

A reminder to VACC LMCTs of their obligations under the Motor Car Traders Act and the Duties Act

The information contained within this bulletin is provided to VACC LMCT members as a reminder of their obligations under the Victorian Motor Car Traders Act and the Victorian Duties Act. VACC has also taken the opportunity to advise of positive outcomes from the 2022-23 Victorian State Budget.

About the 2022-23 Victorian State Budget

With the 2022-2023 Victorian State Budget delivered on 3 May 2022, it was pleasing to see that the Victorian Treasurer has taken heed of VACC's message to not interfere in the Victorian retail motor vehicle sector by introducing new or increases rates of motor vehicle duty or other levies.

A review of Motor Vehicle Duty lobbying outcomes over the past five years

It should be noted by VACC members that it has now been five years since the last increase in motor vehicle duty in Victoria. This is no accident. The outstanding lobbying work of members from the VACC Used Car Traders Division (UCTD), VACC Motorcycle Industry Division (MID) and the Victorian Automobile Dealers Association (VADA) should be noted by all members. Provision of data and member representations to the Victorian Government have had their desired impact. But there is still much to do to enable Victorian Dealers to fairly compete in the advertising and retailing of a new or used vehicle in national forums.

For instance, VACC continues to seek reforms to the Australian Consumer Law (ACL) 'Clarity in Pricing' provisions that so impact Victorian dealers and lobbying continues in pursuit of having the Victorian Super Luxury Duty removed.

What will the regulatory landscape look like over the next 12 months?

In the next 12-month period VACC expects to see an increase in the level of Regulator compliance and enforcement activity of Licensed Motor Car Traders (LMCT) with regards to LMCT legislated obligations under the *Duties Act 2000 (Vic)* and the *Motor Car Traders Act 1986 (Vic)*. Both Acts have a heavy penalty regime attached that provide the relevant Regulator with an abundance of opportunities to apply a heavy punitive (financial) measure on LMCTs. Those punitive measures can be applied retrospectively.

With the certainty of further inflationary increases that will see an increase in buyer's remorse from consumers, VACC also expects to see a sharp increase in the amount of consumer claims citing the protections afforded to consumers under the ACL. Whether these ACL claims are considered spurious or genuine, LMCTs must remain vigilant and ensure that no consumer is denied a right to make a claim under the ACL Guarantees. In all instances UCTD, MID and VADA members should call VACC in the first instance for advice.

How LMCTs should ensure compliance with their obligations under the Acts

Under the Motor Car Traders Act, LMCT members should ensure that:

- Their LMCT number is clearly visible to consumers.
- That dealings books (electronic and manual) are up to date.
- That all used vehicles (including demonstrators) have a Form 4 Used Car Warranty Sheet attached.
- They are not consigning vehicles from members of the public.
- That all customers employed in a customer service capacity have a completed Form 3 (declaration of eligibility to be employed in customer service capacity) on file.
- They are using the most current version of the VACC agreements of sale for a new or used vehicle (Version 14 April 2019).
- It is recommended that LMCTs have a documented complaints handling procedure.

Under the Duties Act 2000, LMCT members should ensure that:

- They are familiar with the Victorian State Revenue Office [Revenue Ruling DA.022](#) that clarifies the meaning of dutiable value on a new motor vehicle .This ruling includes guidance on 'over' and 'under' valuations and what does not form the part of the dutiable value of a new vehicle.
- They are familiar with the Victorian State Revenue Office [Revenue Ruling DA-034v2](#) that deals with trading stock , demonstrator vehicles and service demonstrator vehicle exemptions. This is an important ruling as it explains in depth what a consumer can, and cannot, be charged for when providing a service loan demonstrator vehicle where the exemption is being claimed.
- They are familiar with the Victorian State Revenue Office [Revenue Ruling DA-035v2](#) that deals with the change in use provisions from trading stock demonstrator vehicle, or service demonstrator, to another non-exempt use. This will include guidance that relates to distance travelled and time held as trading stock for the exemption to still apply.

Under the Duties Act 2000, exemptions apply for demonstrator purposes and service demonstrator vehicles apply only if those vehicles are used 'solely' or 'primarily' as a demonstrator vehicle or service demonstrator vehicle.

This information is provided to VACC LMCT members as a reminder only of their obligations under the Victorian Motor Car Traders Act and the Duties Act.

Please feel free to call my office with any queries.

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