



26TACD2018

BETWEEN/

NAME REDACTED

Appellant

V

THE REVENUE COMMISSIONERS

Respondent

DETERMINATION

Introduction

1. This appeal relates to the availability of relief from vehicle registration tax ('VRT') known as '*transfer of residence relief*' in accordance with section 134(1)(a) of the Finance Act 1992, as amended and Statutory Instrument no. 59/1993 (Vehicle Registration Tax (Permanent Reliefs) Regulation 1993). The application for exemption was refused by the Respondent on 28/4/17, was appealed on 4/5/17 and was refused on appeal. The Appellant paid vehicle registration tax of €2,319 and appealed to the Tax Appeals Commission on 28/7/17.

Background

2. The Appellant, owner of the vehicle the subject matter of the claim, resided and worked in the UK during the period September 2013 to April 2017. The vehicle was in the possession of and used by the Appellant in the UK, for the six-month statutory period required by paragraph 4(1)(a) of S.I. 59/1993.
3. The Appellant submitted that prior to his return to the State in April 2017, his place of '*normal residence*' for the purpose of the relief was the UK.

4. The Respondent accepted that the Appellant lived and worked in the UK for the period September 2013 to April 2017 however, the Respondent submitted that as the Appellant returned regularly to the State during this time, the Appellant's place of normal residence for the purpose of the relief remained within the State. The Appellant contended that he did not return to Ireland 'regularly' within the meaning of the regulation.

Legislation

Section 134(1)(a) of Finance Act 1992, as amended.

- (1) *A vehicle may, subject to any conditions, restrictions or limitations prescribed by the Minister by regulations made by him under section 141 be registered without payment of vehicle registration tax if the vehicle is –*

- a. the personal property of a private individual and is being brought permanently into the State by the individual when he is transferring his normal residence from a place outside the State to a place in the State,*

Statutory Instrument No. 59/1993, Vehicle Registration Tax (Permanent Reliefs) Regulations, 1993

3. (1) In these Regulations-

" the Act" means the Finance Act, 1992 (No. 9 of 1992);

"normal residence" means the place where a person usually lives, that is to say, where he lives for at least 185 days in each year, because of personal and occupational ties, or, in the case of a person with no occupational ties, because of personal ties.

However, the normal residence of a person whose occupational ties are in a different place from his personal ties and who consequently lives in turn in different places situated in 2 or more countries shall be regarded as being the place of his personal ties:

Provided that such person returns to the place of his personal ties regularly. This proviso shall not apply where the person is living in a country in order to carry out a task of a duration of less than one year

...



Transfer of Residence

4. (1) Subject to paragraph (5), the relief under section 134 (1) (a) of the Act shall be granted for any vehicle -

(a) which is the personal property of an individual transferring his normal residence to the State and which has been in the possession of and used by him outside the State for a period of at least six months before the date on which he ceases to have his normal residence outside the State

(b) which has been acquired under the general conditions of taxation in force in the domestic market of a country and which is not the subject, on the grounds of exportation or departure from the country, of any exemption from or any refund of value-added tax, excise duty or any other consumption tax, and

(c) in respect of which an application for relief, in such form as may be specified by the Commissioners, is made to the Commissioners not later than the next working day following its arrival in the State or, in case the vehicle requires the making of a customs entry on arrival in the State, not later than the next working day after its release from customs control.

... etc

Submissions and Analysis

5. The exemption pursuant to section 134(1)(a) of the Finance Act 1992, as amended, provides that a vehicle may be registered without payment of vehicle registration tax if the vehicle is brought permanently into the State by the individual '*when he is transferring his normal residence from a place outside the State to a place in the State;*' The Respondent accepted that the Appellant resided in the UK over a three and a half year period commencing in 2016. The Appellant submitted that his place of normal residence during this time was in the UK.
6. The meaning of the term '*normal residence*' as set out at paragraph 3 of S.I. 59/1993 specifically addresses a situation where a person may have personal ties and occupational ties in different jurisdictions. The regulation provides as follows;



'However, the normal residence of a person whose occupational ties are in a different place from his personal ties and who consequently lives in turn in different places situated in 2 or more countries shall be regarded as being the place of his personal ties: Provided that such person returns to the place of his personal ties regularly...' [emphasis added]

7. The Appellant's wife and children resided in Ireland while the Appellant was working in the UK and thus the Appellant's personal ties were in Ireland. This appeal is concerned with the net issue of whether the Appellant returned regularly to the State during September 2013 to April 2017. The Appellant stated that he returned to Ireland as often as he could but that it was not every day or every week. He stated that typically, he returned every second weekend on Friday evening, staying until Sunday evening. He stated that there were periods when he would have spent four weeks in the UK without returning and on occasion, periods longer than four weeks. The Appellant submitted that there was no definition of '*regularly*' in the legislation. He stated that he would consider daily travel to and from the UK to be regular.
8. I am satisfied that there is no inherent ambiguity in the use of the word '*regularly*' in paragraph 3 of S.I. 59/1993 and as a result, the words contained therein shall be afforded their ordinary and natural meaning. The interpretative approach to be applied is a literal one taking into account the jurisprudence in relation to the interpretation of taxation statutes based on a long line of authorities including *inter alia*, *Revenue Commissioners v Doorley* [1933] IR 750 and *The Inspector of Taxes v Kiernan* [1982] ILRM 13.
9. The Appellant's personal ties were within the State during the period September 2013 to April 2017. The legislation asks whether the individual returned '*regularly*' to his/her place of personal ties. The ordinary and natural meaning of the word '*regularly*' in my view connotes; frequently, habitually, or on a regular basis. While the Appellant argued that his trips home were irregular as opposed to regular, I do not consider '*regularly*' in the context of the regulation to require periods of time between trips to be divided by uniform intervals. The spaces between trips may differ and fluctuate and need not be orderly or systematic. I am satisfied that in returning approximately (though not consistently) every second weekend, the Appellant returned '*regularly*' to the State within the meaning of the paragraph 3 of S.I. 59/1993.



Conclusion

10. I am satisfied that the Appellant returned regularly to his place of personal ties in the State during the period September 2013 to April 2017 and that his place of '*normal residence*' was within the State. I determine that the Appellant, having failed satisfy the conditions of the transfer of residence relief in accordance with section 134(1)(a) of the Finance Act 1992 and S.I. No. 59/1993 is unable to avail of the relief.

11. The appeal hereby is determined in accordance with section 949AL TCA 1997.

COMMISSIONER LORNA GALLAGHER

October 2018

