



DEALER BULLETIN 05/2022

Changes to the *Duties Act 2008*

On 28 May 2022, amendments to the *Duties Act 2008* (Act) commenced. These amendments introduce:

- a new duty exemption for [service demonstrator vehicles](#); and
- provisions to allow for the reassessment of duty on vehicles:
 - [returned to the seller](#) for a refund of the purchase price or a replacement vehicle; and
 - where the [agreement to purchase the vehicle is cancelled](#) before the purchaser takes possession of the vehicle (deal cancelled).

Process

Service Demonstrator Vehicles

The Act now provides for an exemption from vehicle licence duty upon the grant of a vehicle licence for a vehicle that has been acquired by a dealer solely for the purpose of using it as a service demonstrator vehicle.

Service Demonstrator Duty Exemption

Service demonstrator vehicles are exempt from vehicle licence duty on the grant of a vehicle licence to a dealer if:

- the dealer acquired the vehicle solely for the purpose of [using](#) it as a service demonstrator vehicle;
- at the time of acquisition, the vehicle has not been used; and
- the application for the grant of the licence is accompanied by or includes a declaration in the approved form.

Service Demonstrator Duty Declaration

To be eligible for a service demonstrator vehicle exemption from duty, a dealer must declare that:

- while the dealer holds the licence, the vehicle will not be used for any purpose other than a purpose declared (selling or re-selling the vehicle in the ordinary course of business, demonstrating the vehicle to prospective purchasers, using the vehicle as a service demonstrator vehicle, or loaning the vehicle to a charitable organisation, a school for driver education, for philanthropic or for other specified purposes); and
- the dealer will notify the Commissioner of State Revenue of any change in use of the vehicle within one month after the day on which use of the vehicle changed.

All Department of Transport (DoT) dealer forms have been updated to include the information required by the Act in the declaration.

Use of a Service Demonstrator Vehicle

The eligibility for exemption from duty for service demonstrator vehicles is reliant on the vehicle being used as a service demonstrator vehicle. Section 246(4) of the Act provides that a vehicle is used as a service demonstrator vehicle if:

- (a) a dealer uses the vehicle to loan to customers while their vehicles are being serviced or repaired, or otherwise undergoing mechanical work undertaken, by or on behalf of the dealer; and
- (b) each loan to a customer referred to in paragraph (a) is made —
 - (i) without charge or for a nominal charge only; and
 - (ii) for the purpose of demonstrating the vehicle to encourage the customer to purchase a new vehicle of the same make, model, and model year from the dealer; and
- (c) the vehicle is of a make of vehicle that the dealer is authorised to supply under an agreement or arrangement with the manufacturer or principal distributor; and
- (d) the model year of the vehicle is the latest model year released by the manufacturer in Australia for that model of vehicle.

Reassessment of Duty

The Act now provides for the reassessment of vehicle licence duty paid for transactions when a vehicle is returned to the seller for a full refund of the purchase price or a replacement vehicle or if an agreement to purchase a vehicle is cancelled before the purchaser takes possession.

Vehicle Returned to Seller

Duty is not chargeable on the grant or transfer of a licence for a vehicle if:

- a purchaser enters into an agreement to purchase a vehicle; and
- after the purchaser takes possession of the vehicle, the purchaser returns the vehicle for a refund, or a replacement vehicle and the return is accepted.

This exemption only applies to genuine returns of a vehicle for a refund of the purchase price or a replacement vehicle. It does not apply to the subsequent purchase of the same vehicle by the seller from the purchaser, or a trade-in associated with the subsequent purchase of another vehicle from the seller.

The vehicle must be returned and an application for reassessment made within five years of the original vehicle licence duty assessment. Applications for a reassessment of duty in circumstances where a vehicle has been returned to a seller for full refund of the purchase price or a replacement vehicle must be made to RevenueWA using the Reassessment for Vehicles Returned for Refund or Replacement (FDA52) form, available online at www.wa.gov.au by searching 'FDA52'.

DoT is unable to accept or process applications for the reassessment of duty in these circumstances.

Deal Cancelled

The changes to the Act extend the time period in which a reassessment application can be made in circumstances where the agreement to purchase a vehicle is rescinded, annulled, or otherwise terminated (deal cancelled), to within five years of the original vehicle licence duty assessment.

While a five year reassessment application period is provided, the application for reassessment of duty is incumbent on the purchaser not having taken possession of the vehicle.

Where an agreement for the purchase of vehicle is rescinded, annulled, or otherwise terminated (deal cancelled), an application for reassessment of duty can be made to DoT, using the new Application for Reassessment of Duty (E124) form, which replaces all previous DoT deal cancelled requirements.

If the purchaser has taken possession of a vehicle, an application for reassessment of duty cannot be made to DoT. Once a purchaser has taken possession of a vehicle a reassessment of duty can only be made to RevenueWA if the [vehicle is returned to the seller](#) for a replacement or refund and the return is accepted. In these circumstances a FDA52 form should be completed and submitted to RevenueWA.

An application for reassessment of duty will not be accepted unless it is made on the approved form and signed by all parties to the agreement.

Further details on 'Deal Cancelled' can be located in Dealer Bulletin 07/2022 Reassessment of Duty – Deal Cancelled.

Definitions

The changes to the Act introduced a new definition and amended other definitions for service demonstrator vehicles. This section provides some guidance on definitions in the Act and their meanings and is provided as a guide only.

New Vehicle

The definition of new vehicle has been amended to capture service demonstrator vehicles. In accordance with the Act a new vehicle means —

- a vehicle that has not been used; or
- a vehicle that has only been used for the below purposes:
 - demonstrating it to prospective purchasers; or
 - solely for the purpose of using it as a service demonstrator vehicle; or
 - loaned by a dealer:
 - to a charitable organisation to be used solely for providing assistance to underprivileged or disadvantaged persons; or
 - to a charitable organisation used solely for providing emergency assistance; or
 - to a school (within the meaning given in the *School Education Act 1999*) to be used solely for student driver training; or
 - to an individual solely for a philanthropic purpose approved by the Commissioner of State Revenue; or
 - solely for a prescribed purpose¹.

A vehicle that has been used for the above purposes is only considered to be a new vehicle for a period of two months.

If the vehicle has been used for a purpose described above for a period of more than two months, it is no longer considered to be a new vehicle or afforded the duty exemptions available to dealers for certain new vehicles.

¹ There are currently no purposes prescribed in the *Duties Regulations 2008*.

Dutiable Value

The Act requires that a dealer that sells a [new vehicle](#) must, within seven days after the day of the sale, give to the DoT Chief Executive Officer (CEO) a statement signed by the dealer setting out:

- (a) the [purchase price](#) of the vehicle; and
- (b) the dealer's estimate of the dutiable value of the vehicle at the time the vehicle was sold.

The term dutiable value is defined by Chapter 5 of the Act. The following interpretation is provided as a guide only.

New Vehicles

The dutiable value of a new vehicle², is the price fixed (list price) by the manufacturer, importer or principal distributor as the retail selling price in Western Australia of a vehicle of that make and model; and for each [optional feature](#) in or of the vehicle, the additional amount fixed by the manufacturer, importer or principal distributor for retail sale in Western Australia of the optional feature.

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.

The price fixed by the manufacturer, importer or principal distributor does not generally include dealer delivery charges added by a dealership in addition to the list price 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. Consequently, vehicle licence duty is not payable on these amounts.

Where there is no price fixed by the manufacturer, the dutiable value is the amount the vehicle might reasonably sold for in the open market.

Charges embedded into the list price of the vehicle, such as fixed order and transportation costs when purchasing a vehicle directly from the manufacturer will still form part of the dutiable value.

Other Vehicles

The dutiable value of other vehicles, that are not new vehicles, is the amount for which the vehicle might reasonably be sold, free of encumbrance, in the open market. This is generally the purchase price of the vehicle where the parties are unrelated and unaffiliated (independent parties). The dutiable value includes the value of any accessories fitted onto the vehicle at the time of licence grant or transfer.

Note: Where the dutiable value or purchase price of a vehicle has been incorrectly stated the matter will be referred to RevenueWA for investigation and possible prosecution.

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.

² Motor car, motor wagon or motorcycle that is designed primarily to transport people or goods

The Act defines an optional feature of a vehicle to mean a feature of any of the following types that is not a standard feature of a vehicle of that make and model:

- (a) any particular kind of transmission in a vehicle;
- (b) any particular kind of engine in a vehicle; and
- (c) any other prescribed feature³ in or of a vehicle.

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.

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.

Purchase Price

The Act defines purchase price to mean the following:

- (a) an amount allowed by the seller on a trade-in or an exchange of any article,
- (b) an amount paid to the seller for anything included with or incorporated into the vehicle; and
- (c) an amount paid to the seller for the preparation of the vehicle for delivery to the purchaser.

Dealer Forms

The following DoT forms have been amended to capture the requirements of the Act:

- License a Vehicle Without Inspection (Dealers only) (E79).
- Notification of Change of Ownership – Vehicle Licence Transfer (MR9).
- Vehicle Transfer – Vehicle Dealers – Notification of Change of Ownership (MR9B).
- Application to License a Vehicle (VL17).
- Application for Bulk Licensing – Factory New Vehicle (not previously licensed (VL1A).

Further Information

Further information on vehicle licence duty, dutiable value, optional features, nominal duty, and other dealer related matters (records to be kept etc) can be obtained by, contacting RevenueWA or by visiting www.wa.gov.au and searching 'vehicle licence duty'.

Dealer Support can be contacted for any queries regarding the above instructions on 1300 858 374 or by email via dealersupport@transport.wa.gov.au



Dennis O'Reilly
A/Executive Director, Drivers and Vehicles
24 November 2022

³ There are currently no features prescribed in the *Duties Regulations 2008*