visits to parents/siblings) which affected her residency during her working life in UK.
    - The Appellant bought a Volvo in October 2018 and met all the criteria in the Regulations and as specified by the Respondent in paying the requisite taxes and

insurance on the vehicle and owned it more than six months prior to relocating back to Ireland in June 2019.

- The Appellant's occupational ties and personal ties changed to Ireland from June 2019 as evidenced by her working in Sligo on her return. This is confirmed by her still working and living in Ireland at the date of the hearing.

Analysis

61. The Appellant had all her occupational and personal ties in the one location for the period from September 2018 to June 2019 as evidenced by her job, her friends being in the UK, her gym membership, her banking and financial services being in the UK, her payment of all PAYE taxes in the UK, her lack of regular visits to Ireland (with the exception of a short holiday in October and Christmas) and her life (as evidenced by her spending pattern) all centred in the UK. There is no evidence that the Respondent considered her occupational and personal ties during that period in coming to its decision.

62. The Regulations emanate from EU law. EU law and the Court of Justice of the European Union ("CJEU") decisions have primacy in all Member States. The Commission must ensure that the application of EU law is maintained by either application of EU law and/or disapplication of domestic law. The Commissioner finds that the domestic law namely the Regulations are in accordance with the Directive. However, the Commissioner finds that the Respondent has failed to apply the correct steps and test in establishing normal residence.

63. The Commissioner has therefore applied the seminal decisions of the CJEU in coming to this determination. The Respondent was also obliged to ensure the consistent application of EU law and decisions in applying the Regulations to the Appellant's case but it has failed to do so. The Respondent did not demonstrate that it applied the test laid down by the EU and the CJEU in terms of consideration of normal residence.

64. The Commissioner notes that initially the Appellant was denied the exemption on the basis that she could not prove she was returning permanently to Ireland. The Commissioner does not need to consider this ground of rejection as it was accepted on internal appeal that the Appellant intended to return permanently to Ireland. But the Commissioner notes for completeness that the only matter that an individual is required to show is that **the vehicle is going to remain permanently in the State**. An individual has no obligation to demonstrate that through an employment contract or some other method that they are going to remain permanently in Ireland. In fact, this negates the fundamental freedoms of the free movement of persons in the EU. The letter to the Appellant dated 5th July 2019

stating that "*to qualify for relief the applicant must have transferred his/her residence permanently to the State. The onus of proof is always on the application claiming relief. Such proof must be of a written/documentary and original nature and must be supplied at the time an application claiming relief is made"*.

65. The Respondent should consider its procedures in these respects and to ask an Irish national for written and documentary proof that they are going to remain in Ireland permanently at the time of claiming relief is not set out in the Transfer of Residence form and is not part of the statutory provisions or EU law. Indeed the definition of permanency in EU Law is the 185 days in any calendar year.

66. In addition, the initial rejection was illogical as the Appellant could have (if she had intended returning to the UK) completed a temporary exemption. There was no advantage for the Appellant to seek a transfer of residence on the basis that she was going to return to the UK within a few months. Even if she had done so, she could not have taken her vehicle without more funds being expended for re-registration, new number plates and no doubt higher insurance for a re-registered vehicle. The Respondent's argument was illogical and does not appear to be grounded in statute or EU law. There is a requirement to establish a transfer of residence but that is very different from having to establish that one is going to live in the transferring Member State for at least 12 months or even forever.

67. With respect to the final decision of the internal Respondent appeal officer, the Commissioner finds that the Respondent has failed to follow the correct steps and hence has not applied the correct test, as established by the CJEU in determining normal residence. The Respondent appears to have considered personal ties and relied on information when the Appellant had returned to Ireland in August 2019 in coming to the decision to reject the appeal. That is not in compliance with the Regulations or the 2009 Directive.

68. The test as laid out by the CJEU is to firstly establish where the person "usually lives that is for at least 185 days, due to personal and occupational ties." It is as simple as that. In this appeal, the Appellant lived in the UK for at least 185 days, her work was there and her personal ties were also there.

69. It is only if there is a duality in those details and the person is living and working in two locations, do the personal ties take precedence. The person needs to show that they travel regularly back to the place of personal ties and that proviso is not required if they are performing a specific task for a defined period (i.e. namely they are unable to travel back to the place of their personal ties). These provisions are to assist individuals. But the matter of personal ties only comes into play if it is not possible to establish the occupational ties

and the permanent centre of interests. The condition (as referred to in the 2009 Directive and the Regulations) of an individual having to show returning to their location of personal ties regularly is not required if they are performing a task for a certain period, which means that return is not possible. That removal of the condition is to assist individuals who are dual located, not to hinder them.

70. The first test in relation to where the person "usually lives due to personal and occupational ties" the Commissioner finds that, according to established case-law developed in a number of areas of EU law, "normal residence" must be regarded as the place where the person concerned has established his or her permanent centre of interests (see, by analogy, judgments in *Schäflein v Commission*, 284/87, EU:C:1988:414, paragraph 9; *Ryborg*, C-297/89, EU:C:1991:160, paragraph 19; *Louloudakis*, C-262/99, EU:C:2001:407, paragraph 51; *Alevizos*, C-392/05, EU:C:2007:251, paragraph 55; I, C-255/13, EU:C:2014:1291, paragraph 44, and B., C-394/13, EU:C:2014:2199, paragraph 26).

71. It has also been held that all the relevant facts must be taken into consideration in determining normal residence as the permanent centre of interests of the person concerned (see, by analogy, judgments in *Schäflein v Commission*, 284/87, EU:C:1988:414, paragraph 10; *Ryborg*, C-297/89, EU:C:1991:160, paragraph 20; *Louloudakis*, C-262/99, EU:C:2001:407, paragraph 55; *Alevizos*, C-392/05, EU:C:2007:251, paragraph 57, and I, C-255/13, EU:C:2014:1291, paragraphs 45 and 46).

72. In the judgments in *Louloudakis* (C-262/99, EU:C:2001:407) and *Alevizos* (C-392/05, EU:C:2007:251), the purpose of determining the normal place of residence with regard to Article 7(1) of Directive 83/182 and Article 6(1) of Directive 83/183 (the precursor to the 2009 Directive), that the relevant facts to be taken into consideration in determining normal residence as the permanent centre of interests of the person concerned include, in particular, the **actual presence of the person concerned** and of the members of his family, **availability of accommodation**, the place where the children actually attend school, **the place where business is conducted**, the **place where property interests are situated and that of administrative links to public authorities and social services, inasmuch as those factors express the intention of that person to confer a certain stability on the place of connection, by reason of the continuity arising from a way of life and the development of normal social and occupational relationships** (judgments in *Louloudakis*, C-262/99, EU:C:2001:407, paragraph 55, and *Alevizos*, C-392/05, EU:C:2007:251, paragraph 57).

73. In respect of the Appellant, the Commissioner finds that it is possible to determine the permanent centre of interests during the years 2018 to 2019 in respect of the Appellant as being in the UK. The Appellant **was present in the UK** (see factor referred to above), the Appellant did not return regularly to Ireland, the Appellant has no partner and so the presence of a wife/husband are not relevant, the Appellant does not have children and so that is not relevant, the **Appellant's place where their business was conducted was the UK**, the place where property interests were situated was the UK (the Appellant had left her home and it was being lived in by others and she had rented a home in the UK and was responsible for all the bills in this home), the administrative links to public authorities and social services (the Appellant had a UK bank account, was working in a hospital in the UK and had no doubt her own doctor in the NHS, which is free at the point of entry and available to all those working and living in the UK, and paid taxes in the UK), the Appellant had by reason of continuity arising from a way of life and the development of normal social and occupational relationships established her residency in the UK. The Appellant had a circle of friends in her workplace and across the UK (as evidenced by the various trips across the UK) and had established the normal social constructs that demonstrated residency, such as gym membership and shopping in the same supermarket, purchasing a car and doing all the normal matters of a life centred in the UK.

74. It is only when it is not possible to establish normal residence due to permanent centre of interests, is the consideration of personal ties meant to come into play. The Court also stated in those judgments that where it is not possible on the basis of an overall assessment of all the relevant facts to locate the permanent centre of interests of the person concerned, primacy must be given, for the purposes of locating it, to personal ties (judgments in *Louloudakis*, C-262/99, EU:C:2001:407, paragraph 53, and *Alevizos*, C-392/05, EU:C:2007:251, paragraph 61). It should be noted in that regard that it is clear from the judgments in *Louloudakis* (C-262/99, EU:C:2001:407, paragraph 53) and *Alevizos* (C-392/05, EU:C:2007:251, paragraph 61) that the primacy given to personal ties is based on an interpretation of Article 6(1) of Directive 83/183, as amended now by the 2009 Directive.

75. The Commissioner has read the relevant CJEU cases and there is case law which has similar circumstances to the present case. The Respondent does not appear to have considered this case. The Commissioner is satisfied that this case further assists the Appellant and confirms that the Commissioner is correct in her analysis. It has similar facts to the Appellant and is an important case in supporting the Appellant. In the case of *Georgios Alevizos v Ypourgos Oikonomikon* EU:C:2007:251, Mr Alevizos, an officer in the Greek Air Force, was posted from 12 July 1995 to 8 August 1997 to the Regional

Headquarters Allied Forces Southern Europe in Naples (Italy), where he occupied a position within the North Atlantic Treaty Organisation (NATO). By decision of the Chief of the General Air Staff, the Air Force approved the move, at the expense of the service, of Mr Alevizos's wife and two children.

76. At the end of the period of service set for that position, the Consul General of the Hellenic Republic at Naples issued a certificate of return to Greece for Mr Alevizos and for the members of his family. Mr Alevizos made a declaration to the effect that he wished to import into Greece a private motor vehicle – a Mercedes E 200 (year of manufacture: 1996), which he had bought in Germany on 17 December 1996 and of which he took possession on 23 December 1996. On his return to Greece, Mr Alevizos lodged a transfer declaration in respect of that vehicle at the Elefsina Customs Office. By decision of 28 August 1997, that office claimed the sum of GRD 4 136 413 from Mr Alevizos by way of excise duties under Article 75 of Law No 2127/1993, calculated in accordance with Article 6(13) of Law No 2459/1997 on the basis of the reduced coefficients defined by Article 37 of Law No 1882/1990 then in force. By that same decision, it also claimed the sum of GRD 1 470 775 from Mr Alevizos by way of special registration tax pursuant to Article 15(7) of Law No 2367/1953. After paying the sums requested of him in respect of excise duties and special registration tax ('the taxes at issue in the main proceedings'), Mr Alevizos lodged an appeal against the tax decision of 28 August 1997. After various levels of appeal, the final domestic appeal court referred the matter to the CJEU for a preliminary ruling in respect of :-

'Are civil servants and officers, non-commissioned officers and other ranks of the armed forces, the public security forces and the harbour police corps covered, like other workers, by Article 6 of Council Directive 83/183/EEC and capable of acquiring "normal residence" in another country where they live for at least 185 days in each calendar year in order to carry out an official task of a definite duration, or do they continue, even during the period of their assignment in the other country, to have their normal residence in Greece, irrespective of whether they have transferred their personal and occupational ties to the other country?'

77. The Commissioner considers it worth quoting this case in significant terms, as it assists the Appellant. The Court held at paragraphs 42 and 43 that :-

"In that respect, it is necessary to state at the outset that Directive 83/183 was adopted on the basis of Article 99 of the EC Treaty (now Article 93 EC). That provision empowers the Council to harmonise national legislation concerning, inter alia, excise

duties, to the extent necessary to ensure the establishment and functioning of the internal market (Commission v Germany, paragraph 35).

In addition, it is clear from reading the first and second recitals in the preamble to Directive 83/183, in conjunction with Articles 1 and 2 thereof, that that directive was adopted to benefit 'private individuals' in order to improve the free movement of 'persons' in the Community and thereby to increase the feeling of belonging to the Community and that, to this end, it seeks to facilitate imports of personal property, defined as property 'for the personal use of the persons concerned or the needs of their household'.

78. The Court continued to explain at paragraphs 55 to 62 the following :-

"Therefore, the scope ratione personae of Directive 83/183 cannot be limited to workers within the meaning of Article 39 EC, nor can it exclude from the latter those in employment in the public service of a Member State.

Normal residence must be regarded as the place where a person has established his permanent centre of interests (see, by analogy, Ryborg, paragraph 19, and Louloudakis, paragraph 51).

The criterion of permanence refers to the condition that the person must be habitually resident in the place concerned for at least 185 days in each calendar year. *In the case in the main proceedings, in which, according to the findings of the national court, that condition has been fulfilled, the definite duration of Mr Alevizos's posting to NATO in Italy thus does not as such exclude the possibility that during the period at issue he had his normal residence in that Member State.*

All of the relevant facts must be taken into consideration in determining normal residence as the permanent centre of interests of the person concerned (see Ryborg, paragraph 20), namely, in particular, the actual presence of the person concerned and of the members of his family, the availability of accommodation, the place where the children actually attend school, the place where business is conducted, the place where property interests are situated, that of administrative links to public services and social services, inasmuch as those factors express the intention of that person to confer a certain stability on the place of connection, by reason of the continuity arising from a way of life and the development of normal social and occupational relationships (Louloudakis, paragraph 55).

It must be pointed out that, although, in accordance with the second subparagraph of Article 6(1) of Directive 83/183, the aspect of attendance at an educational

establishment does not imply transfer of normal residence as regards the person concerned himself, it may none the less, considered in a family context, be evidence of such transfer, as stated by Mr Alevizos in his written observations, with regard to his children (see, by analogy, Louloudakis, paragraph 56).

As for the Greek Government's contention that Mr Alevizos had, in the present case, retained professional links with the Greek authorities and a social and tax connection with Greece during the period of his posting to NATO in Italy, it must be pointed out, first, that, were such a situation to exist, it would not vitiate the fact that during that period Mr Alevizos was carrying on his professional activity in Italy, which was the centre of his occupational ties, as the Advocate General has stated at point 66 of her Opinion.

Secondly, it is clear from the second subparagraph of Article 6(1) of Directive 83/183 that that provision gives priority to personal ties where the person concerned does not have personal and occupational ties concentrated in a single Member State (see, by analogy, Louloudakis, paragraph 52).

Thus, Article 6(1) of Directive 83/183 provides for both occupational and personal ties to a given place to be taken into account and must be interpreted as meaning that, in the event that an overall assessment of occupational and personal ties does not suffice to locate the permanent centre of interests of the person concerned, primacy must be given, for the purposes of locating it, to personal ties (see, by analogy, Louloudakis, paragraph 53).

It follows from the foregoing that Article 6(1) of Directive 83/183 must be interpreted as meaning that an employee in the public service, the armed forces, the public security forces or the harbour police corps of a Member State, who stays for at least 185 days a year in another Member State with the members of his family in order to carry out an official task of a definite duration in that latter State, has, for the duration of that task, his normal residence, within the meaning of Article 6(1), in that other Member State."

79. The Commissioner notes that the second subparagraph of Article 6(1) of Directive 83/183, (now the 2009 Directive) and hence the Regulation 3(1) of Regulations gives priority to personal ties where the person concerned does not have personal and occupational ties concentrated in a single Member State. In addition, in the above case, the Greek national who stayed in Italy for more than 185 days of the year carrying out an official task of a definite duration, it was held that his normal residence was in that other Member State, namely Italy.

80. Hence, the Appellant was able to establish both occupational and personal ties for at least 185 days in the year in the UK through her work, her friends, and her social and professional and administrative ties to the UK. Hence, the second subparagraph in Regulation 3(1) of the definition of normal residence was not applicable and hence the regularity of her attendance in Ireland or staying for less than a year were also not applicable.

81. The Respondent did not consider the **first limb**, namely the permanent centre of interests but relied solely on the second subparagraph to deny normal residence. This was a misapplication of both domestic and EU law.

82. The Commissioner notes that in the above CJEU case of the Greek national, the CJEU even found that even though the Greek national retained social and tax links with Greece that did not vitiate the occupational ties and his professional centre of interests in Italy. The Appellant had no social and tax links to Ireland and so this matter did not even need to be considered. The Appellant centre of professional and occupational ties were in the UK. In addition, the centre of the Appellant's personal ties were in the UK. Hence the Commissioner finds the Appellant had normal residence in the UK during the period in question in 2018 and 2019.

Determination

83. The Commissioner determines that the Appellant was entitled to the exemption under a "Transfer of Residence" and complied with all requirements of Regulations in respect of the Volvo vehicle in question and with respect to her transfer of residence. The Appellant in accordance with domestic and EU law is entitled to the exemption from taxes on the transfer of the Volvo estate in question. The Appellant is therefore successful in her appeal and is entitled to the full refund of the VRT in the sum of €8091. This determination contains full findings of fact and reasons for the determination. Any party dissatisfied with the determination has a right of appeal on a point of law only within 21 days of receipt in accordance with the provisions set out in the Taxes Consolidation Act 1997.

Marie-Claire Maney
Appeal Commissioner
Chairperson
1st November 2021