



Between

102TACD2024

████████████████████

**Appellant**

and

**REVENUE COMMISSIONERS**

**Respondent**

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**Determination**

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**Introduction**

1. This is an appeal by ██████████ (“the Appellant”) against the imposition of Value-Added Tax (“VAT”) on the importation of a motorcycle, registration number ██████████ (“the vehicle”), into the State. The VAT was charged by the Revenue Commissioners (“the Respondent”) as the vehicle had travelled less than 6,000 kilometres as at the date of registration.
2. In accordance with the provisions of section 949U of the Taxes Consolidation Act 1997 as amended (“TCA 1997”), this appeal is determined without a hearing.

**Background**

3. The vehicle was first registered in ██████████ 2017. The Appellant imported the vehicle from Northern Ireland and registered it in the State on ██████████ 2023.
4. VAT was charged on the importation of the vehicle in the State. The Commissioner notes that, in his Notice of Appeal, the Appellant stated that he was appealing against the imposition of VAT in the amount of €1,594, whereas the Respondent has stated that VAT of €2,733 was charged. For the purposes of this determination, the Commissioner

assumes that the Appellant is appealing against the total amount of VAT charged by the Respondent.

5. On 28 November 2023, the Appellant appealed the VAT to the Tax Appeals Commission (“the Commission”). On 13 May 2024, the Commission notified the parties that the Commissioner intended to determine the appeal without a hearing, pursuant to section 949U of the TCA 1997. Neither party objected to the appeal being determined without a hearing, and the Commissioner is satisfied that it is appropriate to determine this appeal without an oral hearing.

### **Legislation and Guidelines**

6. Section 2 of the Value-Added Tax Consolidation Act 2010 as amended (“VATCA 2010”) states *inter alia* that

*“new means of transport” means motorised land vehicles with an engine cylinder capacity exceeding 48 cubic centimetres or a power exceeding 7.2 kilowatts...*

*(a) which are intended for the transport of persons or goods, and*

*(b) (i) which ... in the case of land vehicles were supplied 6 months or less after the date of first entry into service, or*

*(ii) which have travelled 6,000 kilometres or less in the case of land vehicles...”*

7. The Respondent’s website<sup>1</sup> provides that

*“New vehicles brought into the State from another European Union (EU) Member State and from Northern Ireland (NI), are subject to Value-Added Tax (VAT). A new vehicle is one which is 6 months old or less, or has travelled 6,000 km or less.”*

### **Submissions**

#### *Appellant*

8. In his Notice of Appeal, the Appellant stated that

*“I am appealing the amount of VAT charged on the grounds that although the motorcycle imported by me from Northern Ireland had low mileage, 3533 kms, it is a six year old machine.*

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<sup>1</sup> <https://www.revenue.ie/en/vrt/registration-of-imported-used-vehicles/vat-implications-importing-vehicles-gb-ni.aspx>

*As a bike of this age it is not in as new condition and for safety reasons needs quite a lot of work and therefor money spent on it.*

*The tyre manufacturers recommend that tyres should be changed regardless of wear after five years because of deterioration of the materials over time.*

*Rubber seals in the brake callipers are also suspect and will need attention. Other seals throughout the engine and suspension may also have perished.*

*My argument is that because of its age the machine cannot be considered new. if the bike was two years old with similar mileage I can see where the assessment comes from but in this case I am asking for a review.*

*I am not in the business of importing bikes and at my advanced age this will very likely be the last motorbike that I will own.”*

9. In a further submission, the Appellant stated that

*“I have been charged a sum of VAT that I consider unfair. The bike that I imported although low mileage cannot under any reasonable opinion be classed as a new vehicle because of its age, seven years at the time of import. This age has meant that in order to make the bike safe I have had to replace a considerable number of perished items on the bike. I cannot quote statute or case law as I am not qualified to do so but I appeal on the grounds of fairness and nature justice. I hope that you will see this in the same light as I.”*

*Respondent*

10. In its Statement of Case, the Respondent stated that

*“When entering the State, a vehicle is a new means of transport (for VAT purposes) if it is less than 6 months old OR it has travelled less than 6,000 kilometres. This is in accordance with Section 2 VATCA.*

*If the vehicle is a new means of transport VAT is chargeable.*

*As the appellant’s vehicle had less than 6,000 kilometres travelled when it entered the State VAT was correctly charged.”*

11. The Respondent also referred to a previous determination of the Commission, 122TACD2021, which it stated supported its position.

## Material Facts

12. Having read the documentation submitted by the parties, the Commissioner makes the following findings of material fact:
  - 12.1. The vehicle was first registered in [REDACTED] 2017.
  - 12.2. The Appellant imported the vehicle into the State in and around [REDACTED] 2023.
  - 12.3. The vehicle was registered in the State on [REDACTED] 2023. At the date of registration, the vehicle's odometer showed that it had travelled less than 6,000 kilometres.

## Analysis

13. The burden of proof in this appeal rests on the Appellant, who must show that the Respondent was incorrect to impose VAT on the importation of the vehicle in the State. 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.*"
14. In this appeal, it is not in dispute that the vehicle was more than six months old, as it was first registered in 2017. The Appellant imported the vehicle into the State from Northern Ireland and registered it in this jurisdiction on [REDACTED] 2023. It is also not in dispute that, as of the date of registration in the State, the vehicle had a 'mileage' of less than 6,000kms.
15. The Appellant is aggrieved that the Respondent classified the vehicle as a "new means of transport" and charged him VAT, as the vehicle was approximately six years old on importation, and the Appellant stated that he had to replace parts of the vehicle to make it roadworthy. The Appellant stated that he is appealing "*on the grounds of fairness and nature justice.*"
16. The Commissioner appreciates the frustration of the Appellant on having to pay VAT on the importation of a vehicle that, in ordinary everyday parlance, would not be considered "new". However, the difficulty that he faces is that section 2 of the VATCA 2010 clearly defines a "new means of transport" as *inter alia* a land vehicle that has travelled less than 6,000kms.

17. Section 3 of the VATCA 2010 provides for the imposition of VAT on the importation of a “new means of transport” into the State. The Commissioner is satisfied that the vehicle had travelled less than 6,000kms and was therefore properly classified as a new means of transport. Consequently, the Commissioner is satisfied that the Respondent was correct to charge the Appellant VAT on the importation of the vehicle.
18. The Commissioner appreciates that this determination will be disappointing for the Appellant, who brought the appeal “*on the grounds of fairness and nature justice.*” However, it is important to explain that the Commissioner’s role is limited to considering whether a tax has been correctly imposed according to law. The Commissioner has no equitable jurisdiction, or discretionary power that could allow him to waive or disapply a tax properly imposed.
19. Therefore, for the reasons set out herein, the Commissioner is satisfied that the Respondent correctly charged VAT on the importation of the vehicle into the State, and the appeal is unsuccessful.

#### **Determination**

20. 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 correct to impose VAT on the importation of the vehicle in the State.
21. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular sections 949AL and 949U thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

#### **Notification**

22. 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

23. 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  
21 June 2024