

Motor Vehicle – Change of Use Provisions

Revenue Ruling DA.035

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 of the Act provides exemptions from Duty on registration and transfer of motor vehicles if the motor vehicles are trading stock or demonstrator vehicles. Revenue Ruling DA.034 clarifies the position of the State Revenue Office (SRO) on the application of these exemptions and should be read in conjunction with this Revenue Ruling.

There will be instances where the predominant use of the motor vehicle will change to accommodate the specific business needs of a Licensed Motor Car Trader (LMCT). Section 238(1) of the Act charges Duty where there is a change in the predominant use of a motor vehicle from being trading stock or a demonstrator vehicle.

Duty is imposed where the previous registration of the motor vehicle was exempted from Duty. The registered operator of the motor vehicle must, within 14 days of the change of use, lodge with the Commissioner of State Revenue (the Commissioner), a statement of the change in the use and pay Duty on the dutiable value as at the time the change occurred. The Duty is calculated at the rate of \$8 for every \$200 or part of \$200.

Where the registered operator fails to comply with section 238 of the Act, the registered operator will be liable for interest on the amount of any unpaid Duty, calculated on a daily basis from the end of the last day the Duty was payable until the Duty is paid. In addition, the registered operator will be liable for a penalty.

The purpose of this Revenue Ruling is to provide guidance in determining when a change in the predominant use of a motor vehicle from being trading stock or a demonstrator vehicle has occurred.

Ruling

In determining whether a motor vehicle's predominant use has changed, the SRO will

consider if the motor vehicle is used for any of the purposes or uses outlined in Revenue Ruling DA.034 in conjunction with (but not limited to) the following criteria:

(1) Distance Travelled

In considering the total distance travelled by the motor vehicle, if the motor vehicle is used for non-exempt purposes, the use of the motor vehicle as a whole will be considered. Where the motor vehicle is no longer used primarily for an exempt purpose, the motor vehicle's predominant use is considered to have changed.

(2) Length of Ownership – Demonstrator Vehicles

The longer the period a demonstrator vehicle is registered in the name of an LMCT, the more likely that the vehicle will be considered as not being used as a demonstrator vehicle.

Where the motor vehicle is held by the LMCT as a demonstrator vehicle and the period since its initial registration has reached 12 months, the SRO will consider that the motor vehicle has ceased to be a demonstrator vehicle.

(3) Personalised Number Plate

Where the motor vehicle is registered using a personalised number plate of the LMCT or its staff, and there is evidence to indicate that the motor vehicle is not used primarily as trading stock or a demonstrator vehicle, the SRO considers that the motor vehicle's predominant use has changed.

(4) Fringe Benefits Tax (FBT) Returns / Employment Agreement

Where the FBT returns and employment agreements in respect of the motor vehicle show that private use by director(s), staff, employees of the LMCT or their family members is the primary use, the SRO considers that a change in the predominant use of the motor vehicle has occurred. Similarly, where the motor vehicle is provided to an employee or his or her family members as part of the employee's salary package, the motor vehicle ceases to qualify as a demonstrator vehicle or trading stock. In this situation, the SRO also considers that the motor vehicle's predominant use has changed.

In determining if a change in the predominant use of the motor vehicle has occurred, the SRO will consider any of the above criteria, individually or collectively. The SRO will also examine the frequency, degree, extent and intensity of uses attributed to the primary use as trading stock or as a demonstrator vehicle, as well as the location of the motor vehicle.

Where the motor vehicle ceases being used solely as trading stock under section 231(1) by an LMCT who carries on a business of wholesale dealing in motor vehicles, the SRO considers that a change in the predominant use has occurred and Duty will be imposed pursuant to section 238 of the Act.

Where the motor vehicle ceases being used solely or primarily as trading stock or as a demonstrator vehicle under section 231(2)(a) by an LMCT who carries on a business of retail dealing in motor vehicles, the SRO considers that a change in the predominant use has occurred and Duty will be imposed in accordance with section 238 of the Act.

Supporting evidence to be considered

In determining whether a change in the predominant use of a motor vehicle has occurred, the SRO will examine items including (but not limited to) the following:

- log books;
- trading stock records;
- the demonstrator subsidy arrangement between the LMCT and the manufacturer or supplier;
- list of vehicles and location of vehicles;
- records of use and/or driver of the vehicles;
- FBT returns;
- employment contracts;
- odometer readings;
- length of ownership between acquisition as trading stock and disposal;
- length of time between initial registration of demonstrator vehicle and disposal;
- insurance policy contracts;
- floor plan finance agreement;
- balance sheets and accounts of the LMCT; and
- any other documents that are relevant for the purposes of determining the usage of the vehicles.

Where an LMCT disagrees with the SRO's determination that a change in the predominant use of a motor vehicle has occurred, the onus is on the LMCT to demonstrate to the SRO that the motor vehicle is not liable for Duty under section 238(1) 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.