

COMMISSIONER'S GUIDELINE

CG-SD-004:

Stamp duty on motor vehicle certificates of registration

Guideline History

Version	Issued	Dates of effect	
		From:	To:
1	01 November 2005	01 November 2005	31 December 2007
2	2 January 2008	1 January 2008	Current

Purpose

This Guideline explains how to determine the **dutiable value** (see below for definition) of motor vehicles for the purposes of assessing stamp duty on motor vehicle certificates of registration; clarifies the dutiable value of motor vehicles in certain common sale transactions such as where the vehicle is sold on a 'drive away – no more to pay' basis; and provides information on the administration of stamp duty on motor vehicle certificates of registration.

Stamp duty on motor vehicle certificates of registration

The *Stamp Duty Act* ('the Act') imposes stamp duty on a motor vehicle certificate of registration issued on the registration or the transfer of the registration of a motor vehicle and is payable by the applicant seeking registration of the vehicle.¹ That is, the duty is payable by the new owner of the motor vehicle. Stamp duty is imposed at the rate of \$3 per \$100 or part thereof of the dutiable value of the motor vehicle.²

Duty is payable to the Motor Vehicle Registry at the time application for registration or transfer is made.³ Under the *Motor Vehicles Act*, an application for transfer must be made within 14 days of the person becoming the owner of the vehicle.⁴

Dutiable value

Sale and purchase at arm's length

Where the transfer of a motor vehicle is by a sale and purchase at **arm's length** (see below for definition), the dutiable value of the motor vehicle is the sum of the following:

¹ Section 57 of the Act.

² Item 5 of Schedule 1 to the Act.

³ Section 58 of the Act.

⁴ Section 20(2) of the *Motor Vehicles Act*.

- 1) the sale price of the motor vehicle and any **additional equipment** (see below for definition) fitted in or added to the motor vehicle prior to registration, including any deposit paid, trade-in allowance and GST; and
- 2) the amount paid for dealer delivery charges.⁵

Other transactions

In all other cases, the dutiable value of a motor vehicle is the greater of the **market value** (see below for definition) of the motor vehicle and the additional equipment in or added to the motor vehicle as at either:

- 1) the date the transaction that gives rise to the application for registration of the motor vehicle is entered into, such as the transfer of the motor vehicle; or
- 2) the date the application for registration is made.⁶

For example, if additional equipment is added to the motor vehicle after the transaction that gives rise to the application for registration of the motor vehicle, but before the application for registration is made and that additional equipment increases the market value of the motor vehicle, that increased market value, is the dutiable value of the motor vehicle.

Dutiable value in certain common sale transactions

'Drive away – no more to pay' sales

It is common for new vehicles to be sold on a 'drive away – no more to pay' basis. In such cases, the dealer pays the stamp duty and registration fees even though the purchaser normally incurs these costs. Although not as common, used vehicles are also sold on this basis. In these cases, in addition to the stamp duty, the dealer pays the transfer fee.

In these cases, the stamp duty, registration and registration transfer fees are not included in the dutiable value. To determine the dutiable value of the motor vehicle, the registration fee or transfer fee should be deducted from the purchase price then the sum of that amount divided by 1.03 to account for the stamp duty.

Examples of this calculation are provided on the next page.

⁵ Section 59(1) ("dutiable value", paragraph (a)) of the Act.

⁶ Section 59(1) ('dutiable value', paragraph (b)) of the Act.

Example 1

	Example 1 New Car	Example 2 New Car	Example 3 Used Car	Example 4 Used Car
Drive away price	\$16 999	\$29 999	\$14 999	\$19 999
Less registration fees/ transfer fee	\$473	\$520	\$12	\$12
	\$16 526	\$29 479	\$14 987	\$19 987
Divide by 1.03	1.03	1.03	1.03	1.03
Dutiable value for duty calculation	\$16 044	\$28 620	\$14 550	\$19 404
Duty payable (at \$3 per \$100 or part thereof)	\$483	\$861	\$438	\$585

For audit purposes, dealers should retain records that demonstrate that a sale was inclusive of stamp duty, registration fees or the transfer fee. A copy of the contract showing that the sale was inclusive of these costs will be sufficient in this respect. These records are required to be kept for five years.

Factory Rebates

New vehicles are sometimes sold under arrangements where the manufacturer provides a factory rebate directly to the purchaser after the sale. Notwithstanding that the rebate has the effect of reducing the amount paid by the purchaser for the vehicle, the dutiable value is the contracted purchase price and the factory rebate is not subtracted.

Example 2

Mr Brown purchased a new vehicle for \$14 990 under a promotion where he is to be paid a \$1 000 factory rebate by the manufacturer. While the overall cost of the vehicle to Mr Brown is reduced to \$13 990, the dutiable value of the vehicle is the contracted purchase price of \$14 990.

Accessories Protection Products

Often protection products such as rust proofing, window tinting, fabric treatment, paint sealant or similar maintenance products are purchased from dealers as part of the purchase of a motor vehicle. As the product forms part of the vehicle, the amount paid is included in the dutiable value of the vehicle where it is applied to the vehicle prior to registration.

Extended Warranties

Specific amounts paid by purchasers to dealers for extended warranties are not included in the dutiable value of a vehicle. However, where a dealer includes an extended warranty in a deal as a 'bonus', the value of the warranty is not to be deducted from the purchase price of the vehicle in determining the dutiable value of the vehicle.

Statutory obligations

For every sale and purchase of a motor vehicle, the seller must make a declaration of the vehicle's sale price in the application for transfer or registration form.⁷ Sellers are also required to make a declaration of the sale price on the Notice of Disposal.⁸

The provision of information that is false in a material particular in that declaration is an offence, carrying a maximum penalty of 50 penalty units (\$6650 at July 2010).⁹ The Commissioner of Territory Revenue may also issue an assessment to recover any unpaid duty together with interest and penalty tax.¹⁰

Audit programs in respect of motor vehicle certificates of registration have revealed that in many cases, sellers (especially motor vehicle dealers) were signing the application for transfer or registration and leaving the particulars for the purchaser to complete. This action may expose sellers to prosecution action if a purchaser under-declares the purchase price of the vehicle. Sellers should ensure that the particulars in the application form are completed prior to signing and handing the form to the purchaser.

If an application for transfer is not made within 14 days of the person becoming an owner of a vehicle, the Commissioner may create a memorandum and assess it for duty (including interest and penalty tax) as though it was the motor vehicle certificate of registration that the Motor Vehicle Registrar would have issued to the new owner if the required application had been made.¹¹

Refunds

Where the sale of a motor vehicle is cancelled, the Commissioner must refund the amount of duty paid on a motor vehicle certificate of registration, but only if the Commissioner is satisfied that –

- 1) the motor vehicle the subject of the transaction has been returned to the person from whom it was purchased; and

⁷ Section 59(3) of the Act.

⁸ Section 20(1) of the *Motor Vehicles Act*.

⁹ Section 59(5) of the *Stamp Duty Act*.

¹⁰ Part 5 of the *Taxation Administration Act*.

¹¹ Sections 86(3) and (4) of the Act.

- 2) all money refundable on the cancellation of the transaction other than the amount of duty paid has been refunded to the person who purchased the vehicle.¹²

Exemption

There are a number of exemptions from stamp duty on motor vehicle certificates of registration, which are set out in item 23 of Schedule 2 to the Act. For further information, please refer to the information brochure and form F-SD-04: *Exemption for stamp duty on a motor vehicle*.

A person claiming such an exemption must, along with the application for registration, lodge with the Motor Vehicle Registry a declaration stating the grounds on which the exemption is claimed, including any additional information required. The declaration is to be made on form F-SD-004, which is available at the Motor Vehicle Registry or on Territory Revenue Office's (TRO's) website.

Definitions

Additional equipment

Additional equipment means all equipment that is an integral part of the motor vehicle or added to the motor vehicle before registration and, without limiting the meaning, includes all features actually fitted by the manufacturer or usually fitted by a manufacturer.¹³

Examples of additional equipment includes air conditioning, bull bars, towbars, roof-racks, snorkels, window-tinting, car alarm systems, audio visual equipment such as stereos or DVD players, GPS systems, mag wheels and body kits such as spoilers. It also includes more substantive equipment, such as a tipper or tray fitted to a cab-chassis vehicle.

Arm's length

A transfer by sale and purchase is at arm's length when it is a transaction between a willing seller (the seller is not compelled to sell) and a willing buyer (the buyer is not compelled to buy) in which each acts in their own self-interest. Unrelated persons who do not have any business connections with each other generally deal with each other at arm's length, although this might not be the case if, for example, one is under the influence or control of the other.

Related persons, including associates within the meaning of the Act are not considered to deal with each other at arm's length.¹⁴

¹² Section 59A of the Act.

¹³ Section 59(1) ('additional equipment') of the Act.

¹⁴ Section 4(2) of the Act.

Market value

The market value of a motor vehicle is the price at which the motor vehicle, including additional equipment fitted to the vehicle, might reasonably be sold on the open market. It must also include GST, if applicable.

Commissioner's Guideline CG-GEN-001, which sets out information on the revenue publication system, is incorporated into and is to be read as one with this Guideline. All Circulars and Guidelines are available from TRO's website.

Date of effect

This version of the Guideline takes effect from 1 January 2008.



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