



CIRCULAR V.L.D 4 VEHICLE LICENCE DUTY

DEFINITION OF DUTIABLE VALUE

The *Duties Act 2008* ('Duties Act') impacts on the imposition of vehicle licence duty on the grant or transfer of motor vehicle licences. Prior to the Duties Act, duty was calculated based on the *market value* of a *new vehicle* or *other vehicle*. The Duties Act calculates duty based on the *dutiable value* of a vehicle.

DUTIABLE VALUE

The definition of *dutiable value* distinguishes between a new vehicle of a particular type or class and other vehicles. There are also provisions that set out the dutiable value of certain specialised vehicles.

DUTIABLE VALUE OF CERTAIN NEW VEHICLES

Where a vehicle is a *new vehicle* which is of a class prescribed for which a price has been fixed by the manufacturer, importer or principal distributor as the *retail selling price* in Western Australia of that make and model, the *dutiable value* will be:

- the price fixed; and
- for each optional feature in or of the vehicle – the additional amount fixed by the manufacturer, importer or principal distributor for the retail sale in Western Australia of the optional feature. The price of other features or accessories that are not *optional features* as defined (including, but not limited to, window tinting, DVD player, sound system speakers, mag wheels, paint, fabric and rust protection and rear spoilers) should **not** be added.

The retail selling price of the vehicle or optional features is taken directly from the price fixed by the manufacturer, importer or principal distributor. This price is structured on the basis that GST is payable on every vehicle (as is the Luxury Car Tax where applicable) and accordingly, vehicle licence duty is payable on that retail selling price, regardless of whether the supply of a vehicle (in certain circumstances) is GST free or not.

However, the price fixed by the manufacturer, importer or principal distributor does not generally include dealer delivery charges and registration fees or premiums for insurance and/or extended warranty and financing charges (i.e. charges imposed by a financier should the vehicle be acquired through finance). As a consequence, vehicle licence duty is not payable on these amounts.



DUTIABLE VALUE FOR CERTAIN OTHER VEHICLES

The calculation of the dutiable value for vehicles that are not of a class prescribed as certain new vehicles remains unchanged. Vehicle licence duty is calculated on the amount for which the vehicle might reasonably be sold, free of encumbrances, in the open market.

As a general rule, the dutiable value of these vehicles will be the purchase price (inclusive of GST and any amount allowed by the seller of the vehicle on a trade-in or exchange) plus any of, but not limited to, the following:

- dealer delivery charges, processing fees, buyer's premiums, administrative costs and other like expenses which relate to the acquisition of the vehicle;
- the amount paid to the seller for accessories included with or incorporated into the vehicle on the date of registration or transfer (regardless of whether the accessories purchased are the subject of a separate agreement from the vehicle sale agreement); and
- factory rebates provided by the manufactures for fleet purchasers that are not available to all prospective purchasers and therefore must be added back to the purchase price to arrive at the dutiable value.

NEW VEHICLE

To be a *new vehicle*, a vehicle must be of a class prescribed in the *Duties Regulations 2008*. Currently, motor vehicles and motor cycles fall within the definition of prescribed classes of new vehicles. Heavy vehicles (i.e. those vehicles with a gross vehicle mass of more than 4.5 tonnes), however, are specifically excluded from being within the prescribed classes of new vehicles.

To satisfy the definition of a *new vehicle*, the vehicle must never have been used or have only been used for the purpose of selling it in the ordinary course of business, for demonstration purposes, for certain charitable purposes and for minor incidental purposes.

A new vehicle that is used for the purpose of selling it in the ordinary course of business, for demonstration purposes or for certain charitable purposes must be used for a period of more than **two months** before it can be treated as a used vehicle. This restriction specifically prevents a new vehicle being licensed as a *demonstrator*, for example, for a short period of time, allowing a transfer to occur to a purchaser with duty paid on a potentially lower dutiable value. Accordingly, if a demonstration vehicle is transferred to a purchaser, the duty must be calculated on the retail selling price fixed by the manufacturer, importer or principal distributor unless the vehicle has been used for demonstration purposes for more than two months.



A vehicle used as a static demonstration display only (i.e. a vehicle that remains in the showroom and is not actually driven) would be considered to be a vehicle that has never been used, regardless of how long it remains on display. Accordingly, if such a vehicle is sold, it is considered a new vehicle and duty would be calculated by reference to the retail selling price.

OPTIONAL FEATURES

An *optional feature* is any particular kind of transmission in a vehicle (e.g. automatic), any kind of engine in a vehicle (e.g. a V8 engine), or any other feature in or of a vehicle prescribed by the regulations, that is not a standard feature of a vehicle of that make and model.

Where applicable, the value of the optional feature (inclusive of GST) is added to the price fixed by the manufacturer, importer or principal distributor for the vehicle.

IMPORTED VEHICLES

Vehicle licence duty for new imported vehicles (motor cars and motor cycles other than heavy vehicles) is calculated on the retail selling price fixed by the manufacturer, importer or principal distributor for the vehicle, in those instances where there is a retail selling price available. Otherwise, it is calculated on the amount that the vehicle might reasonably be sold for, free of encumbrances, in the open market (including accessories and delivery charges).

DEALER

The definition of *dealer* is a person that carries on the business of selling new and used vehicles and is the holder of a dealer's licence issued under the *Motor Vehicle Dealers Act 1973* and includes a person who, in the course of a person's business, takes possession of vehicles that are the subject of mortgages or charges, and resells them.

ANTI-AVOIDANCE PROVISION

Duty is not chargeable on the grant of a licence for a vehicle to a person if the vehicle was last licensed or registered in that person's name in another jurisdiction. However, if the Commissioner of State Revenue ('Commissioner') is satisfied, or becomes satisfied after the grant of the licence, that the vehicle was licensed or registered outside of Western Australia as part of a course of action or conduct having the sole or dominant purpose of avoiding or reducing duty, the duty chargeable is due for payment within one month after the date of an assessment notice issued in relation to the dutiable value of that vehicle.



DEALER'S DECLARATION ON LOANED VEHICLES

Dealers are required to notify the Commissioner when a motor vehicle is loaned to a charitable organisation, or to a school for driver training, or to an individual for a philanthropic purpose, or for a prescribed purpose described in the *Duties Regulations 2008*, by completing a Loan Vehicle Dealer's Declaration form and forwarding it to the Commissioner for approval.

This differs from the previous *Stamp Act 1921* requirements of only notifying the Department for Planning and Infrastructure (now Department of Transport) on the 'Dealers Certificate' (s13) form when the motor vehicle to which the licence relates is being loaned for charitable, school driver education, or prescribed purposes, and the only requirement was that the dealer retained a copy for their record keeping.

PENALTIES

The Duties Act requires the seller of a motor vehicle to make a declaration as to the purchase price and estimated dutiable value of the vehicle. Failure to comply with the requirement is an offence for which a maximum penalty of \$20,000 is payable.

A seller who understates the purchase price or dutiable value of a vehicle also commits an offence for providing false and misleading information and is liable to a penalty. The seller would also be joint and severally liable with the purchaser for payment of the amount of any shortfall of duty to the extent of the amount understated, together with penalty tax of up to 100% of that duty.

For further information please contact the Office of State Revenue on 9262 1100 or submit a web enquiry at www.osr.wa.gov.au/DutiesEnquiry

Published June 2008

Updated April 2015