



**63TACD2021**

[REDACTED]

**Appellant**

**V**

**THE REVENUE COMMISSIONERS**

**Respondent**

### **DETERMINATION**

#### **Introduction**

1. This appeal concerns a claim for repayment of additional Vehicle Registration Tax ("VRT") charged on the late registration of a vehicle. Upon the 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**

2. The vehicle, the subject matter of this appeal [REDACTED] was purchased by the Appellant, on 10 January 2019 from a car dealer in Northern Ireland. The vehicle arrived in the State sometime between 10 January 2019 and 22 January 2019 and registration was completed with the National Car Testing Service ("NCTS") on 13 March 2019. At that time a VRT amount of €6,650 was charged on the vehicle plus a product charge of €25.
3. In addition, an additional VRT amount ("late registration fee") of €272 was charged by the Respondent as the vehicle was registered 62 days after it was brought into the State. The Respondent calculated this late registration fee on the basis that the date of importation was the same date as the invoice date (10 January 2019). The late fee was also reduced by 21 days as a result of a delay in establishing the valuation of the vehicle. The Appellant paid the full amount of €6,947.



4. The Appellant appealed the valuation (OMSP) used in the calculation of the VRT and the application of the late registration fee, to the VRT appeals officer on the grounds that the OMSP was excessive and as he was not the one responsible for the delay in registering the vehicle, he should not be charged the late registration fee.
5. The Appellant outlined that he had initially booked a pre-registration examination by the NCTS within the required time limits on 22 January 2019 and presented the vehicle for registration at the NCTS on 5 February 2019. The vehicle could not be registered at this time as the VRT statistical code was not available for the vehicle.
6. The Appellant's first stage VRT appeal, in respect of the late registration fee, was refused on the basis that only 21 days of the overdue period of 62 days was caused by delays within Revenue or the NCTS. The late registration fee of €272 was calculated on the basis that the registration was 41 days late. By letter dated 23 May 2019, the VRT appeals officer refused the refund of the late registration fee on the basis that the "delay was not the fault of Revenue or the NCTS".
7. The Appellant did not accept that he should be liable for any late registration fee and duly appealed the decision of the Respondent by notice of appeal to the Tax Appeals Commission ("TAC") on [REDACTED].

## **Legislation**

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

*"A person who is aggrieved by a determination of the Commissioners under section 145 may, in accordance with this section, appeal to the Appeal Commissioners against such determination and the appeal is to be heard and determined by the Appeal Commissioners whose determination is final and conclusive unless a case is required to be stated in relation to it for the opinion of the High Court on a point of law."*

### **2. Section 132 Finance Act, 1992, as amended:**

*(1) Subject to the provisions of this Chapter and any regulations thereunder, with effect on and from the 1st day of January, 1993, a duty of excise, to be called vehicle registration tax, shall be charged, levied and paid at whichever of the rates specified in subsection (3) is appropriate on—*





*(a) the registration of a vehicle, and*

*(b) a declaration under section 131(3).*

*(2) Vehicle registration tax shall become due and be paid at the time of the registration of a vehicle or the making of the declaration under section 131(3), as may be appropriate, by—*

*(a) an authorised person in accordance with section 136(5)(b),*

*(b) the person who registers the vehicle,*

*(c) the person who has converted the vehicle where the prescribed particulars in relation to the conversion have not been declared to the Commissioners in accordance with section 131(3),*

*(d) the person who is in possession of the vehicle that is a converted vehicle which has not been declared to the Commissioners in accordance with section 131(4),*

*and where under paragraphs (a) to (d), more than one such person is, in any case, liable for the payment of a vehicle registration tax liability, then such persons shall be jointly and severally liable.*

*(3) This subsection deals with rates of VRT and is not repeated here.*

*(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.*





3. S.I No. 318/1992 – Vehicle Registration and Taxation Regulation, 1992, Regulation 8

*(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.*

**Submissions**

Appellant

8. The Appellant made the following submission in his Notice of Appeal:

*“Late VRT charge should not apply as car reg [REDACTED] [REDACTED] was purchased on within 18/20 January 2019. Can't remember exact date as sale invoice have been taken by NCT centre. Entered to state on 22/01/2019 and booked VRT on 22 January 2019 and was confirmed for 05/02/2019 Unfortunately on the day presented car for VRT there was not listed on revenue car list and was additional valuation checked by the revenue. I was told that should be submitted in 10 days. In mean time I few times contacted revenue for valuation but they told me to wait. It was taken longer than 10d, Finally I received letter on 07/03/2019 dated 05/03/2019. On letter was given 7 days to pay fee to avoid late payment fee. Fee was paid on 13/03/2019 In this case I don't see why I was charged late payment fee of €272 as I can't control it and I was showing interest to get valuation be myself as soon as possible. Revenue commissioner officer stated that VRT valuation was done in 22d, but I was informed by letter only after 31d. So again I don't see where is my fault. In a case I am still not right, why late VRT payment not recalculated be new valuation was done after appeal and reduced value of the VRT”(sic)*





### Respondent

9. The Respondent made the following submission in their Statement of Case:

*"Matter under dispute:*

*Additional VRT charge of €276 due to the vehicle not being registered within 30 days as per legislation. ...*

*Facts of Case:*

- *Vehicle was imported on 10th January 2019.*
- *Registration of the vehicle was completed on 13th March 2019.*
- *Appellant first stage appeal was received in our office on 18th April 2019, querying the amount of additional VRT charged, €276.*
- *Revenue responded to this first stage appeal on 23rd May 2019.*
- *Appellant has now submitted second stage appeal to TAC.*

*Revenue Position*

1. *The additional VRT charge was correctly applied as the vehicle concerned was in the State for 62 days before being registered.*
2. *NCT adjusted the date of entry from 10/01/19 to 31/01/19. This allowed 21 days which was the amount of time it took for the stats code to come back from Revenue.*
3. *An appeal for a late-penalty fine/charge is not an appealable matter for the Tax Appeals Commission in accordance with sections 949N and 949J of the Taxes Consolidation Act 1997, as amended. TAC have confirmed this position in previous rulings."*

### ***Analysis***

10. The submissions by both the Appellant and the Respondent, fully set out the background to this appeal. The issue to be decided is whether the Appellant should be liable for late registration VRT in the amount of €272.

11. The regulations require the Appellant to:





- (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.*

12. Section 132 Finance Act 1992 provides that;

*“..., 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: ”*

The time specified in Regulation 8 is “not later than 30 days after” the vehicle’s arrival in the State.

13. In order to clarify the relevant dates and valuation of the vehicle, the TAC issued a direction to both parties to provide the following information/clarification:

- *Please submit a copy of the letter sent by the Revenue to the Appellant, dated 5 March 2019, setting out the valuation for the Vehicle and the VRT due, as submitted by the Appellant in his Statement of Case.*
- *Please confirm the date that the vehicle arrived in the State and provide any available evidence of this. We note that the Respondent’s Statement of Case submits that the date of importation was 10 January 2019 and the Appellant’s Statement of Case submits that the date of importation was 22 January 2019.*

14. Neither party responded to this request for clarification. On the basis that the vehicle was purchased in Northern Ireland and the invoice provided by the supplier is dated 10 January 2019, the earliest date the vehicle arrived in the State was 10 January 2019. The Appellant submits that it arrived in the State on 22 January 2019. The Respondent submits that it was imported on 10 January 2019.

15. The Respondent did not set out the exact dates that make up the 21 days that they have allowed for delays, on their side, in obtaining the “stats code” for the vehicle. The



period from 5 February 2019 (date vehicle was presented for registration by Appellant) to 5 March 2019 (date VRT charge was established by Respondent) is 28 days. However, the Respondent did not dispute that the Appellant presented the vehicle at the NCTS for registration on 5 February 2019.

16. In order to avoid the late registration fee, the Appellant was required to register the vehicle not later than 30 days after its arrival in the State. The Appellant submits that he made all reasonable attempts to register the vehicle within the 30-day time limit. The Appellant contacted the NCTS on 22 January 2019, arranged an appointment date on 5 February 2019 and presented the vehicle at the NCTS on that date. The registration completion was delayed by the Respondent as its systems could not immediately calculate the VRT due as the stats code for the vehicle was not readily available. It should be noted that even though the date of the vehicle's arrival in the State is disputed, the Appellant presented the vehicle for registration within 30 days of the earliest arrival date (10 January 2019).
17. When the stats code was established, the Respondent notified the Appellant, by letter on 5 March 2019, of the VRT due and set a 7 day deadline for payment. The Appellant received this notice on 7 March 2019 and paid the liability without undue delay on 13 March 2019.
18. I am satisfied, based on the submissions, that the Appellant commenced the registration process within the 30-day period and the completion of the registration process was outside his control.

### **Conclusion**

19. 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 relevant tax is not payable.
20. In the High Court case of *Menolly Homes Ltd v Appeal Commissioners and another*, [2010] IHEC 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.'*





21. I determine that the Appellant's appeal is successful and that he should receive a refund of the late registration VRT of €272.

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

---

**Paul Cummins**  
**Appeal Commissioner**  
*Designated Public Official*

**22 MARCH 2021**

