



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

174TACD2025

Between



Appellant

and

THE REVENUE COMMISSIONERS

Respondent

Determination

Contents

Introduction 3
Background..... 3
Legislation..... 4
Submissions 4
 The Appellant - Written submissions. 4
 The Respondent - Written submissions 5
Material Facts 6
Analysis 7
Determination 11
Notification 11
Appeal 11
APPENDIX I..... 12
APPENDIX II..... 14

Introduction

1. This is an appeal to the Tax Appeals Commission (“the Commission”) by [REDACTED] (“the Appellant”) in respect of the refusal of Transfer of Residence (“TOR”) relief by the Revenue Commissioners (“the Respondent”).
2. In accordance with the provisions of section 949U of the Taxes Consolidation Act 1997 (“TCA 1997”) this appeal is adjudicated and determined without a hearing. All parties have consented to the appeal being determined without a hearing.

Background

3. On 14 October 2019, the Appellant commenced employment in the [REDACTED].
4. On 5 November 2020, the Appellant purchased motor vehicle registration number [REDACTED] (“the Appellant’s Motor Vehicle”).
5. On 13 January 2024, an application form for TOR relief was submitted via myEnquiries by the Appellant.
6. On 13 January 2024, the Respondent made a finding that the application form submitted by the Appellant was not signed or dated and the documentation submitted was insufficient to support the application for TOR relief and the application was refused.
7. On 7 July 2024, a first stage appeal to the Respondent was submitted via myEnquiries by the Appellant.
8. On the 26 August 2024, the Respondent requested further information from the Appellant in support of his application for TOR relief. On 8 September 2024, the Appellant supplied additional material to the Respondent.
9. On 16 September 2024, the Respondent issued its decision to the Appellant which stated that based on the material supplied to it by the Appellant the normal residence of the Appellant outside of the State, for the relevant period, had not been proven. The Respondent stated that bank statements provided to it were redacted and it was not clear where the Appellant’s day to day spending was happening, on the dates before the Appellant claimed he transferred to living in the State.
10. On 16 September 2024, the Appellant submitted his Notice of Appeal to the Commission. The Appellant claims *inter alia* that the Respondent is not entitled to refuse his application for TOR relief. The Appellant claims:

“[M]y permanent address has been in [REDACTED] N.I. from birth ([REDACTED]) until February of this year (2024) when my partner and I took up permanent residence in [REDACTED] [REDACTED]. I had owned the vehicle for 3.5 years prior to transferring residence. I have been a member of the [REDACTED] since 2019 and have, as a result spent periods of time in the state on continuous training courses and operational deployments, as well as deployment overseas but have maintained my permanent residence at my family home in [REDACTED] until this year. I have provided a full list of all [REDACTED] postings in this time and have also provided signed letters from the home owners (my parents) that my permanent residence was in [REDACTED] prior to February 2024 (I have no rental agreements for living outside of the state as I lived at home until I moved to [REDACTED]). I was told that I provided insufficient evidence that my residence was outside of the state prior to the transfer of residence, even though I have resided in another state since birth. While I have spent periods of time in the Republic of Ireland prior to transferring residence, this was always compulsory work engagements for the [REDACTED], who provided [REDACTED] accommodation for the duration of training courses and operational deployments, none of which became my residence. I would appreciate some correspondence on the matter and the opportunity to clarify any points that my [sic] still be considered withstanding...”

Legislation

11. The legislation relevant to this appeal is section 134 of the Finance Act 1992: *Permanent reliefs* and the Vehicle Registration Tax (Permanent Reliefs) Regulations 1993, (S.I. 59 of 1993) (*Normal residence in the State before date claimed*). See Appendix I and II.

Submissions

The Appellant - Written submissions.

12. An extract of written submissions made on behalf of the Appellant is set out below

“I have appealed the decision of Revenue to deny the exemption for VRT on the basis that I have not provided sufficient evidence that I was residing outside of the State within the required time frame.

I dispute this on the basis that the guidance (as stated on Citizens Information.ie) clearly states the following conditions must be met for VRT exemption to be granted:

“To claim an exemption from VRT, you must

- Have had your normal residence outside Ireland at least 185 days per year before moving to Ireland.

- Own the vehicle
- Have owned and used the vehicle outside of Ireland for at least 6 months before moving to Ireland
- Make sure the required tax and duty is paid on the vehicle
- Import your vehicle within one year of moving to Ireland

I have submitted documentation to show that I meet all of the above requirements, which I will attach to this email.

I have submitted documentation from my [REDACTED] outlining all of my postings in the [REDACTED] confirming that these were all mandatory postings with temporary accommodation [sic] provided by [REDACTED] for each posting. My permanent residence during this time was always in [REDACTED].

In February 2024, I transferred my permanent residence to [REDACTED] at which time I applied for VRT exemption on the basis already outlined. Please find all relevant supporting documentation for this exemption attach. [sic]"

The Respondent - Written submissions

13. An extract of the Respondent's submissions is set out below:

"1. Statutory provisions being relied on

1.1 Section 134 FA 1992, as amended (six-month ownership criteria not met)

*1.2 Vehicle Registration Tax (Permanent Reliefs) Regulations 1993, (S.I. 59 of 1993)
(Normal residence in the State before date claimed)*

2. Outline of relevant facts

2.1 This is an appeal against the refusal of Transfer of Residence (TOR) relief.

2.2 An application form was submitted via myEnquiries on 13/01/2024. The form was not signed or dated by [REDACTED]. The refusal was issued 13/05/2024 stating that the documentation provided was not sufficient to grant relief.

2.3 An appeal was submitted via myEnquiries on 07/07/2024, further information was requested on 26/08/2024, submitted on 08/09/2024, and subsequently a decision issued on 16/09/2024 which confirmed that Normal Residence outside of the State, for the relevant period, was not proven. Bank Statements provided were redacted so it is not clear where [REDACTED] day to day spending was for the dates before he says he transferred.

2.4 The Appellant commenced employment in the [REDACTED] on [REDACTED]/10/2019.

2.5 The vehicle in question, [REDACTED], was purchased on 05/11/2020, per invoice provided with application.

2.6 The postings document, attached, provided by the Appellant states that he was in full time employment at each posting in [REDACTED] where accommodation was provided. The dates on this document infer that the Appellant was resident in the State from the 14/10/2019 when he commenced employment and was resident in the State on 05/11/2020 when the vehicle was purchased.

2.7 Although [REDACTED] states that he was resident in Northern Ireland until February 2024, 05/12/2023 per application form, his centre of interest and occupational ties moved to the State in October 2019 when he commenced employment. His accommodation was provided by his employer and as he was working full time, he was in the State for more than 185 days in the year 2020 which means his Normal Residence was in the State when he purchased the vehicle on 05/11/2020.

2.8 Other Revenue records contradict [REDACTED], as he stated elsewhere that he was Resident, Ordinarily Resident and Domiciled in the State for the years 2022 and 2023.

2.9 Having reviewed the application and supporting documentation provided by [REDACTED], Revenue's position remains that the relief is not due as he has not shown that his Normal Residence was outside the State for the relevant period prior to transfer".

Material Facts

14. Having read the documentation submitted, the Commissioner makes the following findings of material fact:

- 14.1. on 14 October 2019, the Appellant commenced employment in the [REDACTED];
- 14.2. on 5 November 2020, the Appellant purchased the Appellant's Motor Vehicle;
- 14.3. on 13 January 2024, the Appellant submitted an application for TOR relief;
- 14.4. on 16 September 2024, the Appellant's application for TOR relief was refused;
- 14.5. on 16 September 2024, the Appellant submitted his Notice of Appeal to the Commission. The Appellant claims inter alia that the Respondent is not entitled to refuse his application for TOR relief.

Analysis

15. 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. In this regard, the jurisdiction of a Commissioner is well established and was considered by the Court of Appeal in *Lee v the Revenue Commissioners* [2021] IECA 18 (“Lee”) wherein Murray J. stated at paragraph 20:

“The Appeal Commissioners are a creature of statute, their functions are limited to those conferred by the TCA, and they enjoy neither an inherent power of any kind, nor a general jurisdiction to enquire into the legal validity of any particular assessment. Insofar as they are said to enjoy any identified function, it must be either rooted in the express language of the TCA or must arise by necessary implication from the terms of that legislation”.

16. The Commissioner refers further to *Lee*, wherein Murray, J. stated at paragraph 76:

“The jurisdiction of the Appeal Commissioners is limited to determining whether an assessment correctly charges the relevant taxpayer in accordance with the relevant provisions of the TCA. That means that the Commissioners are restricted to inquiring into, and making findings as to, those issues of fact and law that are relevant to the statutory charge to tax. Their essential function is to look at the facts and statutes and see if the assessment has been properly prepared in accordance with those statutes. They may make findings of fact and law that are incidental to that inquiry. Noting the possibility that other provisions of the TCA may confer a broader jurisdiction and the requirements that may arise under European Law in a particular case, they do not in an appeal of the kind in issue in this case enjoy the jurisdiction to make findings in relation to matters that are not directly relevant to that remit, and do not accordingly have the power to adjudicate upon whether a liability the subject of an assessment has been compromised, or whether Revenue are precluded by legitimate expectation or estoppel from enforcing such a liability by assessment, or whether Revenue have acted in connection with the issuing or formulation of the assessment in a manner that would, if adjudicated upon by the High Court in proceedings seeking Judicial Review of that assessment, render it invalid.”

17. The Commissioner also refers to the judgment of *Fahy v the Revenue Commissioners* [2023] IEHC 710; wherein Quinn, J. stated at paragraph 47:

“ Applying the rationale of the jurisprudence summarise and analysed in Lee, the function of the TAC is limited to what is provided in the legislation and factual and legal questions arising therefrom. There is no inherent jurisdiction to consider broader questions ...”

18. The Commissioner is bound by the prevailing legislation and guiding case law from the Superior Courts which has found, that in any appeal before the Commission, the burden of proof rests on the Appellant and that it is the Appellant who must satisfy the Commission at the threshold of the balance of probabilities, that an assessment to tax made against them is incorrect. This binding legal principle was stated in the High Court case of *Menolly Homes Ltd v Appeal Commissioners and Anor.* [2010] IEHC 49, (“*Menolly*”) wherein at paragraph 22, Charleton, J. stated:

“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”.

19. The Commissioner also refers to paragraph 12 of the case of *Menolly*, wherein Charleton, J. stated:

“Revenue law has no equity. Taxation does not arise by virtue of civic responsibility but through legislation. Tax is not payable unless the circumstances of liability are defined, and the rate measured, by statute...”.

20. The Commissioner refers to the Supreme Court judgment of *Revenue Commissioners v Doorley* [1933] IR 750, [“*Doorley*”], in which Kennedy CJ stated:

“.....As the imposition of, so the exemption from, the tax must be brought within the letter of the taxing Act as interpreted by the established canons of construction so far as applicable.”

21. Further the Commissioner refers to *Doorley* at page 765 in which Kennedy CJ stated:

“The duty of the Court, as it appears to me, is to reject any a priori line of reasoning and to examine the text of the taxing act in question and determine whether the tax in question is thereby imposed expressly and in clear and unambiguous terms on the alleged subject of taxation”.

22. Further the Commissioner refers to *Doorley* in which Kennedy CJ stated:

“For no person or property is to be subjected to taxation unless brought within the letter of the taxing statute, i.e. within the letter of the statute as interpreted with the assistance of the ordinary canons of interpretation applicable to acts of parliament so far as they can be applied without violated the proper character of taxing acts to which I have referred.”

23. All material submitted to the Commission by the parties has been assessed by the Commissioner before making this determination.

24. The Commissioner’s role in this appeal is to determine if the Appellant has shown that the Respondent was not entitled to refuse the Appellant’s application for TOR relief and to raise a notice of assessment for the payment of €2,650.00 in respect of vehicle registration tax (“VRT”) regarding the Appellant’s Motor Vehicle.

25. The Commissioner finds that this appeal centres on the provisions of section 134 of the Finance Act 1992 and the Vehicle Registration Tax (Permanent Reliefs) Regulations, 1993 (“the Regulations”).

26. It is noted that section 134(1)(a) of the Finance Act 1992 provides that a vehicle may, subject to any conditions prescribed by the Regulations be registered without payment of VRT on compliance with specified conditions. The specified conditions are that the vehicle is the personal property of a private individual and is being brought permanently into the State by the individual when they are transferring their normal residence from a place outside the State to the State.

27. It is noted that regulation 3 of the Regulations provides *inter alia* that “normal residence” means the place where a person usually 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.

28. It is noted that regulation 4(1)(a) of the Regulations provides *inter alia* that subject to paragraph (5) of the Regulations the TOR relief provided for under section 134(1)(a) of the Finance Act 1992 shall be granted for any vehicle which is the personal property of an individual transferring their normal residence to the State subject to specified conditions. The conditions are that the motor vehicle has been in the possession of and used by the individual outside the State for a period of at least six months before the date on which they cease to have their normal residence outside the State.

29. It is noted that the Appellant submits he remained at all times resident in Northern Ireland until February 2024, notwithstanding that the Appellant submits he commenced employment with the [REDACTED] on 14 October 2019.
30. The Commissioner has assessed all the material submitted by the Appellant to the Commission including the details of the Appellant's many postings at various [REDACTED] [REDACTED] within the State. The Commissioner finds that the material submitted to the Commission by the Appellant supports the finding that the Appellant was in employment in the State from 14 October 2019 to at least 5 November 2020.
31. The Commissioner refers to regulation 1 of the Regulations and the definition of "*normal residence*" and notes that the legislation provides that "*normal residence*" is deemed to be where a person usually lives for at least 185 days in each year, because of personal and occupational ties.
32. The Commissioner having assessed the material before her, finds that the Appellant was resident in the State because of occupational ties from 14 October 2019 to at least 5 November 2020 when the Appellant bought the Appellant's Motor Vehicle.
33. The Commissioner finds that the Appellant was resident in the State owing to occupational ties from 1 January 2020 to at least 5 November 2020 which is in excess of 185 days in a tax year and was therefore in normal residence in the State for 2020.
34. The Commissioner refers to regulation 4(1)(a) of the Regulations which provides *inter alia* that subject to paragraph (5) of the Regulations that the TOR relief provided for under section 134(1)(a) of the Finance Act 1992 shall be granted for any vehicle which is the personal property of an individual transferring their normal residence to the State subject to a condition. The condition to be satisfied is that the motor vehicle has been in the possession of and used by the individual outside the State for a period of at least six months before the date on which they cease to have their normal residence outside the State. It is noted that in order for the Appellant to satisfy the above condition the Appellant would have had to transfer his normal residence to the State on some date after the expiry of 6 (six) months from 5 November 2020; on some date after 5 May 2021. The Commissioner has already made a finding that the Appellant had normal residence in the State in 2020 and before 5 November 2020 and that accordingly, the Appellant did not comply with and fulfil the requirements specified in regulation 4(1)(a) of the Regulations.
35. For the reasons set out above the Commissioner is satisfied that the Appellant has not met the burden of proof in establishing that the Respondent was not entitled to refuse the

application for TOR relief and further to make the demand for payment of VRT in the amount of €2,650.00 in respect of the Appellant's Motor Vehicle.

36. The Commissioner finds having assessed all the material and submissions before the Commission that the Appellant's appeal is unsuccessful.

Determination

37. The Commissioner determines that the Respondent was entitled to refuse the application for TOR relief and to raise the demand for payment of VRT. The Commissioner determines that further to the provisions of section 949AL(1)(b) of the TCA 1997 that the amount demanded by the Respondent for payment shall stand.
38. 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

39. 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

40. 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.



Leonora B. Doyle
Appeal Commissioner
25 April 2025

APPENDIX I

Section 134 of the Finance Act 1992: *Permanent reliefs*, provides *inter alia*:

(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— [Emphasis added]

(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, [Emphasis added]

(b) being brought permanently into the State as part of the capital goods and other equipment of a business undertaking which definitively ceases its activity outside the State and moves to the State in order to carry on a similar activity there,

(c) the personal property of a deceased person and is being brought permanently into the State by a person resident in the State, or a person or body of persons established in the State and engaged in a non-profit making activity, who either acquired by inheritance the ownership or beneficial ownership of such vehicle or is the personal representative resident in the State of the deceased person,

(d) given as a gift, in token of friendship or good will by an official body, public authority or group carrying on an activity in the public service or interest, which is located outside the State, to an official body, public authority or group carrying on an activity in the public service or interest, which is located in the State and is approved by the Commissioners for the purposes of this paragraph,

(e) for official use by an institution of the European Communities,

(f) for the personal use of officials or other members of the staff of an institution of the European Communities who transfer their residence to the State to take up a position there with an institution of the European Communities,

(g) supplied under diplomatic, consular or similar arrangements by virtue of the *Diplomatic Relations and Immunities Acts, 1967 and 1976*, and orders made thereunder.

(2) Effect may be given to the provisions of subsection (1) by means of a repayment of vehicle registration tax subject to any conditions the Commissioners see fit to impose.

(3) The reliefs allowed under the Disabled Drivers (Tax Concessions) Regulations, 1989 (S.I. No. 340 of 1989), shall apply with any necessary modifications to vehicle registration tax.

(4) A vehicle may be registered, subject to such conditions, limitations and restrictions (if any) as the Commissioners may impose, without payment of vehicle registration tax and with the repayment of any such tax paid, where the Commissioners are satisfied that such vehicle is for use—

(i) in the establishment or maintenance of an international air service using or involving the use of an airport in the State,

(ii) in the establishment or maintenance of radio or meteorological services or other aids to air navigation ancillary to any such international air service, or

(iii) for experimental purposes in connection with the establishment or maintenance of any such international air service.

(5) Whenever the Minister so thinks proper, he may authorise the Commissioners to register a vehicle, subject to such conditions, limitations or restrictions (if any) as they may impose, either without payment of vehicle registration tax or on payment of the tax at less than the rate ordinarily chargeable or, where the said tax has been paid, to repay the tax in whole or in part.

APPENDIX II

S.I. No. 59 of 1993. 2 March 1993

VEHICLE REGISTRATION TAX (PERMANENT RELIEFS) REGULATIONS, 1993 provides *inter alia*

1. *These Regulations may be cited as the Vehicle Registration Tax (Permanent Reliefs) Regulations, 1993.*

2. *These Regulations shall be deemed to have come into operation on the 1st day of January, 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.
[Emphasis added]

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.

A person who lives in a country primarily for the purposes of attending a school or university or other educational or vocational establishment shall not be regarded as having his normal residence in that country.

"personal property" means property for the personal use of the person concerned and his household living with him outside the State but does not include property which by reason of its nature or quantity reflects any commercial interest or is intended to be used for any commercial purpose.

(2) *An expression or word used in these Regulations and also used in Chapter IV of Part II of the Act shall, unless the contrary intention appears, have in these Regulations the meaning that it has in that Chapter.*

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. [Emphasis added]

(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 that 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.

(2) Where a vehicle is—

(a) supplied under diplomatic or consular arrangements, or

(b) supplied to an international organisation recognised as such by the Minister for Foreign Affairs or to a member of such an organisation within the limits and under the conditions laid down by the international convention establishing the organisation, or by another similar agreement, the conditions specified in paragraph (1) (b) of this Regulation shall be deemed to have been complied with as respects the vehicle and in paragraph (1) (a) of this Regulation the reference to 6 months shall be construed as a reference to 12 months.

(3) Proof shall be supplied to the Commissioners within one month of the date of the application for the relief aforesaid that the conditions specified in paragraph (1) of this Regulation have been complied with. The proof shall consist of—

(a) a sales invoice, receipt of purchase, or other similar document, which clearly establishes, where relevant, that any value-added tax, excise duty or other consumption tax payable on the vehicle concerned outside the State was paid and not refunded,

(b) in relation to the possession of and use of the vehicle by the person concerned for the appropriate period aforesaid, the vehicle registration document and insurance certificates for the vehicle,

(c) in relation to normal residence outside the State, documents relating to the acquisition of property, or to employment or cessation of employment, or to other transactions carried out in the course of day-to-day living,

(d) in relation to the transfer of normal residence to a place in the State, documents relating to the disposal of property in the country of departure and the acquisition of property in the State or to employment (including statements in writing from the person's employer in the State), and

(e) evidence of the date on which the vehicle was brought into the State,

and, in addition to the foregoing or in substitution for it or any of it, any other documentary evidence the Commissioners require or accept.

(4) A vehicle in respect of which the relief aforesaid is claimed shall be produced to the Commissioners for examination.

(5) The relief aforesaid shall not be granted—

(a) in respect of a vehicle brought into the State more than 12 months after the transfer of normal residence unless the Commissioners, in their discretion, so decide in any particular case, or

(b) in the case of a person who transferred his normal residence from the State to a country outside the State in order to carry out a task of a duration of one year or more and who, upon completion of the task, transfers his normal residence back to the State, in respect of a vehicle in the period of 5 years following the granting of such relief in any particular case or of relief in corresponding circumstances under the provisions that applied in relation to the grant of relief from import taxes by the Commissioners in the case of transfer of residence to the State in force immediately before the 1st day of January, 1993:

Provided that, in the case of a person who commenced so living before the date of the making of these Regulations and who transfers his normal residence to the State after that date on the completion of the task concerned, this paragraph shall not apply in relation to a vehicle brought into the State by him upon such transfer.

(6) A vehicle in respect of which the relief aforesaid has been granted shall not be sold or otherwise disposed of, hired out, lent or given as security in the State during the period of 12 months following its registration by the Commissioners unless the vehicle registration tax to which the relief aforesaid relates is paid thereon, except with the prior permission of the Commissioners given on their being satisfied that there are circumstances justifying its non-payment.

(7) Where a person transferred his residence from the State on or before the date of the making of these Regulations and, on transfer of his residence back to the State, a vehicle of his would, but for the fact that his residence outside the State was not normal residence, have qualified for the relief aforesaid, the Commissioners may grant such relief in respect of the vehicle if the person complies with the other provisions of this Regulation and if he would have satisfied the provisions in relation to residence outside the State that applied in relation to the grant of relief from import taxes by the Commissioners in the case of the transfer of residence to the State in force immediately before the 1st day of January, 1993.

Transfer of business undertaking

5. (1) Subject to paragraph (2), the relief under section 134 (1) (b) of the Act shall be granted for any vehicle—

(a) which has been used in the production process of the business undertaking concerned or, in the case of a service business, directly in the provision of the service, for a period of at least 12 months before the date on which the business undertaking ceased its activity in the country from which it has moved in order to carry on a similar activity in the State,

(b) which is intended to be used for the same purpose in the State after the transfer of the business undertaking to the State,

(c) which is brought into the State not later than 12 months after the date on which the undertaking ceased its activities outside the State, and

(d) 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.

(2) The relief aforesaid shall not be granted in respect of a vehicle brought into the State by a business undertaking established outside the State the transfer of which to the State is consequent upon or is for the purpose of merging with, or being absorbed by, a business undertaking established in the State, in circumstances in which a new activity is not, or is not intended to be commenced.

(3) (a) Proof shall be supplied to the Commissioners within one month of the date of the application for the relief aforesaid that the conditions specified in paragraph (1) of this Regulation have been complied with.

(b) The proof referred to in subparagraph (a) of this paragraph shall consist of—

(i) in relation to the use of the vehicle concerned for the period aforesaid in the production process aforesaid or in the provision of the service aforesaid, the vehicle registration document and insurance certificates for the vehicle concerned, and

(ii) in relation to the cesser aforesaid and the carrying on in the State of an activity similar to the activity aforesaid, documents relating to the disposal of the premises of the business undertaking outside the State, or to the acquisition or construction of permanent business premises in the State, or to any State or local authority approval or consent relating to such acquisition or construction or the carrying on in the State of the activity aforesaid,

and, in addition to the foregoing or in substitution for it or any of it, any other documentary evidence that the Commissioners may require or accept.

(4) A vehicle in respect of which the relief aforesaid is claimed shall be produced to the Commissioners for examination.

(5) A vehicle in respect of which the relief aforesaid has been granted shall not be sold or otherwise disposed of, hired out, lent or given as security in the State during the period of 12 months following its registration by the Commissioners unless the vehicle registration tax to which the relief aforesaid relates is paid thereon, except with the prior permission of the Commissioners given on their being satisfied that there are circumstances justifying its non-payment.

(6) In special cases, if, in the opinion of the Commissioners, it is justified by the circumstances, the relief aforesaid may be granted notwithstanding the fact that subparagraphs (a) and (c) of paragraph (1) of this Regulation have not been complied with as respects the periods specified in those subparagraphs.

Inheritance

6. (1) *The relief under section 134 (1) (c) of the Act shall be granted for any vehicle—*

(a) which was the personal property of the deceased person concerned and is brought into the State not later than 2 years, or such longer period as the Commissioners in their discretion may allow in any particular case, from the date on which the vehicle entered into the possession of the person who acquired it by inheritance or the personal representative of the deceased person takes control of his property,

(b) in respect of which there is produced to the Commissioners by or on behalf of the person seeking the relief the evidence specified in paragraph (2) of this Regulation and the evidence satisfies the Commissioners that the vehicles qualifies for the relief,

(c) in respect of which an application for relief, in such form as may be specified by the Commissioners, is made to the Commissioners by a person who, in relation to the deceased person, is a person specified in the said section 134 (1) (c) 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.

(2) The evidence referred to in paragraph (1) (b) of this Regulation shall be supplied to the Commissioners within one month of the date of application for relief and shall consist of—

(a) evidence of the death of the owner of the vehicle concerned, such as a death certificate or a copy thereof, and

(b) evidence that the person by or on whose behalf the application for the relief is made is either the person entitled to the ownership of the vehicle under the will or, as the case may be, on the intestacy, of the deceased person or is the personal representative of the deceased person, the evidence being a copy of the will together with proof that the will has been accepted by the appropriate authorities of the place where the deceased person died for the purposes of the administration of his estate or, if the deceased person was intestate as to the vehicle concerned, a declaration issued by a notary or other competent person in the place aforesaid or by a notary in the State that the vehicle was acquired by the person as the beneficiary under the intestacy or as the personal representative of the deceased person, and

(c) the vehicle registration document,

and, in addition to the foregoing or in substitution for it or any of it, any other documentary evidence the Commissioners may require or accept and, where any such document as aforesaid is in a language other than the English language or the Irish language, a translation thereof into the English language or the Irish language duly certified, to the satisfaction of the Commissioners, to be a true translation.

(3) A vehicle in respect of which the relief aforesaid is claimed shall be produced to the Commissioners for examination.

Donations by official bodies, public authorities or groups

7. (1) The relief under section 134 (1) (d) of the Act shall be granted for any vehicle—

(a) which is not used for commercial purposes,

(b) where a gift of such a vehicle has not previously been made by the body, authority or group concerned to the body, authority or group concerned or has been made only occasionally, 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.

(2) Proof shall be supplied to the Commissioners within one month of the date of the application for the relief aforesaid that the conditions specified in subparagraphs (a) and (b) of paragraph (1) of this Regulation have been complied with and the proof shall be in such form as may be specified by the Commissioners.

(3) A vehicle in respect of which the relief aforesaid is claimed shall be produced to the Commissioners for examination.

Diplomatic and related relief

8. (1) The relief under paragraphs (e), (f), (h), (inserted by the Finance (No. 2) Act, 1992 (No. 28 of 1992)) and (i) (inserted by the said Act) of section 134 (1) of the Act shall be granted for—

(a) not more than one vehicle for the official use of institution of the European Communities or the European Foundation for the improvement of living and working conditions during such period as may be determined by the Commissioners in relation to that case:

Provided that the relief aforesaid may be granted by the Commissioners in respect of additional vehicles in a particular case justified by the circumstances,

(b) in the case of an official or other member of the staff of an institution of the European Communities or of the European Foundation for the improvement of living and working conditions whose normal residence was not in the State immediately prior to taking up a post with such institution in the State, 2 vehicles which are either brought into or acquired in the State within a period of 12 months of his taking up of the post.

(2) Where the vehicle concerned is brought into the State, an application for the relief aforesaid, in such form as may be specified by the Commissioners, shall be 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. Where the vehicle concerned is acquired in the State, the application aforesaid shall be made before the acquisition of the vehicle.

(3) A vehicle in respect of which the relief aforesaid has been granted shall not be sold or otherwise disposed of, hired out, lent or given as security in the State during the period of 2 years following its registration by the Commissioners unless the vehicle registration tax to which the relief aforesaid relates is paid thereon, except with the prior permission of the Commissioners given on their being satisfied that there are circumstances justifying its non-payment.

(4) a vehicle brought into the State in respect of which the relief aforesaid is claimed shall be produced to the Commissioners for examination.

9. (1) The relief under section 134 (1) (g) of the Act shall be granted—

(a) in the case of a diplomatic agent accompanied by his spouse, for not more than 2 vehicles for the personal use of the diplomatic agent, his spouse, and family living with him during such period as may be determined by the Commissioners in relation to that case after consultation with the Minister for Foreign Affairs,

(b) in the case of a diplomatic agent unaccompanied by his spouse, for not more than one vehicle for the personal use of the diplomatic agent during such period as may be determined by the Commissioners in relation to that case after consultation with the Minister for Foreign Affairs:

Provided that the relief aforesaid may be granted in respect of additional vehicles by the Commissioners, in consultation with the Minister for Foreign Affairs, in particular cases justified by the circumstances,

(c) in the case of a member of the administrative and technical staff of a diplomatic mission, who is neither a national of the State nor a person whose normal residence was in the State immediately prior to his taking up duty in the mission, for one vehicle which is either brought into or acquired in the State within the period of 6 months of his taking up duty in the mission,

(d) for not more than one vehicle for use as a service car of a diplomatic mission during such period as may be determined by the Commissioners in relation to that case after consultation with the Minister for Foreign Affairs:

Provided that the relief aforesaid may be granted in respect of additional vehicles by the Commissioners, in consultation with the Minister for Foreign Affairs, in particular cases justified by the circumstances.

(2) Where the vehicle concerned is brought into the State, an application for the relief aforesaid, in such form as may be specified by the Commissioners, shall be 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. Where the vehicle concerned is acquired in the State, the application aforesaid shall be made before the acquisition of the vehicle.

(3) A vehicle in respect of which the relief aforesaid has been granted shall not be sold or otherwise disposed of, hired out, lent or given as security in the State unless the vehicle registration tax to which the relief aforesaid relates is paid thereon, except with the prior permission of the Commissioners given on their being satisfied, in consultation with the Minister for Foreign Affairs, that there are circumstances justifying its non-payment.

(4) A vehicle brought into the State in respect of which the relief aforesaid is claimed shall be produced to the Commissioners for examination.

(5) In this Regulation "diplomatic agent" and "member of the administrative and technical staff" have the meanings assigned to them by Article 1 of the Vienna Convention on Diplomatic Relations done at Vienna on the 18th day of April, 1961, as set out in the First Schedule to the Diplomatic Relations and Immunities Act, 1967 (No. 8 of 1967).