



**44TACD2021**

**BETWEEN/**

**APPELLANT**

**Appellant**

**AND**

**REVENUE COMMISSIONERS**

**Respondent**

**DETERMINATION**

**Introduction**

1. This appeal concerns the calculation of Vehicle Registration Tax ("VRT") charged on the importation of a hybrid electric vehicle. On agreement of the parties this appeal is determined in accordance with section 949U of the Taxes Consolidation Act 1997, as amended ("TCA 1997").
2. This appeal is adjudicated without a hearing in accordance with section 949U of the Taxes Consolidation Act, 1997
3. The amount of tax involved is €150

**Background**

4. The vehicle, the subject matter of this appeal, is a Toyota Yaris Hybrid ICON+CVT 5 DR AUTO first registered on 1 Jan 2014 in the UK. The vehicle was registered with the National Car Testing Service (NCTS) on 7 February 2018. A VRT charge of €768 which reflected a "Hybrid Remission" of €900 was paid by the Appellant.
5. The Appellant appealed the amount of the Hybrid Remission in relation to the VRT charge to the Revenue Commissioners under section 145 of the Finance Act, 2001 (as amended). On appeal the VRT charge was not revised by the Revenue Commissioners.

6. This was notified to the Appellant by letter dated 20 February 2018. The Appellant was aggrieved with the determination of the Revenue Commissioners and duly appealed to the Tax Appeal Commissioners against the determination. A notice of appeal was received by the Tax Appeals Commission on 25 February 2018.

## 7. Legislation

*S135C Finance Act 1992: Remission or repayment in respect of vehicle registration tax on certain hybrid electric vehicles*

*(1)(a) Where a person first registers a category A vehicle or a category B vehicle during the period from 1 January 2011 to [31 December 2018] and the Commissioners are satisfied that the vehicle is a series production hybrid electric vehicle then the Commissioners shall remit or repay to that person an amount equal to the lesser of—*

*(i) the vehicle registration tax which, apart from this subsection, would be payable in respect of the vehicle in accordance with paragraph (a) or (c) of section 132(3), or*

*(ii) the amount specified in the Table to this subsection which is referable to the vehicle having regard to its age.]*

*(b) In this subsection 'age', in relation to a vehicle, means the time that has elapsed since the date on which the vehicle first entered into service.*



*TABLE 1*

<i>Age of vehicle</i>	<i>Maximum amount which may be remitted or repaid</i>
<i>New vehicle, first registration</i>	<i>€1,500</i>
<i>Not a new vehicle but less than 2 years</i>	<i>€1,350</i>
<i>2 years or over but less than 3 years</i>	<i>€1,200</i>
<i>3 years or over but less than 4 years</i>	<i>€1,050</i>
<i>4 years or over but less than 5 years</i>	<i>€900</i>
<i>5 years or over but less than 6 years</i>	<i>€750</i>
<i>6 years or over but less than 7 years</i>	<i>€600</i>
<i>7 years or over but less than 8 years</i>	<i>€450</i>
<i>8 years or over but less than 9 years</i>	<i>€300</i>
<i>9 years or over but less than 10 years</i>	<i>€150</i>
<i>10 years or over</i>	<i>Nil</i>



## **Submissions**

8. The Appellant Submitted:

- a. That his car was first registered in January 2014 and attracted a VRT charge of €766 whereas younger cars in that year are only charged €618.
- b. That if his car was first registered in December 2013 a VRT charge of €542 would apply.
- c. That the basic principle of a lower VRT charge for an older car is turned on its head if a newer car gets a higher remission of VRT.
- d. That the Respondent's data on its website for January registered cars for his make and model are consistently wrong in relation to the VRT calculator.

9. The Respondent submitted:

- a. That the Appellant's car is a hybrid vehicle first registered on 1 January 2014 and subsequently first registered in the state on 7 February 2018.
- b. That this makes the Appellant's vehicle over four years old but less than five years old.
- c. That in these circumstances the appropriate "Hybrid Remission" is €900.

## **Analysis and Conclusion**

10. Section 135C (1) of the Finance Act 1992, as amended, provides for a remission or repayment of an amount of VRT to be determined by the reference to Table 1, on the registration of a hybrid electric vehicle. In the within appeal the remission or repayment due is €900.
11. The remission or reduction is applied to the VRT charge calculated in the usual way, which is by reference to the Open Market Selling Price of the vehicle and the CO<sub>2</sub> emissions of the vehicle, neither of which are in dispute between the parties.
12. In appeals before the Tax Appeals Commission, the burden of proof rests on the Appellant who must prove on the balance of probabilities that the 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 the Hybrid Remission calculated by the Respondent is incorrect.



13. 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**

14. Based on a consideration of the evidence and submissions together with a review of the documentation, I determine that €900 to be the correct Hybrid Remission applicable to the Appellant's vehicle and that the net charge to VRT in the amount of €768 was correctly applied by the Respondent.
15. This appeal is determined in accordance with section 949AL TCA 1997.

**CHARLIE PHELAN**

**APPEAL COMMISSIONER**

**29 JANUARY 2021**

