AN COIMISIÚN UM ACHOMHAIRC CHÁNACH

TAX APPEALS COMMISSION

96TACD2026

Between

[redacted]

Appellant

and

The Revenue Commissioners

Respondent

Determination

Contents

Introduction

1. This is an appeal to the Tax Appeals Commission ("the Commission") brought by the Appellant under section 949I of the Taxes Consolidation Act 1997 ("the TCA 1997") against a determination made by the Respondent, in relation to a charge to Vehicle Registration Tax ("VRT") on the importation of a vehicle into the State.

2. The appeal proceeded by way of a remote hearing on 17 December 2025. The Appellant represented himself and the Respondent was represented by the two of its case officers, with a consultant from Assess Ireland Automotive Assessing and Engineering Inspection Services ("Assess Ireland") who gave evidence at the hearing.

3. Prior to the hearing, the Appellant notified the Commission that he wished to have his appeal hearing in private. Therefore, the appeal hearing was held in private and this determination will be redacted before its publication on the Commission's website under section 949AO of the TCA 1997.

Background

4. The Appellant purchased a [redacted] ("the Vehicle") in [redacted] and imported the Vehicle into the State for his own use. The purchase price for the Vehicle was €18,605 (converted from [redacted]).

5. On 29 July 2025, the Vehicle was registered in the State, when the Appellant presented the Vehicle for registration at the National Car Testing Service ("NCTS"). The Respondent assessed the open market selling price ("OMSP") for the Vehicle as €40,327.

6. At the hearing, the Respondent confirmed that it initially misclassified the Carbon Dioxide ("CO2") emissions of the Vehicle, and the applicable rate of VRT based on the CO2 emissions was 25% rather than 35%. In addition, the Respondent imposed a VRT penalty of €467, which was subsequently repaid to the Appellant.

7. The Appellant lodged a first stage appeal. On 2 September 2025, the Respondent issued a first stage appeal determination and determined that the valuation of €40,327 was a reasonable assessment of the OMSP of the Vehicle at the time of registration.

8. On 10 September 2025, the Appellant submitted a Notice of Appeal to the Commission, with enclosures.

9. On 15 September 2025, the Respondent offered to have the Vehicle physically inspected by Assess Ireland, which the Appellant declined.

10. On 19 September 2025, a consultant from Assess Ireland conducted a desktop valuation of the Vehicle and assessed the OMSP of the Vehicle as €36,500.

11. On 22 September 2025, the Respondent informed the Appellant that an independent consultant had valued the Vehicle at €36,500 based on a desktop valuation, and offered to reduce the OMSP of the Vehicle to €35,000. At the hearing, the Appellant stated that the Respondent had since offered to reduce the OMSP of the Vehicle further, to settle this appeal. For the avoidance of doubt, the Commissioner was presented with no documentation regarding any further valuation of the Vehicle.

12. On 17 October 2025, the Appellant submitted a Statement of Case. On 7 November 2025, the Respondent submitted a Statement of Case with enclosures. On 7 November 2025, the Commission notified the parties that the appeal was scheduled for a hearing on 17 December 2025, and the parties should submit any further documentation upon which they intended to rely by 26 November 2025. On 24 November 2025, both the Appellant and the Respondent submitted pre-hearing documentation. The Commissioner has considered all of the documentation submitted by the parties in this appeal and in particular the Appellant's Notice of Appeal and Statement of Case. Any absence of a reference to specific documentation should not be taken as an absence of its consideration in connection with this appeal.

Legislation and Guidelines

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

14. Section 132 of the Finance Act, 1992 (as amended), provides (among other things):

(1) Subject to the provisions of this Chapter and any regulations thereunder, with effect on and from the 1st day of January, 1993, a duty of excise, to be called vehicle registration tax, shall be charged, levied and paid at whichever of the rates specified in subsection (3) is appropriate on -

(a) *the registration of a vehicle, and……*

15. Section 133 of the Finance Act, 1992 (as amended) provides (among other things):

(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) In this section—

…

'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.

Evidence and Submissions

Appellant's Submissions

16. The Commissioner sets out below a summary of the submissions made by the Appellant, in the documentation submitted in support of this appeal and at the hearing:

    16.1. The OMSP assessed by the Respondent is excessive and unsupported by market evidence. The valuation method used departs from the Respondent's VRT Manual.

16.2. The model of the Vehicle has never been marketed or sold in the State. The Respondent should have applied the grossing up methodology under the Respondent's VRT Manual, which uses overseas market data and starts with the purchase price. It was unfair to use online advertisements for vehicles that are not in the State.

16.3. The Appellant submitted that recommended pricing from the Society of the Irish Motor Industry ("SIMI") of [redacted] was consistent with the OMSP for two similar models on the Respondent's database. At the hearing, the Appellant stated that the SIMI price was his starting point, and the OMSP from the Respondent's database was an estimate but he did not seek a direct comparison.

16.4. The Appellant does not have an alternative valuation for the Vehicle, as the dealers he contacted were not familiar with the Vehicle.

16.5. The valuation of the Vehicle should allow a five percent deduction for the condition of the Vehicle. The Vehicle travelled 10,000 kilometres and its condition should be assessed as "fair" rather than "good", given body scratches [redacted]. At the hearing, the Appellant confirmed that he did not have evidence of the Vehicle's condition, stating that they were "only minor scratches" and there was a "damp smell" from water ingress.

16.6. The Vehicle differs from the vehicle in the Carzone advertisement which was used as a comparator by the Respondent. The two vehicles from which the Respondent took an average price were not identical to the Vehicle and were not on the market in the State at the time.

16.7. The Vehicle was initially misclassified as having a 170 CO_2 emission whereas it has a 150 CO_2 emission.

16.8. The Respondent should have offered a physical inspection of the Vehicle at an earlier stage. No negative inference should be drawn from the Appellant declining a physical inspection.

Respondent's Submissions

17. The Commissioner sets out below a summary of the submissions made by the Respondent in the documentation submitted and at the hearing:

17.1. Regarding the OMSP, section 133 of the Finance Act 1992 (as amended) states:

"*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.*"

17.2. The OMSP of the Vehicle in the amount of €40,327 was based on an average of two vehicles, and a five percent reduction was applied in favour of the Appellant.

17.3. The Respondent subsequently engaged an independent consultant to conduct a desktop valuation of the Vehicle, which was €36,500. The Respondent offered to reduce the OMSP of the Vehicle to €35,000, which resulted in a refund amount of €1,331 (€40,327 less €35,000 = €5,327 @ 25% VRT rate = €1,331).

17.4. The CO2 emissions of the Vehicle were initially entered incorrectly and then resolved. The VRT liability was initially 35% rather than 25% of the OMSP as a result of this misclassification.

17.5. The Vehicle was not on any SIMI list, and the SIMI list which was provided refers to commercial vehicles.

17.6. In this case, the Respondent did not apply the grossing up method. The purchase price from another jurisdiction may not be comparable to vehicles in the State.

17.7. The models with the statistical codes from the Respondent's database to which the Appellant referred were different from the Vehicle.

Respondent's Evidence

18. The Commissioner will now summarise the evidence given by the consultant, [redacted], from Assess Ireland ("the Consultant"):

18.1. The Consultant stated that he did not physically examine the Vehicle. He testified that he used an online motor check tool. The first vehicle was advertised at €36,975 and was [redacted], as is the Vehicle. The second vehicle was advertised at €35,950 and was [redacted]. The third vehicle was advertised at €36,975 and was [redacted]. The Consultant stated that the most comparable vehicles on the market at the time of valuation were three-door and not [redacted] like the Vehicle. In his view, a [redacted] was more practical and may be worth more. The Consultant testified that he contacted the [redacted] dealership and spoke to a sales executive, who agreed that €36,500 was a reasonable valuation for the Vehicle in the State.

18.2. The Appellant put it to the Consultant that the search criterion relating to the CO2 emission which the Consultant had entered into the online motor check tool was incorrect, being 176 and not 150. In reply, the Consultant stated that this had no bearing on the vehicles' engine capacity or specification. When the Appellant asked the Consultant if he had any proof that the vehicles being compared were in the State, the Consultant testified that he contacted [redacted] and two were for sale in their dealership.

Material Facts

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

19.1. The Appellant purchased the Vehicle in [redacted] and paid a purchase price of €18,605 (converted from [redacted]).

19.2. The Vehicle is a [redacted].

19.3. The Appellant imported the Vehicle into the State.

19.4. On 29 July 2025, the Vehicle was registered in the State.

19.5. The Respondent assigned an OMSP of €40,327 to the Vehicle.

19.6. On 2 September 2025, the Respondent issued a first stage appeal determination and determined that the OMSP of the Vehicle was €40,327.

19.7. On 19 September 2025, an assessor from Assess Ireland conducted a desktop valuation of the Vehicle and assessed the OMSP of the Vehicle as €36,500.

19.8. On 22 September 2025, the Respondent informed the Appellant that an independent consultant had valued the Vehicle at €36,500 based on a desktop valuation. The Respondent offered to reduce the OMSP of the Vehicle to €35,000.

19.9. The Appellant did not present evidence of the condition of the Vehicle.

19.10. The Appellant did not adduce an alternative valuation of the Vehicle and no witness was called at the hearing to provide information as to any alternative valuation. Furthermore, the Appellant provided no advertisements of an equivalent vehicle demonstrating a valuation of, or in the region of, [redacted].

Analysis

Burden of Proof

20. In an appeal before the Commission, the burden of proof rests on the Appellant. In the High Court case of *Menolly Homes Ltd v Appeal Commissioners and The Revenue 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".*

21. The Court of Appeal recently confirmed this position in *JSS, JSJ, TS, DS and PS v A Tax Appeal Commissioner* [2025] IECA 96, in which McDonald J stated at paragraph 34 that:

> *"the taxpayer bears the burden of demonstrating that a tax assessment is wrong."*

Jurisdiction

22. The Commission is a statutory body created by the Finance (Tax Appeals) Act 2015. As a statutory body, the Commission only has the powers that have been granted to it by the Oireachtas. The powers of the Commission to hear and determine tax appeals are set out in Part 40A of the TCA 1997.

23. It is important to state at the outset that the Commissioner does not have jurisdiction to set aside a decision of the Respondent based on alleged unfairness and has no supervisory jurisdiction over the processes of the Respondent. The Commissioner's jurisdiction "*is limited to determining whether an assessment correctly charges the relevant taxpayer in accordance with the relevant provisions of the TCA*", as confirmed in the Court of Appeal judgment in *Lee v The Revenue Commissioners* [2021] IECA 18.

VRT Calculation Methodology

24. The Appellant contended that the Respondent departed from its own guidance by not using the "grossing up" methodology referred to in the Respondent's VRT Manual, and that it was unfair for the Respondent to use online advertisements. In that respect, the Commissioner observes that the Respondent's VRT Manual Part 8 states: "*Where appropriate, Revenue may use any of the following methodologies to determine an OMSP from researched market data*" and includes different methodologies, which include a "price ratio methodology", "grossing up methodology", "expert opinion", and "conversion calculation". It is therefore clear to the Commissioner that the Respondent's VRT Manual outlines different methods of determining an OMSP which are open to the Respondent.

25. However, and as noted above, the Commissioner does not have jurisdiction to set aside a decision of the Respondent based on alleged unfairness and has no supervisory jurisdiction over the processes of the Respondent, or how the Respondent applies its own guidance. The Commissioner will now proceed to consider the OMSP valuation and the relevant provisions of legislation.

OMSP Valuation

26. All vehicles are subject to VRT on first registration in the State. The VRT due is calculated based on the vehicle's OMSP multiplied by a rate that is based on the CO2 emissions of the vehicle. In addition, a Nitrogen Oxide ("NOx") levy is calculated and the result is added to the CO2 component to yield the total 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 Commissioners, the vehicle might reasonably be expected to fetch on a first arm's length sale in the State.

27. In this case, the Appellant purchased the Vehicle for the sum of €18,605 (converted from [redacted]), as shown in the NCT declaration dated 29 July 2025 which was presented to the Commissioner.

28. The Respondent initially assigned an OMSP of €40,327 to the Vehicle, which was upheld in the first stage appeal determination on 2 September 2025. At the hearing, the Respondent stated that it based its valuation of the Vehicle on an average of two vehicles and referred the Commissioner to the two advertisements concerned. The Commissioner notes that both advertisements relate to [redacted], and one vehicle is described as "high spec". One advertisement was for €39,950 and the other was for €44,950.

29. After its first stage appeal determination, the Respondent engaged the services of the Consultant, who conducted a desktop valuation of the Vehicle. At the hearing, the Consultant stated that he based his valuation of the Vehicle on an average of market prices of vehicles which were for sale, two of which the Consultant testified were for sale in a dealership in the State. The Consultant referred the Commissioner to advertisements for €36,975, €35,950, and €36,975. The Commissioner observes that those advertisements relate to [redacted], all of which are similar characteristics to those of the Vehicle. Furthermore, the vehicles concerned had mileages of 18 km, 0 km and 598 km respectively, while the mileage of the Vehicle was 121 km. Those vehicles had three doors whereas the Vehicle had [redacted]. The Commissioner does not consider the fact

that the Consultant used a search criterion of 176 CO_2 emissions, among other search criteria, to alter or negate the other characteristics of the vehicles as outlined above.

30. For clarity, the Commissioner has not attached weight to the Consultant's report that an executive at [redacted] stated that the valuation of the Vehicle was reasonable, in circumstances where no such executive gave evidence in this appeal.

31. Turning then to the legislation, section 133(3)(c) of the Finance Act 1992 (as amended) defines the OMSP as: *"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 <u>might reasonably be expected to fetch on a first arm's length sale thereof in the State by retail</u>"* (emphasis added). The Commissioner observes that this provision does not refer to SIMI or to the "grossing up" methodology and therefore does not afford a statutory basis for the methods of valuation contended for by the Appellant.

32. The Commissioner considers that to assess the price which the Vehicle "*might reasonably be expected to fetch on a first arm's length sale thereof in the State by retail*", it was reasonable to use open market prices for similar models. While the Appellant contended that the two models used by the Respondent in its valuation were not for sale in the State, the Consultant testified that two of the vehicles which he compared in his valuation were for sale in a dealership in the State. The Commissioner has no reason to doubt this, which is further supported by the advertisements provided.

33. Furthermore, the Commissioner notes that the OMSP of [redacted], which the Appellant submitted to be his starting point, is much less than the open market prices contained in the advertisements presented to the Commissioner and relied on by the Consultant.

34. In support of his submission, the Appellant pointed to a SIMI recommended price of [redacted], which he stated was consistent with the OMSP for two similar models on the Respondent's database. The Commissioner observes that the SIMI document presented refers to a commercial vehicle, which the Commissioner does not consider to be comparable to the Vehicle. In addition, the Appellant presented one OMSP from the Respondent's database, which was €18,565 and related to a 2019 vehicle. The Commissioner does not consider that a 2019 model can be regarded as similar to the Vehicle, in the same way as the [redacted] models in the advertisements relied upon by the Consultant. In fairness, at the hearing, the Appellant stated that he did not seek a direct comparison with the OMSP from the Respondent's database.

35. In this appeal, the burden of proof in this appeal rests on the Appellant. The Commissioner considers that it was open to the Appellant to obtain his own valuation of

the Vehicle. The Commissioner acknowledges the Appellant's statement that the dealers he spoke to were unfamiliar with the Vehicle. However, the fact remains that the Appellant, with the burden of proof on him, did not adduce an alternative valuation of the Vehicle and no witness was called at the hearing to provide information as to any alternative valuation. Furthermore, the Appellant provided no advertisements of an equivalent vehicle demonstrating a valuation of, or in the region of, [redacted]. The Commissioner has found these to be material facts.

36. For completeness, the Commissioner notes that the Appellant's hearing documentation included an advertisement for €25,950 relating to a [redacted] three-door vehicle which at first stage appeal the Appellant stated was not comparable to the Vehicle.

37. At the hearing, the Appellant stated that he did not wish a negative inference to be drawn from the fact that he declined the Respondent's offer of a physical inspection of the Vehicle. He submitted that the Respondent should have offered a physical inspection at an earlier stage. As previously stated, the Commissioner has no supervisory jurisdiction over the processes of the Respondent. In any case, the Commissioner considers that it was the Appellant's prerogative not to have the Vehicle inspected.

38. The Commissioner acknowledges the Appellant's submission on the Vehicle's condition. However, in this appeal the Appellant did not present evidence of the condition of the Vehicle, which the Commissioner has found to be a material fact. Without such evidence, the Commissioner does not find a sufficient basis on which to reduce the valuation of the Vehicle in light of its condition.

39. Finally, the Appellant's hearing documentation contains pricing research for models similar to the Vehicle from [redacted], with prices ranging from €12,422 to €20,836 when converted to Euro. At the hearing, the Appellant did not refer the Commissioner to that research, which the Commissioner notes to comprise screenshots of online searches with AI overviews. In any event, the Commissioner does not consider that such research could assist in assessing the price which the Vehicle "*might reasonably be expected to fetch on a first arm's length sale thereof <u>in the State</u> by retail*" (emphasis added) in the same way as the advertisements presented by the Consultant, which relate to prices for similar vehicles on sale in the State.

40. In this case, the OMSP of €36,500 assessed by the Consultant on 19 September 2025 was lower than the OMSP of €40,327 assigned in the first stage appeal determination by the Respondent on 2 September 2025. Having heard from the Consultant and viewed the advertisements, the Commissioner is satisfied that to assess the price which the Vehicle

"*might reasonably be expected to fetch on a first arm's length sale thereof in the State by retail*", it was reasonable to use those open market prices for similar models. Furthermore, having compared the advertisements relied on by the Consultant with those initially relied on by the Respondent, the Commissioner is satisfied that those relied on by the Consultant are more suitable comparators, as they have manual rather than automatic transmission.

41. It would be open to the Commissioner to determine that the amount assessed in the first stage appeal determination ought to be varied to €36,500, on the basis of the valuation by Assess Ireland. That is within the Commissioner's statutory role. Nonetheless, in this case, the Commissioner has determined that this is not required and that the OMSP should be varied to €35,000, as offered to the Appellant by the Respondent on 22 September 2025 and having regard to the valuation by Assess Ireland.

Determination

42. Based on a consideration of the evidence and submissions together with a review of the documentation, the Commissioner determines that the Appellant has succeeded in showing that the charge to VRT assessed in the first stage appeal determination was wrong. The OMSP of the Vehicle of €40,327 assessed on first stage appeal is varied and reduced to €35,000, with VRT in the amount of €1,331 (€40,327 less €35,000 = €5,327 @ 25% VRT rate) being repayable to the Appellant. Accordingly, the amount of €1,331 is repayable to the Appellant.

43. The Commissioner appreciates that this decision will be disappointing for the Appellant, having regard to the Appellant's submissions. The Appellant was entitled to check to see whether his legal rights were correctly applied.

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

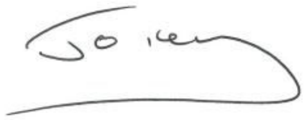
Notification

45. This determination complies with the notification requirements set out in section 949AJ TCA 1997, in particular section 949AJ (5) and section 949AJ (6) TCA 1997. For the avoidance of doubt, the parties are hereby notified of the determination under section 949AJ TCA 1997 and in particular the matters as required in section 949AJ (6) TCA 1997. This notification under section 949AJ 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

46. 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 TCA 1997. The Commission has no discretion to accept any request to appeal the determination outside the statutory time limit.



Jo Kenny
Appeal Commissioner
19 June 2026