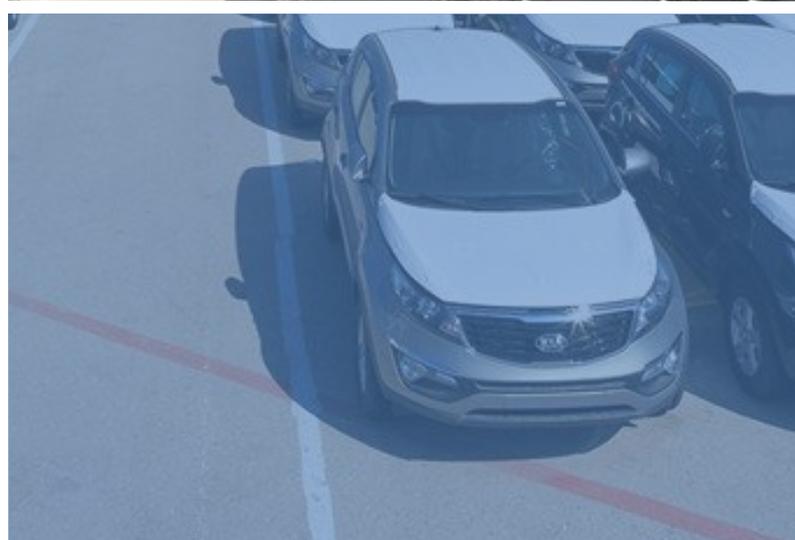


VACC Response:

State Revenue Office draft Revenue Ruling DA-035v2

27 August 2019



About VACC

The Victorian Automobile Chamber of Commerce (VACC) is Victoria's peak automotive industry association, representing the interests of more than 5,300 members in over 20 retail automotive sectors that employ over 50,000 Victorians.

VACC members range from new and used vehicle dealers (passenger, truck, commercial, motorcycles, recreational and farm machinery), repairers (mechanical, electrical, body and repair specialists, i.e. radiators and engines), vehicle servicing (service stations, vehicle washing, rental, windscreens), parts and component wholesale/retail and distribution and aftermarket manufacture (i.e. specialist vehicle, parts or component modification and/or manufacture), and automotive dismantlers and recyclers.

VACC is also an active member of the Motor Trades Association of Australia (MTAA) and contributes significantly to the national policy debate through Australia's peak national automotive association.

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VACC commentary on State Revenue Office draft Revenue Ruling DA-035v2: Motor vehicle change of use provisions

Thank-you for the opportunity to provide commentary to the Victorian State Revenue Office (SRO) issued draft revenue ruling DA-035v2 issued on 12 August 2019. DA-035v2 took effect on 1 July 2019 and replaces the 2006 issued SRO Revenue Ruling DA-035.

VACC is charged with the responsibility to communicate to government where policy matters adversely affect operations within the industry. This paper provides representations on behalf of the industry relating to the recent announcement emanating from the 2019-20 Victorian State Budget that will see the introduction of exemptions from duty for vehicles deemed to be Service Demonstrator Vehicles (SDV).

This submission is provided in collaboration with the Victorian Automobile Dealers Association (VADA), a Division of VACC. VADA represents the interest of over 640 Victorian Franchise Dealers and is the peak association representing new car dealers in Victoria.

About this submission

This submission is based on feedback received from licensed motor car trader (LMCT) members of VACC that are directly impacted by the new SRO Revenue Ruling DA-035v2.

The preferred policy positions as stated have been formulated in consultation with the Executive Committees of the Victorian Automobile Dealers Association, Commercial Vehicle Industry of Association of Victoria, VACC Motor Cycle Dealers Division and the VACC Used Car Traders Division (UCTD).

Preamble

Chapter 9 of the Duties Act 2000 in Victoria imposes duty on an application for registration or transfer of registration of a motor vehicle, unless an exemption applies. Duty is calculated on the dutiable value of a motor vehicle.

Demonstrator vehicles are motor vehicles that are available and used for demonstration to prospective purchasers for sale of vehicles of the same or similar class. This exemption reflects the Victorian Government's position that motor vehicle dealers should not be disadvantaged in relation to the payment of duty compared to other businesses, simply because the essence of their business is the acquisition and sale of motor vehicles.

Sections 231 (1) and 231 (2) (a) (ii) of the Duties Act provide exemptions from duty for Licensed Motor Car Traders (LMCTs) for vehicles that are used as demonstrator vehicles. The current requirements of the Duties Act 2000 were supported by SRO Revenue Rulings DA.034 and DA.035.

These Revenue Rulings were issued in 2006 by the SRO in collaboration with VACC, both in response to and as a reflection of the state of the new vehicle market at that time. Both market conditions and industry business practices however, are now fundamentally different to 2006 and the previous Revenue Rulings resulted in many Victorian new car dealers paying double taxation.

This was an issue that resulted in significant financial repercussions to the industry and Victorian economy. This issue was acknowledged by the Treasurer's Office and was consequently addressed in an announcement made in the 2019-20 Victorian Budget¹, providing some relief for LMCTs for vehicles referred to by the SRO as a Service Loan Demonstrator (SDV).

As of 1 July 2019, LMCTs have been entitled to an exemption from duty for the newly introduced category of a SDV upon satisfactorily meeting the criteria now published in SRO Revenue Ruling SA-034v2.

Distance travelled

VACC supports this criterion.

Length of ownership-demonstrator vehicles and service demonstrator vehicles

VACC supports the criterion for 12-month stock holding from point of registration.

VACC would suggest that SRO provides clear guidance in this section and provides instruction to the LMCT of stock of unique or other high value stock and that a separate ruling be obtained by that LMCT if they seek an extension to the 12-month exemption period.

Personalised number plate

VACC does not support this criterion. A dealership can have a personalised number plate that promotes the type of car e.g. registration number plate MB C200. This should not, in our view, be an indicator that the vehicle has resulted in a change in use as the primary use is still a demonstrator vehicle.

Fringe benefits tax (FBT) returns\employment agreement

It is the view of some VADA members that this provision results in dealers having to pay stamp duty on these vehicles every time a staff member goes in and out of a car. A non-LMCT facing business would turn over their private use vehicles every 2 years as a minimum. This places an unfair condition on a dealership who could be paying stamp duty

¹ Victorian State Budget 2019-20 May 27, 2019

every week on a car that is available for sale and demonstration on every business day at the dealership. The suggestion would be that stamp duty is paid on the average value of a car as per the FBT return calculation once every 2 years x the number of staff who are recorded in the FBT returns / employment agreements.

Supporting evidence to be considered

VACC advises that VADA members do not view the subsidy agreement between the LMCT and the manufacturer or supplier to be an accurate or entirely informed method of determining a vehicles predominant use². Quite often the intent is for the vehicle to be supplied for a specific purpose however circumstances can change. This information from the manufacturer or supplier can not be relied upon as always being current or accurate. This has been evident in the 2018 SRO Voluntary Disclosure where information sourced from the manufacturer by SRO, under provisions granted under the Section 73 of the Taxation Administration Act 1997, has proven to be contradictory to what has transpired at a dealership, consumer facing level. Not only is the information from the manufacturer quite often not reflective of the situation or use of a vehicle, it is onerous and cost prohibitive to obtain archived records with many Dealers archiving such documentation and undoubtedly many have also changed Dealer Management Systems over this period³.

VADA members would request that SRO provide a list of supporting documents that allow for the LMCT to demonstrate where the predominant use of a motor vehicle has not occurred.

VACC Recommendations

- VACC would suggest that SRO provides clear guidance to the LMCT of stock of unique or other high value stock that a separate ruling be obtained by that LMCT if they seek an extension to the 12-month exemption period
- VACC recommends that any reference to personalized number plates be removed in its entirety from the Revenue Ruling.
- VACC recommends that stamp duty is paid on the average value of a car as per the FBT return calculation once every 2 years x the number of staff who are recorded in the FBT returns / employment agreements
- VACC recommends that any subsidy agreement between the LMCT and the manufacturer or supplier be removed from the Revenue Ruling
- VACC recommends that SRO provide a list of supporting documents that allow for the LMCT to demonstrate where the predominant use of a motor vehicle has not occurred.

² SRO communication to OEM 2019

³ Mitsubishi Dealer 2019

Examples of taxes absorbed by consumers on new vehicles in Victoria

Government fees on top of list price

Mercedes-Benz E200

VADA
VICTORIAN
AUTOMOBILE
DEALERS
ASSOCIATION

List price \$80,000	GST \$8,399	Rego (inc TAC) \$861.80	Federal Luxury Car Tax \$7,817.40	Vic Stamp Duty \$7,028
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**Total extra taxes
\$24,106.20**

A silver Mercedes-Benz E-Class sedan is shown from a front three-quarter view. Dotted lines connect the car to the tax breakdown boxes above it.

Government fees on top of list price

Mercedes-Benz G63 S AMG SUV

VADA
VICTORIAN
AUTOMOBILE
DEALERS
ASSOCIATION

List price \$200,000	GST \$20,499	Rego (inc TAC) \$861.80	Federal Luxury Car Tax \$47,747.40	Vic Stamp Duty \$24,606
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**Total extra taxes
\$93,714.20**

A silver Mercedes-Benz G-Class SUV is shown from a front three-quarter view. Dotted lines connect the car to the tax breakdown boxes above it.

Government fees on top of list price



Mercedes-Benz C63 S AMG Coupe

List price \$140,000	GST \$14,499	Rego (inc TAC) \$861.80	Federal Luxury Car Tax \$27,947.40	Vic Stamp Duty \$16,884
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Total extra taxes
\$60,192.20

