

## CLAUSE NOTES

### *Duties Amendment (Motor Vehicle Industry Red Tape Reduction) Bill 2016*

- Clause 1 This Act may be cited as the *Duties Amendment (Motor Vehicle Industry Red Tape Reduction) Act 2016*.
- Clause 2 Describes the commencement date of the amendments as upon Royal Assent.
- Clause 3 In this Act, the *Duties Act 2001* is referred to as the Principal Act.
- Clause 4 Amends section 192 of the Principal Act by omitting paragraph (c) as duty is charged on registration, not on a notification of a change in purpose of a motor vehicle. Where a notification of a change in purpose is given, the vehicle will be taken as no longer exempt from duty and duty will be payable on that basis rather than on a notice given.
- As paragraph (c) is omitted, an amendment to remove the “; or” in paragraph (b) and replace it with a period is included as well.
- Clause 5 Amends section 193 of the Principal Act by:
- repealing subsection (2) as the current provision is erroneous in stating that a failure to lodge a statement referred to in subsection 193(1) is a tax default for the purposes of the *Taxation Administration Act 1997*;
  - inserting a new subsection (2) to require a person to lodge a statement of the dutiable value of a motor vehicle where a motor vehicle ceases to be exempt from duty under the new subsection 204(4) (refer clause 9). The new subsection (2) also clarifies that where a motor vehicle ceases to be exempt from duty, the dutiable value of the motor vehicle is to be the dutiable value as at the time the person made the application to register the vehicle.
- Clause 6 Section 194 is amended to add that where a person fails to notify the Commissioner that a motor vehicle is no longer exempt from duty, the Commissioner may determine the dutiable value of a motor vehicle, assess the duty payable and issue a notice of assessment in relation to the motor vehicle. The requirement to give notice is contained in section 216 (refer clause 13).
- Clause 7 Amends a deficiency to section 195(c) to confirm that a licensed motor vehicle trader is also liable to pay duty where a reassessment is made.
- Clause 8 Section 196 of the Principal Act is amended by inserting a new paragraph (ab) after paragraph (a) to specify that duty becomes payable 14 days after a motor vehicle ceases to be exempt from duty under the new subsection 204(4) (refer clause 9).
- Clause 9 The heading of Chapter 8, Part 3, is amended to reflect that the provisions of Part 3 will now apply to courtesy vehicles as well as trading stock and demonstrator vehicles upon introduction of the Bill.

Clause 10

Section 204 of the Principal Act (Exemptions for motor dealers) is repealed and substituted with a new section 203A (Interpretation of Part 3) and a new section 204 (Exemptions for motor dealers).

Section 203(A) encompasses:

- a new subsection (1) specifying that a motor vehicle is used as a demonstrator vehicle where it is available for prospective purchasers of the same make of vehicle to test drive and clarifying that such a use includes use as a courtesy vehicle, the display of advertisements of the motor dealing business (related to the person registering or transferring the registration of the motor vehicle) and use for familiarisation purpose by sales staff of the motor dealing business or for sale after it has been used as a demonstrator vehicle.
- a new subsection (2) specifying that a motor vehicle is used as a courtesy vehicle where it is lent or available to be lent without charge to customers whose cars are being serviced by the person registering or transferring the registration of the courtesy vehicle, and clarifying that such use includes use as a demonstrator vehicle, the display of advertisements of the motor dealing business (related to the person registering or transferring the registration of the motor vehicle) and use for familiarisation purposes by sales staff of the motor dealing business or for sale after it has been used as a courtesy vehicle.
- a new subsection (3) specifying, as was previously the case for demonstrator vehicles, that a vehicle used as a demonstrator vehicle or courtesy vehicle may be lent to a charity and used for charitable purposes and this would not be considered a use contrary to the use for which it was acquired.
- a new subsection (4) providing definitions of “charitable purpose” and “charity” for the purpose of subsection (3). “Charitable purpose” is any purpose considered charitable by the Commissioner whilst “charity” is defined as the entity being exempt from income tax under the *Income Tax Assessment Act 1936* of the Commonwealth.

The new section 204 sets out the provisions relating to duty exemptions for motor vehicle traders and motor dealers.

Under subsection (1) of this section, duty is not payable by a licensed motor vehicle trader or motor dealer on application to register a motor vehicle where the motor vehicle is acquired for a use outlined in subsection (2); where the motor vehicle trader or motor dealer makes an appropriate record of the exemption on an application to register the motor vehicle as required under inserted subsection (3); and provided the motor vehicle does not cease to be exempt under subsection (4) of this section.

Subsection (2) provides the exempted uses referred to in subsection (1). Subsection (1) and subsection (2) operate to ensure that duty is not payable if a motor vehicle is a new motor vehicle and it is acquired and used as a demonstrator or courtesy vehicle (or as both); or it is a used motor vehicle acquired for resale in the ordinary course of business; or it is acquired by the holder of an exemption certificate or a licenced motor vehicle trader who is a wholesaler for sale to other exemption certificate holders or licensed motor vehicle traders or motor dealers in other States or in Territories.

Subsection (3) provides for what constitutes an appropriate record for the purposes of subsection (1). Subsection (1) and subsection (3) operate to require the holder of the exemption certificate or licensed motor vehicle trader to record their unique identifying number on the application to register the motor vehicle in question. The same requirement exists under the current provisions.

Subsection (4) outlines that a motor vehicle ceases to be exempt from duty where:

- a demonstrator or courtesy vehicle is used for a purpose other than for demonstration or courtesy purposes (defined to include a range of ancillary uses) or has travelled 15 000 kilometres within 12 months of the date of registration; or
- it is not sold within 12 months from the date of registration; or
- a used motor vehicle that was acquired for resale in the ordinary course of business is used for a purpose other than resale; or
- a motor vehicle is acquired by the holder of an exemption certificate or a licenced motor vehicle trader who is a wholesaler for sale to other exemption certificate holders or licensed motor vehicle traders or motor dealers in other States or in Territories and is used for a use other than for such a sale.

Subsections (5) and (6) of this section outline that, in instances where a motor vehicle that had been exempted from duty is not sold within 12 months, the motor vehicle trader or motor dealer may apply to the Commissioner for an extension to the time that the exemption applies on the basis that the trader or dealer made a real attempt to sell the vehicle. If satisfied accordingly, the Commissioner may extend the time in which the vehicle is required to be sold without duty being payable.

Clause 11

Section 214 of the Principal Act is repealed with these provisions (which relate to how a motor vehicle duty exemption may be obtained) now dealt with in the new section 204.

- Clause 12 Section 215 of the Principal Act is repealed and substituted with a new section 215.
- The new section 215 replicates the provisions of the former subsection 215(1), specifying that a person must not use or attempt to use an exemption certificate or a motor vehicle traders licence to obtain a motor vehicle duty exemption unless the vehicle is an exempt vehicle within the meaning of the new section 204(2).
- The former subsection 215(2) provisions are not replicated as the provisions are erroneous in stating that a tax default occurs where an exemption certificate or traders licence is used fraudulently to obtain an exemption.
- Clause 13 Section 216 of the Principal Act is amended to reflect that the reference to section 214(1) is now 204(4). It also omits subsections (3) and (4) as the provisions dealing with the applicable rate of duty and non-payment of duty have been identified as superfluous as it is not the notification that gives rise to duty being payable - rather it is the cessation of the exemption (now dealt with in section 196(ab)).
- Clause 14 Section 217 of the Principal Act is repealed. The provisions relating to failure to sell a motor vehicle within 12 months and are now dealt with in inserted subsections 204(4), (5) and (6); and rate of duty is dealt with by virtue of the amendments effected to sections 193 and 196.
- Clause 15 Repeals this Act one year after it commences.