
Reference No: Refunds/mm-3-21

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LMCTs seeking refunds from the Victorian State Revenue Office

****This is not financial or legal advice ****

Members of VACC's Licensed Motor Car Trader (LMCT) divisions have sought direction on the process involved when seeking a refund from the Victorian State Revenue Office (SRO) when an amount of motor vehicle duty paid has been incorrectly paid or applied. VACC has, through a series of meetings and communications, worked with SRO to assist LMCTs become aware of the refund process.

What has the SRO advised?

The SRO has provided VACC with links to its publicly accessible motor vehicle duty dedicated page which provides LMCTs with SRO information when they may seek a refund, and how an LMCT can apply for a refund from the SRO.

Where can LMCTs find this information?

For your easy reference the links to the pages are listed below (you are encouraged to save these to your favourites):

- General page on motor vehicle duty exemptions and concessions:
<https://www.sro.vic.gov.au/motor-vehicle-duty-exemptions-and-concessions>
- Dedicated page for LMCTs and refunds:
<https://www.sro.vic.gov.au/motor-vehicles/apply-licensed-motor-car-trader-lmct-duty-refund>

Important note from SRO regarding refund entitlement

LMCTs should note that applying for a refund does not automatically mean a LMCT is entitled to the refund. Rather, eligibility has to be tested against the relevant legislation and a decision made on the application, similarly to what occurs for exemptions and concessions.

What is the starting point for an LMCT to seek a refund?

The starting point for an LMCT who wishes to seek a refund is to apply to the SRO as per the instructions in the above link.

If after receiving the application the SRO is satisfied that the LMCT is entitled to the refund, then it will be processed by the SRO.

Clarification of refunds for overpayment of duty

It is important to note that an LMCT, making an overpayment of duty, is one of the specific circumstances listed in the above link.

VACC members have advised that SRO have issued a communication to them that the only way for a LMCT to seek a refund in these circumstances is to commence action through the courts. This is incorrect.

SRO have advised VACC that the commencement of court proceedings would only be relevant if the SRO had formed the view that there is no entitlement to a refund and the taxpayer wishes to challenge that decision. The SRO may also take the view that in some instances a claim may be treated as an objection and proceed through that process.

LMCTs seeking SRO refunds as a result of court order or VCAT direction

VACC is aware that, over a period of time, LMCTs have been ordered by VCAT or various courts of arbitration to refund a consumer the full drive away price for a vehicle paid. [Most of these claims are as a result of an Australian Consumer Law claim (or similar)].

That drive away price includes all on road costs. Many LMCTs either do not seek to claim the motor vehicle duty portion that they have refunded to the consumer or have difficulty in making such a refund claim. Many just give up through sheer frustration. This is not an equitable or fair position for an LMCT.

VACC is seeking a professional opinion on this scenario. From that opinion the VACC LMCT Divisional Committees will advise VACC on what the next steps in VACC lobbying should be.

VACC request for evidence from LMCT members

VACC would like to hear from its LMCT members who may have been refused a motor vehicle duty refund after refunding a consumer the entire drive away purchase price as a result of a court order or direction. Please advise me via return email by 31 March 2021.

Members should consult their own tax advisors on any Motor Vehicle Duty issues.

Michael McKenna MBA
Industry Policy Advisor
Industry Divisions

VACC

Level 7 | 464 St Kilda Road | Melbourne Vic 3004

P: 03 9829 1280 | **M:** 0418 822 939 | **F:** 03 9867 1795 | **W:** vacc.com.au