



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

62TACD2025

Between

DARRAGH GAFFNEY

Appellant

and

REVENUE COMMISSIONERS

Respondent

Determination

Introduction

1. This is an appeal to the Tax Appeals Commission ("the Commission") by Darragh Gaffney ("the Appellant") in respect of the valuation of a Renault Clio motor vehicle, registration number 05-CN-6579 ("the vehicle"), imposed by the Revenue Commissioners ("the Respondent") for the purposes of ascertaining the open market selling price ("OMSP") with a view to the calculation of Vehicle Registration Tax ("VRT"). The OMSP imposed by the Respondent was €9,700 and the VRT at issue is €3,977.
2. The appeal proceeded by way of a hearing on 31 January 2025.

Background

3. On 31 March 2024, the Appellant purchased a Renault Clio, 2.0 litre Renault Sport 182 16V 3 door version, from a dealer in Northern Ireland for £2,500. He imported it into the State, and it was registered on 7 June 2024. On that date, the Respondent valued the vehicle at €9,700, which resulted in VRT1 of €3,977.

4. The Appellant appealed against the OMSP. On 9 September 2024, at first stage appeal, the Respondent offered to reduce the OMSP to €8,075, and offered a refund to the Appellant of €713. This offer was refused by the Appellant.
5. On 20 September 2024, the Appellant appealed against the OMSP to the Commission. On 25 September 2024, the Appellant agreed to have the vehicle inspected by an independent consultant retained by the Respondent. The vehicle was inspected on 30 September 2024. The consultant found that the appropriate OMSP was €7,500. The Respondent offered the Appellant a refund of €965, being made up of €902 on foot of the reduced OMSP, and €63 which is a portion of the late fee applied upon registration. The Appellant refused this offer.
6. The Appellant submitted documents with his notice of appeal, and both parties submitted Statements of Case. On 4 November 2024, the parties were notified of the hearing date. The notification also informed them that any additional documentation upon which they wished to rely should be submitted not later than 10 January 2025. On 9 January and 11 January 2025, the Appellant submitted documents to the Commission in support of his appeal.
7. The hearing proceeded on 31 January 2025. Towards the end of the hearing, and without prior notification, the Appellant informed the Commissioner that he had procured one further valuation, from a Renault dealership. While he did not request permission to submit this additional evidence, no objection was made by the Respondent. After the hearing, the Appellant submitted two new valuations; the previously mentioned valuation from the Renault dealership, as well as an 'iCap' valuation.
8. After receipt of these additional valuations, on 31 January 2025 the Commissioner allowed the Respondent seven days to comment on the additional valuations, if it wished to do so. It provided comments on 6 February 2025. Following receipt of these comments, the Commissioner confirmed to the parties that *"No further documentation or evidence will be accepted at this stage, and the matter is now queued for determination."*
9. Notwithstanding this confirmation, the Appellant subsequently sought to submit a further document. On 7 February 2025, the Commission confirmed that the matter was already queued for determination and, as previously stated, no further submissions would be permitted. In response, the Appellant stated *"My submission is within the 7 days. Therefore it must be accepted."*
10. The Commission responded to the Appellant's email by setting out the timeline of opportunities afforded to him to make submissions in this appeal. The Commissioner

confirmed that the direction on 31 January was clearly to allow the Respondent to respond to the additional valuations provided by the Appellant, and that he was not permitted to submit further correspondence. The Commission also stated that

“The Commissioner is satisfied that you have been afforded multiple opportunities to submit documents and submissions in support of your appeal. The Commissioner’s role is to ensure fair procedures are afforded to both parties. The hearing of the matter has concluded, and the Commissioner considers it necessary to bring this appeal to a conclusion. Therefore, he reiterates that your further additional submission of 6 February 2025 is not accepted, and the matter is queued for determination on the basis of all of the documentation and submissions received up to, and including, the Respondent’s reply of 6 February to the additional valuations provided by you after the hearing.”

11. The Appellant subsequently submitted a further email. However, for the reasons set out above, the Commissioner has had regard to all of the documents, material and evidence submitted by the parties up to and including the Respondent’s replying email of 6 February 2025. The Commissioner is satisfied that both parties have had multiple opportunities to make submissions and provide evidence, and it is necessary for fair procedures and certainty to bring the matter to a conclusion.
12. Notwithstanding the above, the Commissioner has briefly reviewed the additional submission provided by the Appellant. He notes that it contains further criticisms of the Respondent and the inspection carried out by the consultant retained by it. He is satisfied that, even if this was submitted on time, it would not alter the findings and determination set out herein.

Legislation

13. 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.”*

Submissions

Appellant

14. The Appellant submitted detailed written submissions, in which he stated *inter alia* that

“I submitted my registration on vrt.ie for a VRT calculation. The current OMSP was calculated at €2,002. 41% VRT rate based on emissions, results in €820.82.

[...]

Using cartel.ie, I entered my registration, and the same model Irish registered car from that year. Below are the valuations.

Taking the higher value of €3,100, and applying the 41% VRT rate based on emissions, the CO2 charge would be €1,271, plus the NOX charge of €185.

[...]

Finding the Original price of a Clio 182 in Ireland is difficult, however, data on other model Clio's can be used to compare to UK markets and an OMSP can be determined.

Using "Price Guide" data from the Society of the Irish Motor Industry from 2004. A Clio 1.2 3dr Authentique was priced at €14,295 when new in 2004.

Using an article from parkers.co.uk, the same model when new in the UK market was £7,890.

Based on the figures for a Clio (excluding the currency) whatever the new price in the UK was, the new price in Ireland was roughly x1.8 that amount. $(14,295 / 7,890 = 1.812)$ e.g. if a New Clio was £10k in the UK, it was roughly €18k in Ireland.

From an article on pistonheads.com. The price of a new Clio 182 in the UK was £14,600. If we apply the same rough conversion, the price of a new Clio 182 in Ireland was roughly €26,280.

[...]

Using the depreciation tables from the VRT Manual Section 8, we can apply the depreciation to the calculated Original OMSP of the Clio 182 in Ireland.

For year 13-30 the highest value from all depreciation groups is 9%. Applying this to the calculated amount of €26,280, the current OMSP is €2,365.20."

15. In further written submissions, the Appellant criticised the methodology applied by the Respondent, as well as the valuation carried out by the consultant retained by the Respondent, which he contended overly relied on cosmetic factors and did not assess the vehicle's mechanical condition.
16. At the hearing, the Appellant described the OMSP applied by the Respondent as "ridiculous", and that it relied upon one example when formulating it. He stated that the Respondent had not used its depreciation table as it had contended that it could not apply a statistical code. He stated that he had received a quotation from a Renault dealership which valued the vehicle at €3,500.

Respondent

17. In written submissions, the Respondent contended that the vehicle was within the parameters of normal mileage (135,806 miles / 218,558 km) for a 2005 vehicle. The Respondent had retained an independent consultant who considered that the appropriate OMSP was €7,500.
18. At the hearing, the Respondent's representative stated it could not apply a statistical code to the vehicle as it was unusual and there were not many imports of that make and model. The original OMSP had been applied on the basis of a desktop valuation. Subsequently a physical inspection had been carried out which arrived at a more accurate OMSP. The Respondent confirmed that it was still willing to offer the Appellant a refund of €1,189, which included the late registration fee previously applied.
19. The consultant retained by the Respondent, Maurice Ryan, attended the hearing. He stated that he based the OMSP on what he considered the current market value to be, rather than by applying a depreciation value. He stated that the vehicle was rare and sought after, and more powerful than a typical Renault Clio. He stated that roughly 5,500 were produced for the European market, compared to approximately 380,000 standard Renault Clios. He stated that the valuation was based on average internal mechanics, but he believed that, given the condition of the vehicle, if he had inspected the internal mechanics it would probably have led to an increased valuation.

Material Facts

20. 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:
 - 20.1. The vehicle is a Renault Clio, 2.0 litre Renault Sport 182 16V 3 door version, registration number 05-CN-6579.
 - 20.2. On 31 March 2024, the Appellant purchased the vehicle from a dealer in Northern Ireland for £2,500. It was registered in the State on 7 June 2024 and assigned an OMSP of €9,700. The Appellant paid VRT1 of €3,977.
 - 20.3. On first stage appeal, the Respondent offered to reduce the OMSP to €8,075. This offer was refused by the Appellant.
 - 20.4. On 30 September 2024, a consultant retained by the Respondent inspected the vehicle. The consultant considered that the appropriate OMSP was €7,500, and

the Respondent offered a refund to the Appellant in the amount of €965. This offer was refused by the Appellant.

- 20.5. The vehicle is a relatively rare and sought after vehicle, and not comparable to a standard Renault Clio. Therefore, comparisons with selling prices for standard Renault Clios are not relevant in determining the appropriate OMSP for the vehicle.
- 20.6. There were a number of advertisements of similar vehicles submitted, which showed a wide range of asking prices, from £2,300 to £10,000.
- 20.7. The Appellant provided a number of valuations of the vehicle which supported an OMSP lower than that suggested by the consultant retained by the Respondent. However, these appeared to be desktop valuations, and there was no evidence to show that any of the valuations were based on a physical inspection of the vehicle.
- 20.8. The only valuation based on a physical inspection of the vehicle was performed by the consultant retained by the Respondent. This found the vehicle to be in “*exceptional condition*” and concluded that the correct OMSP was €7,500.

Analysis

- 21. 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.*”
- 22. 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 41%. The NO_x levy is calculated separately and then added to the CO₂ value to produce the VRT due. 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.

23. The Appellant purchased the vehicle in Northern Ireland on 31 March 2024, and paid £2,500. He imported it into the State, and on registration an OMSP of €9,700 was assigned. The Appellant was dissatisfied with this, and on first stage appeal, the Respondent offered to reduce the OMSP to €8,075. The Appellant remained dissatisfied, and appealed to the Commission.
24. The Appellant made detailed submissions to the Commission. Much of his submissions were directed to criticising the methodology applied by the Respondent in assigning the OMSP. The Commissioner considers it important to note that there is no requirement in section 133 of the Finance Act 1992 that the Respondent utilise depreciation tables, or apply a statistical code, to any vehicle when assigning an OMSP. These are tools used by the Respondent, but they are not always applicable, particularly when a vehicle is rare or where a model has not previously been valued. The Respondent's website states that *"If a vehicle is not on the calculator, Revenue will determine its OMSP, but only after it is presented for registration. Revenue uses market indicators such as UK and Irish trade guides, advertisements, and experts."*
25. The Commissioner notes that the original OMSP applied by the Respondent was based on a review of advertisements of similar Clio 182s for sale in the UK, which showed an average price of £4,600, which was subsequently "grossed up" and the appropriate taxes applied to reach an OMSP of €9,700. The Commissioner considers that this approach was in line with the Respondent's methodology as set out in its VRT Manual Section 8, paragraph 3.1.2. The reduced OMSP on first stage appeal was based on an advertisement in this jurisdiction for a 2005 Clio 182 with similar mileage to the vehicle, which showed an asking price of €8,500. The revised OMSP was 95% of that price, i.e. €8,075.
26. Following rejection of this revised OMSP, the Respondent retained a consultant to inspect the vehicle. The report stated that the vehicle was in "exceptional condition" and advised an OMSP of €7,500. At the hearing, the consultant stated that the vehicle was rare and sought after.
27. The Appellant provided a number of valuations, including from VRT.ie (€2,002) and cartell.ie (€2,200). However, these appear to have been provided simply by entering the vehicle's registration number, and no basis for how the figures were arrived at has been provided. In the circumstances, the Commissioner finds these two valuations to be of little assistance in ascertaining an accurate OMSP.
28. The Appellant also provided examples of advertisements for similar vehicles for sale in the UK, which showed asking prices of £2,300 to £5,995. He pointed out that vehicles

with similar mileage to his had lower asking prices; however, in reply the Respondent stated that it considered the vehicle in question to be within the parameters of normal mileage for a 2005 vehicle.

29. As set out above, the Appellant provided two further valuations after the hearing. One was an iCap valuation from mywheels.ie, which provided a valuation of €4,600. However, again this appears to have been arrived at by entering the vehicle's registration number on an internet database, and no methodology for how the valuation was calculated has been provided.
30. The Appellant also provided a letter from Renault Highland Motors Ltd in Letterkenny, which stated "*We have evaluated [the vehicle] and in today's market would value this vehicle at €3500 retail.*" The letter is unsigned and undated and it is wholly unclear whether the valuation is based on a physical inspection, a desktop valuation, or simply on information provided to the dealership. In the circumstances, the Commissioner concludes that it is was not based on a physical inspection of the vehicle.
31. Consequently, the Commissioner is satisfied that the best evidence before him is the consultant's report provided by the Respondent, as he finds this is the only valuation based on a physical inspection of the vehicle. He accepts the consultant's evidence that the vehicle is rare, and therefore considers that online databases that seek to ascribe a valuation to it will be of limited reliability. He also considers that comparisons with standard Renault Clios are not relevant when applying an OMSP to the vehicle.
32. While the Appellant has criticised the report and the consultant's inspection, the Commissioner considers that it was open to him to procure his own report, if he wished to do so. The Commissioner considers that the Appellant has not demonstrated that the inspection and report were flawed or that no reliance should be placed upon them.
33. Therefore, the Commissioner accepts in principle the OMSP suggested by the consultant. However, he notes the wide spread of asking prices in the advertisements for similar vehicles provided by both parties. While this spread will obviously depend on matters such as condition, mileage etc., the Commissioner considers that this illustrates the difficulty in assigning an accurate valuation to a rare vehicle such as the one under consideration herein.
34. As a result, the Commissioner considers it fair and reasonable to reduce the OMSP to €7,000, i.e. €500 less than that suggested by the consultant. The amount of VRT applying is €2,870 (7000×0.41). The Appellant paid VRT of €3,977, and therefore is entitled to a refund of €1,107, plus the late registration fee imposed by the Respondent which it stated

at the hearing it was willing to refund. This is to be paid by the Respondent to the Appellant to conclude the matter.

Determination

35. 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 €1,107 plus late registration fee in respect of motor vehicle registration number 05-CN-6579.
36. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular section 949AL thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

Notification

37. 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

38. 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
13 February 2025

The Tax Appeals Commission has been requested to state and sign a case for the opinion of the High Court in respect of this determination, pursuant to the provisions of Chapter 6 of Part 40A of the Taxes Consolidation Act 1997.