

Guideline

Duties Amendment (Motor Vehicle Industry Red Tape Reduction) Act 2016

The [Duties Amendment \(Motor Vehicle Industry Red Tape Reduction\) Act 2016](#) (Amendment Act) received royal assent on 7 October 2016. The Amendment Act amended the [Duties Act 2001](#) (the Act) on the day that royal assent was received.

The Amendment Act was introduced to:

- reduce the red tape associated with the motor vehicle duty exemption available to new car motor vehicle dealers and traders (Dealers and Traders); and
- clarify and simplify the obligations of Dealers and Traders in circumstances where a vehicle is acquired subject to an exemption and subsequently loses the exemption.

Important: The amended provisions apply to vehicles registered in a dealer's/trader's name **after** the Amendment Act came into effect. Any vehicles for which an exemption was obtained **before** the amendments became law remain subject to the exemption conditions that were in force when the exemption from duty was claimed and the vehicle was registered in the dealer's/trader's name.

Demonstrator and courtesy vehicles (NEW vehicles only)

In relation to demonstrator and courtesy vehicles, the Act has been amended to:

1. Clarify the definition of what is meant by a “demonstrator vehicle”.
2. Introduce the concept of a “courtesy vehicle” and define when a vehicle is a courtesy vehicle.
3. Impose additional conditions and introduce a range of permitted uses for demonstrator vehicles.
4. Apply the same additional conditions and permitted uses to the new category of courtesy vehicles that apply to demonstrator vehicles.
5. Provide that exemptions for demonstrator vehicles and courtesy vehicles are interchangeable and that such vehicles can be exempt if acquired and used for either or both of these purposes.
6. Describe a range of (permitted) uses for demonstrator and courtesy vehicles that will not result in loss of the exemption, such as:
 - a) the display of advertising relating to the motor dealing business of the person claiming the exemption;
 - b) reasonable use for familiarisation purposes by sales staff; and
 - c) use for the purposes of sale once the vehicle has ceased to be used as a demonstrator or courtesy vehicle.
7. Subject exemptions for courtesy and demonstrator vehicles to a 15 000 km odometer limit. A vehicle immediately loses its exemption if the odometer exceeds 15 000 km subsequent to its exempt registration.

This exemption replicates the previous exemption available for vehicles acquired and used solely for demonstration to prospective purchasers but provides a clear definition of what constitutes use of a vehicle as a “demonstrator vehicle”. Section 203A defines a demonstrator vehicle as a motor vehicle that is:

- a) available for prospective purchasers of a motor vehicle of the same make to test drive; and
- b) used as above or as a “courtesy vehicle”; and
- c) not used otherwise than as above unless used for a permitted use.

Courtesy vehicles

This is a new category of exemption. Section 203A provides that a motor vehicle is used as a “courtesy vehicle” where:

- a) the motor vehicle is lent or available to be lent without charge to customers of the person registering or transferring the registration of the motor vehicle while the motor vehicles of those customers are being serviced or repaired; and
- b) it is used as above or as a “demonstrator vehicle”; and
- c) it is not used otherwise than as above unless used for a permitted use.

Permitted use for demonstrator and courtesy vehicles

Section 203A identifies a number of uses for demonstrator and courtesy vehicles that do not result in loss of the exemption. These permitted uses of a vehicle include use:

- a) for the display of an advertisement on the relevant motor vehicle if the advertisement relates solely to a motor dealing business of the person in whose name the vehicle is registered; or
- b) by sales staff (being persons whose job involves the sale of that make of motor vehicle) in order to familiarise themselves with the motor vehicle; or
- c) for sale after it has been used as a demonstrator or courtesy vehicle; or
- d) where the vehicle is loaned to a charity that uses it for charitable purposes.¹

Important: Whilst permitted uses of motor vehicles are allowed, Dealers and Traders cannot obtain an exemption for a motor vehicle if it is acquired merely for a permitted use. It is necessary that the vehicle being registered will be used primarily as a demonstrator or courtesy vehicle (or both) such that the permitted uses must ultimately be ancillary to the primary use. As such, an exemption does not apply ‘per se’ for motor vehicles acquired for use by sales staff and similar - this is merely a permitted ancillary use.

¹ The terms “charity” and “charitable purpose” are defined in section 203(4) whereby the concept of a “charity” requires the institution to be a religious, scientific, charitable or public educational institution exempted from income tax under the [Income Tax Assessment Act 1936](#) of the Commonwealth.

New and used vehicles

In addition to the previously mentioned changes that only relate to new demonstrator and courtesy vehicles, the Act has also been amended to clarify the following in relation to all motor vehicles registered as exempt in the dealer's/trader's name. The Act now:

- a) provides clarity in relation to the requirement for duty to be paid within 14 days if the vehicle is not sold within 12 months of its exempt registration.
- b) establishes a clear procedure for seeking an exercise of the Commissioner's discretion to extend the 12 month period where a vehicle has not been sold despite the dealer/trader having made a real attempt to sell the vehicle, and provides for what happens when an extension to this 12 month period is granted by the Commissioner.
- c) imposes a clear requirement on dealers/traders, in circumstances where a motor vehicle registered as exempt loses its exemption, to, within 14 days, notify the Commissioner and pay duty based on the value of the vehicle at the time the dealer/trader became the registered operator of the vehicle.

Loss of exemption

A motor vehicle ceases to be exempt from Duty if, in the case of:

- a) a **demonstrator or courtesy motor** vehicle (or both), it is used for another use (excluding "permitted uses"); or
- b) a **demonstrator or courtesy motor vehicle (or both)**, within 12 months after it is registered, it has, by the odometer, travelled more than 15 000km since the day it was registered; or
- c) a **used motor vehicle acquired for the purposes of resale**, it is used for a use other than resale (note, vehicles exempt under this category do not enjoy any "permitted uses"); or
- d) **all motor vehicles**, the vehicle is not sold within 12 months after its exempt registration, or within a longer period approved by the Commissioner; or
- e) **all motor vehicles acquired by a wholesaler for resale**, the motor vehicle is used for a use other than resale (note, vehicles exempt under this category do not enjoy any "permitted uses").

Obligation to notify the Commissioner that an exemption no longer applies

If a vehicle ceases to be exempt for one of the above-mentioned reasons, the dealer/trader has an obligation to notify the Commissioner within 14 days that a previously exempt vehicle has ceased to be exempt.

A failure to advise the Commissioner within 14 days of a motor vehicle ceasing to be exempt constitutes an offence that leaves the dealer/trader liable for a court-imposed fine of up to 100 penalty units. In addition, a failure to pay duty within 14 days of a vehicle ceasing to be exempt constitutes a tax default for the purposes of the *Taxation Administration Act 1997* and may attract interest and penalty tax.

Vehicles not sold within 12 months of being registered in a dealer's/trader's name

The requirement that dealers/traders sell vehicles within 12 months of obtaining an exemption, (or any longer period if approved by the Commissioner) or they lose the exemption is similar to previous arrangements. This condition applies to all exempt motor vehicles regardless of the exemption category they are in. However, the requirements surrounding when an application to extend the 12 months has to be made, or when duty is payable if no such application has been made, have been clarified.

Under the new provisions, dealers and traders may, **before the expiration of 12 months from the date the vehicle was registered**, apply to the Commissioner to extend the 12 month period in which the vehicle was required to be sold on the basis that a real attempt was made to sell the vehicle during the initial 12 months. When satisfied it is appropriate to do so, the Commissioner may extend the exempt registration period (and the period in which duty must be paid if the vehicle is not sold) for a specified period of time. The Commissioner cannot consider an application to extend the 12 months if that period has already expired.

Applying for an Exemption

The procedure for applying for an exemption has not changed. Applications for an exemption can be lodged at any Service Tasmania outlet. In all cases, an exemption from duty cannot apply unless the holder of the exemption certificate or licensed motor vehicle trader records the unique identifying number of their exemption certificate or motor vehicle trader licence on the application to register the motor vehicle.

Applications by motor dealers for an exemption certificate are required to be made in accordance with section 205 of the Act.

More information from the State Revenue Office

Email: dutyhelp@treasury.tas.gov.au

Phone: (03) 6166 4400 (select option 4 then 3)

weekdays, 9:00am to 5:00pm