

BULLETIN

Victorian Automobile Dealers Association



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Service Demonstrator Vehicle Update and the SRO

The Victorian Automobile Dealers Association (VADA) advised members on 6 September that at the invitation of the Victorian State Revenue Office (SRO) it had provided commentary to regarding reforms to take effect on SRO Revenue Ruling DA-034 (Trading stock/demonstrator vehicle exemptions) and DA-035 (Motor vehicle change of use provisions).

Although not part of the SRO reform process and based on the need to ensure fairness and consistency across all Revenue Rulings that affect LMCTs, VACC also provide commentary to SRO concerning Revenue Ruling DA.022 (Dutiable value of new motor vehicles). DA.022 is a ruling that is outdated and discriminatory and a ruling that is curtailing industry growth opportunities.

You can view the VACC submissions by taking this [link](#).

The reply from the State Revenue Office

VACC has received a reply from the SRO to its submissions.

The replies are technical in response and written in a style that a common person would struggle to understand. However there have been gains for dealers in the SRO response. I thank those who contributed to the VACC-VADA submissions. Further proof that member data, feedback & participation results in change.

It is important to note that the reforms and terms of reference for which the VACC replied to the SRO do not have a direct impact on the introduction, lobbying activities and purpose of the Super Luxury Duty.

Fuel charges to consumers for fuel used in a service demonstrator vehicle

In good news, SRO has agreed with the VADA position on the issue of refuelling costs attributed by a consumer in the use of a Service Loan Demonstrators (SDV). SRO has revisited its original position and now will allow for dealers to charge for fuel as long as there is no other fee or penalty imposed. i.e. restricted to the actual cost of the fuel.

VACC is relieved that SRO finally has arrived at this decision.

VACC had taken legal advice (and action was pending) from HWL Ebsworth that concurred with VACC's original position that the requirement for a customer to refuel the SDV, or to reimburse the LMCT for the cost of the fuel consumed, is a charge arising from actual use of the SDV by the customer rather than being a charge for making the actual SDV "available" to the customer as required by the definition of SDV in the Duties Act.

This was a long way, and tough process, to ensure that common sense prevailed. Nevertheless, we are grateful to SRO for reconsidering its approach and agreeing with VADA's position.

How will a SDV be classified as a SDV by SRO?

SRO advised that a SDV that is a lesser class than the customers vehicle can be supplied as a legitimate SDV.

However, and this is complex, the response advises that in the instance where all SDV Fleet (or majority thereof) consists of only base line models that the fleet of vehicles will be considered by SRO as courtesy vehicles and not exempt from duty.

The big issue of what constitutes a vehicles dutiable value

A major issue remains with SRO Revenue Ruling DA 022. It's disappointing that our comments on DA 022 were not considered by the SRO. VADA does not believe that the market value of a vehicle should be determined by a private aggregator or that accessories and aftermarket fitting to a new car should incur motor vehicle duty.

VACC will be meeting with the Treasurer's Office in the second week of December to seek a pathway that will result in a review or reforms to DA 022 with a view to measuring whether, in 2019, DA 022 it is still fit for purpose. We watch with interest the Federal Court proceedings between SRO and THL.

Other important information re SDVs

- Guidance secondary or incidental use of vehicle for after hours usage by dealership staff. VACC is confused by the SRO interpretation and will seek clarity on behalf of members.
- Confirmation that rare/exotic cars that seek longer periods of exemption will require a special ruling from SRO. VACC can assist in this regard.
- Confirmation that manufacturer information provided to SRO is only one of the sources of evidence SRO will take into account when determining a vehicle use by the dealer.
- Guidance on the eligibility of SDVs with personalised number plates to claim exemption.

Next steps

The new SRO Revenue Rulings will be released for industry by 31 December 2019. VACC will advise VADA members when they are available.

VACC enjoys a constant and positive line of dialogue with the Victorian Treasury. We have flagged our concerns with the SRO response and look to seek further relief from Regulation that is shrouded in red tape.

VACC will also meet with the Government to discuss areas of reform for SRO-DTF attention that will be included in VACC's 2020-21 State Budget Preview.

VACC strategy is now push for a moratorium on any fee or duty increases in the next State Budget. And a review on the requirement for maintenance of the SLD.

Thank you to Evan Stents at HWL Ebsworth for legal advice.

Any questions or queries please feel free to call me directly.

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