

Reference No: SLD-08-2019

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Treatment of refueling and toll charges on Service Loan Demonstrators

Members are advised that the State Revenue Office (SRO) SRO has advised VACC of the position of dealers charging to refuel a Service Demonstrator Vehicle (SDV), advising a consumer to return SDV full of fuel or to same level and allocation of Toll and Infringements. It is a mixed response.

The SRO has taken an rigid position and

- will not allow for dealers to charge any fuel used by a consumer when using a SDV.
- will allow reallocation of tolls or infringements incurred by the consumer in a SDV.

SRO will treat the charging a consumer for fuel used as a change in use and therefore no longer be exempt from duty.

The SRO advice is listed below in blue type.

SRO Interpretation

You have requested advice as to whether a change of use will be triggered in the following circumstances:

- 1. If the consumer is asked to return a service demonstrator vehicle (SDV) with a full tank of fuel;*
- 2. If a consumer is charge a 'refuelling cost' if they do not return the SDV will a full tank of fuel; and*
- 3. If a consumer incurs toll fees, parking fines and speeding fines and the dealer charges the customer. You note that under the Road Safety Act these costs are to be borne by the vehicle operator and not the registered owner.*

The definition of SDV in section 3 of the Duties Act 2000 is very clear that a SDV must be "made available without charge by a licensed motor car trader for use while the customer's motor vehicle is being serviced."

The SRO considers that 1 and 2 above are a charge. A refuelling cost charged to a consumer is clearly a charge, a charge being an amount asked for goods supplied or a service rendered. If refuelling is a contractual term for the use of the SDV this constitutes a charge for the use of the vehicle. Any charge such as re-fuelling costs would therefore trigger a change in use.

In relation to toll fees, parking fines and speeding fines, the SRO accepts that these are incurred as a result of the actions of the consumer using the SDV are not therefore regarded as 'charges'. The recovery of these costs is not a charge for using the vehicle and does not trigger a change in use of the SDV. The SRO does not therefore view the items listed in 3 above as a charge.

VACC Reply

The Victorian Automobile Dealers Association (VADA) has replied to the SRO advising the SRO that the interpretation re 'charges' for fuel is harsh, unsustainable and financially damaging to VADA members. That this is considered to be a change in use provision is astounding.

VADA will be making representations to the SRO and Department of Finance and Treasury in pursuit of a more pragmatic outcome as it relates to a refuelling on charge to consumers for use of a SDV.

Next steps and advice

VACC urges dealers to comply with the advice stated from SRO. We cannot advise anything different to what is stated as that would put your dealership in a precarious position.

Dealers are encouraged to also seek their own legal or financial advice on this issue.

VACC will be making further representations to the State Government regarding the SRO interpretation.

Please call me at VACC with any queries.

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