



Motor Trades Association of Australia

AFTS Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir/Madam

Thank you for the opportunity for the Motor Trades Association of Australia (MTAA) to provide a submission to Australia's Future Tax System Review (the Review).

MTAA is the peak national representative organisation for the retail, service and repair sector of the Australian automotive industry. As part of its representative role, the Association represents the interests, at a national level, of over 100,000 retail motor trade businesses which have a combined turnover of over \$160 billion and employ more than 308,000 people. MTAA is, therefore, the largest 'stand-alone' small business association in Australia. The Association is a federation of the various state and territory motor trades associations, as well as the Service Station Association (SSA) and the Australian Automobile Dealers Association (AADA). MTAA also has a number of Affiliated Trade Associations (ATAs), which represent particular sub-sectors of the retail motor trades ranging from farm machinery dealers to automotive parts recycling.

In preparing this submission, MTAA has consulted with its Member bodies and the comments set out below reflect the views of those organisations. In general, MTAA believes that it is important that Australia's taxation arrangements do not impose an unnecessary and unfair compliance burden on small businesses in general; or, more specifically on retail motor traders. Equally important for MTAA is that the taxation arrangements operate effectively and efficiently, not advantaging or disadvantaging one sector of the economy or business over another.

Many of the issues mentioned below have been raised previously by MTAA, in Budget or other submissions to the Government. Given that those matters remain of concern to retail motor traders it is appropriate that they be considered in the context of this Review.

1. LCT

Motor vehicles are the only items on which the Government has imposed a luxury tax. As you will be aware motor vehicles costing above a goods and services tax (GST) inclusive value of \$57,180 are subject to an additional 33 per cent luxury car tax (LCT) on the value of the vehicle above that threshold. Other items, such as jewellery, antiques, yachts and motor boats – all of which might be considered luxury items – are not subject to a 'luxury' tax. The imposition of the luxury car tax is a distortion in the market which should be removed. MTAA believes that with the introduction of a GST, the imposition of this tax has no place in a fair taxation system which taxes goods and services across the board at a standard rate.

MTAA supports and recommends the removal of the Luxury Car Tax.

It is the dealers who bear the responsibility of remitting the correct amount of LCT to the Australian Taxation Office, not the consumer. This is the case notwithstanding that the LCT is a tax on consumption and that it can apply to vehicles of up to two years of age and on which a dealer may have no rights or powers to seek information about the previous level of tax paid on the vehicle.

The recent changes to the LCT threshold and rates increased the compliance burden on dealers. As well the additional eight per cent tax increased the cost of a motor vehicle at a time consumers could least afford it and indeed at a time when sales of motor vehicles (worldwide) showed signs of weakening and have since fallen dramatically. Tax increases such as applied in relation to the LCT from 1 July 2009 discourage consumers from purchasing vehicles; that is not an outcome which the Association considers equitable for dealers; particularly in view of the fact that motor vehicles are the only good for which an additional 'luxury' tax is applied.

The changes introduced last year have also added to the compliance burden for dealers as there are now a number of differing arrangements for dealers to consider when selling vehicles. These differing arrangements have added a significant compliance cost to car dealers as they have not only had to contend with the cost impost of dealing with the increase in the tax and threshold, they have also had to deal with a different threshold for fuel-efficient vehicles and the rebate arrangements for farmers and tourism operators.

In addition to those discrepancies in its application, when a dealer is determining if a vehicle falls within any one of the LCT thresholds, the cost of additional accessories (such as safety devices, roof racks, tow bars and alarm upgrades) must be included in the valuation. The inclusion of the value of such accessories may also result in a vehicle being subject to the LCT when it would otherwise have been free from the LCT. The distortion arises because the value of accessories sold with the vehicle is included in the valuation of the vehicle for the purposes of the LCT and those accessories are therefore subject, in part, to the LCT.

In contrast, accessories fitted to the vehicle by aftermarket suppliers immediately after the vehicle is purchased are not included in the valuation of the vehicle for the purposes of the LCT. There is, therefore, a significant disincentive for consumers to fit accessories to the vehicle at the time of purchase and that disincentive unfairly distorts the market for vehicle accessories in favour of aftermarket suppliers. MTAA considers the exclusion of accessories from the valuation of the vehicle for the purposes of the LCT would remove this market distortion and ensure the application of the LCT was more efficient.

The recent minor threshold increases (of \$14.00 and \$57.00 which have applied from 1 July 2007 and 1 July 2008 respectively) have resulted in a significant cost impost on car dealers as they must update each of their systems to reflect the increase. The process of updating the systems takes time and is a costly exercise. For individual car dealers the cost of resetting systems to reflect the new threshold simply exceeds what they believe to be a reasonable cost of compliance; particularly given the very short notice period provided in the past two years to the automotive industry of the introduction of the new thresholds. MTAA therefore requests that the threshold be indexed at a rate of not less than the current consumer price index (CPI) and that car dealers be notified at least three months prior to the proposed threshold increase.

MTAA believes that the recent increase to the LCT and indeed the application of the LCT does not recognise that many of the vehicles that fall within this category offer significant safety, environmental and theft reduction benefits to consumers and thus to our society. MTAA also notes that the existing threshold does not reflect the 'market' definition of a luxury vehicle as many family-orientated passenger vehicles are currently captured within the threshold. While it remains MTAA's position that the LCT should be abolished, the Association could support a substantial increase to the LCT threshold and a reasonable level of annual indexation not less than

the level of the yearly CPI. The Association has previously proposed that the LCT threshold be increased to \$100,000.

2. *GST on second-hand vehicles*

MTAA believes that the application of GST to the sale of second-hand vehicles sold by registered and licensed dealers has encouraged and will continue to encourage a shift in the sale of second hand vehicles away from dealer sales to private sales. It is the Association's concern that this shift is damaging licensed dealers through the loss of business and is encouraging unregulated and unlicensed business activity (that is, an increase in 'backyarder' activity). The Association notes that consumers who purchase vehicles through a licensed dealer are afforded statutory warranty protection and clear title. However those benefits have not had any impact on the trend which has been evident from the introduction of the GST in July 2000 of an increased proportion of used vehicles sales occurring through the private to private market.

While it is difficult to obtain national figures on the shift in used vehicle sales since July 2000, in New South Wales it is estimated that private to private sales now account for some 60 per cent of used vehicle sales. Prior to the introduction of the GST private to private sales that figure was estimated to be 40 per cent.

MTAA urges the Government to reconsider the application of GST to second hand vehicle sales and to also ensure that the ATO has sufficient resources to actively pursue unregistered business activity by 'backyard' operators. Unregistered business activity, of course, means reduced revenue returns for governments (at all levels) and further adds to the distortion in the market with registered businesses (and in the case of motor vehicle dealers who have to operate from premises, provide warranty and clear title) having to compete in a market against traders who face no such requirements.

3. *Notional input tax credits*

The Association understands that the provisions for notional Goods and Services Tax (GST) input credits, in respect of the purchase of second-hand goods from unregistered parties, were created because Australian taxation authorities believed that without such an arrangement there was potential for the creation of fraudulent GST input credits. In the experience of MTAA's motor vehicle dealer members, the notional input tax credit scheme has instead generated substantial additional costs for small businesses and complicated compliance issues for motor vehicle dealers, who are the largest single sector dealing in used goods.

The reality today is that the imposition of the notional input tax credits scheme on every private-to-business supply of second-hand goods simply results in honest taxpayers bearing the cost of a compliance regime that does not deter dishonest taxpayers intent on fraud. MTAA's professional advice is that fraudulent credits would, in reality, only be created where there was some collusive arrangement between associated parties, as it is unlikely that a merchant would pay more in an arm's length transaction in order to create an additional GST credit. MTAA also notes that GST notional input tax credits do not arise on business-to-business supplies and that the parties to such supplies are identified by their Australian Business Numbers and the tax invoice itself. Thus, a taxpayer intent on fraudulently creating GST input credits could only do so by the production of fraudulent Tax Invoices and ABNs for the (supposed) arm's length supplier.

Further, the current legislative provisions relating to the purchase of used goods from unregistered purchasers are, in motor vehicle dealers' experience, unwieldy, time-consuming and, most important, unnecessary for the efficient administration of the taxation system. With used vehicle stockholding pressure forecast to increase, (and thus the ability to convert notional tax input credits to actual input tax credits delayed as the used car inventory holding period increases) this is an unwieldy and unjust tax burden to ask dealers to bear.

MTAA proposes, therefore, that business purchases of second-hand goods from unregistered sellers for the purpose of resale needs to trigger an actual input tax credit in the same way as a purchase from a registered seller. ‘Notional’ input tax credits need apply only in respect of transactions between associated parties. ‘Associated parties’ could be as widely defined as the ATO thought was necessary to protect the taxation revenue base.

4. *Fringe Benefit Tax (FBT)*

The Association notes that there have been calls for a review of the current FBT arrangements, particularly in relation to motor vehicles. The Association strongly requests that the Government remain mindful of the potential impact significant changes to the FBT arrangements for salary-packaged cars could have on already slowing vehicle sales and on the Australian vehicle manufacturers. MTAA could support measures to reduce the FBT compliance burden for employers, but would not support changes which would have the impact of reducing the level of vehicle sales; particularly at this time when a slowing economy is having quite a substantial impact on new vehicle sales.

MTAA also notes that it is likely that a proposal will be put to the Government which, if adopted, would see a move towards an ‘emission-rated’ vehicle scheme to work in conjunction with the FBT arrangements. Should the Government be considering a change in FBT arrangements which would see higher FBT rates apply to vehicles which emitted higher levels of emissions, given proper and appropriate lead time and subject of course to the detail of the changed arrangements being provided for consideration, it is possible that such a change in FBT arrangements could be supported by the Association. Again the Association could not support changes to the current arrangements if those changes were to cause distortions in the market.

5. *Tax upon a tax*

MTAA recommends that the Government should avoid situations of taxes being levied on other taxes and charges. Examples of taxes on taxes include the imposition of GST on stamp duty charges and the imposition of GST on the fuel excise/import duties. MTAA recommends that the Australian Government should work with the state and territory governments to remove the distortionary impact of taxes on taxes.

6. *Differing stamp duty, payroll taxes and vehicle registration costs*

The Association notes the difference between state and territory stamp duty and payroll taxes. While MTAA appreciates that discrepancies exist between the states and territories – and that this inevitably is reflected in the operation of stamp duties, payroll taxes and vehicle registration costs – the Association would like there to be greater consistency between stamp duties, payroll taxes and vehicle registration costs across the Australian states and territories. A normalised system, where possible, will decrease business accounting and compliance costs. Having uniformity across jurisdictions will also assist in eliminating market distortions arising from differing rates and thus the ‘shopping around’ by, in particular, vehicle fleet managers for the ‘lowest cost’ jurisdiction in which to purchase vehicles; rather than with uniform arrangements those vehicles being delivered by dealers where the vehicle will be used. Fleet buyers currently gravitate to those states and territories with lower stamp duties and vehicle registration costs.

7. *Fuel Excise Arrangements*

The Association’s view on fuel excise is that in applying a fuel excise the Government should not seek to ‘discriminate’ or ‘advantage’ various fuel types over others. MTAA is concerned that if fuel excise significantly ‘favoured’ one type of fuel over another, that could lead to unintended

market consequences. The Association understands however that in some circumstances Government policy may support the development or growth of particular sectors of the fuel industry (for example for environmental or industry development reasons). The Association believes that such policy decisions should not be 'introduced' to the market through the distorting of fuel excise rates. Certainly it is available to Government to determine, for example, that a specific amount of the revenue collected from fuel excise be allocated to supporting, through funding, other Government policy objectives.

MTAA has long supported an equitable taxation treatment of fuels.

MTAA would not be opposed to the fuel excise level being increased, provided that any funds raised are allocated for a specific purpose (for example to support the development of alternative fuel production and usage) and do not go into general revenue. Any special purpose arrangement should be transparent to the public.

8. *Exceptional Circumstance payments for small businesses in drought affected areas.*

MTAA notes that the issue of Exceptional Circumstance (EC) payments to small business drought affected areas could be regarded as a "welfare" issue rather than an issue of taxation. However, the Association believes this is an appropriate forum in which to raise some Members' concerns about the operation of EC payment arrangements.

Many of MTAA's members operate small businesses in drought affected areas. The experience of some of our members suggests Government assistance in the form of EC payments for small businesses is often too difficult to obtain for several reasons. Including:

- an overly complex application process – many small business operators are unable to complete the application form without professional help and where additional information was required some members found it difficult to respond within the set timeframe;
- accounting costs associated with the preparation of an application when that money could be more usefully applied elsewhere in the business; especially in times of a business downturn; and
- eligibility requirements for struggling businesses; particularly where those businesses are attempting to retain skilled staff in times of severe business downturn due to the effects of drought.

MTAA believes a review of the transfer system associated with administering EC payments may help better direct Government assistance to those small businesses affected by drought and ensure that in the longer term skilled and experienced staff are not lost to regional and remote communities because of a downturn in business as a result of severe and prolonged drought conditions.

I trust these comments are of assistance to you in your consideration of Australia's future tax system.

Yours faithfully

MICHAEL DELANEY
Executive Director

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