

Trading stock / demonstrator vehicle exemptions

Revenue Ruling DA.034

Preamble

Chapter 9 of the *Duties Act 2000* (the Act) charges Duty on an application for the registration or transfer of registration of a motor vehicle unless an exemption applies. Duty is calculated on the dutiable value of the motor vehicle.

Section 231(1) of the Act provides an exemption from Duty on the registration or transfer of a motor vehicle by a Licensed Motor Car Trader (LMCT) who carries on a business of wholesale dealings in motor vehicles, if the motor vehicles are trading stock.

Section 231(2)(a) of the Act provides an exemption from Duty on the registration or transfer of a motor vehicle by an LMCT who carries on a business of retail dealings in motor vehicles, if the motor vehicles are trading stock or are used as demonstrator vehicles.

The exemptions contained in these provisions reflect the Victorian State Government's position that motor vehicle dealers should not be disadvantaged in relation to the payment of Duty compared to other businesses simply because the essence of their business is the acquisition and sale of motor vehicles. At the same time, the State Revenue Office (SRO) must ensure that these exemptions are correctly applied by LMCTs.

The purpose of this Revenue Ruling is to explain the application of the exemptions afforded by sections 231(1) and 231(2)(a). This Revenue Ruling should be read in conjunction with Revenue Ruling DA.035, which provides guidance in determining whether a change in the predominant use of a motor vehicle has occurred, thereby, attracting Duty under section 238 of the Act.

Ruling

Section 231(1) – Trading Stock Exemption (Wholesale)

An LMCT who carries on a business of wholesale dealing in motor vehicles is exempt from paying Duty on the registration or transfer of a motor vehicle where the motor vehicle will be used *solely* as trading stock.

The SRO considers that the word *solely* requires the

motor vehicle to be used *exclusively* as trading stock and for *no other purposes*. This requires that the motor vehicle is used in the carrying on of the business of the LMCT and solely for the purpose of the sale of that motor vehicle. If the motor vehicle is not used solely as trading stock, the exemption provided under section 231(1) will not apply.

Where an LMCT has already obtained an exemption under section 231(1) and the motor vehicle is no longer used solely as trading stock, this is considered a change of use for the purposes of section 238 of the Act.

Section 231(2)(a)(i) – Trading Stock Exemption (Retail)

An LMCT who carries on a business of retail dealing in motor vehicles is exempt from paying Duty on the registration or transfer of a motor vehicle, where the motor vehicle is used *solely or primarily* as trading stock.

The SRO considers that a motor vehicle is used *solely or primarily* as trading stock if the motor vehicle is present and available for sale during the LMCT's normal trading hours at the LMCT's business premises.

The SRO will also accept the following secondary uses of the motor vehicles as being within the meaning of "solely or primarily" as trading stock under section 231(2)(a)(i):

- The vehicle is used incidentally in a pool of vehicles available for driving after hours by the staff of the LMCT and the vehicle is shown in the LMCT's Fringe Benefits Tax returns; and
- The vehicle is used for the purpose of charging its battery, transport to and from a workshop or some other use incidental to its presentation for sale.

If the motor vehicle is not used solely or primarily as trading stock, the exemption provided under section 231(2)(a)(i) will not apply.

Where an LMCT has already obtained an exemption under section 231(2)(a)(i) and the motor vehicle is no longer being used solely or primarily as trading stock, this is considered a change of use for the purposes of section 238 of the Act.

Section 231(2)(a)(ii) – Demonstrator Vehicle Exemption

An LMCT who carries on a business of retail dealing in new vehicles is exempt from Duty on the registration or transfer of a vehicle, where the vehicle is used *solely or primarily* as a demonstrator vehicle.

A “demonstrator vehicle” is defined in section 3 of the Act as “a motor vehicle that is used exclusively for the purpose of sale of another vehicle of the same class”.

The SRO considers that a motor vehicle is used *solely or primarily* as a demonstrator vehicle where:

- the motor vehicle is available and used for demonstration to prospective purchasers for sale of vehicles of the same class; and
- the motor vehicle is available for such use during the LMCT’s normal trading hours at the LMCT’s business premises.

The SRO does not consider a motor vehicle as being used *solely or primarily* as a demonstrator vehicle where;

- the motor vehicle has travelled a distance of more than 7,500 km since its acquisition and initial registration in the name of the LMCT; or
- the motor vehicle has been held for longer than 12 months after it has been initially registered in the name of the LMCT as a demonstrator vehicle.

To qualify for the demonstrator vehicle exemption, the applicant for registration must be an LMCT dealing in new motor vehicles and generally, the motor vehicle in question would be a new vehicle of the make and model sold by the LMCT.

If the motor vehicle is not used solely or primarily as a demonstrator vehicle, the exemption provided under section 231(2)(a)(ii) does not apply.

Where an LMCT has already obtained an exemption under section 231(2)(a)(ii) and the vehicle is no longer used solely or primarily as a demonstrator vehicle, this is considered a change of use for the purposes of section 238 of the Act.

Meaning of “primarily” in section 231(2)

The term “*primarily*” in section 231(2) requires that the predominant use of the motor vehicle must be for trading stock or as a demonstrator vehicle.

Purposes or Uses outside sections 231(1) and 231(2)(a)

As at the time of initial registration or transfer of a motor vehicle in the name of an LMCT, the

following non-exhaustive list of uses will be considered ineligible for the exemptions provided under sections 231(1) and 231(2)(a):

- **Courtesy vehicle** – where the motor vehicle is used by the LMCT or its staff to pick up and drop off customers while the customer’s car is being serviced or repaired;
- **Parts delivery vehicle** – where the motor vehicle is used by the LMCT or its staff as a parts delivery vehicle;
- **Promotional vehicle** – where the motor vehicle is provided for promotional purposes or sponsorship deals, evaluation by motoring organisations and media representatives;
- **Loan vehicle** – where the motor vehicle is provided by the LMCT to a customer while his or her vehicle is being serviced or repaired, or where the customer has traded-in his or her vehicle and is waiting for the delivery of his or her new vehicle;
- **Private use vehicle** – where the motor vehicle is provided by the LMCT to its directors, staff, employees, their family members or any other person for personal use;
- **Other business use vehicle** – where the motor vehicle is used by the LMCT in the course of conducting the business other than as trading stock or a demonstrator vehicle.

Further consideration for exemption

Where an LMCT believes that a particular motor vehicle should be exempted as trading stock or a demonstrator vehicle but is incompatible with the conditions set out in this ruling, the onus is on the LMCT to demonstrate to the SRO that the use of the motor vehicle complies with section 231(1) or 231(2)(a) of the Act.

Please note that rulings do not have the force of law. Each decision made by the State Revenue Office is made on the merits of each individual case having regard to any relevant ruling. All rulings must be read subject to Revenue Ruling GEN.01.