



Between



93TACD2022

Appellant

and

Revenue Commissioners

Respondent

Determination

Introduction

1. This is an appeal of a decision of the Revenue Commissioners (“the Respondent”) of 19 April 2019 to refuse the Appellant’s claim for relief from stamp duty under section 81AA of the Stamp Duties Consolidation Act 1999 (“the SDCA 1999”) paid in respect of his acquisition of agricultural land transferred to him by his father on 8 October 2013.
2. Section 81AA of the SDCA 1999 provides for relief from stamp duty to “*young trained farmers*” on their acquisition of agricultural land where certain conditions are met. The sole issue that arises in this appeal is whether the Appellant “*achieved the standard*” of a “*young trained farmer*” capable of successfully claiming relief within the time-limit prescribed by section 81AA (11)(c) of the SDCA 1999.
3. This appeal occurred by way of oral hearing on 11 April 2022. The Commissioner was grateful to have the benefit of written and oral submissions provided by both parties.

Background

4. On 8 October 2013 the Appellant received a gift of agricultural land owned by his father in respect of which he paid stamp duty of €8,460.00.

5. In December 2015 the Appellant enrolled in a Level 6 Certificate in Farm Administration (often referred to as a “Green Cert”) run by Teagasc, [REDACTED]. The Appellant’s purpose in applying for the course was, at least in part, to meet the requirement under section 81AA of the SDCA 1999 to hold a prescribed qualification capable of bringing him within the definition of a “*young trained farmer*”. The Appellant said that he would have enrolled immediately after the acquisition of the property, but the demand for places in this type of course and an illness to his father prevented him from doing so.
6. The Appellant gave evidence that he was informed initially that the Certificate in Farm Administration would last approximately a year and a half. In the event, however, it did not commence until 4 May 2016, whereupon Teagasc provided a revised estimate for its duration of one year.
7. The Appellant gave evidence that after the commencement of the Certificate in Farm Administration, the work of the group to which he had been assigned was disrupted by the absence of their tutor as a consequence of illness. He said that several different replacements were called upon to stand in as tutor, which resulted in more disruption and pushed it even further behind schedule.
8. The Appellant submitted his claim for relief under section 81AA of the SDCA 1999 on 4 October 2017.
9. Correspondence from Graham Waters, education officer in Teagasc, furnished by the Appellant in support of his claim to the Respondent and this appeal indicates that the course itself ended on or about October 2017. In this correspondence, dated 15 June 2018, Mr Waters stated:-

“To whom it may concern,

I wish to conform that [REDACTED] has completed his Distance Education Green Cert in Teagasc [REDACTED] earning his Level 6 Specific Purpose Award in Farm Administration.

The course was completed on the 4th of October 2017 and [REDACTED] has successfully completed all elements and has passed all the verifications associated with the course.

[REDACTED] has been issued his Green Cert by QQI [Quality and Qualifications Ireland.]

Should you have any further queries please do not hesitate to contact me.”

10. The Certificate in Farm Administration awarded to the Appellant was also provided as part of the appeal documents. This states that the Appellant was awarded his certificate with the grade of Distinction on 14 February 2018.

11. In considering the Appellant's claim for relief, the Respondent contacted Teagasc to establish when exactly the Appellant obtained his Certificate in Farm Administration. On 31 January 2019, Carmel Finlay, RPL Mentor/Online Support Specialist, answered by way of email as follows:-

It has been Teagasc policy, that we are satisfied that a person is deemed to have successfully completed a course when the course had been externally verified through our Quality Assurance Systems – i.e. with effect from the specific date of the External Verification visit-

Either Frank Murphy or I can only issue these letters in order to ensure that all quality assurance protocols for examinations have been followed and are standardised.

As per the case below, the graduate can seek that specific date in writing from the Teagasc Course Director where they completed their course...

12. The Respondent subsequently received a letter dated 14 February 2019 from Frank Murphy, Head of Curriculum Development Unit at Teagasc, addressed to the Appellant. This stated:-

Dear [REDACTED],

I wish to confirm that you successfully completed the Specific Purpose Certificate in Farm Administration in 2018. This course was externally verified by Teagasc on 29th January 2018.

Legislation and Guidelines

13. Section 81AA of the SDCA 1999 provides relief from stamp duty on the transfer of agricultural land to "young trained farmers". Section 81AA (1) of the SDCA 1999 defines such a person as one:-

"...in respect of whom it is shown to the satisfaction of the Commissioners that—

(a) the person had not attained the age of 35 years on the date on which the instrument, in respect of which relief is being claimed under this section, was executed, and

(b) the conditions referred to in subsection (2), (3), (4) or (5) are satisfied"

14. Section 81AA (2) of the SDCA 1999 provides:-

“The condition required by this subsection is that the person, referred to in paragraph (a) of the definition of young trained farmer, is the holder of a Schedule 2B qualification.”

15. Included among the qualifications listed in Schedule 2B is the course undertaken by the Appellant, namely a *“Level 6 Advanced Certificate in Farm Management”*.

16. Section 81AA (11) of the SDCA 1999 allows for those who did not at the time of transfer possess a prescribed qualification bringing them within the definition of a *“young trained farmer”* to obtain relief from stamp duty upon their obtaining such a qualification. This provides:-

“(11)

(a) For the purposes of this subsection, a person “achieves the standard” at any time where at that time the person—

(i) satisfies the conditions set out in subsection (2), (3), (4) or (5), or

(ii) is the holder of a qualification treated, by virtue of subsection (6), as being a Schedule 2B qualification,

and whether a person has or has not achieved the standard shall be construed accordingly.

(b) This subsection applies to an instrument by means of which land is conveyed or transferred to a person (in this subsection referred to as the “transferee”) who on the date the instrument was executed was not a young trained farmer by reason only of the fact that the transferee on that date had not achieved the standard.

(c) This paragraph applies where—

(i) the transferee achieves the standard within the period of 4 years from the date of execution of an instrument to which this subsection applies,

(ii) it is the intention of the transferee, for a period of 5 years from the date on which a claim for repayment under paragraph (d) is made to the Commissioners to—

(I) spend not less than 50 per cent of his or her normal working time farming the land concerned, and

(II) retain ownership of that land,

and

(iii) the transferee—

(I) submits a business plan to Teagasc, and

(II) comes within the meaning of microenterprise or small enterprise in Article 2 of Annex 1 to the EU Regulation, before a repayment under paragraph (d) is claimed.

(d) Where paragraph (c) applies, the transferee may claim a repayment of stamp duty paid in respect of the instrument concerned and the Commissioners shall then cancel and repay any duty that was paid in respect of that instrument.”

17. What is noteworthy in the context of this Appeal is that subsection 11(c)(i) requires that a person claiming relief must “*achieve the standard*” qualifying them as “*young trained farmer*” within four years. To do this they must be the “*holder*” of a qualification prescribed by the statute.

Submissions

Appellant

18. The Appellant submitted that the award of his Certificate in Farm Administration had been delayed by circumstances outside of his control. He had enrolled in a course that was scheduled to start in December 2015 and finish in the middle of 2017. Unexpectedly its commencement was delayed until May 2016. Even then, the abridged timetable given by Teagasc would have seen the course end after about a year, which would have qualified him as “*young trained farmer*” within the four year period from the date of the execution of the deed of transfer on 8 October 2013. This timetable, however, also was undone by the absence of the tutor assigned to their group. Consequently, his results were not subject to external verification until 29 January 2018 and he did not receive his Certificate in Farm Administration until 14 February 2018.

19. The Appellant pointed out in written and oral legal submission that the same course beginning in May 2016 was held in [REDACTED]. It finished, in contrast with his own course, on or about a year later.

20. The Appellant submitted that the relief sought would be of benefit to his farming business. He said that he should not suffer as a consequence of circumstances giving rise to delay that were completely outside of his control. He asked the Commissioner to exercise discretion in his favour by allowing the appeal.

Respondent

21. The Respondent submitted that the legislation was clear in its meaning. Unless the person claiming relief under section 81AA of the SDCA 1999 was a “*young qualified farmer*” when

his claim was made on 4 October 2017, relief could not be granted. In order to be such a person, the Appellant had to prove that he was the “holder” of one of the qualifications prescribed in the legislation. Among these was the Certificate in Farm Administration.

22. The Respondent, while expressing sympathy for the position of the Appellant, submitted that the correspondence emanating from Teagasc made clear that the Appellant could not be considered to have completed the course until the date of external verification on 29 January 2018. Thereafter he became the holder of a Certificate in Farm Administration on 14 February 2018.

23. As a consequence of this, the Appellant did not actually become the “holder” of a qualification required under section 81AA of the SDCA 1999 to fall within the definition of a “young qualified farmer” prior to the expiry of the date four years from the execution of the instrument of transfer (namely 8 October 2013). This precluded the granting of relief.

Material Facts

24. The facts material to this appeal were not in dispute. They were:-

- The Appellant received a gift of land from his father by way of deed of transfer executed on 8 October 2013;
- In December 2015 the Appellant enrolled in a Certificate in Farm Administration run by Teagasc [REDACTED];
- The Certificate in Farm Administration was initially due to begin in December 2015, however its commencement was delayed until May 2016;
- The Appellant’s course was further delayed such that the course results were not externally verified until 29 January 2018 and he was not awarded his Level 6 Certificate in Farm Administration until 14 February 2018;
- Prior to this, the Appellant made a claim for relief from stamp duty available to young trained farmers under section 81AA of the SDCA 1999 on 4 October 2017;
- The Appellant’s claim for relief was refused by the Respondent on 19 April 2019.

Analysis

25. The jurisdiction of the Commissioner in this appeal is to determine whether tax is owed, and if so the amount, having regard to the relevant legislation passed by the Oireachtas (see *Lee v Revenue Commissioners [2021] IECA 18*). The Commissioner is not conferred with a discretionary power to depart from the legislation where questions of equity arise. It

is the wording of section 81AA of the SDCA 1999 that must decide the outcome of this appeal.

26. Section 81AA of the SDCA 1999 requires that a person claiming relief from stamp duty on the transfer of agricultural land must be a “*young trained farmer*”. In order to do this the person must “*achieve the standard*” by being the “*holder*” of a prescribed qualification. One of these is the Certificate in Farm Administration that the Appellant now holds.
27. The legislation allows those who do not hold a prescribed qualification when the transfer of the agricultural land is executed to claim relief if they obtain one at a later stage. Section 81AA(c)(i) of the SDCA 1999 is clear however in requiring that the claimant must “*achieve the standard*” within four years from the date of execution of the instrument of transfer. This accords with the time limit of four years prescribed by section 159A of the SDCA for the making of a valid claim for the repayment of stamp duty.
28. The instrument in this instance was the deed of transfer of the agricultural land gifted to the Appellant by his father, executed on 8 October 2013. Thus, in order to be a person capable of qualifying for relief he must have been the holder of his Certificate in Farm Administration prior to 8 October 2017.
29. The correspondence of 15 June 2018 from Graham Waters, Education Officer is Teagasc, furnished by the Appellant in support of his claim, was unclear as to the date on which he became the holder of his qualification. It indicated that the “*course was completed on the 4th of October 2017*”. It then said the Appellant had “*successfully completed all elements of the verifications associated with the course*” and that he “*has been issued his Green Cert by QQI*”. The correspondence did not state when this had happened however.
30. The certificate issued by QQI stated that it was “*Awarded to [the Appellant] on 14 February 2018*”. On further investigation Teagasc clarified on 31 January 2019 that a person was deemed to have “*successfully completed*” the course upon the conclusion of external verification. This occurred in the Appellant’s case on 29 January 2018 and shortly thereafter after the Certificate in Farm Administration was awarded to him.
31. In view of this the Commissioner finds that it is not possible to conclude that the Appellant had, prior to 8 October 2017, become the “*holder*” of his qualification. In reaching this conclusion the natural and ordinary meaning of the word “*holder*” in this context has been used. It appears that the Appellant had completed coursework by 4 October, but the results were not externally verified until 29 January 2018. The certificate then was awarded a little over two weeks later. The Commissioner views the requirement under the legislation that

a claimant hold the relevant qualification as meaning they have been awarded and are in possession of it. In this instance that did not occur until 14 February 2018.

32. The consequence of this is that the Appellant had not, by the time-limit prescribed in section 81AA (11) of the SDCA 1999 and within the meaning of that legislation, “*achieved the standard*” of becoming a “*young trained farmer*” capable of availing of relief from stamp duty. For this reason relief from stamp duty was not available to him and the decision of the Respondent must stand affirmed.

Determination

33. The Appellant’s position is worthy of sympathy. Had the course in which he enrolled proceeded on the timetable envisaged initially he would undoubtedly been awarded, and thus been “the holder” of, his Certificate in Farm Administration with time to spare to claim relief. That this did not happen is regrettable. Nevertheless, applying the natural and ordinary meaning to section 81AA (2) of the SDCA, it is not possible to conclude that the Appellant fell within the mandatory condition for the granting of relief that he had “*achieved the standard*” before 8 October 2017. Consequently, he cannot be deemed a “*young trained farmer*” and the decision of the Respondent must stand.
34. The appeal of the refusal to grant relief is determined under section 949AL TCA 1997. 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 TCA 1997.



Conor O’Higgins
Appeal Commissioner
26th May 2022