



Tax Laws Amendment (Luxury Car Tax) Act 2008

No. 101, 2008

**An Act to amend the law relating to taxation, and
for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 101, 2008

An Act to amend the law relating to taxation, and for related purposes

[Assented to 3 October 2008]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Tax Laws Amendment (Luxury Car Tax) Act 2008*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Luxury car tax

A New Tax System (Luxury Car Tax) Act 1999

1 Subsection 5-15(1) (formula)

Repeal the formula, substitute:

$$\text{Rate} \times \frac{10}{11} \times \left[* \text{Luxury car tax value} - * \text{Luxury car tax threshold} \right]$$

where:

rate is the rate applicable under:

- (a) the *A New Tax System (Luxury Car Tax Imposition—General) Act 1999*; or
- (b) the *A New Tax System (Luxury Car Tax Imposition—Customs) Act 1999*; or
- (c) the *A New Tax System (Luxury Car Tax Imposition—Excise) Act 1999*.

2 Subsection 7-15(1) (formula)

Repeal the formula, substitute:

$$\text{Rate} \times \frac{10}{11} \times \left[* \text{Luxury car tax value} - * \text{Luxury car tax threshold} \right]$$

3 At the end of subsection 7-15(1)

Add:

rate is the rate applicable under:

- (a) the *A New Tax System (Luxury Car Tax Imposition—General) Act 1999*; or
- (b) the *A New Tax System (Luxury Car Tax Imposition—Customs) Act 1999*; or
- (c) the *A New Tax System (Luxury Car Tax Imposition—Excise) Act 1999*.

4 Before subsection 25-1(3)

Insert:

Luxury car tax threshold—general

5 Subsection 25-1(3)

Omit “The”, substitute “Subject to subsection (4), the”.

6 At the end of section 25-1

Add:

Luxury car tax threshold—fuel efficient cars

- (4) If the *car has a fuel consumption not exceeding 7 litres per 100 kilometres as a combined rating under vehicle standards in force under section 7 of the *Motor Vehicle Standards Act 1989*, the ***luxury car tax threshold*** is the *fuel-efficient car limit for the year in which the supply of the car occurred or the car was *entered for home consumption.
- (5) The ***fuel-efficient car limit*** for the 2008-09 *financial year is \$75,000. The limit is indexed annually using Subdivision 960-M of the *ITAA 1997.
- (6) In indexing the *fuel-efficient car limit, Subdivision 960-M of the *ITAA 1997 applies as if:
 - (a) the table in section 960-265 of that Act included an item referring to the fuel-efficient car limit and to subsection (5) of this section; and
 - (b) the reference in subsection 960-270(1) of that Act to provisions of that Act included a reference to subsection (5) of this section; and
 - (c) section 960-270 of that Act applied, and section 960-285 of that Act did not apply, in relation to the fuel-efficient car limit; and
 - (d) the reference in subsection 960-280(2) of that Act to the car limit included a reference to the fuel-efficient car limit.

7 Section 27-1

Insert:

financial year has the meaning given by section 995-1 of the *ITAA 1997.

8 Section 27-1

Insert:

fuel-efficient car limit has the meaning given by subsection 25-1(5).

9 Section 27-1 (definition of *luxury car tax threshold*)

After “subsection 25-1(3)”, insert “or (4)”.

10 Application

- (1) The amendments made by items 1 to 3 of this Schedule apply to taxable supplies of luxury cars and taxable importations of luxury cars on or after 1 July 2008.
- (2) The amendments made by items 4 to 9 of this Schedule apply to taxable supplies of luxury cars and taxable importations of luxury cars on or after the day on which this Act receives the Royal Assent (regardless of when contracts for the supplies or importations were entered into).

11 Subsection 25-1(3)

After “Subject to subsection”, add “(3A) and”.

12 After subsection 25-1(3)

Insert:

(3A) On and from 1 July 2012 the luxury car tax threshold is the luxury car tax threshold as at 30 June 2012 indexed according to a factor to be determined by the Parliament and to apply from 1 July 2012 or, if such a factor is not determined by the Parliament, indexed annually in accordance with the CPI indexation method provided for by Subdivision 960-M of the *ITAA 1997, calculated using the index number referred to in subsection 960-280(1) of that Act.

13 Application

The amendments made by this Schedule do not apply where the contract to make the taxable supply or taxable importation of the luxury car was entered into before 7.30 pm, by legal time in the Australian Capital Territory, on 13 May 2008.

Schedule 2—Refunds for primary producers and tourism operators

A New Tax System (Luxury Car Tax) Act 1999

1 At the end of section 2-10

Add:

- (4) Refunds can arise for primary producers and tourism operators in certain circumstances. (Division 18).

2 After Division 17

Insert:

Division 18—Refunds

18-1 What this Division is about

Refunds under this Division may be available to primary producers and tourism operators for the supply of certain cars.

18-5 Refunds for tax borne—primary producers

- (1) You are entitled to a refund under this section if:
 - (a) you have a refund entitlement under this section; and
 - (b) you are *registered; and
 - (c) no one else has made a valid claim for a refund in relation to the refund entitlement.
- (2) You have a refund entitlement if:
 - (a) you have *borne luxury car tax on the supply, or *importation, of a *refund-eligible car; and
 - (b) at the time of the supply or importation you are carrying on a *primary production business.
- (3) The amount of the refund for a refund entitlement under subsection (2) is the lesser of:

- (a) $\frac{8}{33}$ of the luxury car tax *borne by you as described in paragraph (2)(a); and
 - (b) \$3,000.
- (4) You cannot have a refund entitlement under subsection (2) for more than one *car in a *financial year.

18-10 Refunds for tax borne—tourism operators

- (1) You are entitled to a refund under this section if:
- (a) you have a refund entitlement under this section; and
 - (b) you are *registered; and
 - (c) no one else has made a valid claim for a refund in relation to the refund entitlement.
- (2) You have a refund entitlement if:
- (a) you have *borne luxury car tax on the supply, or *importation, of a *refund-eligible car; and
 - (b) the Commissioner is satisfied that:
 - (i) you will use the car solely for the purpose of carrying on a business; and
 - (ii) the principal purpose of the business is carrying tourists for *tourist activities.
- (3) The amount of the refund for a refund entitlement under subsection (2) is the lesser of:
- (a) $\frac{8}{33}$ of the luxury car tax *borne by you as described in paragraph (2)(a); and
 - (b) \$3,000.

18-15 Claiming refunds

- (1) You must claim a refund within 4 years of becoming entitled to the refund.
- (2) A claim for a refund must be in the *approved form.

18-20 Payment of refunds

If you are entitled to a refund under this Division and you have claimed the refund, the Commissioner must, on behalf of the Commonwealth, pay the amount of the refund to you.

3 Section 27-1

Insert:

primary production business has the meaning given by section 995-1 of the *ITAA 1997.

4 Section 27-1

Insert:

refund-eligible car means a 4 wheel drive, or all wheel drive, *car of a kind specified in regulations made for the purposes of this definition.

5 Section 27-1

Insert:

tourist activity has the meaning set out in regulations made for the purposes of this definition.

6 Application

The amendments made by this Schedule apply to taxable supplies of luxury cars and taxable importations of luxury cars on or after 1 July 2008.

*[Minister's second reading speech made in—
House of Representatives on 26 May 2008
Senate on 16 June 2008]*

(93/08)