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Ireland

A recent Irish tax case, *Revenue Commissioners v Sisters of Charity of the Incarnate Word*, concerned exemption from Irish income tax on a nursing home in Ireland owned and run by an order of nuns with their headquarters in the US. In its judgment delivered on 11 February 1998, the High Court (Mr. Justice Geoghegan) agreed with the principle established in the UK case of *Camille and Henry Dreyfus Foundation Inc. v Commissioners of Inland Revenue* [1955] (36 Tax Cases 126) that tax exemptions do not apply to foreign charities. Accordingly, the Irish legislation exempting charities from income tax is limited to charities "established" in Ireland.

However, the judge distinguished the *Dreyfus* case from the instant case, on the grounds that the order of nuns had a place of business in Ireland and that the exemption from Irish taxation was being claimed only in relation to the foreign charity's activities in Ireland. The charity could therefore be said to be established in Ireland and entitled to exemption from income tax.

Case 98042 - Mr. John Burns of The Sunday Times newspaper and the Office of the Revenue Commissioners

A recent case on the freedom of information concerned the right to obtain the names of organizations in Ireland that had been granted tax exemption on the basis of their charitable status. The tax authority initially refused the request by a journalist on the grounds that the information had been supplied to it in confidence. Subsequently, following negotiations with the Office of the Information Commissioner, the tax authority agreed to release the names of all those charities that did not object. The Commissioner then reviewed the cases of the 127 charities that had refused to consent unconditionally to the release of the information. On 8 July 1999 the Commissioner annulled the decision of the tax authority and directed that the names of all but one of the charities that had refused consent should be disclosed.

In the case of the single charity whose name was ordered to be withheld from disclosure, the Commissioner found that the public interest in the disclosure of the name of the charity did not outweigh the public interest in ensuring that the charity can meet its objectives. Therefore the Commissioner accepted that the one of the statutory grounds (section 27 (1) (c) of the Freedom of Information Act 1997) for refusing to disclose information was satisfied, namely that disclosure could prejudice the conduct or outcome of contractual or other negotiations of the charity concerned.

In the other cases the Commissioner found that the disclosure of the names of the charities did not involve the disclosure of any other information that was not publicly available, and that such disclosure would not prejudice the enforcement or administration of the tax law.