

**NORTHERN IRELAND VALUATION TRIBUNAL**

**THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE  
VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007 AS AMENDED**

**CASE REFERENCE NUMBER: 20/16**

**DAVID LEGGE – APPELLANT**

**AND**

**COMMISSIONER FOR VALUATION FOR NORTHERN IRELAND – RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Chairman: Mr Charles O'Neill**

**Members: Mr Eric Spence MRICS and Mr Peter Somerville**

**Belfast, 7 March 2018**

**DECISION**

The unanimous decision of the tribunal is that the decision of the Commissioner of Valuation for Northern Ireland is upheld and the appellant's appeal is not allowed.

**REASONS**

**Introduction**

1. This is a reference under article 54 of the Rates (NI) Order 1977 as amended (the 1977 Order). The appellant Mr David Legge attended the hearing and represented himself. The respondent was represented by Gail Bennett.
2. The appellant by Notice of Appeal appealed against the decision of the Commissioner dated 14 November 2016.
3. The appeal is in respect of the valuation of a hereditament situated at 32 Breagh Lodge, Portadown, County Armagh, BT63 5YW (the subject property).

**The background to the appeal**

4. The appellant lives in the subject property. He had been awarded a 50% partial exemption under the 1977 Order on the grounds of article 41(8) of the 1977 Order i.e. that the hereditament is one occupied by persons from time to time holding a full-time office as clergyman or minister of any religious denomination. In 2016 the Respondent conducted a review of all those properties which were partially exempt from rates under article 41(8) of the 1977 Order. The appellant returned a partial exemption questionnaire in which he stated "I am registered as a Minister of Religion, but no longer affiliated with one denomination, but in my independent capacity serve many different

and varied churches. The house is used on a daily basis for helping in counselling, study and meetings.”

5. On the basis of the questionnaire the District Valuer removed the partial exemption that had previously applied to the property on the basis that the appellant was a self-employed pastor deriving his income from donations in his ministry to all churches. The decision was appealed to the Commissioner of Valuation and the decision was not changed. The appellant then appealed to the tribunal by notice dated 30 November 2016.
6. In the Notice of Appeal to the Valuation Tribunal the appellant states:

“I am registered as a Minister of Religion and have been full-time for over 18 years. For 10 years I was a resident pastor of churches.... 8 years ago my role changed from serving one church to many across the denominational spectrum. At that time I was reassessed by LPS and considered still eligible, This happened again since moving to our new home in Portadown – again being awarded partial exemption. I am a church member in Elim and am used by many other churches for both preaching and counselling. I use my house more than most ministers for almost daily counselling, study and various meetings. As well as preaching around I regularly minister out of 2 venues one in Enniskillen (The Stables, Derrygore) and Loughbrickland Mission Hall.... this is my full-time and only occupation and I rely on donations from the churches I minister to for income. My ministry is available at [preachtheword.com](http://preachtheword.com). I deem it wholly unfair to be turned down for this partial exemption and I know of others in my position who have been awarded it.”
7. The matter was listed for hearing on 6 December 2017 at which Mr Legge and Ms Bennett on behalf of the Commissioner attended. During the course of the hearing it appeared that there was no dispute regarding the actual capital value of the subject property which had been assessed by the respondent as £165,000. Rather the key matter in the case was that the appellant argued that he was entitled to a partial exemption from rates under the legislation. Therefore, the case turned on the interpretation of article 41(8) of the 1977 Order. The Respondent referred to other legislative provisions in relation to tax law as being a relevant consideration. The appellant had not been aware of such arguments in advance of the hearing. The tribunal adjourned the matter to allow the parties the opportunity to submit legal representations in relation to the matter.
8. The matter was listed for hearing on 7 March 2018 at which the above-mentioned parties attended.

## **The evidence**

9. The tribunal heard oral representations from Mr Legge and from Ms Bennett on behalf of the Commissioner. The tribunal had before it the following documents:
  - a. The Commissioner's Decision dated 14 November 2016
  - b. The appellant's notice of appeal dated 30 November 2016
  - c. Domestic rates partial exemption questionnaire dated 8 May 2016
  - d. A document entitled Presentation of Evidence dated 20 July 2017
  - e. Written legal representations by the respondent received 12 December 2017

## **The facts**

10. The tribunal finds that the respondent is an ordained Baptist Minister. He is registered as a Minister of Religion and has been full-time in that role for over 18 years. He confirmed that for 10 years he was a resident pastor of churches. However about 8 years ago his role changed from serving one church to serving many across the denominational spectrum. He is a member of the Elim church and is used by many other churches for both preaching and counselling. The appellant advises that he uses his house more than most ministers for almost daily counselling, study and various meetings. As well as preaching, he regularly ministers out of 2 venues: one in Enniskillen, and Loughbrickland Mission Hall. The appellant confirms that his ministry is his full-time and his only occupation and he relies on donations from the churches he Ministers to for income. His ministry is available at [preachtheword.com](http://preachtheword.com).

## **The law**

11. The statutory provisions under which an applicant is entitled to a partial exemption from rates are to be found in article 41 of the 1977 Order,
  - “(1) Subject to the provisions of this Article, where the Commissioner or the district valuer is satisfied that a hereditament is a hereditament of a description mentioned in paragraph (2), he shall distinguish the hereditament , or cause it to be distinguished in accordance with paragraph (3).
  - (2) The hereditaments referred to in paragraph (1) are
    - ... (2) any hereditament, other than a hereditament to which sub-paragraph (b) applies, which

- (i) is occupied by a charity; and
  - (ii) is used wholly or mainly for charitable purposes (whether of that charity or of that and other charities)...
- (8) A hereditament, or a distinct part of a hereditament,
  - (a) in which
    - (i) the persons from time to time holding any full-time office as clergyman or minister of any religious denomination, or
    - (ii) any particular person holding such an office, have or has a residence from which to perform the duties of the office; or
  - (b) in which, (in right of an interest which belongs to, or to trustees for a religious body), accommodation is being held available to provide such a residence for such a person as is mentioned in sub-paragraph (a)

shall be treated for the purposes of this Article as occupied by a charity and used wholly for charitable purposes which are also domestic purposes, whether or not it would be so treated apart from this provision.”

### **The appellant’s submissions**

12. The appellant submits that he is entitled to partial relief exemption in respect of the subject property by reason of the fact that he is a registered Minister and uses his house for these purposes. He works full-time and indeed he would state often more hours than full-time in his ministry. He does not see himself as working for preachtheword.com in that he is not employed by them.
13. The appellant confirmed that he had been awarded the partial exemption in the past in respect of another property which he owned at the time and indeed had been granted the exemption for his current home for a period of time and his circumstances have not changed. Therefore, he would submit that he should be entitled to the partial exemption.
14. The appellant acknowledges that he does not fit the classic scenario as a clergyman, but given his role, he is engaged as a minister of religion and that discretion should be used in this case. He notes that there are many ministers who are not in a denomination model. In the circumstances he contends that he should be entitled to the partial relief sought.

## **The respondent's submissions**

15. The respondent argues that the appellant is, by his own admission, no longer affiliated with any denomination but in his independent capacity serves many different and varied churches. It accepts that the appellant's full-time occupation is in ministry and that his dwelling is used daily for such purposes but the respondent does not accept that being self-employed and unsalaried while serving several denominations amounts to the definition in the legislation. It would state that Mr Legge has in effect many different separate part-time working agreements with a number of denominations and his ministry is available at [preachtheword.com](http://preachtheword.com). The respondent does not consider [preachtheword.com](http://preachtheword.com) to be a religious denomination.
16. The respondent also contended that the appellant does not hold office as such. It considered the usual meaning of office to be holding a position of authority or responsibility or a job in an organisation or religious denomination. It would consider that he does not hold office and that therefore there is no entitlement to the relief sought.
17. The respondent confirmed that in its interpretation of article 41(8) of the 1977 Order it relied on the application or interpretation of clergymen in other legislation. Sections 290 and 351 of the Income Tax (Earnings and Pensions) Act 2003, which relate to a clergyman's accommodation and expenses exemptions, were referred to in that section 290 only applies to clergymen in full-time employment of a particular religious denomination.

## **The tribunal's decision**

18. This case relates to the interpretation of the exemption contained in article 41(8) of the 1977 Order. It is appropriate to comment on the history of this section. The original article 41(8) of the 1977 Order stated:

"A hereditament, or a distinct part of a hereditament, an interest in which belongs to, or to trustees for, a religious body and

- (a) in which (in right of that interest)
    - (i) the persons from time to time holding any full-time office as clergyman or minister of any religious denomination, or
    - (ii) any particular person holding such an office, have or has a residence from which to perform the duties of the office;
- or

- (b) in which, (in right of that interest), accommodation is being held available to provide such a residence for such a person as is mentioned in sub-paragraph (a)

shall be treated for the purposes of this Article as occupied by a charity and used wholly for charitable purposes which are also domestic purposes, whether or not it would be so treated apart from this provision.”

19. This reflected a situation where the religious body owned the interest in the property. However, it did not cover a situation where the clergyman or minister owned the property himself or herself and used it in connection with his or her role. This issue was addressed in the Rates (Amendment) NI Order 2006, article 20 which amended article 41(8) to its current format

...(8) A hereditament, or a distinct part of a hereditament

- (a) in which

- (i) the persons from time to time holding any full-time office as clergyman or minister of any religious denomination, or

- (ii) any particular person holding such an office,

have or has a residence from which to perform the duties of the office;

or

- (b) in which, (in right of an interest which belongs to, or to trustees for a religious body), accommodation is being held available to provide such a residence for such a person as is mentioned in sub-paragraph (a)

shall be treated for the purposes of this Article as occupied by a charity and used wholly for charitable purposes which are also domestic purposes, whether or not it would be so treated apart from this provision.”

20. In this case it is accepted by the respondent that the appellant is in full-time ministry and that he uses his residence to perform his duties. However, the respondent would contend that he does not hold full-time office as a clergyman or minister of any religious denomination.

21. The tribunal has not been referred to any case law in respect of this matter. However the respondent referred to elements of tax law which refer to clergymen, i.e. section 290 of the Income Tax (Earnings and Pensions) Act 2003 which states: “(1) No liability to income tax in respect of a person employed as a full-time minister arises by virtue of (a) the payment or reimbursement of a statutory amount payable in connection with qualifying

premises or (b) the reimbursement of a statutory deduction made in connection with qualifying premises. In the definitions section full-time minister is defined as a person in full-time employment as a minister of a religious denomination.

22. Section 351 of the same Act states (1) a deduction is allowed from any earnings from any employment as a minister of a religious denomination for amounts incurred by the minister wholly, exclusively and necessarily in the performance of duties of such employment.
23. Other than as indicative of the fact that the concept of ministers is used in exemptions in tax law, the tribunal finds these references to tax law to be of very limited assistance in that reference is made in the tax Acts to “full-time employment” whereas in the rating legislation in Northern Ireland reference is made to “full-time office”. Also, in the tax legislation reference is made to a “minister of a religious denomination” whereas in the rating legislation reference is to “a clergyman or minister of a religious denomination”.
24. In this case the tribunal accepts that the appellant works full time in his ministry. It also accepts that he uses the subject property for these purposes. However, to come within the current definition of article 41(8) of the 1977 Order he must do more than this. He must hold full-time office as a clergyman or minister of any religious denomination. In this case the tribunal finds that the appellant does not fulfill this requirement. He does not currently hold full-time office as a clergyman or minister of any religious denomination. He, by his own admission, is not employed in or holds office from preachtheword.com. He rather undertakes ministry on an independent basis to many different and varied churches but he cannot be considered to be working in full-time office as a clergyman or minister of a religious denomination. He does not hold office as a clergyman or minister of a religious denomination as such. That is not to say that in any way the tribunal makes any comment on the nature of his work or the ministry he undertakes. That is not the purpose of referral to the tribunal which must interpret the legislation as it is currently drafted. The tribunal accepts that he works full-time and sometimes more than that in his work in his ministry. The tribunal also recognises that each case has to be decided on its own facts in relation to the interpretation of this legislation.
25. Having decided that the appellant is not entitled to the partial exemption, it now falls to consider the capital value of the subject property. The appellant in his notice of appeal to this tribunal states that he believes that the capital

value of the property should be £82,500 and not the £165,000 as determined by the respondent. However, the tribunal believes that this was merely to state that he believed that the partial exemption of 50% should apply. Both the parties at the hearing of this matter confirmed that no issue was taken with the actual capital value of the subject property at £165,000 and the tribunal confirms this capital valuation.

26. Finally, the tribunal wishes to acknowledge the appellant and the representative of the respondent for the professional manner in which the matter was put before the tribunal.

Mr Charles O'Neill

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to the parties: 27<sup>th</sup> March 2018