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SAME SEX COUPLE SEEK RECOGNITION OF MARRIAGE FROM REVENUE COMMISSIONERS

Interpretation of marriage in Taxes Act is unjust, discriminatory and in breach of Constitutional and human rights allege applicants

An application for Leave to apply for Judicial Review was granted in the High Court today against the Inspector of Taxes (Revenue Commissioners) and Ireland. The application seeks to quash or strike down a decision of the Inspector which refused to recognise Dr. Katherine Zappone and Dr. Ann Louise Gilligan as a married couple in Irish law for tax purposes.

The Applicants are seeking a Declaration that the provision of the Taxes Acts, in failing to define husband, wife or married couple so as to include same-sex couples, is unjustly discriminatory and in breach of their rights under the Constitution.

The Applicants also allege that the interpretation of the Taxes Acts by the Revenue Commissioners resulting in the exclusion of their application is unjust, discriminatory, and in breach of Article 40.1, Article 40.3.1, Article 40.3.2, Article 41.1, Article 41.3.1, and Article 43 of the Constitution and the European Convention for the Protection of Human Rights and Fundamental Freedoms, in particular Articles 8, 12 and 14 of the Convention.

Dr. Zappone and Dr. Gilligan have lived together as a couple for 23 years. They are both Irish citizens. They were lawfully married to each other on 13th September 2003 in Vancouver, British Columbia, Canada. Their marriage is regarded as valid for all purposes throughout Canada.

On return to Ireland, the Applicants applied to the Revenue Commissioners to obtain the relevant tax allowances applying to them as a married couple. Their application was refused on the basis that the provisions relating to married couples relate only to a husband and a wife. Although the Taxes Acts fail to define the terms “married persons” or “husband” or “wife” or “spouse”, the Revenue Commissioners relied on the definition in the Oxford English dictionary in reaching their decision.

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The application for Leave is moved by Gerard Hogan SC and Ivana Bacik BL instructed by Brophy Solicitors. Speaking about the application, Phil O’Hehir, Solicitor, of Brophy Solicitors, said today:

“This action is being taken to challenge the decision of the Inspector of Taxes, which we allege is discriminatory on the grounds of the gender and/or sexual orientation of our clients. We allege further that the Inspector of Taxes has acted in breach of our clients’ constitutional rights, and of their rights under the European Convention for the Protection of Human Rights and Fundamental Freedoms.”

For more information contact:

Edel Hackett, Tel: 087-2935207