AN COIMISIÚN UM ACHOMHAIRC CHÁNACH

TAX APPEALS COMMISSION

21TACD2026

Between

[redacted]

Appellant

and

REVENUE COMMISSIONERS

Respondent

Determination

Contents

Introduction

1. This is an appeal to the Tax Appeals Commission ("the Commission") against a decision of the Revenue Commissioners ("the Respondent") dated 27 March 2025 refusing an application by [redacted] ("the Appellant") pursuant to section 65 of the Value-Added Tax Consolidation Act 2010 as amended ("VATCA 2010") seeking to register as an accountable person for the purposes of value-added tax ("VAT").

2. The appeal proceeded by way of a hearing in private on 11 November 2025.

Background

3. The Appellant is an Irish company, and is a subsidiary of its parent company located in [redacted] United Kingdom ("UK"), [redacted] ("the parent company"). In April 2024, the Appellant applied for a VAT registration in the State. The application was refused by the Respondent as it was not satisfied that the Appellant was, or might become, an accountable person as defined by section 5 of the VATCA 2010.

4. The Appellant submitted a new application on 20 January 2025. On 27 March 2025, the Respondent refused this application, again on the basis that it was not satisfied that the Appellant was, or might become, an accountable person.

5. On 29 April 2025, the Appellant appealed against the refusal to the Commission. On 11 November 2025, a remote hearing of the appeal was held. The Appellant was represented by its agent, [redacted]. The Respondent was represented by its officers.

Evidence

[redacted] – *Director of the Appellant's parent company*

6. The witness stated that the Appellant's parent company was based in [redacted] and [redacted]. The parent company's business in Europe had suffered post-Brexit and therefore it wanted to set up an Irish entity. The Appellant's agent introduced it to [redacted], a freight forwarding company based in [redacted] The witness stated that it planned to send its [redacted] from [redacted] to [redacted], who would then send them into Europe on the Appellant's behalf.

7. The Appellant had a European website that was ready to launch. It was intended that the Appellant would place orders with the parent company. The parent company would sell the goods to the Appellant, and the goods would be shipped into Ireland and then on to Europe. The UK and Irish companies were separate and had separate bank accounts.

The witness stated that the Appellant had an agreement with [redacted] in the short term to lease some of its (i.e. [redacted] premises and employ one of [redacted] staff members to assist it. He stated that the Appellant was ready to activate the agreement but was waiting on a VAT registration.

8. On cross examination, it was put to the witness that the Respondent saw little to support the Appellant's capacity to trade. There had been no payments on the lease agreement between the Appellant and [redacted] In reply, the witness stated that the Appellant intended to activate the agreement immediately on receipt of a VAT registration, but did not want to pay money on a lease that it could not use without a VAT registration. In response to a question from the Commissioner, the witness stated that the activation of the Appellant's EU website was also dependant on being granted a VAT registration.

[redacted] – *Director of* [redacted]

9. The witness stated that the Appellant's parent company wanted to send its goods to [redacted] for storage and shipping to Europe. The Respondent had stated that it would not grant a VAT registration until it saw evidence of trade, but the Appellant could not trade until it was granted the VAT registration. The witness stated that he had explained the position to the Respondent previously. He stated that once the Appellant's Irish business was up and running, it was anticipated that it could open its own factory and employ its own people, but until then it planned to utilise [redacted].

10. The witness stated that there had been trial shipments to see that the system worked. The parent company had exported goods to [redacted] which had cleared customs, and then [redacted] had delivered the goods to a customer in Spain. He stated that he appointed a member of [redacted] staff to manage the contract with the Appellant and that "*If we needed more people, I would take on more people.*" He stated that [redacted] had invoiced the Appellant for work done and had been paid.

11. On cross examination, the witness stated that [redacted] had moved less than ten shipments on behalf of the Appellant, but that everything was on hold pending the Appellant's VAT registration. He stated that [redacted] employee managing the contract with the Appellant was never a direct employee of the Appellant, and that [redacted] was acting as a forwarder for the Appellant. He stated that the lease agreement between the Appellant and [redacted] was created "*to increase the visibility for [the Respondent] because [the Respondent was] looking for visibility.*" He stated that [redacted] invoiced the Appellant's parent company in the UK for the goods delivered to Spain.

Legislation

12. Section 5(1)(a) of the VATCA 2010 states that

> "*Subject to paragraph (c), a taxable person who engages in the supply, within the State, of taxable goods or services shall be—*
>
> *(i) an accountable person, and*
>
> *(ii) accountable for and liable to pay the tax charged in respect of such supply*."

13. Section 65(1) of the VATCA 2010 states that

> "*The Revenue Commissioners shall set up and maintain a register of persons—*
>
> *(a)who are, or who may become, accountable persons, or*
>
> *(b) who are persons who dispose of goods or supply services which pursuant to section 22(3) or 28(4) or (5) are deemed to be supplied by an accountable person in the course or furtherance of his or her business*."

Submissions

Appellant

14. In its Notice of Appeal, the Appellant's agent stated *inter alia* that

> "*The taxpayer has established an Irish based trading subsidiary to service its EU based business customers from a leased area in a warehouse premises situated near* [redacted]*. Product is to be dispatched from the UK HQ of this international business to Ireland for storage to support sales distribution into Europe. Detail of anticipated turnover (+€10m) was provided as part of this application.*
>
> *In this context, a subsidiary business was incorporated in Ireland and registration was applied & granted for corporation tax, PREM and Customs which were all granted by the Revenue.*
>
> *Following initial rejection of VAT registration application, as agent for the taxpayer, together with the taxpayer, we actively engaged with Revenue with a view to addressing outlined concerns that there was an absence of proof of trading activities and that [the Appellant] has the technical and human resources present to conduct the business in Ireland at this time.*

This additional engagement sought to provide documented evidence of business presence and trading as listed below and separately provided as back-up to this appeal submission and was submitted through My Enquiries portal on 20th February 2025,

a. In the letter dated 30/01/2025 submitted to Revenue, an outline and description of the planned business activities of the Irish subsidiary to import from the UK and act as the EU distribution hub in servicing EU based business customers.

i. Detail of the CT, PREM and EORI registration as issued by Revenue.

ii. A copy of the lease agreement for the property from which the business will trade.

iii. A copy of the profit and loss account for the initial period of trading.

iv. Detail of the developed EU specific website included in the letter dated 30/01/25.

v. Current and proposed bank account detail (refer to letter dated 30/01/25).

vi. Explanation of the place of business and also where the company records & directors meetings are to be held (refer to letter dated 30/01/25).

vii. Name of tax reference of employee recruited for the purposes of business support in Ireland (refer to letter dated 30/01/25).

viii. Copies of e-mail correspondence with EU based customers/ distributors in regard to the set-up of the Irish company on their systems for procurement purposes. This is to facilitate the statutory obligation to report intra-EU supplies under Intrastat.

The case officer issued a further rejection of the application citing that following a visit to the leased business premises by Revenue officers that no substantive evidence of trading, payments going through bank accounts in terms of rent or personnel presence was on site.

This contention by the Revenue was rebutted on the basis that there were factual inaccuracies in the findings as outlined and that the continued rejection was detrimental to the bona fide intention to trade as afforded by Article 9, 10 Council Directive 2006/112/EC and ECJ case precedent, Rompelman C268/83.

Despite further engagement with Revenue to try to resolve the issue, it was seen necessary to request a formal letter of the decision made to refuse the VAT application on 05 March 2025 and pursue an appeal in accordance with Section 119 of the VAT Consolidation [Act], 2010.

The grounds of appeal being that necessary evidence of reasoned steps to demonstrate the start-up and intention to trade have been taken. The question of the absence of substantive ramp up of trading activities, payments to date in respect of rent and employee resource is owing to the delay in issue of the Irish VAT registration which has been explained to Revenue."

15. The above arguments were reiterated in the Appellant's Statement of Case. On 10 November 2025, the Appellant's agent provided an additional submission, with appendices. The submission stated *inter alia* that

"*In advance of the scheduled hearing tomorrow and following on from our call (16/10/2025) with the Revenue case workers team, reference was made during the call to the absence of a sample record of an import and subsequent dispatch intra-EU sale to a business customer to support the VAT registration application.*

Detail of a requested sample has been retrieved for reference, please see attached documentation for reference.

These include the customs declaration document detailing the export of the goods from the UK by [redacted] *into Ireland by* [redacted] *as the consignee.*

- *The declarant/ representative on behalf of the consignor/ consignee was* [redacted] *who subsequently billed* [redacted] *for the import VAT associated with the import of the goods, copy of their invoice and proof of billed import VAT payment is attached.*
- *Owing to the use of a declarant/ representative agent, the payment of this import VAT would not have been directly visible and linked to the consignee and may not have been readily identifiable to the Revenue.*
- *The sales invoice and dispatch correspondence detail the onward Intra-EU movement from Ireland to the VAT registered Spanish business customer quoting their ES VAT registration to allow for the intra EU acquisition to be reported. It is acknowledged that in the note detail of the initial invoice template as provided to Revenue had not been updated to reflect the IE detail, this was subsequently corrected before issue.*

Based on the above an obligation to VAT register where the recorded importer of record intends to make onward taxable supplies and/or Intra EU dispatches to VAT registered persons, exists.

For VAT purposes, two transactions are deemed to occur:

- *Intra-community supply*
- *Intra-community acquisition*

S29(1) VATCA2010 – Place of supply is where transportation begins.

S32(1) – Place of intra-community acquisition - Place of supply is where transportation ends.

In relation to the intra-community supply, the place of supply is Ireland. By virtue of Paragraph 1 of Schedule 2, the supply can be 0% rated provided certain criteria are met as follows:

- *The customer is registered for VAT in another EU Member State.*
- *As the accountable person - you obtain, verify, and retain the customer's VAT number.*
- *You quote the customer's VAT number on invoice.*
- *Goods are dispatched to another EU Member State.*
- *VIES Returns filed in relation to the supply (S82).*
- *If the trader does not satisfy all the above criteria, the trader must account and charge Irish VAT.*

S6(3) VATCA 2010 – normal VAT registration thresholds do not apply in the case of a non-established supplier (in effect a Nil registration threshold).

In summary, the concerns of the Revenue that the VAT registration applications do not demonstrate that [redacted] *has the technical and human resources present to conduct the business in Ireland at this time are negated by the fact that an obligation to VAT register exists as a consequence of the intra-EU B2B supply of goods out of Ireland.*

As summarised in section 6: Supplementary information to the Statement of Case: the appellant and their tax advisors have actively engaged to try to address concerns raised by Revenue in regard to demonstrating proof of taxable activity and imminent intention to trade.

We would point out that the business involves the importation of goods for onward sale to EU customers, which obliges the company to register for Irish VAT purposes. Queries raised by Revenue seeking evidence of the necessary human and technical resources to enable [redacted] *effectively carry out its business in Ireland* *are not relevant, as the company is involved in the supply of goods whereas these queries are relevant to determine the establishment of a company supplying services.*

The rejection of the IE VAT registration to date has delayed the full implementation of the intended volume of intra-EU trade activity that has been put in place for bona vide [sic] *commercial reasons and supply chain efficiencies for the taxpayer as supplier/ accountable person and their VAT registered business customers. With the issue of a VAT registration, the taxpayer can progress the ramp up of business activity and the concerns of Revenue in terms of demonstration of sufficient technical and human resource together with ancillary issues as outlined will be addressed*."

16. In oral submissions, the Appellant's agent stated that the Appellant had provided the Respondent with a lease agreement, an outline of the intended transactions, and proof of transactions with EU-based VAT registered companies. The transactions using [redacted] which saw goods shipped to Spain were simple transactions to allow the supply chain to be tested. In due course, it was hoped that the Appellant would be scaled up and fully staffed. The Appellant was registered with the Companies Registration Office and was registered for corporation tax and employer tax in the State.

17. The Appellant's agent stated that there had been a dispatch by an accountable person out of Ireland, and an acquisition by an accountable person in the EU. Therefore, there was an obligation on the accountable person to have a VAT registration. The Appellant was caught in a "chicken and egg" scenario as there were many things it could not do without a VAT registration, including opening an Irish bank account. Regarding the dispatch to Spain by [redacted] on behalf of the Appellant, the Appellant had also provided customs documentation showing a dispatch from the parent company in [redacted] to the Appellant in [redacted] and that import VAT was paid by the parent company. The goods were stated to be moved under DDP terms because the Appellant could not account for the VAT.

Respondent

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

"*A taxpayer must be regarded as an accountable person in accordance with Section 5(1)(a) or Section 9(1) of the VAT Consolidation Act 2010 to be entitled to register for Domestic or Intra EU VAT in Ireland.*

Applicants are required to provide evidence of trade, or substantive objective evidence of the imminent capacity to trade in respect of intention to trade applications.

[The Appellant was] previously refused a VAT registration and reapplied for a VAT registration on the 22/01/2025. The caseworker requested further documentation supporting the application from the taxpayer.

Based upon the information provided Revenue is not satisfied that the applicant has provided substantive evidence of trade or capacity to trade in Ireland.

Accordingly, the decision was made that the applicant could not be regarded as an accountable person in Ireland and the VAT registration application was refused.

Reasons for Disallowing Vat registration:

This application was refused on the 05/03/2025 as the applicant could not be regarded as an accountable person in Ireland in accordance with Section 5 (1) and Section 9 (1) of the VAT Consolidation Act 2010. Whereas no one factor leads directly to the decision, in looking at the whole case, facts as outlined below would support the decision made.

[The Appellant] is a company incorporated with the CRO on the [redacted]/2024 and has two non-resident directors only…

The original application advised that the company was managed and controlled outside of the State from … the address for [the parent company] based in England.

The second application advises: Business activities are being performed from [redacted]. Director meetings, record of company books and records-maintained take place at the company's registered office, [redacted], Ireland and can be made available for inspection. Negotiation of major contracts are made by the designated group business for international sales so for Europe orders and approval of contract sales will be the responsibility of the Irish board of directors/ executive.

Entitlement to vat registration is dependent upon trade taking place in or from Ireland, insufficient documentary evidence has been forwarded in this regard. Without evidence of trade to or from Ireland, it is immaterial where Board meetings take place. Also, no evidence was provided to confirm where such meetings took place.

The agent forwarded the name and PPSN for the employee/manager of [the Appellant], [redacted] Revenue records *confirm that [the Appellant] does not have a registered employee, no payroll returns have been filed from the date of registration [redacted] 2025 to date. The named individual is also in fact, currently employed by another company operating from the same business address as the applicant.*

This application did not demonstrate to Revenue that [the Appellant has] the human resources present to conduct the business in Ireland.

The business address for [the Appellant] is listed as [redacted]. The original application provided a copy of a letter, this letter states that [redacted] forward [redacted] into continental Europe on [the Appellant's] behalf as evidence of the business address, following a request from the caseworker, a copy of this agreement was not forwarded to Revenue.

With the second application a lease was provided for part of the commercial property, this lease commenced on November 1st, 2024, for a period of three years with a monthly rent of 975 commencing on the 1st December 2024. No evidence of payment for rent and utilities has been provided.

The caseworker requested a copy of three months bank statements highlighting payments for rent and utilities, the BIC and IBAN forwarded in response appears to be for an account based in the UK, with the agent advising that no rent/utilities had yet been processed.

Revenue officials visited the business address of [redacted] and spoke with the director of the of [redacted] the company leasing part of the building to [the Appellant]. A formal interview could not take place as there was no director of [the Appellant] and [the Appellant] did not have any employees on site.

This application did not demonstrate to Revenue that [the Appellant] had the technical and human resources present to conduct the business in Ireland.

Documentary evidence was provided to support [the Appellant's] trade in Ireland. On review, these invoices were sample invoices listing the address as [the Appellant], of [redacted]. These invoices provided the company VAT registration number as [redacted], a UK VAT registration number and the phone number for the UK based company. The shipping invoices also provide the Company registration No [redacted], this is the UK Company House number for [the parent company] UK.

Revenue has not received documentation, such as customs dockets or Single Administrative Documents (SADs), to demonstrate the movement of goods into or out of Ireland. Such documents provided to date demonstrate the movement of goods from the United Kingdom to other EU Member States.

A Profit and Loss Account for the year end 31 December 2024 reflects sales of 73,589.97 and Carriage charges if [sic] *2065.88 was forwarded in support of Application 2. However, Revenue has not received any supporting invoices in relation to these sales and costs.*

There has been no documentary evidence provided of the goods being present in Ireland or taxable supplies being made in Ireland, or goods being present in Ireland for onwards distribution to other EU countries.

In Summary:

[The Appellant] a company registered with the CRO, is not deemed accountable for Vat purposes by Revenue for the following reasons.

Directors are non-resident which would indicate that control of the company at present is exercised from elsewhere. The original submission advised that the company is managed and controlled from England, more recent applications have failed to demonstrate otherwise.

The address for the lease provided advises rental payments commence on the 01 December 2024, however no evidence of payment for same have been furnished as requested.

The company has no employees in the Republic of Ireland.

There has been no evidence provided of the goods being present in Ireland or taxable supplies being made in Ireland.

There has been no evidence provided of the goods being present in Ireland for onwards distribution to other EU countries.

This application did not demonstrate to Revenue that [the Appellant] has the technical and human resources present to conduct the business in Ireland at this time.

Registration for Corporation Tax and PREM does not, confer automatic entitlement to VAT registration. The applicant must demonstrate that the applicant is an accountable person in accordance with Section 5(1)(a) or Section 9(1) of the VAT Consolidation Act 2010.

It is clear to Revenue from the documentation outlined above that the day-to-day activities of the company are being conducted by entities outside of Ireland and therefore [the Appellant] … is not an accountable person for the provision of these services.

Should the position change or the applicant forward any further substantiative information available it is open for an applicant to reapply for Vat registration."

19. In oral submissions, the Respondent's officers stated that the Respondent was not satisfied that the Appellant had provided substantive evidence of capacity to trade from Ireland with other EU states. The Respondent's decision had been made in March 2025, and there was nothing stopping the Appellant from submitting a new application with additional information. Some of the evidence submitted suggested that the Appellant's business would continue to be managed from the UK. The customs documentation submitted by the Appellant showed that the delivery terms were "DDP" which suggested that the import VAT was not paid by the Irish subsidiary but by the UK parent. The additional documents raised more questions than they answered.

Material Facts

20. Having read the documentation submitted, and having listened to the oral evidence and submissions at the hearing, the Commissioner makes the following findings of material fact:

    20.1. The Appellant is an Irish registered company, and is the subsidiary of a UK-registered and based company that manufactures [redacted] ("the parent company"). In April 2024, the Appellant applied for a VAT registration in the State. The application was refused by the Respondent as it was not satisfied that the Appellant was, or might become, an accountable person as defined by section 5 of the VATCA 2010.

    20.2. The Appellant submitted a new application on 20 January 2025. On 27 March 2025, the Respondent refused this application, again on the basis that it was not satisfied that the Appellant was, or might become, an accountable person.

    20.3. The Appellant appealed against the Respondent's March 2025 refusal to the Commission on 29 April 2025.

    20.4. The Appellant has its company address at [redacted]. The Appellant is registered for corporation and employer tax.

20.5. The Appellant, via its parent company, has entered into agreements with [redacted] to provide premises and employee support, and to forward goods dispatched from the UK to [redacted] onto customers in mainland Europe.

20.6. The Appellant has developed a European website which it plans to use to attract European customers.

20.7. As part of its application/appeal, the Appellant submitted;

- a copy of the lease between the Appellant, via its parent company, and [redacted] dated 8 November 2024;
- the name and PPS number of the employee of [redacted] to be assigned to manage the account with the Appellant;
- emails from potential European customers of the Appellant's business in Ireland;
- profit and loss account for the Appellant in 2024 showing total trading income of €75,655.85 and net profit of €22,849.51;
- bank account details (in the UK) for the Appellant;
- an invoice dated 25 September 2024 from [redacted] to the Appellant's parent company concerning a dispatch of goods to Spain;
- an invoice dated 30 August 2024 from the Appellant to a customer in Spain in the total amount of €26,158;
- customs declaration dated 31 August 2024 for goods dispatched by the Appellant's parent company to the Appellant in the amount of €20,728.09;
- an invoice dated 1 November 2024 from [redacted] regarding a dispatch of goods by the parent company to the Appellant.

20.8. The Appellant has demonstrated a capacity to trade from the State, and has provided evidence of the supply of taxable goods from the State to another EU member state.

Analysis

21. The burden of proof rests on the Appellant to show that Respondent was incorrect to refuse its application for a VAT registration. In the High Court case of *Menolly Homes Ltd*

v. Appeal Commissioners [2010] IEHC 49 ("*Menolly Homes*"), 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. The Appellant is an Irish-registered company, and is a subsidiary of a UK company that [redacted]. The Appellant's parent company has stated that its EU business has suffered post-Brexit and it therefore has sought to establish an Irish subsidiary to facilitate trade with its European customers. The Appellant has appealed against the Respondent's refusal to grant it a VAT registration in the State. The Appellant submits that it is an accountable person pursuant to section 5 of the VATCA 2010. The Respondent has contended that the Appellant has not substantively demonstrated a capacity to trade from the State.

23. The Commissioner has considered all of the evidence before him, both oral and documentary, and is satisfied that the Appellant has demonstrated a capacity to trade from the State. He found the evidence of both the directors of the Appellant's parent company and of [redacted] to be credible and consistent, and accepts their sworn evidence that it is intended to fully commence trade from Ireland, by way of [redacted] in the first instance, as soon as a VAT registration is granted.

24. The Commissioner also notes that the Appellant has developed a European website which it intends to use to attract EU customers, and which it states is contended to "go live" when the Appellant is registered for VAT in the State. The Appellant has also submitted evidence of its lease with [redacted] via its parent company, and its agreement to utilise an employee of [redacted] to manage its relationship. While the Respondent has stated that no payments have been made on foot of these agreements, the Commissioner accepts the evidence of the Appellant that it is awaiting an Irish VAT registration before proceeding with this relationship.

25. Furthermore, the Appellant has submitted evidence that it has supplied goods to a customer in Europe, by way of [redacted]. Amongst the documentation provided was an invoice dated 30 August 2024 from the Appellant to a customer in Spain in the total amount of €26,158 and a customs declaration dated 31 August 2024 for goods dispatched by the parent company to the Appellant in the amount of €20,728.09. Consequently, the Commissioner is satisfied that the Appellant has submitted evidence of the supply of taxable goods from the State to another EU member state.

26. Therefore, the Commissioner is satisfied that the Appellant has demonstrated the capacity to trade from the State. Section 5(1)(a) of the VATCA 2010 provides that "*a*

taxable person who engages in the supply, within the State, of taxable goods or services shall be…an accountable person". Pursuant to this provision, the Commissioner finds that the Appellant is an accountable person.

27. Section 65(1)(a) of the VATCA 2010 provides that the Respondent shall set up and maintain a register of persons who are, or who may become, accountable persons. Section 65(2) provides that the Respondent shall assign a registration number to each person registered in accordance with section 65(1).

28. As the Commissioner has found that the Appellant is an accountable person, it therefore follows that the provisions of section 65 of the VATCA 2010 apply. Consequently, the Respondent shall place the Appellant on the register of accountable persons and shall assign a VAT registration number to it.

Determination

29. 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 is satisfied that the Respondent was incorrect to refuse the Appellant's application for a VAT registration number. Therefore, the Respondent shall place the Appellant on the register of accountable persons and shall assign a VAT registration number to it.

30. 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

31. 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

32. 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
15 January 2026