



## **DUTIES      Explanation of 'Minor Incidental Purpose' and the Non-payment of Vehicle Licence Duty on the Grant or Transfer of a Motor Vehicle Licence to a Motor Vehicle Dealer**

This revenue ruling only applies to the grant or transfer of a licence entered into on or after 1 July 2008. Revenue Ruling SD 33 applies to a grant or transfer of a motor vehicle licence entered into on or before 30 June 2008.

### **Introduction**

1. The purpose of this revenue ruling is to advise the Commissioner's interpretation of the term 'minor incidental purposes' in section 245 of the *Duties Act 2008* (Duties Act).
2. It has become apparent during audits on several motor vehicle dealerships, that some dealers have incorrectly claimed an exemption on the grant or transfer of a licence in respect of vehicles used within the dealership. Examples of the vehicles in respect of which vehicle licence duty has not been correctly paid include vehicles used as parts delivery vehicles, courtesy buses or dedicated courtesy/loan vehicles, promotional vehicles, mobile service vehicles and vehicles dedicated for personal use by dealer principals, staff and their family members.

### **Relevant provisions of the Duties Act**

3. Section 246(1) of the Duties Act provides that vehicle licence duty is not chargeable on the grant of a licence for a vehicle to a dealer (that is, the grant of a licence is exempt) where the dealer acquires the vehicle solely for the purpose of:
  - a) selling it to another person in the ordinary course of a dealer's business or
  - b) demonstrating it to prospective purchasersand a declaration is provided to the effect that the vehicle will be used solely for that purpose.
4. Section 246(2) of the Duties Act provides that vehicle licence duty is not chargeable on the transfer of a licence for a vehicle to a dealer (that is, the transfer of the licence is exempt) where the vehicle is acquired solely for the purpose of reselling it to another person in the ordinary course of the dealer's business and a declaration is provided to the effect that the vehicle will be used solely for that purpose.
5. Section 247(1) of the Duties Act provides that vehicle licence duty is not chargeable on the grant or transfer of a licence for a vehicle to a dealer (that is, the transfer of the licence is exempt) where the vehicle is to be loaned solely to a charitable organisation or a school for driver training, or for a philanthropic or other prescribed purpose, and a declaration is provided to the effect that the vehicle will be used solely for that purpose.
6. Section 245 of the Duties Act provides that for the purposes of sections 246(1) and (2) and 247(1), the vehicle may be used for those specified purposes and for minor incidental purposes without affecting the exemption.

7. If no duty was chargeable on the grant or transfer of a licence to a dealer, a dealer must not use or allow another person to use the vehicle for a purpose other than the purpose referred to in section 246(1) or (2) or 247(1). If the dealer does so, an offence is committed under section 248 or 249(1), unless the dealer notifies the Commissioner, in the approved form, of the change in use within one month after the day on which the use of the vehicle changed.
8. Section 248 of the Duties Act provides that if a vehicle in respect of which an exemption has been granted under section 246(1) or (2) or 247(1), is used for a different exempt purpose, the dealer must notify the Commissioner within one month after the day on which the use of the vehicle changed. It is an offence not to notify the Commissioner, for which the maximum penalty is \$5,000.
9. Where a dealer contravenes section 249(1) of the Duties Act, section 246 or 247 (whichever is relevant) is taken not to have applied to the grant or transfer of the licence, and the duty otherwise payable, together with any penalty tax, is payable within one month of an assessment notice being issued. Upon conviction for this offence, a Court may impose a penalty not exceeding \$20,000.

## **Ruling**

10. If a vehicle is designated for use as a parts delivery vehicle, courtesy vehicle/bus, mobile service vehicle or promotional vehicle, the use of the vehicle for that purpose is a use otherwise than for the purpose of resale or demonstration. Further, the use of the vehicle as a parts delivery vehicle, courtesy vehicle, mobile service vehicle or promotional vehicle, is not a use for a minor incidental purpose. Accordingly, the dealer is not entitled to apply the provisions of section 246(1) or (2) to the grant or transfer of a licence in respect of those vehicles.
11. A vehicle designated primarily for the personal use of a dealer principal, dealer, staff or family members of the dealer while acquired for resale or demonstration, is the use of the vehicle for a purpose, which is not a minor incidental purpose. The dealer is not entitled to apply the provisions of section 246(1) or (2) to the grant or transfer of the licence in respect of that vehicle. Circumstances in which a vehicle will not be considered to be used for minor incidental purposes includes arrangements where the vehicle is able to be taken on leave or is able to be used by family members.
12. Where a vehicle is purchased by a dealership and is not a vehicle that would ordinarily be sold by that dealership, or is not manufactured by the dealership's manufacturer, and the dealer does not hold the appropriate class of dealer licence, then the provisions of section 246(1) or (2) would not generally apply. For example, a dealer who only sells new trucks or motorbikes would not be able to apply the provisions to the grant or transfer of a licence for a passenger vehicle and claim an exemption for minor incidental purposes.
13. Where a vehicle is available for demonstration and sale on authorised premises during business hours but the vehicle is also used for commuting purposes, the use of the vehicle for commuting purposes is considered to be a minor incidental purpose and this use will not affect the exemption from duty.
14. Where the vehicle is not available for demonstration or sale from authorised premises during business hours, then the use of the vehicle for commuting purposes will not be considered to be a minor incidental purpose.
15. The use of vehicles drawn from stock on the day, for example, licensed second-hand or licensed demonstrator vehicles for use as loan vehicles, will be considered to be used for

a minor incidental purpose provided no more than a nominal fee is charged for fuel and insurance and the vehicle is not loaned for periods generally exceeding two days for use by the dealer's customers while the customer's vehicle is being serviced. However, the use of a vehicle as a designated loan vehicle will not be considered to be a minor incidental purpose.

16. Where a vehicle is used as a hire vehicle (whether designated for that use or not), the use of the vehicle as a hire vehicle is a purpose other than for resale or demonstration. The use of the vehicle for that purpose is not a minor incidental purpose.
17. Driving a vehicle from the dealership to a service centre to be repaired or prepared for sale, or to drive the vehicle to a potential customer's residence or place of business from the dealership and return, is considered to be the use of the vehicle for a minor incidental purpose.

### Record keeping

18. The provisions in section 256 of the Duties Act require motor vehicle dealers to maintain prescribed records that would assist in supporting a motor vehicle dealer's claim that a vehicle is being used for exempt purposes. Also, a dealer is required to keep any other records necessary to enable the Commissioner to determine the dealer's liability to pay duty.

### Terms used in this revenue ruling

19. The following terms used in this ruling have the meaning set out below:

'Authorised Premises' - the premises specified in the dealer's licence under section 20E(5) of the *Motor Vehicle Dealers Act 1973*.

'Courtesy vehicle/bus' - a vehicle used by the dealer to drop-off and pick-up persons while the person's vehicle is being serviced or repaired.

'Hire vehicle' - a vehicle hired to a person whose vehicle is not being repaired or serviced by the dealership during the term of the hire.

'Loan vehicle' - a vehicle provided by the dealer to a person while their vehicle is being serviced or repaired or where the person has traded in their vehicle and is awaiting delivery of their new vehicle.

'Mobile service vehicle' - a vehicle used by the dealer to service vehicles at a person's place of business or residence or elsewhere.

'Parts delivery vehicle' - a vehicle used by the dealer to pick-up and drop-off parts.

'Promotional vehicle' - a vehicle provided to sporting clubs and associations as promotional aids / sponsorship deals etc.

### Ruling History

Revenue Ruling	Issued
DA 5.0	July 2008