

Australian Capital Territory

Taxation Administration (Amounts Payable—Motor Vehicle Duty) Determination 2023

Disallowable instrument DI2023-33

made under the

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

EXPLANATORY STATEMENT

Purpose

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

Background

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.

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).

Part 9.1 of the Duties Act imposes motor vehicle registration duty on the application to register a motor vehicle.

Vehicle Emission Reduction Scheme

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 (CO₂) emitted by the vehicle per kilometre.

The focus on CO₂ emissions allows consumers to better understand the environmental impact of a new vehicle.

The details of the CO₂ emissions for vehicles are obtained from the Commonwealth's Green Vehicle Guide (GVG) available at <http://www.greenvehicleguide.gov.au>.

Updates

As part of the ACT Government's registration reforms, from 1 July 2023:

- second-hand hybrid electric vehicles (hybrids) and plug-in hybrid electric vehicles (PHEVs) and with tailpipe emissions of no more than 130g/km of CO₂ receive a will be subject to nil duty on establishment or transfer of the vehicle; and
- there will be increases in duty for C-rated and D-rated vehicles.

Determination

This instrument provides definitions of the four rating categories relevant to new motor vehicles under the VERS. These definitions are based on the grams of CO₂ emitted per kilometre by the vehicle under the GVG combined tailpipe emissions measure.

For the purpose of section 208 (1) of the Duties Act, column 2 of table 1 (in section 4 of the instrument) sets out the amount of duty payable on the application to register motor vehicles that correspond to the vehicle categories in column 1. Column 2 prescribes the charges applicable to the relevant period – 1 July 2023 to 30 June 2024, as determined by the Minister.

For the purpose of section 208 (2), column 2 of table 2 (also in section 4 of the instrument) sets out the duty payable in relation to vehicles that correspond to the categories in column 1. Column 2 prescribes the charges applicable to the relevant period – 1 July 2023 to 30 June 2024, as determined by the Minister.

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 2 in section 4 of the instrument. The Minister determines the rate of duty applicable to these vehicles as set out in table 2 instead of table 1.

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 (that are not ZEVs) is equivalent to the amount payable for B-rated vehicles instead of C-rated vehicles – see below.

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.

Zero emission vehicles

For the purposes of this instrument, ZEVs comprise motor vehicles (including motorcycles) propelled by means of battery electric or hydrogen fuel cell powered engines. Hybrid vehicles using electric and hydrogen fuel sources as well as fossil-based fuels are not ZEVs.

Duty for new and used ZEVs (including motorcycles) has been abolished since 1 August 2022 as part of the ACT Government's Zero Emissions Vehicle Strategy 2022.

Hybrid vehicles and PHEVs

For the purposes of this instrument, a used eligible hybrid is a used motor vehicle powered by a combination of electric motor/s and an internal combustion engine and cannot be plugged into an external electric power source to recharge the battery(s). A tailpipe emission requirement of no more than 130g/km of CO₂ is applied with reference to the vehicle being an A-rated vehicle when new. Motorcycles are excluded.

Used eligible PHEVs are like hybrids but can be recharged by plugging the vehicle into an electric power source external.

Transfers of used eligible hybrid vehicles and PHEVs are subject to no duty as of 1 July 2023.

Transfers of new hybrids and PHEVs with tailpipe emissions of no more than 130g/km of CO₂ are not subject to duty as A-rated vehicles.

Motorcycles under the VERS

The GVG does not provide data on the environmental performance of motorcycles.

For motor vehicle duty purposes, new motorcycles (other than ZEVs) are placed under the B-rated category under the VERS. This recognises that 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.

'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.

Non-rated vehicles continue to include motorcycles that are not new (other than ZEVs), according to the definition of *new motor vehicle* under section 3 of this instrument.

New motor vehicles and demonstrators

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.

The meaning of ‘new motor vehicle’ excludes demonstrators which were first registered under the law of the Commonwealth, a State, another Territory or a foreign country. This 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).

The VERS applies to local demonstrators that are or were first registered in the ACT and disposed of within 1 year of registration by a licensed dealer.

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)

As the CO₂ 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.

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.

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.

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.

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.

Expiry

This instrument is to expire on 30 June 2024.

Revocation and transitional

Taxation Administration (Amounts Payable–Motor Vehicle Duty) Determination 2022 DI2022-179 is revoked by this instrument but continues to apply for the period 1 August 2022 to 30 June 2023, inclusive.

Authorised by the Treasurer
Andrew Barr MLA