



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH  
TAX APPEALS COMMISSION

Between

213TACD2025



**Appellant**

and

**THE REVENUE COMMISSIONERS**

**Respondent**

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**Determination**

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## Introduction

1. This matter comes before the Tax Appeal Commission (hereinafter the "Commission") as an appeal against a determination made by the Revenue Commissioners (hereinafter the "Respondent"). The appeal concerns the valuation of a vehicle for the purposes of ascertaining the open market selling price (the "OMSP") in respect of the calculation of Vehicle Registration Tax (hereinafter "VRT").

## Background

2. Mrs [REDACTED] (hereinafter the "Appellant") imported a [REDACTED] [REDACTED] [REDACTED] (hereinafter the "Vehicle") into the State on 1 April 2025.
3. On application by the Appellant to import and register the Vehicle, an OMSP of €29,905 was applied to the Vehicle by the Respondent.
4. The VRT was calculated as being €9,488.00 comprising of VRT of €8,971.00, VRT2 of €477 and NOx VRT3 of €40. In addition, customs duties of €2,344.44 and Value Added Tax (hereinafter "VAT") of €5,930.62 were levied on the import of the Vehicle. The Appellant paid the VRT calculated by the Respondent and the Vehicle was registered under the registration number [REDACTED].
5. The VRT2 of €477 levied has, since the importation of the Vehicle into the State, been refunded to the Appellant by the Respondent.
6. The Appellant was not satisfied with the OMSP applied to the Vehicle by the Respondent and sought a first stage appeal with the Respondent.
7. On 8 April 2025, the Respondent informed the Appellant that her first stage appeal had been unsuccessful. The Appellant was not satisfied with the outcome of the first stage appeal and has appealed the OMSP valuation of €29,905 which the Respondent applied to the Vehicle to the Commission.
8. On 28 May 2025, the Commission wrote to the parties in this appeal informing them that the Commissioner intended to determine this appeal without an oral hearing pursuant to the provisions of section 949U of the Taxes Consolidation Act 1997 (hereinafter the "TCA 1997"). No objection was received from the parties and this appeal has therefore been determined without an oral hearing pursuant to the provisions of section 949U of the TCA 1997.

## Legislation and Guidelines

9. The legislation relevant to this appeal is as follows:

Section 133 Finance Act, 1992, as amended:

*“(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.*

*(2) (a) For a new vehicle on sale in the State which is supplied by a manufacturer or sole wholesale distributor, such manufacturer or distributor shall declare to the Commissioners in the prescribed manner [the price, inclusive of all taxes and duties,] which, in his opinion, a vehicle of that model and specification, including any enhancements or accessories fitted or attached thereto or supplied therewith by such manufacturer or distributor, might reasonably be expected to fetch on a first arm’s length sale thereof in the open market in the State by retail.*

*(b) A price standing declared for the time being to the Commissioners in accordance with this subsection in relation to a new vehicle shall be deemed to be the open market selling price of each new vehicle of that model and specification.*

*[(c) Notwithstanding the provisions of paragraph (b), where a price stands declared for a vehicle in accordance with this subsection which, in the opinion of the Commissioners, is higher or lower than the open market selling price at which a vehicle of that model and specification or a vehicle of a similar type and character is being offered for sale in the State while such price stands declared, the open market selling price may be determined from time to time by the Commissioners for the purposes of this section.]*

*[(d) Where a manufacturer or sole wholesale distributor fails to make a declaration under paragraph (a) or to make it in the prescribed manner, the open market selling price of the vehicle concerned may be determined [from time to time] by the Commissioners for the purposes of this section.]*

*(3) In this section -*

*‘new vehicle’ means a vehicle that has not previously been registered or recorded on a permanent basis—*

*(a) in the State under this Chapter or, before 1 January 1993, under any enactment repealed or revoked by section 144A or under any other provision to like effect as this Chapter or any such enactment, or*

*(b) under a corresponding system for maintaining a record for vehicles and their ownership in another state, and where the vehicle has been acquired under general conditions of taxation in force in the domestic market;*

*“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.”*

## **Submissions**

### *Appellant’s Submissions*

10. In her Notice of Appeal, the Appellant submitted the following as her Grounds of Appeal:

*“Prior to buying this car, I checked on VRT calculator, for estimate of tax on price which I would pay for the car, however, couldn’t find any option to check the price on my car,*

*I went to [REDACTED] VRT office to ask them for help, but they were not very helpful as told me they are not allowed to give numbers, so I chanced it.*

*This car was bought from my cousin who gave it to me as a compensation from a fatal accident I had on the [REDACTED]. My previous car was the same model, make and colour of this new car, the [REDACTED] version.*

*The original price of the car was £20,900 but was sold to me at £18,900 (€23,941.31), which is £2000 less of the open market price.*

*I have paid customs of €8,274.81 and VRT €8,971.00 which makes it a total of €17,245.81 on taxes alone.*

*On my first correspondence to the appeals office I was asked to send examples of 3 cars with their OMSP, I sent 4 examples which were all around €36,000-37,000.*

*After adding all expenses, my car is now priced far more than the Irish market prices.*

*Finally, I think I have not been treated fairly because I've never seen anywhere, where taxes on an item can be over 70% of the cost price.*

*I was in contact with Revenue and was told that there was nothing they can do about it, however I am appealing this decision as I believe you might be able to help me. as I think what I paid in taxes is entirely too much."*

11. In her Statement of Case, the Appellant stated the following at "Section 3: Outline of Relevant Facts":

*"I am writing to appeal a decision made by Revenue on a car which I bought in Northern Ireland.*

*Prior to buying this car, I checked the VRT calculator for the estimate of the tax on the price which I would pay for the car, however, I couldn't find any option to check the price on my car.*

*I went to [REDACTED] VRT office to ask them for help, but they were not very helpful as they told me that they were not allowed to give numbers so I had to chance it.*

*This car was bought from my cousin who gave me it to me as a compensation from a fatal accident I had on the [REDACTED]. My previous car was the same model, make and colour of his new car, the [REDACTED] version.*

*The original price of the car was £20,900 but was sold to me at £18,900 (EUR 23,941,31) which is £2,000 less of the open market price.*

*I have paid customs of EUR 8,274.81 and VRT of EUR 8,971.00 which makes it a total of EUR 17,245.81 on taxes alone.*

*On my first correspondence to the appeals office, I was asked to send examples of 3 cars with their OMSP, I sent 4 examples which were all around EUR 36,000 to EUR 37,000.*

*After adding all expenses, my car is now priced far more than the Irish market prices. Finally, I think I have not being treated fairly because I've never seen anywhere, where taxes on an item can be over 70% of the cost price.*

*I was in contact with the Revenue and was told to that there was nothing they could do about it, however, I am appealing this decision, as I believe you might be able to help me, as I think in taxes on this car is entirely too much."*

12. The Appellant did not submit any comparator vehicles for consideration in support of this appeal.

#### *Respondent's Submissions*

13. In its Statement of Case, the Respondent submitted the following:

*"The vehicle, a [REDACTED] was registered on 1 April 2025 with an OMSP of €29,905. The registration number is [REDACTED].*

*The appellant states that she paid too much in taxes, and that the taxes amount to 70% of the cost of the vehicle.*

*The following taxes were paid:*

*VRT: €8,971 (€29,905 x 30%)*

*VRT2: €477 - this additional VRT for late registration – it has been refunded.*

*NOx: €40*

*Customs: €2,344.44*

*VAT: €5,930.62*

*Two comparator vehicles each valued at €36,950 were sent in at first stage appeal. As they were valued higher than our OMSP (€29,905) no revision was made.*

*At second stage appeal Revenue wrote to the appellant on 8 May 2025 explaining that the taxes were based on legislation.*

*Revenue is satisfied that the correct taxes were charged at registration. Based on what has been provided a reduction of the OMSP cannot be applied."*

14. The Respondent did not submit any comparator vehicles for consideration in this appeal.

### **Material Facts**

15. The material facts are not in dispute in this appeal and the Commissioner accepts same as material facts:

15.1. The Appellant imported a [REDACTED] into the State which had an OMSP of €29,905 applied by the Respondent which resulted in the following liabilities:

VRT: €8,971 (€29,905 x 30%)

VRT2: €477 (which has, since the importation of the Vehicle, been refunded to the Appellant by the Respondent).

NOx: €40

Customs: €2,344.44

VAT: €5,930.62

### **Analysis**

16. As with all appeals before the Commission the burden of proof lies with the Appellant. As confirmed in *Menolly Homes v Appeal Commissioners* [2010] IEHC 49 (hereinafter "*Menolly*"), the burden of proof is, as in all taxation appeals, on the taxpayer. As confirmed in that case by Charleton J at paragraph 22:-

*"This is not a plenary civil hearing. It is an enquiry by the Appeal Commissioner as to whether the taxpayer has shown that the tax is not payable."*

17. The standard of proof is the balance of probabilities.

18. The Commissioner has considered the submissions made on behalf of both parties.

19. Section 133(3) of the Finance Act 1992 sets out the following in relation to the OMSP of used vehicles:

*"(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."*

20. Neither party has submitted the documentary evidence relating to comparator vehicles to the Commissioner in this appeal. The Commissioner notes that the Appellant has indicated in both her Notice of Appeal and her Statement of Case that during her first stage appeal the Appellant submitted two comparator vehicles each valued at between €36,000 to €37,000.
21. Neither party has objected to this appeal being determined without an oral hearing.
22. As set out in *Menolly*, the burden of proof in appeals before a Commissioner rests on the Appellant who must prove, on the balance of probabilities, that the Respondent's assessment to tax or decision was incorrect.
23. The Commissioner has not been put in a position by the Appellant which outlines any comparator vehicle information establishing a lower OMSP than that applied by the Respondent. By the Appellant's own submissions in her Notice of Appeal and in her Statement of Case she submitted information to the Respondent during the first stage appeal information relating to comparator vehicles which had sales process of between €36,000 and €37,000.
24. Based on the submissions made and the documentary evidence submitted, the Commissioner finds that the Appellant has not discharged the burden of proof to establish that the OMSP applied by the Respondent to the Vehicle of €29,905 was incorrect.

### **Determination**

25. For the reasons set out above, the Commissioner determines that the Appellant has not succeeded in his appeal and determines that the OMSP of €29,905 declared by the Respondent in relation to the Vehicle shall stand.

26. This Appeal is determined in accordance with Part 40A of the Taxes Consolidation Act 1997 (hereinafter the "TCA 1997") and in particular sections 949AK and 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**

27. 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**

28. 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.



Clare O'Driscoll  
Appeal Commissioner  
29 July 2025