



24 June 2008

Ms Trisha Clarke
Assistant Commissioner, GST
PO Box 2245
MELBOURNE VIC 3001

Dear Ms Clarke

I refer to your administrative advice regarding the delay in the enactment of the Tax Laws Amendment (Luxury Car Tax) Bill 2008.

This advice creates a very difficult situation for car dealers who are members of the Motor Trades Association of Queensland (MTAQ) and the following points are submitted for consideration by the ATO.

1. Our members will face some difficulty as there appear to be insufficient legal grounds for collecting the proposed increase in Luxury Car Tax (LCT) because the Bill to amend the LCT has not been enacted. Further, a number of importers and distributors who have a liability for LCT at the time of importation are disputing your proposed arrangements in their instructions to dealers.
2. The ATO should also be aware that under the administrative arrangements which you have proposed our members would not be able to comply with their statutory obligations under the Trade Practices Act which requires full disclosure of the actual purchase price to the customer at the time of the transaction and in any advertising or promotional material.
3. The concept that our members would be liable for the difference in LCT payable should a Bill be enacted which applies an increase in LCT retrospectively from 1 July 2008 is unfair and unreasonable for the following reasons:
 - Such a regime would require our members to pay the additional tax whether or not they were successful in recovering the money from the purchaser;
 - It is unlikely that purchasers will voluntarily agree to enter into a separate contract for the payment of the additional tax at a later date and further difficulties are anticipated in enforcing these agreements;
 - If a considerable delay occurs before the Bill is passed into law, it is highly likely that many purchasers will have moved and the burden of then finding them will then fall on our members who have limited skills and resources to apply to this task; and
 - If purchasers are unable to be located our members will be unfairly liable to pay a retrospective tax bill on behalf of another individual when they had no legal right to charge that tax payer at the time of the transaction.

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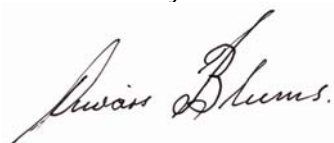
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4. The administrative advice also appears deficient in that it fails to acknowledge that the Senate may in fact propose further amendments to the Bill and that the "rate" and "threshold" applying to the LCT may be amended.
5. Finally the administrative burden imposed on our members is inconsistent with the objectives of the Business Regulation and Competition Working Group of COAG to reduce the regulatory burden on business. This objective was unanimously reconfirmed by the Federal and all State Governments as recently as 20 December 2007.
6. MTAQ requests your consideration of the following administrative arrangements which would ameliorate a very difficult situation which is developing in relation to a retrospective increase in LCT.
 - Members will continue to collect and remit LCT in accordance with the current legislation until any amendments are enacted;
 - In the event that a Bill is enacted which increases the rate of LCT then members will collect and remit LCT at the increased rate from the date it is enacted; and
 - Should the amended rate of LCT apply retrospectively, the MTAQ member liable for this tax will supply the ATO with details of those transactions and responsibility for collecting any difference will reside with the ATO.;
 - To clarify the position, from 1 July 2008, a disclosure statement acceptable to the ACCC and the ATO will be provided to all purchasers of luxury vehicles notifying them that:
 - LCT charged on the transaction has been levied at the currently legislated rate of 25%;
 - the Federal Government has introduced a Bill into the Parliament which would increase rate of LCT to 33% and further stated that the Bill if enacted will apply the increase retrospectively to all sales of luxury vehicles from 1 July 2008;
 - the purchaser will be held liable for the payment any difference in LCT should a Bill be enacted to increase LCT retrospectively; and
 - the ATO will be responsible for liaising with the ACCC to ensure that any administrative arrangement complies with the Trade Practices Act.

These latter arrangements would provide a more equitable administrative arrangement for our members given the uncertainty of the Bill being enacted in its current form.

Further queries regarding this submission should be referred to Mr Bob Gannon, Group Manager Government Relations on 3237 8780 or bobg@mtaq.com.au.

Yours sincerely,



Aivars Blums
Group Chief Executive Officer