



**18TACD2019**

**BETWEEN/**

**NAME REDACTED**

**Appellant**

**V**

**REVENUE COMMISSIONERS**

**Respondent**

**DETERMINATION**

**Introduction**

1. This appeal relates to Vehicle Registration Tax in accordance with section 132(3) of the Finance Act 1992, as amended ('FA 1992'). This appeal is determined in accordance with section 949U TCA 1997.

**Background**

2. The vehicle the subject matter of this appeal, is a 2017 Toyota Hilux 2.4, registration number [REDACTED]. The vehicle was registered in the State on 10 March 2017.
3. Section 130 of the Finance Act 1992, as amended, provides that a '*category B vehicle*' means a category N1 vehicle or a motor caravan'. The parties agreed that the vehicle, the subject of this appeal, was a category B vehicle in accordance with section 130 FA 1992. On 10 March 2017, VRT in the amount of €5,250 was charged to the Appellant in respect of the vehicle in accordance with section 132(3)(c) FA 1992.
4. A declaration of conversion dated 20 January 2017 provided that the vehicle, originally a category N1 vehicle with five seats, had been converted to a category N1 vehicle

containing two seats. The Appellant stated that he expected to pay VRT in the sum of €200 in accordance with s.132(3)(d)(ii) and that this expectation was based on information received from the Respondent's VRT officials. The Respondent stated that they could not locate a record of any enquiries made by the Appellant in relation to the applicable VRT rate.

5. The Appellant appealed to the Respondent in accordance with section 145 FA 2001 and this appeal was refused on the basis that the vehicle did not qualify for the €200 rate in accordance with s.132(3)(d)(ii) as the vehicle was not a category N1 vehicle that '*at all stages of manufacture, is classified as a category N1 vehicle with less than 4 seats*'. As a result, the Appellant was charged VRT in accordance with s.132(3)(c) FA 1992. The Appellant duly appealed.

## **Legislation**

### Section 146 Finance Act 2001

Section 146 Finance Act 2001 provides as follows;

*"A person who is aggrieved by a determination of the Commissioners under section 145 may, in accordance with this section, appeal to the Appeal Commissioners against such determination and the appeal is to be heard and determined by the Appeal Commissioners whose determination is final and conclusive unless a case is required to be stated in relation to it for the opinion of the High Court on a point of law."*

### Section 130 of the Finance Act 1992 - Interpretation

*'category B vehicle' means a category N1 vehicle or a motor caravan*

### Commission Regulation (EU) No. 678/2011

Category N1 vehicle is defined in EU Regulation 678/2011 as follows;

*"Motor vehicles designed and constructed for the carriage of goods and having maximum laden mass of 3.5 tons."*



Section 132(3) of the Finance Act 1992

*(3) The duty of excise imposed by subsection (1) shall be charged, levied and paid –*

*(c) In case it is a category B vehicle, at the rate of an amount equal to 13.3 per cent, of the value of the vehicle or €125, whichever is the greater,*

*...*

*(d) in case it is –*

*(i) ...*

*(ii) a vehicle that, at all stages of manufacture, is classified as a category N1 vehicle with less than 4 seats and has, at any stage of manufacture, a technically permissible maximum laden mass that is greater than 130 per cent of the mass of the vehicle with bodywork in running order,*

*At the rate of €50, or in case such vehicle is registered on or after 1 May 2011, at the rate of €200*

**Submissions and Analysis**

12. The Appellant stated that prior to purchasing his vehicle, he had several discussions with the Respondent's officials in relation to the conversion of his vehicle and that he understood that his vehicle once converted, would be subject to VRT in accordance with s.132(3)(d)(ii) FA 1992 on the basis that the vehicle would be a certified two seater vehicle.
15. The Appellant stated that he would not have purchased the vehicle but for the information provided to him by the Respondent's VRT officials. He stated that in his view, the appropriate VRT charge was one in the region of €200. The Respondent stated that there was no documentary evidence of a VRT estimate of €200 having issued to the Appellant and that the appropriate taxing provision was s.132(3)(c) FA 1992.
17. The Respondent accepted that the Appellant's vehicle was a category N1 vehicle within the meaning of Commission Regulation 678/2011 but stated that the vehicle did not qualify for the €200 VRT rate as the vehicle was originally manufactured with five seats. The Respondent emphasised that this fact was not in dispute. The Respondent submitted



that the Appellant was unable to demonstrate that the vehicle '*at all stages of manufacture, is classified as a category N1 vehicle with less than 4 seats*' in accordance with s.132(3)(d)(ii) FA 1992.

21. As a result, the Respondent submitted that the appropriate taxing section was section 132(3)(c) FA 1992 and that a VRT charge of €5,250 was the correct VRT amount payable in respect of the vehicle.

### **Conclusion**

22. It is not disputed that prior to conversion, the vehicle was a category N1 vehicle with five seats. Thus, I determine that as the vehicle was not '*at all stages of manufacture, .... a category N1 vehicle with less than 4 seats*' the vehicle does not satisfy the requirements of s.132(3)(d)(ii). In conclusion, I determine that the VRT charge of €5,250 shall stand.
24. For the reasons set out above, I determine the VRT charge of €5,250 shall stand. This appeal is determined in accordance with section 949AL 1997.

**COMMISSIONER LORNA GALLAGHER**

**February 2019**

***The parties to this appeal have not requested the Appeal Commissioner to state and sign a case for the opinion of the High Court***



