

# Taxation Administration (Amounts Payable—Motor Vehicle Duty) Determination 2016 (No 1)

## Disallowable instrument DI2016-144

made under the

*Taxation Administration Act 1999*, section 139 (Determination of amounts payable under tax laws)

## EXPLANATORY STATEMENT

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### Purpose

1. The purpose of this instrument is to determine the differential amounts of duty payable on the application to register a motor vehicle.

### Summary

2. The *Taxation Administration Act 1999* (TAA) deals with the administration of various tax laws relating to the imposition and collection of certain taxes, duties and licence fees.
3. Section 139 of the TAA empowers the Minister to determine the amount of taxes, duties and licence fees payable under a tax law, including under the *Duties Act 1999* (the Duties Act).
4. Part 9.1 of the Duties Act imposes motor vehicle registration duty on the application to register a motor vehicle.

### Vehicle Emission Reduction Scheme

5. The Vehicle Emission Reduction Scheme (VERS) charges duty based on four rating categories (A, B, C and D). The rating category of a motor vehicle depends on its environmental performance as measured by the grams of carbon dioxide (CO<sub>2</sub>) emitted by the vehicle per kilometre.
6. The focus on CO<sub>2</sub> emissions allows consumers to better understand the environmental impact of a new vehicle.

7. The details of on the CO<sub>2</sub> emissions of vehicles are obtained from the Commonwealth's Green Vehicle Guide (GVG) available at <http://www.greenvehicleguide.gov.au>.
8. This instrument provides definitions of terms relevant to motor vehicles under the VERS. Table 1, **Vehicle Performance Rating** (in section 3 of the instrument) provides a Vehicle Performance Rating of each new vehicle under the scheme, corresponding to the grams of carbon dioxide (CO<sub>2</sub>) emitted per kilometre by the vehicle.

### Changes in this instrument

9. This instrument makes two changes to the previous disallowable instrument (DI2015-183):
  - a. this instrument includes new motorcycles in the VERS by assigning them a Vehicle Performance Rating category of B; and
  - b. this instrument excludes demonstrators registered outside the ACT from the meaning of *new motor vehicle*.
10. DI2015-183 is revoked by this instrument.

### Motorcycles under the VERS

11. The GVG does not provide data on the environmental performance of motorcycles. There are no Australian Design Rules that require motorcycle manufacturers to provide emissions information to the Commonwealth.
12. Therefore, prior to these amendments, motorcycles were classified as 'non-rated vehicles' under the VERS and the duty payable in respect of them was equal to the rate for C-rated vehicles.
13. This instrument moves new motorcycles from the C-rated to the B-rated category under the VERS. This change recognises the environmental performance of motorcycles and scooters compares favourably to light vehicles, and improves the affordability of purchasing a new motorcycle, assisting to reduce congestion and greenhouse gas emissions.
14. While information is not available for specific motorcycle models, based on broad estimates provided by BITRE (the Bureau of Infrastructure, Transport and Regional Economics), the B-rated category corresponds to the CO<sub>2</sub> emission levels of an average motorcycle. BITRE figures suggest the average fuel consumption for motorcycles is around 6L/100km. Based on petrol's carbon weight of 2392g/L the emissions of an average motorcycle are 143.52g/km.
15. *Motorcycle* is defined to mean a motorbike within the meaning of the *Road Transport (Vehicle Registration) Regulation 2000*, generally meaning any 2-wheeled motor vehicle with or without a sidecar.

16. Non-rated vehicles would continue to include motorcycles that are not new, according to the existing definition of *new motor vehicle* under section 3 of this instrument.

### **Interstate demonstrators**

17. In addition, this instrument modifies the meaning of *new motor vehicle* to exclude demonstrators which were first registered under the law of the Commonwealth, a State, another Territory or a foreign country.
18. The intent of this change is to discourage people from importing interstate demonstrators into the Territory only to take advantage of the differential duty scheme (by subsequently transferring registration to the person's home jurisdiction).
19. The VERS will continue to apply to local demonstrators that are or were first registered in the ACT, and disposed of within 1 year of registration by a licensed dealer.

### **Determination**

20. For the purpose of section 208 (1) of the Duties Act, column 2 of table 2 (in section 4 of the instrument) determines the amount of duty payable on the application to register motor vehicles that correspond to the vehicle ratings in column 1.
21. For the purpose of section 208 (2), column 2 of table 3 (also in section 4 of the instrument) determines the duty payable in relation to vehicles that correspond to the categories in column 1.
22. This instrument specifies that vehicles listed in section 208 (2) (b) of the Duties Act are excluded from the application of amounts payable under table 3 in section 4 of the instrument. The rate of duty applicable to these vehicles is determined under table 2 instead of table 3.
23. For motor vehicles that have no Vehicle Performance Rating (because they are not new or they are not included in the GVG), the amount of duty payable under this instrument is equivalent to the amount of duty payable for a C-rated vehicle under the GVG. However, the amount of duty payable for new motorcycles is equivalent to the amount payable for B-rated vehicles instead of C-rated vehicles.
24. Duty does not apply to caravans or to camper trailers. However, duty remains payable on all other trailers (e.g. goods carrying, box) that are not camper trailers.

### **New motor vehicles and demonstrators**

25. In order to qualify for the differential rates of duty applicable to green vehicles, a demonstrator vehicle must be sold or otherwise disposed of within 1 year of the date it first became a registered motor vehicle.

26. Demonstrators that do not meet the definition of *demonstrator* under this instrument **and** are not disposed of by a licensed vehicle dealer within 1 year will not qualify for the differential rates of duty applicable to green vehicles.

**Displacement of *Legislation Act 2001*, section 47 (6)**

27. As the CO<sub>2</sub> emissions of motor vehicles under this instrument are ascertained by reference to the GVG, this instrument incorporates those details as in force from time to time.
28. Section 47 (6) of the *Legislation Act 2001* (Legislation Act) provides that an incorporated instrument, and any amendment or replacement of such an instrument, are taken to be notifiable instruments. A notifiable instrument must be notified on the legislation register under the Legislation Act.
29. However, for the purpose of determining a rate for motor vehicle duty, section 208 (3) permits a determination under section 139 of the TAA to apply, adopt or incorporate an instrument as in force from time to time.
30. As the GVG is amended frequently (whenever a new vehicle model becomes available for sale, which can be as frequent as two to three times per week), section 5 of this instrument displaces section 47 (6) of the Legislation Act.
31. If section 47 (6) of the Legislation Act were not displaced, the text of the GVG would have to be remade as a new notifiable instrument every time the GVG is amended. The displacement ensures that the current version of the GVG always applies for the purposes of the instrument, removing the need to remake it as a notifiable instrument whenever it is amended by the Commonwealth.

Authorised by the Treasurer  
Andrew Barr MLA