



Between

22TACD2024

[REDACTED]

**Appellant**

and

**REVENUE COMMISSIONERS**

**Respondent**

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**Determination**

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**Introduction**

1. This is an appeal to the Tax Appeals Commission (“the Commission”) by [REDACTED] (“the Appellant”) against the refusal of the Revenue Commissioners (“the Respondent”) to grant Transfer of Residence (“TOR”) relief in the amount of €7,626 in respect of motor vehicle registration number [REDACTED] (“the vehicle”), on the ground that she did not import the vehicle within twelve months of her TOR.
2. In accordance with the provisions of section 949U of the Taxes Consolidation Act 1997 as amended (“TCA 1997”), this appeal is determined without a hearing.

**Background**

3. The Appellant registered the vehicle in Northern Ireland on [REDACTED] 2015. She transferred her residence to the State in [REDACTED] 2016. She imported the vehicle into the State in [REDACTED] 2021.
4. She applied for TOR relief from Vehicle Registration Tax (“VRT”) in the amount of €7,626. Her application was refused by the Respondent, and she brought a first stage appeal to the Respondent against the refusal. On 29 September 2021, the Respondent refused the

first stage appeal, “on the grounds that you did not import the vehicle within 12 months of your [TOR] on [REDACTED] 2016. Furthermore, you did not own the vehicle on the date of your [TOR].”

5. On 27 October 2021, the Appellant appealed the Respondent’s refusal to grant TOR relief to the Commission. On 19 October 2022, the Commission notified the parties that the appeal was considered suitable for determination without an oral hearing, pursuant to section 949U of the TCA 1997. They were informed that they could object to the appeal proceeding without an oral hearing within 21 days of the notice. No objection was received from either party. The Commissioner is satisfied that it is appropriate to determine this appeal without an oral hearing.

### **Legislation and Guidelines**

6. Section 134 of the Finance Act 1992 states, inter alia, that

*“(1) A vehicle may, subject to any conditions, restrictions or limitations prescribed by the Minister by regulations made by him under section 141 be registered without payment of vehicle registration tax if the vehicle is –*

*(a) the personal property of a private individual and is being brought permanently into the State by the individual when he is transferring his normal residence from a place outside the State to a place in the State...”*

7. The Vehicle Registration Tax (Permanent Relief) Regulations 1993 (SI 59/1993) provide, inter alia, that

*“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...*

*(5) The relief aforesaid shall not be granted—*

*(a) in respect of a vehicle brought into the State more than 12 months after the transfer of normal residence unless the Commissioners, in their discretion, so decide in any particular case...”*

8. The Respondent’s VRT Manual – Section 2 “Reliefs and Exemptions” states at page 8 that,

*“To qualify for relief the vehicle/s must...have arrived in the State within one year of the transfer of residence.”*

## **Submissions**

### *Appellant*

9. In her Statement of Case to the Commission, the Appellant stated that

*“I transferred residence from Northern Ireland to the State in [REDACTED] 2016. At that stage for reasons set out below and previously I did not import my personal vehicle which I owned under a PCP agreement. I believed that when I imported the vehicle that it would be a simple transfer and I would get VRT relief.*

*I have been in touch with Revenue through each stage of the importing process. I was informed on a couple of occasions that given the circumstances outlined that my case would most likely be looked on favourably and that I would be allowed to import the vehicle under the transfer of residence but to get a definite answer I had to import the vehicle paying the €7,626 VRT charge. At that stage when I appealed the decision I had already paid VRT and now had to re-register the vehicle. If I had known this was to be the final outcome I would have sold the vehicle in the UK and not tried to import it in this jurisdiction hence not incurring the VRT cost.*

*It is counterintuitive that if I had brought the car with me in [REDACTED] 2016 the cost to me would have been €0, but 5 years later, the cost to me is €7.626K- the car has depreciated in the interim and is worth less than £10K at this stage.*

*I am a single parent of [REDACTED] children, [REDACTED].*

*In [REDACTED] 2015 I purchased the [REDACTED] as a family car- I was living and working in Northern Ireland at that time. I was unexpectedly made redundant from my job in [REDACTED] 2016 and began searching for alternate employment.*

*In [REDACTED] 2016 I began working for [REDACTED], taking up residence with my partner ([REDACTED]), my [REDACTED] transferred to the State with me at that time but my [REDACTED] did not relocate. I did not sell the family home in Northern Ireland and I did not bring the [REDACTED] with me at that time for the following reasons:*

*1. I did not need it in ROI as I had use of my partner's car*

*2. My [REDACTED] needed use of the vehicle, to that end, it has remained taxed and insured and used in Northern Ireland from 2016- 2021 (I have provided evidence of this to the Revenue)*

3. The vehicle was being purchased under a PCP scheme and was fully paid up until the end of 2019

4. I was unaware that there was a requirement for me to import the vehicle within 12 months of taking up residence. I believed I could do it at a later stage if I decided to stay in the state which is the reason I decided to import it.

In early 2021 my [REDACTED] located to [REDACTED], and [REDACTED] had no further need for the vehicle, so I applied for VRT Relief and permission to bring the car into the State at that stage.

My application has been made in good faith and I am not trying to flout or circumvent the rules or evade tax liability in any way. It is simply a timing issue as to when I imported the vehicle. As I said if I had imported it between 2016 and 2017 I would not have incurred a VRT charge.”

#### *Respondent*

10. In its Statement of Case, the Respondent stated inter alia that

“An application form was submitted by myEnquiries (Revenue Online Service), dated 20/03/2021, by [the Appellant] which states her date of taking up normal residence in the state as [REDACTED]/2016.

The vehicle in question, [REDACTED], was purchased on [REDACTED] 2015 and was brought into the State on [REDACTED]/2021.

[The Appellant] did not import the vehicle within 12 months of Transfer of Residence date in 2016.

The Appellant referenced in her initial appeal, dated 01/07/2021, that “the car was not fully mine legally until the end of 2019”. She also states that her [REDACTED] were resident in NI and [REDACTED] using the vehicle at that time.

Having reviewed the application and supporting documentation provided by [the Appellant], Revenue’s position remains that the relief is not due as the appellant did not import the vehicle within 12 months of taking up residence in the State.”

#### **Material Facts**

11. Having read the documentation submitted by the parties, the Commissioner makes the following finding of material fact:

11.1. The Appellant purchased the vehicle in 2015 in Northern Ireland.

- 11.2. The Appellant transferred her residence from Northern Ireland to the State in [REDACTED] 2016.
- 11.3. The Appellant imported the vehicle into the State in [REDACTED] 2021. The Respondent imposed VRT in respect of the vehicle of €7,626.
- 11.4. The Appellant did not import the vehicle into the State before [REDACTED] 2021 because, inter alia, she had use of another motor vehicle in the State and her [REDACTED] used the vehicle in Northern Ireland. She was unaware that it was necessary to import the vehicle within twelve months of her TOR.

### **Analysis**

12. The burden of proof in this appeal rests on the Appellant, who must show that the Respondent was incorrect to refuse her TOR relief. In the High Court case of *Menolly Homes Ltd v. Appeal Commissioners* [2010] IEHC 49, Charleton J stated at paragraph 22 that *“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.”*
13. All vehicles are subject to VRT on first registration in the State. The VRT rate is calculated based on the carbon dioxide emissions plus the nitrogen oxide emissions. However, section 134 of the Finance Act 1992 allows for exemptions from VRT, and SI 59/1993 sets out the circumstances in which an exemption may be granted by the Respondent. For the purposes of this appeal, the relevant provision of SI 59/1993 is regulation 4, paragraph 5, which states that relief from VRT will not be granted:
- “(a) in respect of a vehicle brought into the State more than 12 months after the transfer of normal residence unless the Commissioners, in their discretion, so decide in any particular case...”*
14. In this instance, the Appellant purchased the vehicle in Northern Ireland in 2015, and transferred her residence to the State in [REDACTED] 2016. However, she did not import the vehicle into the State until [REDACTED] 2021. Therefore, it is clear that the vehicle was brought into the State well outside the twelve month period prescribed by SI 59/1993. Indeed, it was not imported until four and a half years after the Appellant transferred her residence to the State.
15. Consequently, the Commissioner is satisfied that the Respondent was correct to refuse the Appellant’s application for TOR relief. Regulation 4, paragraph 5 of SI 59/1993 does allow the Respondent to apply discretion in its application of the 12 month rule. The

Commissioner does not consider that it is for him to review the Respondent's decision not to grant discretion to the Appellant, as the Commissioner is confined to considering whether the Respondent's refusal of her claim was correct in law, and he has no equitable jurisdiction or supervisory function in respect of the Respondent. However, even if he did have such powers of review, the Commissioner considers that the Respondent's refusal to grant the discretionary relief to the Appellant was reasonable in the circumstances. In coming to this view, the Commissioner has had particular regard to (a) the length of time between the Appellant's TOR and the importation of the vehicle (i.e. 4.5 years), (b) that she had use of another motor vehicle in the State during that time, and (c) that her [REDACTED] had use of the vehicle in Northern Ireland during that time.

16. The Commissioner appreciates that his determination will be disappointing to the Appellant, and he accepts that she made her claim for TOR relief in good faith. He also accepts that she did not realise that it was necessary to import the vehicle within 12 months of transferring her residence; however, it is a well-known legal principle that being unaware of a law does not provide an excuse for failing to comply with it (*ignorantia legis neminem excusat*). In the circumstances, therefore, the Commissioner concludes that the Respondent was not in error in refusing the grant the Appellant TOR relief for the VRT charged in respect of the vehicle in the amount of €7,626.

### **Determination**

17. In the circumstances, and based on a review of the facts and a consideration of the submissions, material and evidence provided by both parties, the Commissioner determines that the Appellant is not entitled to TOR relief in the amount of €7,626, and the Respondent's decision to refuse the relief stands.
18. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular section 949U thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

### **Notification**

19. This determination complies with the notification requirements set out in section 949AJ of the TCA 1997, in particular section 949AJ(5) and section 949AJ(6) of the TCA 1997. For the avoidance of doubt, the parties are hereby notified of the determination under section 949AJ of the TCA 1997 and in particular the matters as required in section 949AJ(6) of the TCA 1997. This notification under section 949AJ of the TCA 1997 is being sent via digital email communication **only** (unless the Appellant opted for postal communication

and communicated that option to the Commission). The parties will not receive any other notification of this determination by any other methods of communication.

### **Appeal**

20. Any party dissatisfied with the determination has a right of appeal on a point or points of law only within 42 days after the date of the notification of this determination in accordance with the provisions set out in section 949AP of the TCA 1997. The Commission has no discretion to accept any request to appeal the determination outside the statutory time limit.



Simon Noone  
Appeal Commissioner  
04 December 2023