Dissenting Report from Coalition Senators

Senators Alan Eggleston (Deputy Chair), the Hon. Eric Abetz Barnaby Joyce and David Bushby

A tax grab based on the politics of envy

On Sunday 11th May News Ltd newspapers reported that the Rudd Labor Government planned to increase the rate of the Luxury Car Tax from the current 25 percent to 33 percent. The article, by Glenn Milne, was titled “hit the rich” and espoused the following Government rationale for the tax increase:

> A HEFTY tax increase on luxury cars emerged yesterday as the latest move … aimed at targeting the rich and curbing inflation.[1]

The move was confirmed as a budgetary measure later that day by Treasurer Wayne Swan, who told Laurie Oakes on Nine’s “Sunday” program:

> We think it is only fair that people who can afford these cars make a small contribution in that savings effort.[2]

In other words, the proposed eight per cent increase in the Luxury Car Tax is only about increasing the Government’s revenue stream at the expense of the so-called “rich” who drive these vehicles.

In Senate Estimates on Monday 2nd June 2008, the Minister for Innovation, Industry, Science and Research, Senator Kim Carr, confirmed that the tax was a reintroduction of class warfare:

> We had this expectation that we should go on providing assistance and various other measures to millionaires …You cannot remember saying that?
>
> Senator Carr—I think you will find that was in relation to the luxury car tax.[3]

Figures provided by the Federal Chamber of Automotive Industries reveal that almost 70 percent of cars sold annually, which are subject to Luxury Car Tax, are sold for less than $75,000 – not the cars of 'millionaires'.[4]

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1 Glenn Milne, 'Hit the rich', *Sunday Mail*, 11 May 2008, p. 1.

2 Wayne Swan, “Sunday”, Channel 9, 11 May 2008.

3 Senate Economics Committee, *Senate Estimates Hansard*, 2 June 2008, pp 69-70.

4 Federal Chamber of Automotive Industries, *Submission 8b* , p. 4

Coalition Senators note that it is incongruous for the Government to claim, as they did, that the budget will “curb inflation”, when the proposed Luxury Car Tax will increase the price of the most common “luxury” car, the Toyota Landcruiser Wagon, by almost $1,000.[5]

The sole reason Labor offers for the proposed Luxury Car Tax surcharge is to fight inflation (paragraph 3.1 in the Government Majority Report). Yet at paragraph 2.19 of their report Labor Senators acknowledge a CPI increase (albeit small) as a result of the increased tax grab.[6]

So rather than a curb on inflation, the Luxury Car Tax increase will by Labor’s own admission actually fuel inflation.

Pre-empting Bracks' Review / Henry Review

Despite appointing former Labor Premier Steve Bracks to undertake a review into Australia’s automotive industry, and Treasury Head Ken Henry to undertake a 'root and branch' review of Australia’s tax system, the Government moved to increase the rate of the Luxury Car Tax before hearing their recommendations.

In the case of Mr Bracks’s inquiry at least, there is evidence that Mr Bracks was minded to reduce, not increase the luxury car tax:

> …the increasing number of Australian-made models now subject to the LCT as the threshold has not kept pace with price increases for upper-end vehicles. In addition, the inclusion of more safety and other features in upper and luxury vehicles is also increasing their price.[7]

Coalition Senators note that the announced tax increase effectively nobbled Mr Bracks’s proper consideration of the tax increase in his review, for despite recommending that:

> States and territories should consider the harmonisation and reduction of stamp duties, vehicle registration and compulsory third party insurance to facilitate the purchase of new [or newer second-hand] vehicles…[8]

Mr Bracks did not address the Luxury Car Tax in his final report, other than to note that a bill to increase it is currently before the parliament, when the report was finally released on the 15th August, after the Committee had concluded taking evidence.

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5 Based on average 2007 selling price of $70,705 pre-LCT.

6 Labor Senators’ majority report at 2.19: “the total CPI might have a one-off increase of 0.01 per cent.”

7 Review of Australia’s Automotive Industry, *Discussion Paper*, March 2008, p. 11.

8 Review of Australia’s Automotive Industry, *Final Report*, 22 July 2008, p. 7

Coalition Senators are surprised at the assertion by Labor Senators at 2.27 of their report, that the Bracks' Review *'did not find it [the Luxury Car Tax] had any adverse impacts on Australian manufacturers'*. We cannot locate this finding in Mr Bracks' Report - unfortunately, the Labor Senators' assertion is not footnoted.

Disappointingly, a request by the Coalition for the release of Mr Bracks' report prior to the end of the Committee's hearings was ignored.

Senate inquiry

On the 18th June the Senate agreed to a Coalition proposal to refer the package of bills comprising this proposed tax increase – the Tax Laws Amendment (Luxury Car Tax) Bill 2008, A New Tax System (Luxury Car Tax Imposition—General) Amendment Bill 2008, A New Tax System (Luxury Car Tax Imposition—Customs) Amendment Bill 2008 and A New Tax System (Luxury Car Tax Imposition—Excise) Amendment Bill 2008 - to the Senate Standing Committee on Economics for report not before 26 August 2008.

The inquiry examined:

> a. the incidence of the Luxury Car Tax (LCT) and the effect of the proposed increase in the LCT rate on rural and regional communities, small business, families and tourism operators;
>
> b. the effect of the LCT increase on the prices of vehicles, the affordability of motor vehicles, the cost of living, and the consumer price index (CPI);
>
> c. the expected impact of the increase in the LCT rate on vehicle demand and the likely consequences for government revenues including from the LCT, goods and services tax (GST) and stamp duty;
>
> d. the growing incidence of the LCT over time and the adequacy of current arrangements for indexation of the LCT threshold, in comparison with alternative measures including the CPI, average weekly earnings and the increase in the retail price of motor vehicles;
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> e. the rationale for taxing `luxury' cars at a higher rate than other goods and services;
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> f. the effect of the LCT and the proposed increase in the LCT rate on Australian vehicle manufacturers and vehicle importers and distributors;
>
> g. the overall taxation burden on ownership and operation of motor vehicles including customs duty, GST, LCT stamp duty and excise on fuel;
>
> h. the effect of the LCT and the proposed increase in the LCT rate on the adoption of vehicle safety features and environmental technologies; and
>
> i. the extent to which the LCT is viewed as a non-tariff barrier by other car exporting countries.

and held public hearings in Adelaide, Sydney and Melbourne.

Eighteen submissions were received, and evidence was given to the Committee by eleven organisations and individuals.

History of the Luxury Car Tax

The Luxury Car Tax was introduced by the Hawke Labor Government in August 1986, with an increase in the rate of tax on "luxury" vehicles from the standard 20 per cent wholesale sales tax for all vehicles to 30 per cent tax for "luxury" vehicles.[9]

Contrary to Labor spin, the tax was not introduced in 1979 by the Fraser Government – rather, this was when the luxury car vehicle depreciation limit was introduced – but it was not a tax.[10]

Having introduced the tax in the 1986 budget, its rate was increased to 50 per cent in May 1990 – when it was opposed by the Coalition Opposition at the time. The Opposition spokesman, Peter Reith, said:

> This is nothing but an envy tax without justification…while we are talking about a luxury tax, why do we not have a tax on antique clocks, surely a luxury and something of great interest to the Treasurer. We will oppose it here and we will oppose it in the Senate.[11]

In August 1990, a split tax rate was introduced with sales tax payable on luxury vehicles being the lesser of 50 per cent; or 30 per cent up to the statutory threshold and 75 per cent on the value above the threshold; with the threshold retail value for luxury tax being the same as the depreciation limit - $45,056 in 1990-91.[12]

In May 1995 this was adjusted to be 22 per cent for the first $36,995 wholesale price (corresponding to about $55,000 retail) and 45 percent on the balance above $36,995.[13]

In 2000, with the abolition of wholesale sales tax, the Luxury Car Tax was adjusted to the current situation whereby GST is applied to the purchase price PLUS a further 25 percent tax is applied to the purchase amount above the threshold, currently set at $57,180. This largely retained the status-quo of the pre-GST system and was at the request of large sections of the automotive sector.

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9 Industry Assistance Commission, *Report into the Automotive Industry*, 17 December 1990.

10 Industry Assistance Commission, *Report into the Automotive Industry*, 24 June 1981.

11 The Hon. Peter Reith, *House Hansard*, 15 May 1990.

12 Industry Assistance Commission, *Report into the Automotive Industry*, 17 December 1990.

13 Productivity Commission, 27 May 1997.

Rationale for a luxury car tax

A number of submissions and witnesses to the inquiry raised concerns about the rationale for taxing cars at a higher rate than other goods.

As the Victorian Automobile Chamber of Commerce (VACC) pointed out in their submission to the inquiry:

> Other high-priced consumer goods are not taxed as luxuries, holidays, expensive homes, expensive restaurant meals, holiday homes, yachts are not taxed as luxuries. Other imported goods such as furniture, artworks, plasma televisions, jewellery, watches and antiques are similarly not taxed as luxuries. Yet vehicles are taxed as luxuries, VACC challenges the assumption that cars should be taxed as a luxury.[14]

The same argument was put rather more succinctly by Mr Andrew McKellar of the Federal Chamber of Automotive Industries:

> No other goods and services are "luxury" items according to the tax system.[15]

Evidence was presented outlining that cars are already one of the highest taxed goods in the country. Taxes applied to vehicles and their uses include:

- Tariffs;
- GST;
- FBT (on employers and employees);
- Stamp duties on new purchase and transfer;
- Stamp duties on insurance premiums;
- Registration fees;
- Compulsory third party insurance;
- Fuel excise (and GST on this excise);
- GST on repairs and maintenance;
- Road access fees (tolls); and
- Luxury Car Tax.[16]

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14 VACC, *Submission 11*, p. 4.

15 *Proof Committee Hansard*, 22 July 2008, p. 3.

16 As cited in VACC, *Submission 11*, p. 9.

Coalition Senators agree that motor vehicles already face a high tax burden and restate the Coalition's view that taxes should always be as low as possible.

Coalition Senators also note that no other comparable country has a luxury car tax. British Columbia, which is a province of Canada, has a 2-3 per cent 'luxury' car tax; Pakistan has a two percent tax on 'luxury' vehicles; and in 2007 Venezuelan leader Hugo Chavez was quoted as having plans to impose a tax on 'luxury' items such as Hummers.[17]

What defines a 'luxury' car?

During hearings, varying evidence was given as to what should define a 'luxury' car, and where the threshold for 'luxury' kicks in.

Even a Labor Senator had his own definition of what defined a 'luxury' car during the Melbourne hearing:

> You have said that you cannot tell me, but it seems to me that the LandCruiser you have put forward may have a five disc CD changer, it may have Bluetooth, it may be iPod integrated, and it may have leather seats. It could be quite a luxury model for a car.[18]

Coalition Senators disagree with Labor's view that safety items such as Bluetooth capability are a luxury in today's environment, noting that many cars which fall well under the luxury car threshold come with Bluetooth as a standard, such as the Holden Commodore.

Perhaps the most illuminating contribution as to the definition of a 'luxury' car came from Mr McKellar of the Federal Chamber of Automotive Industries, discussing how in his view a Toyota Landcruiser was not a 'luxury' vehicle, despite being classified as one by the Luxury Car Tax threshold:

> This vehicle retails at a price of around $54,000 or $55,000, but with the addition of a few options and accessories, such as air-conditioning, a bullbar and a winch, it incurs luxury car tax. For those driving on rural roads, unsealed roads, frequently having to dodge wildlife and so on, the addition of those sorts of features is quite normal. Equally, operating in high temperatures, the use of an air-conditioning system in a vehicle like that also makes good sense. It would hardly, in this day and age, be considered to be a luxury. I must say that that vehicle, which incurs increasing amounts of luxury car tax, comes standard without carpet. The interior is fitted out in vinyl as standard so that you can hose out the inside. That was the vehicle that introduced Australians to the Toyota brand back in the 1950s. The LandCruiser earned a reputation for reliability and

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17 http://edition.cnn.com/2007/WORLD/americas/10/15/venezuela.sin.tax/index.html.

18 Senator Doug Cameron, *Proof Committee Hansard*, 6 August 2008, p. 6.

> versatility during the construction of the iconic Snowy Mountains scheme, but today, according to the definitions of the luxury car tax, it is a luxury vehicle.[19]

The Toyota Landcruiser is Australia's best-selling so-called 'luxury' car, with just over 6,000 sold in Australia in 2007.

Coalition Senators note that in addition to the Toyota Landcruiser, there are a number of family vehicles and four wheel drives currently subject to Luxury Car Tax which should not be considered 'luxury' vehicles, including:

- Toyota Prado $66,874;
- Toyota Tarago $64,887;
- Mitsubishi Pajero $64,447;
- Ford Territory $62,657; and,
- Nissan Patrol Wagon $62,116

Coalition Senators note that these are all vehicles that are predominantly driven by either people in rural and regional Australia, or by those with the need for a 'people mover'.

Bracket Creep

The threshold for the Luxury Car Tax is indexed according to the CPI motor vehicles subset. The vast majority of submissions and witnesses gave evidence that this index has been inadequate in ensuring that the threshold rises at the same rate as real car prices, resulting in the number of cars captured by the 'luxury' car concept rising from 2.5 percent of all cars in 1979, to 11 percent in 2008.

In an attachment to their submission prepared by Australian Automotive Intelligence, the Federal Chamber of Automotive Industries outlined why they believed the current indexation model for the Luxury Car Tax is flawed:

> The methodology used for incorporating new vehicle price into the CPIMV has effectively reduced the price change because of the adjustment of prices for "quality" improvement in vehicles – quality in these terms can be broadly seen as changes in specifications. Over the long history of rising vehicle specifications, the CPIMV therefore does not fully reflect the increase in prices actually paid for cars.[20]

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19 Mr Andrew McKellar, *Proof Committee Hansard*, 22 July 2008, pp 2-3

20 FCAI, *Submission 8a*, p. 2.

The CPI-MV has risen only four times since 2000, from $55,134 in 2000 to $57,009 in 2002 to $57,123 in 2007 and then to $57,180 in 2008 – a 0.46 per cent annual increase when inflation has averaged around 3.3 per cent over the same period.

This has resulted in a number of vehicles previously being below the Luxury Car Tax threshold now being above the threshold. For example, the 2000 Mitsubishi Pajero was not a 'luxury' car, but the 2008 model is.

In evidence given to the Committee, the Federal Chamber of Automotive Industries contended that on current trends and on the current indexation model, up to half of all motor vehicles sold in Australia will be subject to the Luxury Car Tax by 2030.[21]

The Chamber presented evidence to the Committee showing various scenarios indexing the Luxury Car Tax threshold since 2000. These showed that while the Luxury Car Tax has increased from $55,134 to $57,180 since 2000, during the same period the threshold would be $71,106 using the CPI; $79,950 using Average Weekly Earnings; and $63,504 if indexed against the average price of the cheapest Family Six.[22]

Coalition Senators are concerned that the current indexation model for the Luxury Car Tax is not adequately reflecting real price increases in cars. This has amounted to a tax increase by bracket creep.

Recommendations

The Luxury Car Tax threshold should be indexed to the CPI, rather than the current CPI-MV subset.

The issue of the appropriateness of the current threshold of the Luxury Car Tax be further considered.

Coalition Senators note that rate of the Luxury Car Tax is currently set and indexed at the same rate as the Car Depreciation Limit.

Recommendation

That the Luxury Car Tax threshold be decoupled from the Car Depreciation Limit threshold and the issue of the Car Depreciation Limit threshold be referred to the Henry Review of Taxation.

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21 Mr Andrew McKellar, *Proof Committee Hansard*, 22 July 2008, p. 2.

22 FCAI, *Submission 8b*, p. 2. 'Family Six' refers to base model Holden Commodore and Ford Falcon.

The Australian car industry – from protectionism to discrimination

The percentage of Australian-made cars subject to the Luxury Car Tax has increased over time.

> Back in 1979, when the threshold was originally introduced, only the Holden Caprice and the Ford LTD were above that threshold. Today, all Australian-made vehicle models have variants that exceed the so-called luxury car tax threshold. So there is a much greater range in terms of Commodores, Ford Falcons, the Ford Territory, the turbo Ghia model and even Toyota's recently produced Aurion...It is not inconceivable that in the future we could see mid-range and even base-model Falcons and Commodores being defined as luxury cars under this legislation.[23]

According to the VACC, the proposed Luxury Car Tax increase will adversely affect the local manufacturing sector:

> For instance, while sales of the Holden Commodore in the $35k to $45k price bracket have fallen from 60,658 in 2005, to 41,331 in 2007, sales of models over $55k have doubled from 6,073 in 2005 to 11,990 in 2007.
>
> Similarly, while Ford has seen a fall in around 25% of sales in the $35k to $45k bracket, sales in the $55k bracket have remained constant…
>
> The tax hits a vital segment of the local manufacturing sector that has been growing or maintaining sales, while sales in other segments have been falling, and any increase in the tax will simply exacerbate this situation.[24]

This view was backed by Ford Australia during hearings in Melbourne:

> I would describe the position of the threshold, Senator, as being at an inappropriate level to today's market place and the fact that where the threshold itself is causing harm on the domestic industry.[25]

How this takes place was explained by Mr McKellar from the Federal Chamber of Automotive Industries:

> In terms of the local industry, our analysis shows that there is a significant distortion in the marketplace. If you take vehicles up to a threshold of about $70,000, more than 50 per cent—in fact, it approaches 60 per cent—of all vehicles incurring the luxury car tax fall within that range. Just below the threshold there is an equal distortion in the marketplace. The impact that that has is quite significant for the local manufacturers, because the price range of Holden Commodore, Ford Falcon, Toyota Aurion and Camry begins to push up towards that threshold. As that occurs they are moving into a space where there are more and more models, more and more brands,

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23 Mr Andrew McKellar, *Proof Committee Hansard*, 22 July 2008, p. 4.

24 Victorian Automobile Chamber of Commerce, *Submission 11b*, p. 1.

25 Mr Russell Scoular, Ford Australia, *Proof Committee Hansard*, 6 August 2008, p. 10.

> competing at the same price level as people try to minimise the tax burden that they incur upon their customers.[26]

During Committee hearings in Melbourne, Labor Senators ran the argument that this five percent of Australian-made cars subject to the Luxury Car Tax are at the top end of the model range, and therefore should be subject to an extra tax.[27]

In response, Coalition Senators note the case put forward by Mr Scoular of Ford Australia:

> …a new car model range can be considered in very much the same way as an aircraft seating plan. Airlines call it economy, business and first class. Everybody travels on the same plane but pays according to the feature comforts and amenities of their class. Numerically most of the seats on an aeroplane are at the back. However, whilst I am not an expert on the aviation industry, it is my understanding that it is the seats up front that make a greater contribution to the profitability of any flight. In the automotive industry it is a similar analogy regarding a new model range. In the case of the Ford Falcon, for example, the range of pricing in that vehicle across the various derivatives, excluding the high performance derivatives, is in the order of approximately \$38,000 through to \$54,000 or \$55,000. What may have started life as a tax on first class travellers in effect has over time spread to business class and is now down to even what we perhaps could call premium economy…
>
> I think it is fair to say, as a rule of thumb, that the contribution to the profitability of a higher series vehicle or derivative would tend to be greater than a lower series.[28]

Coalition Senators note conflicting views put forward as to whether the Luxury Car Tax is a non-tariff barrier and harmful to Australia's international reputation.

While the Federal Chamber of Automotive Industries say that the Luxury Car Tax is harmful to the local car industry:

> When this tax was originally introduced it was a thinly veiled protectionist measure for the local industry. These days it actually adversely impacts the industry, because it means the level of competition that those local brands are facing is more and more intense.[29]

In a submission to the Bracks' Review, and presented to the inquiry by the Victorian Automobile Chamber of Commerce, the European Union said that they consider the Luxury Car Tax to be a non-tariff barrier:

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26 Mr Andrew McKellar, *Proof Committee Hansard*, 22 July 2008, p. 6.

27 *Proof Committee Hansard*, 6 August 2008, p. 9.

28 Mr Russell Scoular, *Proof Committee Hansard*, 6 August 2008, p. 8.

29 Mr Andrew McKellar, *Proof Committee Hansard*, 22 July 2008, p. 6.

> From the European Union's perspective the LCT should be seen as a non-tariff barrier, as it is discriminatory in its effect by mainly impacting imported cars, particularly from Europe; and, as recognised by the Productivity Commission, provides a form of domestic assistance.[30]

Coalition Senators note the Australian Government's stated commitment to removal of non-tariff barriers in trade, and the apparent contradiction between this and the luxury car tax. We also note the Opposition's consistent position on the Luxury Car Tax as first espoused in 1990.

Coalition Senators are concerned that the proposed eight percent increase in the Luxury Car Tax will have a negative impact on the viability of Australia's domestic automotive industry, and express our surprise that the Rudd Labor Government would propose such a tax increase which will be harmful to Australia's domestic car industry.

We also note the apparent incompatibility between these negative effects of the proposed tax increase, and Prime Minister Rudd's statements that he wants to ensure Australia is still a country which 'makes things'.[31]

A tax on innovation

Considerable evidence was given to the Inquiry how the current 25 percent luxury car tax was already a tax on innovation, and how increasing this by a further eight percent would discourage both new safety and environmental innovations in Australian cars:

> The luxury car tax is a 33 percent tax on safety features and low-emission technologies. If the customer seeks the fitting of airbags to a vehicle priced over the luxury car tax threshold then the customer will incur a 33 percent additional tax.[32]

Indeed, there is evidence of cars being 'despecified' for the Australian market in order to ensure they fall under the Luxury Car Tax threshold:

> Something I remember quite clearly from the old luxury car wholesale tax was there was a Mercedes Benz 180, I think the model was, back in 1993-94. The radio became an option on that vehicle to keep it under the threshold.[33]
>
> The other point we make is that the threshold is an artificial ceiling and it is causing all sorts of funny things to be done. It is in fact…leading to

30 VACC, *Submission 11*, attachment C; European Commission's submission to Bracks review.

31 First articulated on 16 March 2007 to John Laws and repeated numerous times since.

32 Mr Andrew McKellar, *Proof Committee Hansard*, 22 July 2008, p. 3.

33 Mr David Smith, Motor Trades Association of New South Wales, *Proof Committee Hansard*, 31 July 2008, p. 18.

> despecifying in order to come in under the threshold, and that has safety and environmental implications.[34]

Increasing the tax by a further eight percent would increase the potential for Australian vehicle purchasers being forced to purchase vehicles with inferior safety and environmental features than would otherwise be the case.

As the Australian Automotive Dealers Association noted:

> For example, a Mitsubishi Pajero 3.2 litre manual retails at $56,890. The addition of side and curtain airbags, $850 recommended retail, brings the total cost of the vehicle to $57,740, exclusive of luxury car tax or on-road costs. The luxury car tax on the vehicle, including side and curtain airbags, would equate to approximately $184.80.[35]

Evidence was given outlining how innovative safety and environmental features always appeared first at the higher end of the car market, and then work themselves down the chain over following years. For example, according to Mr Hofmann from Audi:

> The way it works is premium companies or leading technology brands have the innovation, they implement it but sooner or later it will be distributed and put into every car…Remember, twenty years ago an airbag was an exclusive feature in so-called luxury cars, now they are everywhere and Audi has eight airbags. If we penalise these technologies now this will lead to a slow down of their distribution.[36]

Running a specious argument against this claim, Labor Senators falsely sought to assert that for this argument to hold true, car manufacturers would be putting unsafe cars onto Australian roads:

> **SENATOR CAMERON**: I am sure that because of this tax Audi would not be putting any cars on the Australian roads that are unsafe. Would that be the case?[37]
>
> **SENATOR BISHOP**: Are you aware generally of cars that are produced on the international market where luxury car taxes or high rates of tax inhibit the presence of safety products in cars in this country?[38]

Coalition Senators note and fully agree with the comments in response to Senator Cameron’s assertion:

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34 Mr David Purchase, Victorian Automobile Chamber of Commerce, *Proof Committee Hansard*, 6 August 2008, p .19.

35 Mr John Chapman, *Proof Committee Hansard*, 22 July 2008, p. 24.

36 *Proof Committee Hansard*, 31 July 2008, p. 4.

37 Senator Doug Cameron, *Proof Committee Hansard*, 31 July 2008, p. 8.

38 Senator Mark Bishop, *Proof Committee Hansard*, 31 July 2008, p. 19.

> …but if you had these features on board they would be ***safer*** and you would have less accidents.[39] [emphasis added].

It is not a matter of "safe" but "saf<u>er</u>"; "environmentally friendly" but "environmentally friend<u>lier</u>." When as a country we are striving to reduce road fatalities and injuries, and drive more environmentally friendly cars, placing an increased tax on mitigation measures makes absolutely no sense.

Coalition Senators also note that Australia has a one of the oldest car fleets in the world[40], and that as stated by Mr Steve Bracks, we should be acting to encourage the purchase of newer, safer and more environmentally friendly vehicles:

> The states and territories could also consider the harmonisation and reduction of stamp duties, vehicle registration and compulsory third-party insurance…This would facilitate the purchase of new [or newer second-hand] vehicles and help reduce the average age of the in-service vehicle fleet. An added benefit would be a reduction in greenhouse gas emissions.[41]

The fact that Mr Bracks made such a recommendation about the need to reduce state taxes, but failed to address the Luxury Car Tax, highlights the extent to which the Government's pre-emption of his report by raising the Luxury Car Tax nobbled Mr Bracks's final report.

Lack of consultation

A number of submissions and witnesses, particularly those from the various motor traders and car dealers associations, raised their concerns about the Rudd Labor Government's lack of consultation over the implementation of this new tax.

As noted in the opening paragraph, the eight percent tax increase was announced not in the budget papers, nor even by Ministerial press release, but through a strategic budget 'leak' to journalist Glenn Milne two days before the budget.

The Government undertook no consultation with the car industry over this proposed tax increase before the announcement on 11th May, and have undertaken little consultation since.

While the laws formalising the Luxury Car Tax increase have not been passed into law, the Government has maintained that the commencement date for the increase is the 1st July 2008.

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39 Mr Joerg Hofmann, Audi, *Proof Committee Hansard*, 31 July 2008, p. 8.

40 As cited by Mr Hofmann of Audi, 40 percent of the car fleet are between 11 and 20 years old, *Proof Committee Hansard*, 31 July 2008, p. 3.

41 Review of Australia's Automotive Industry, *Final Report*, 22 July 2008, pp 97-8.

This has caused considerable confusion and chaos in the new car market. As the VACC noted in their submission to the Inquiry:

> New car dealers are not only disturbed by the decision to increase the tax but even more concerned by a failure to provide a well managed transition period so that both consumers and dealers were not adversely impacted by the consequences of the increase.[42]

This confusion has been heightened by the Government's lack of concern for issues surrounding the difference between the order date, and delivery date, of new vehicles.

Opposition Senators note the following evidence, which was typical of evidence given from motor vehicle dealers:

> Finally, ladies and gentlemen, a big concern for us is really the price protection of existing orders. This is another matter where we would have greatly appreciated it if the government had consulted with the industry. I read it in Andrew McKellar's statement and he is exactly right that buying an automobile is different from buying a carton of milk or a can of soup. Our cars are ordered nine months in advance. Some of our customers even order their cars 12 months in advance. You place an order at the end of last year, you enter into a contract which is a legally binding document and all of a sudden, the tax is increased, so what should we do? That person bought a car with a certain price assumption and all of a sudden …. and the dealers have to go back and say, 'Now, … it is now eight per cent more expensive and you have to give me more money.'[43]

In other words, a person could have ordered a car even before the 11th May announcement by the Treasurer of the tax increase, and if their car was not delivered before the 30th June, they would be forced to pay an extra eight percent tax.

Such is the confusion over this issue that the Victorian Automobile Chamber of Commerce commissioned their own advice from lawyers Greenwoods and Freehills regarding the Australian Tax Office's position that the tax was payable on the day of delivery, not the day of purchase. While considering that the ATO's view of the date of supply being the day of purchase for Luxury Car Tax purposes, Greenwoods and Freehills also noted:

> Based on recent court decisions, albeit in respect of similar GST concepts, we consider that it is also reasonable to conclude that the taxable supply of the luxury car could be taken to be 'made' for LCT purposes (as opposed to the timing of the LCT liability) upon entry into a contract for the sale of the car.[44]

42 Victorian Automobile Chamber of Commerce, *Submission 11*, p. 9

43 Mr Joerg Hofmann, *Proof Committee Hansard*, 31 July 2008, p. 4.

44 Greenwoods & Freehills, advice to VACC, *Submission 11*.

Coalition Senators note that if a person purchased and took delivery of a car between 11th May and 1st July (for example, if the car was on the showroom floor) they would not have to pay the increased tax; however if the car was ordered between 11th May and 1st July, but not delivered until 1st July, or later, they will, on the Australian Tax Office's advice, be required to pay this extra tax.

The confusion over the back-dating of the proposed tax increase in not just contained to purchaser and dealer but also the various state governments and vehicle financiers:

> The luxury car tax affects the price of stamp duty so the stamp duty is going to have to go up and we will have to re-issue registration papers. If you speak to the RTA, they cannot give you a straight answer as to whether the car needs to go and get a blue slip again or whether they can just re-do the registration papers. Finance contracts will have to be re-done as well as the deal contracts. Everything has to be re-done because in five years time if we are hauled up in front of someone we have to have the correct paperwork.[45]

> I have an understanding with the state revenue office, and people who deal with the state revenue office know it is very difficult to get a refund out of them. Once you have paid them, you have to have a very good reason. It is going to make life hard. It is increasing the complexity of the whole transaction. It is hard enough already, you are right.[46]

Coalition Senators condemn the Rudd Labor Government for their botched implementation of the proposed eight percent increase in the Luxury Car Tax and note that it is symptomatic of an ill-thought out policy put in place simply to raise revenue without any thought as to the consequences.

Recommendation

Opposition Senators recommend that, as a minimum, the package of bills be amended such that no one who ordered a new vehicle before 13th May 2008 (when the measure was officially announced) and took delivery after 30th June 2008 be forced to pay the extra eight percent Luxury Car Tax, if the tax increase is passed into law.

Loss of revenue/jobs

This back-dating has caused considerable confusion and uncertainty within the car industry, to the extent that some witnesses argued it has led to a significant downturn in sales of luxury vehicles, of up to 30 percent.

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45 Mr Allan Brink, Audi, *Proof Committee Hansard*, 31 July 2008, p. 5

46 Mr David Russell, VACC, *Proof Committee Hansard*, 6 August 2008, p. 19.

Coalition Senators note that if this downturn is reflected for the remainder of the year there is a very real possibility that the proposed eight percent tax increase, if passed into law, will actually result in a decline in Government revenue.

We also note the possibility of the tax increase having a significant impact on jobs:

> If the numbers go backwards, of course you will not have these 280 additional jobs but you also may have job cuts and people dismissed.[47]

Evidence presented in Sydney described how the proposed increase in the rate of the Luxury Car Tax did not merely result in consumers buying less expensive cars, it resulted in them deferring purchases altogether:

> The exact impact of the tax itself will probably take some time to play out, but what we are hearing through the dealers is that there is potentially some impact for this in future purchasing decisions.[48]

Given the Government's only policy rationale for the tax increase is to increase Government revenues and curb inflation, Coalition Senators question whether even this dubious outcome will be achieved. And if the revenue increase is achieved, Labor Senators concede that the impact will be not to curb inflation but exacerbate it.[49]

Historic vehicles

Evidence was given from both the Association of Motoring Clubs of Victoria and the Sporting Car Club of South Australia that as the luxury car tax also applies to second-hand vehicles imported from overseas, it is having a negative impact on the maintenance of Australia's motoring heritage by discouraging people from bringing such historic vehicles back into Australia.

Recommendation

That the Henry Review of taxation examine the possibility of exempting imported vehicles over say 30 years of age from the Luxury Car Tax.

Conclusion

Coalition Senators consider the move by the Rudd Labor Government to increase the Luxury Car Tax by eight percent from 25 percent to 33 percent to be based on naked class warfare and the politics of envy.

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47 Mr Joerg Hofmann, Audi, *Proof Committee Hansard*, 31 July 2008, p. 9.

48 Mr Peter Griffin, Toyota, *Proof Committee Hansard*, 6 August 2008, p. 4.

49 Labor Senators' majority report at 2.20: "the total CPI might have a one-off increase of 0.01 percent."

The Rudd Labor Government has put forward no sensible policy rationale for this tax increase on cars other than it being a naked grab for cash.

No comparable country to Australia has a Luxury Car Tax, and no other good has a 'luxury' tax applied to it. We also note that cars and their uses are already very heavily taxed.

On the evidence provided, it is clear that the Luxury Car Tax now applies to a significant number of cars which cannot be classed as 'luxury', particularly 'people-movers' used by large families, and four-wheel drives used again by large families and those in regional and rural Australia.

As a result, families and Australians living in rural and regional Australia will be punished by this proposed tax increase.

The proposed tax increase will be a further tax on innovation in the car industry, particularly in the areas of new safety and environmental developments, and may lead to the slow-down of their introduction into the Australian market.

It is incontrovertible that the current method of indexing the luxury car threshold is insufficient to accurately reflect real changes in prices of motor vehicles.

The Rudd Labor Government has botched the implementation of the tax by insisting it be backdated to the 1st July, with no guarantee it will pass the parliament, and failing to take account of the difference between purchase and delivery time for the vast majority of motor vehicles.

Finally, but not least, Coalition Senators note that an increase in the Luxury Car Tax at the current threshold will damage the Australian car industry and dumb it down.

The proposed eight percent increase in the Luxury Car Tax has not been supported by the evidence and will have numerous negative impacts, including its reliance on out-moded notions of class warfare and the politics of envy. It will have a negative effect on Australian families; a negative effect on those living in rural and regional Australia; a negative effect on safety and environmental innovation in the Australian car fleet; it will damage the Australian automotive manufacturing industry; and it will be inflationary.

Recommendation

Accordingly, the Coalition Senators on the Committee recommend the proposed increase in the Luxury Car Tax from 25 percent to 33 percent be opposed.

Senator Dr Alan Eggleston
Deputy Chair
LP

Senator Barnaby Joyce
LNP

Senator David Bushby
LP

Senator the Hon. Eric Abetz
LP