



**AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH**  
**TAX APPEALS COMMISSION**

Between

79TACD2024

[REDACTED]

**Appellant**

and

**THE 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] [REDACTED] (“the Appellant”), in respect of the valuation of a [REDACTED] [REDACTED] (“the vehicle”), imposed by the Revenue Commissioners (“the Respondent”) for the purpose of ascertaining the open market selling price (“OMSP”) with a view to calculation of the vehicle Registration Tax (“VRT”). The OMSP imposed by the Respondent was €37,000 and the VRT at issue is €4,721.
2. The appeal proceeded by way of oral hearing on 22<sup>nd</sup> March 2024.

## Background

3. The Appellant used the vehicle as a work van for five years before converting the vehicle into a camper van. The Appellant used the services of a specialist conversion company to convert the van into a “2 Berth startline conversion” with a “rock and roll bed, furniture and windows as agreed” campervan. The Appellant was charged the sum of €11,577 for those conversion works by invoice dated 6<sup>th</sup> October 2023.
4. On 31<sup>st</sup> October 2023, the Appellant submitted an enquiry on the Respondent’s online system to check on the status of his vehicle conversion application and the VRT payable.
5. On 7<sup>th</sup> November 2023, after resubmitting his “Declaration of Conversion” documentation, the Appellant received a letter from the Respondent which provided a OMSP valuation on the vehicle of €37,000. Based upon that valuation, the Respondent requested the payment of VRT in the sum of €4,721.
6. Following payment of the requested VRT, the Appellant appealed the OMSP to the Respondent at first instance. In its first stage appeal decision of 20<sup>th</sup> November 2023, the Respondent stated that it was satisfied that the OMSP applied to the vehicle, €37,000 was “a reasonable assessment of its minimum selling price at the time of conversion”. That decision also stated “Further research carried out shows that the base van without camper conversion can be found with an asking price of €20,350. I therefore regret to inform you that no refund is due in these circumstances”.
7. The Appellant remained aggrieved at the OMSP applied by the Respondent, and appealed to the Commission on 7<sup>th</sup> December 2023. The appeal was held remotely and the Appellant represented himself at the appeal hearing. The Respondent was represented by two staff members.

## Documentation Provided to the Commission

8. Included in the documentation provided to the Commission was the following:
  - 8.1. Copies of advertisements provided by the Appellant from leading websites for the following vehicles:
    - 8.1.1. A [REDACTED] campervan. This was fully converted into a two berth campervan and the recorded mileage on that vehicle was 80,000 kilometres ("kms"). The asking price for that vehicle was €23,000.
    - 8.1.2. A [REDACTED] campervan. The recorded mileage on that vehicle was 240,000 kms and the asking price on that vehicle was €21,500.
    - 8.1.3. A [REDACTED] van with pop top roof. The recorded mileage on that vehicle was 90kms and the asking price for the vehicle was reduced from €47,000 to €28,000. The advertisement stated "*we can also supply everything else you need to finish as a camper or build it for you*".
  - 8.2. Four photographs of the interior of the Appellant's converted vehicle. These photographs showed a fixed double bed in the rear of the vehicle, the bed folded up into a seating arrangement, the kitchen area and a close up of the cooker and sink. The photographs of the vehicle interior showed that the conversion was completed to a high standard.
  - 8.3. A copy of the invoice for the conversion works done to the vehicle in the sum of €11,577.
  - 8.4. A copy of an advertisement for a [REDACTED] provided by the Respondent. The advertisement stated the vehicle had 139,000 kms and confirmed that the vehicle was being sold by a motor dealer with a warranty. The advertisement detailed pictures of the interior and exterior of the vehicle which appeared similar to the conversion works done to the interior of the Appellant's vehicle. The asking price for the advertised vehicle was €52,950.
  - 8.5. An extract from a motor vehicle valuation book provided by the Respondent. This detailed that the valuation of a [REDACTED] 2.0 diesel with 160,000 kms was €20,350. The same vehicle with 120,000 kms was valued at 22,050.

## Legislation and Guidelines

9. Section 133 of the Finance Act 1992, as amended, provides *inter alia* that:

(1) *Where the rate of vehicle registration tax charged in relation to a category A vehicle or a category B vehicle is calculated by reference to the value of the vehicle, that value shall be taken to be the open market selling price of the vehicle at the time of the charging of the tax thereon.*

*[...]*

(3) *'open market selling price' means—*

*(a) in the case of a new vehicle referred to in subsection (2), the price as determined by that subsection,*

*(b) in the case of any other new vehicle, the price, inclusive of all taxes and duties, which, in the opinion of the Commissioners, would be determined under subsection (2) in relation to that vehicle if it were on sale in the State following supply by a manufacturer or sole wholesale distributor in the State,*

*(c) in the case of a vehicle other than a new vehicle, the price, inclusive of all taxes and duties, which, in the opinion of the Commissioners, the vehicle might reasonably be expected to fetch on a first arm's length sale thereof in the State by retail and, in arriving at such price—*

*(i) there shall be included in the price, having regard to the model and specification of the vehicle concerned, the value of any enhancements or accessories which at the time of registration are not fitted or attached to the vehicle or sold therewith but which would normally be expected to be fitted or attached thereto or sold therewith unless it is shown to the satisfaction of the Commissioners that, at that time, such enhancements or accessories have not been removed from the vehicle or not sold therewith for the purposes of reducing its open market selling price, and*

*(ii) the value of those enhancements or accessories which would not be taken into account in determining the open market selling price of the vehicle under the provisions of subsection (2) if the vehicle were a new vehicle to which that subsection applied shall be excluded from the price.*

10. The Respondent's "Tax and Duty Manual – Vehicle Registration Tax Section 6 – VRT Appeals" states, in respect of first stage appeals to the Respondent, at page 4:

*“The following should be included where the appeal is against the determination of the chargeable value or the amount of VRT charged:*

- The appellant’s opinion of the arm’s length retail value, including VRT and Value Added Tax (VAT), of the vehicle in the Republic of Ireland, at the time the VRT was charged;*
- The appellant’s opinion of the amount of VRT that should have been charged;*
- The appellant’s opinion of the amount of refund that is due. The appellant should enclose evidence, obtained at their own expense, to support the opinion of the chargeable value. The evidence might include:*
  - Signed dealer or valuer opinions of the price, including VRT and VAT, that a dealer in the Republic of Ireland might have been expected to achieve for the vehicle in an arm’s length sale at the time VRT was charged*

And

- Copies of VRT and VAT inclusive advertisements by dealers in the Republic of Ireland for similar vehicles relevant to the time that the VRT was charged.”*

11. The Respondent’s “Tax and Duty Manual – Vehicle Registration Tax Section 8 – Valuation System for New and Used Vehicles” states at page 5 that:

*“Where an identical vehicle is not available for comparison purposes, a “similar” model will be identified, having particular regard to characteristics such as price range, body type, engine capacity, transmission, fuel type, CO2 emissions etc., by reference to the general motor vehicle guides available at the time of declaration, by consultation where necessary with trade sources and by reference to established precedents. An OMSP will be determined by comparison to the value of the “similar” model, with adjustments being made for increased or decreased specification as appropriate.”*

## **Submissions**

### *Appellant*

12. The Appellant stated that the Declaration of Conversion erroneously recorded the vehicle mileage as 160,000 kms when the correct mileage was 181,239 kms. In support of this position, the Appellant provided a photograph of the digital display of a vehicle which displayed the reading “181,239 km”. That photograph did not show the identity of the vehicle and was not date stamped but the letter enclosing the photograph was dated 20<sup>h</sup> November 2023.

13. The Appellant acknowledged that the conversion of an ordinary goods van into a campervan requires a consideration of a number of factors, some of which are dependent upon the owner's personal choice of bespoke options. As such, the Appellant submitted that it is difficult to find an identical vehicle for the purpose of establishing the OMSP.
14. The Appellant stated that he looked at two leading websites on 20<sup>th</sup> November 2023 to establish if he could find a vehicle similar in specification to the vehicle. That search contained the following vehicles:

Year	Make	Mileage Kms	Advertised Price	Comment
152	██████████	196000	22,500	2 berth/fixed top
162	██████████	20300	23,500	2 berth/fixed top
161	██████████	207500	20,000	2 berth/fixed top
171	██████████	76000	23,500	2 berth/fixed top
172	██████████	80000	23,000	2 berth/fixed top
151	██████	195000	25,500	2 berth/fixed top
161	██████	240000	21,500	4 berth/fixed top
182	██████	90000	28,000	4 berth/fixed top

15. The Appellant stated all of the above sales were private sales and submitted that the prices displayed were the asking price for the vehicles and *"in general will be available for less, sometimes considerably less as some are overpriced, than the advertised price"*. The Appellant submitted that in line with the above advertisements, it was reasonable to conclude that the value of the vehicle was €21,000.
16. The Appellant stated that he had used his vehicle as a work van for the previous five years and as such was required to base the value of the vehicle on its current market value rather than its purchase price. The Appellant advised that he had got the vehicle converted into a campervan by ██████████ who were vehicle conversion specialists.
17. The Appellant made enquires with ██████████ if they had converted any similar vehicles to his and if so, if they were aware of the VRT payable on those vehicles. The Appellant stated that ██████████ confirmed they had and provided the following details:

Year	Make	VRT Date	Vehicle Age	VRT Charged
2015	██████	Nov-22	7 years	€1,628
2019	██████	Apr-23	4 years	€2,900

18. The Appellant submitted based on the above figures, it was reasonable to conclude:
- The difference between €2,900 and €1,628 is €1,272.

- 2015 to 2019 is a four-year period meaning an annual increase of €1,272/4 or €318 per annum.
- As a result, the estimated figures for 2016 – 2019 similar vehicles is:
  - Actual figure for 2015 of €1,628
  - Estimated figure for 2016 is €1,628 + €318 = €1,946.
  - Estimated figure for 2017 is €1,946 + €318 = €2,264.
  - Estimated figure for 2018 is €2,264 + €318 = €2,582.
  - Estimated figure for 2019 is €2,582 + €318 = €2,900.

19. As the Appellant's vehicle is a 2018 model, the Appellant submitted that the correct VRT payable, in line with the above figures, was €2,582.

20. The Appellant stated that his own view was that the vehicle was worth €21,000. When applying the VRT calculation, this gave rise to the following figures:

(Cat B OMSP €21,000 x 13.3% = €2,793 – (€200 VRT already paid) = €2,593) VRT payable.

21. As his provided valuation was almost identical to the valuation shown at paragraph 15 above, the Appellant submitted that the correct VRT payable on the vehicle was €2,593. As such, the Appellant submitted that the VRT charged by the Respondent, €4,721 was incorrect and that he was due a refund of VRT in the sum of €2,128 (€4,721 - €2,593).

22. Following the submission of the Notice of Appeal to the Commission, the Appellant advised that the Respondent contacted him on 24th January 2024 and advised that it was prepared to reduce the OMSP of the vehicle from €37,000 to €36,000 to settle the matter. The Appellant stated given the "wide differential" in the OMSP valuations and the fact that he was only due a refund of €133 based on the proposed reduction, he was not in a position to accept the Respondent's offer.

23. Subsequently on 2nd February 2024, the Respondent contacted the Appellant and explained how it had calculated its OMSP, which was based on two comparator vehicles. Following that discussion, the Respondent offered an increased refund of €500 to settle the matter.

24. Following receipt of the information from [REDACTED] (paragraph 17 above refers), the Appellant advised that he contacted the Respondent to see if matters might be settled between themselves. Having discussed the matter, the Appellant advised that he was

prepared to increase the OMSP of the vehicle to €23,000 which resulted in a VRT charge of €2,859. While the Respondent rejected that offer, the Appellant submitted that the OMSP of the vehicle taken at its height was €23,000 and the maximum VRT payable by him was €2,859.

#### *Respondent*

25. The Respondent did not accept that the different comparator vehicles provided by the Appellant (see paragraph 14 above) were suitable for determining the OMSP of the vehicle.
26. The Respondent agreed with the Appellant's submission in which he stated that the valuation of the vehicle owing to its bespoke nature was difficult to ascertain. In order to estimate the OMSP, the Respondent advised that it obtained a valuation from the "industry guide" of a non-converted similar vehicle to that of the Appellant's. As this valuation was €20,350, the Respondent added the conversion costs paid by the Appellant, €11,577 to give a value for the vehicle, before the imposition of VRT, of €31,927 (€20,350 + €11,577). From this figure, the Respondent stated that it applied the appropriate rate of VRT, 13.3%, to give an OMSP of €36,825 (€31,927/86.7 x 100), which it had rounded to €37,000 for the purpose of VRT assessment.
27. The Respondent noted that a 2019 vehicle similar to that of the Appellant and with similar mileage was on sale for €52,950. As the Appellant's vehicle was a 2018 vehicle with similar mileage to the 2019 model, the Appellant submitted that it was apparent that the OMSP of the vehicle was at a minimum, the figure it had provided €37,000.

#### **Material Facts**

28. Having read the documentation submitted, and having listened to the evidence and submissions of the parties at the hearing, the Commissioner makes the following findings of material fact:
  - 28.1. The vehicle is a 2018 [REDACTED] van.
  - 28.2. The Appellant owned the vehicle for five years prior to converting it into a camper van.
  - 28.3. The Appellant paid a third-party specialist conversion company the sum of €11,577 on 6<sup>th</sup> October 2023 to convert the vehicle into a campervan.



- 28.4. On re-classification of the vehicle (into a camper van), the Respondent imposed an OMSP of €37,000 with VRT arising of €4,721. The VRT rate applicable to the vehicle was 13.3%.
- 28.5. When the Appellant submitted the Declaration of Conversion to the Respondent for VRT purposes, the mileage of the vehicle was erroneously recorded on that document as 160,000 kms. The correct mileage on the vehicle at that time was 181,239 kms.
- 28.6. In support of his appeal, the Appellant provided a number of advertisements from reputable advertising sites. Of those provided valuations, only two of those advertisements are of relevance to the Appellant's appeal as those vehicles are the same make and model as the Appellant's vehicle. The Commissioner notes that the Appellant did not provide a copy of the advertisement in respect of the 151 similar model referred to in his submissions at paragraph 14 above and as such cannot place any reliance on that vehicle details. As such, the Commissioner relies on the two similar vehicles which the Appellant provided copy advertisements for.
- 28.7. The first of these vehicles is a 2016 model, which was converted into a campervan. The mileage recorded on that vehicle was 240,000 kms and the asking price on that vehicle was €21,500. The second such vehicle was a 182 model with 90,000 kms and the asking price on that vehicle was reduced from €47,000 to €28,000. From the wording on the second vehicle advertisement, that vehicle required conversion into a campervan and as such was still a van.
- 28.8. The Respondent provided two alternative valuations of similar vehicles to that of the Appellant. The first of these was an identical year model with a valuation of €20,350 if the vehicle had covered 160,000 kms and €22,050 if it had covered 120,000 kms. The second such was a 2019 identical model with 139,000 kms which was being sold by a motor dealer with a warranty for €52,950.
- 28.9. At paragraph 17 above, the Appellant provided details of the VRT allegedly payable on similar 2015 and 2019 vehicles. That information was allegedly obtained from a specialist conversion company but was not substantiated by the Appellant with any documentary evidence.

### **Analysis**

29. The burden of proof in this appeal rests on the Appellant, who must show that the OMSP imposed by the Respondent in respect of the vehicle was incorrect. 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.”*

30. 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. The CO2 component is calculated by multiplying the applicable rate by the OMSP. It was not in dispute in this appeal that the applicable VRT rate was 13.3%. The OMSP of a vehicle is determined in accordance with section 133 of the Finance Act 1992, as amended, namely on the price, inclusive of all taxes and duties, which, in the opinion of the Respondent, the vehicle might reasonably be expected to fetch on a first arm's length sale in the State.
31. In this instance, the Appellant owned the vehicle for five years prior to converting it into a campervan at a cost of €11,577. As the Appellant had owned the vehicle for five years and owing to the bespoke nature of converting a vehicle into a campervan, the Respondent obtained the “book value” of a standard van similar to the Appellant’s and added the conversion costs to derive its OMSP of 37,000. The VRT arising on foot of this OMSP was €4,721.
32. In support of his contention that the OMSP assigned by the Respondent was excessive, the Appellant has submitted a considerable range of evidence. The Commissioner is unable to lend any weight to the information allegedly provided by ██████████ (paragraph 17 above refers) as this was not supported by any documentary evidence. In addition, the Commissioner considers that all of the advertisements, bar two, provided by the Appellant detailed in paragraph 14 above are not relevant to the Appellant’s appeal, as they relate to different vehicles or copies of those advertisements were not provided to the Commission. Of the two advertisements which were provided to the Commission (sub-paragraphs 8.1.2 and 8.1.3 above refer), the Commissioner notes that the first, the 2016 similar vehicle with 240,000 kms was a four berth fixed top campervan with an asking price of €21,500. As the second such vehicle was not comparable to the Appellant’s vehicle (as it was not converted into a campervan), the Commissioner disregards this vehicle in coming to his findings.
33. Against this, the Respondent provided two sets of valuations. As the first of these relates to a 2019 model which was being sold by a motor dealer with a warranty and less mileage than the Appellant’s vehicle, the Commissioner similarly disregards this vehicle in coming

to his findings. The second set of valuations provided by the Respondent relate to the value of an unconverted similar vehicle to that of the Respondent and the valuation of that vehicle is €20,350 if the vehicle had covered 160,000 kms or €22,050 if it had covered 120,000 kms. To this valuation, the Respondent added the conversion costs payable by the Appellant, €11,577 to derive its OMSP.

34. It is difficult to disagree with the Respondent’s method of calculating the OMSP of the vehicle given the bespoke nature of the Appellant’s vehicle, since the value the Respondent places is based on cost to buy an unconverted van on the open market together with the actual costs the Appellant discharged in converting the van into a campervan.
35. While the Appellant submits that the value of the vehicle taken “at its height” is €23,000, this is at variance with the “only” suitable comparator vehicle he provided since that vehicle is a 2016 similar model (albeit four berth) with 240,000 kms on it and an asking price of €21,500. As the Appellant’s vehicle is a 2018 model with a recorded mileage of 181,239 kms, the Commissioner considers on a “like for like” basis with the 2016 model, that the Appellant’s vehicle had an OMSP higher than the €23,000 proposed by the Appellant.
36. As the Commissioner must base his findings on fact, the Commissioner finds that the matter of determining the OMSP is better grounded in the manner proposed by the Respondent. However, in noting the mileage discrepancy between the figure on the Declaration of Conversion (160,000 kms) to the correct mileage as submitted by the Appellant (181,239 kms) the Commissioner finds that the OMSP of the vehicle is as follows (using the similar model valuations provided by the Respondent detailed at subparagraph 28.8 above):

Base Cost of vehicle with 160,000 kms	€20,350
Base Cost of vehicle with 120,000 kms	€22,050
Differential vale of 40,000 kms (160,000 – 120,000)	€ <u>1,700</u>
(which equates to .0425 per km).	
Base cost applied by Respondent with 160,000 kms	€20,350
Less: 21,239kms x .0425**	€ <u>903</u>
Correct Base Cost OMSP	€19,447
Add: conversion costs	€ <u>11,577</u>

Cost before VRT of “converted van”	€31,024
OMSP (€31,024/86.7 x 100)	<u>€35,783</u>

\*\* This figure represents the differential between the mileage recorded by the Respondent and the correct mileage on the vehicle multiplied by the calculated rate per km on the vehicle valuations provided by the Respondent.

37. Therefore, as it is determined that the appropriate OMSP is €35,783, the amount of VRT applying is €4,559 ( $[31,024/.867 \times 100] \times 0.133 - \text{€}200$ ). As the Appellant originally paid VRT of €4,721, the Commissioner determines that the Appellant is entitled to a refund of €162, which is to be paid by the Respondent to the Appellant to conclude the matter.

### **Determination**

38. 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 entitled to a refund in the amount of €162 in overpaid VRT in respect of motor vehicle registration number [REDACTED].

39. The Commissioner commends the courtesy displayed by the Appellant and the Respondent in the conduct of the appeal hearing.

40. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular section 949AK TCA 1997. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ (6) of the TCA 1997.

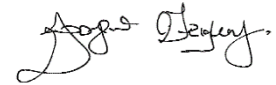
### **Notification**

41. 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**

42. 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.

A handwritten signature in black ink, appearing to read "Andrew Feighery". The signature is written in a cursive style with a large initial 'A'.

**Andrew Feighery**  
**Appeal Commissioner**

**26<sup>th</sup> April 2024**