


CR 2012/37 - Luxury car tax: meaning of 'luxury car'

 This cover sheet is provided for information only. It does not form part of *CR 2012/37 - Luxury car tax: meaning of 'luxury car'*

 From 1 July 2015, the term 'Australia' is replaced in nearly all instances within the GST, Luxury Car Tax, and Wine Equalisation Tax legislation with the term 'indirect tax zone' by the *Treasury Legislation Amendment (Repeal Day) Act 2015*. The scope of the new term, however, remains the same as the now repealed definition of 'Australia' used in those Acts. This change was made for consistency of terminology across the tax legislation, with no change in policy or legal effect. For readability and other reasons, where the term 'Australia' is used in this document, it is referring to the 'indirect tax zone' as defined in subsection 195-1 of the GST Act.



Class Ruling

Luxury car tax: meaning of 'luxury car'

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❶ This publication provides you with the following level of protection:

This publication (excluding appendices) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

What this Ruling is about

1. This Ruling sets out the Commissioner's opinion on the way in which the relevant provision(s) identified below apply to the defined class of entities, who take part in the scheme to which this Ruling relates.

Relevant provision(s)

2. The relevant provision dealt with in this Ruling is:

- section 25-1 of the *A New Tax System (Luxury Car Tax) Act 1999* (LCT Act).

All subsequent legislative references in the Ruling are to the LCT Act unless otherwise indicated.

Class of entities

3. The class of entities to which this Ruling applies are those entities that:

- have an agreement with Toyota Motor Corporation Australia Ltd (Toyota);
- have an agreement with Prestige Motors Pty Ltd; or
- have an agreement with Eastpoint Pty Ltd; and

- pursuant to the agreement with Toyota, Prestige Motors Pty Ltd or Eastpoint Pty Ltd, are entitled to:
 - (a) be supplied with Toyota vehicles, parts and goods by Toyota or the Distributors, in Australia, from time to time; and
 - (b) sell the Toyota vehicles supplied to them under the agreement.

4. A reference to a Toyota dealer is a reference to the above class of entities.

5. A reference to Distributors is a reference to Prestige Motors Pty Ltd and/or Eastpoint Pty Ltd.

Qualifications

6. The Commissioner makes this Ruling based on the precise scheme identified in this Ruling.

7. The class of entities defined in this Ruling may rely on its contents provided the scheme actually carried out is carried out in accordance with the scheme described in paragraphs 11 to 21 of this Ruling.

8. If the scheme actually carried out is materially different from the scheme that is described in this Ruling, then:

- this Ruling has no binding effect on the Commissioner because the scheme entered into is not the scheme on which the Commissioner has ruled; and
- this Ruling may be withdrawn or modified.

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Date of effect

10. This Ruling applies to tax periods commencing on or after 1 February 2005. The Ruling applies to all entities within the specified class who entered into the specified scheme on or after 1 February 2005. However, this Ruling will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

Scheme

11. The following description of the scheme is based on information provided by the applicant. The following documents, or relevant parts of them form part of and are to be read with the description:

- Application for Class Ruling dated 17 November 2011;
- Copy of the template of agreement used between Toyota and its dealers (Toyota Dealer Agreement);
- List of the 32 models (variants) of the four classes of Toyota HiLux vehicles mentioned below;
- Information for each of the 32 variants, consisting of the gross vehicle mass (GVM), un-laden mass (UM), and the seating capacity including the driver;
- Correspondence dated 8 February 2012 received in relation to the Class Ruling application; and
- Communications with the applicant.

Note: certain information has been provided on a commercial-in-confidence basis and will not be disclosed or released under Freedom of Information legislation.

12. Toyota is a manufacturer, distributor and exporter of motor vehicles.

13. The Toyota dealers have an agreement with either Toyota or the Distributors.

14. Pursuant to the agreement, the Toyota dealers are entitled to be supplied with Toyota vehicles by Toyota or the Distributors.

15. The Toyota dealers are or have been supplied with, and sell the following vehicles to the public:

- (a) HiLux Single Cab vehicles;
- (b) HiLux Xtra Cab vehicles;
- (c) HiLux Double Cab vehicles; and
- (d) HiLux TRD vehicles.

16. There are 32 variants of the abovementioned four classes of vehicles.

17. In this Class Ruling, the 32 variants of the abovementioned four classes of vehicles are collectively referred to as the HiLux Vehicles.

18. All the HiLux Vehicles are designed to carry a load of less than two tonnes and fewer than 9 passengers.

19. The HiLux TRD vehicles ceased production in 2008.

20. In this Class Ruling, the HiLux Single Cab, Xtra Cab and Double Cab vehicles are collectively referred to as HiLux Standard Range vehicles.

21. For the purposes of this Class Ruling, the HiLux Standard Range vehicles are vehicles from the 1 February 2005 production until the June 2011 production modifications; and from the June 2011 production modifications.

Ruling

22. The HiLux Vehicles do not fall within the meaning of 'luxury car' under section 25-1 of the LCT Act.

23. Accordingly, when the Toyota dealers supply a HiLux Vehicle, no luxury car tax (LCT) is payable on the supply.

Commissioner of Taxation

30 May 2012

Appendix 1 – Explanation

❶ *This Appendix is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.*

Meaning of luxury car

24. Section 5-5 of the LCT Act provides that an entity must pay LCT on any taxable supply of a luxury car that it makes.

25. Section 5-10 of the LCT Act sets out the requirements for a taxable supply of a luxury car, including that the supply is that of a luxury car.

26. Subsection 25-1(1) of the LCT Act provides that a luxury car is a car, whose luxury car tax value exceeds the luxury car tax threshold.

27. The Dictionary in section 27-1 of the LCT Act provides that a car means a motor vehicle (except a motor cycle or similar vehicle) that is designed to carry a load of less than 2 tonnes and fewer than 9 passengers or a limousine (regardless of the number of passengers it is designed to carry). As the HiLux Vehicles are all designed to carry less than two tonnes and fewer than 9 passengers, they meet the definition of a car.

28. However, paragraph 25-1(2)(c) of the LCT Act provides that a car is not a luxury car if it is a commercial vehicle that is not designed for the principal purpose of carrying passengers.

29. Accordingly, an entity does not have to pay LCT on a car with a value above the LCT threshold, if it is a commercial vehicle.

30. Some vehicles with a load carrying capacity (load capacity) of less than two tonnes can be designed to carry both passengers and goods. These vehicles include: dual cab vehicles; crew cab vehicles; and utility vehicles.

31. These vehicles will be referred to as dual purpose vehicles. The principal purpose of such a vehicle depends on the load capacity of the vehicle and whether it is designed to carry mainly passengers or goods.

32. From the information provided, in relation to the gross vehicle mass (GVM), un-laden mass (UM), and the seating capacity including the driver, for each of vehicles in the 32 variants, it is concluded that the HiLux vehicles are dual purpose vehicles.

33. However, to determine whether a HiLux Vehicle is a vehicle designed for the principal purpose of carrying goods for business or trade (i.e. a commercial vehicle), regard is had to the Australian Design Rules.

34. The Australian Design Rules Definitions and Vehicle Categories state that:

A vehicle constructed for both the carriage of persons and the carriage of goods shall be considered to be primarily for the carriage of goods if the number of seating positions times 68kg is less than 50 percent of the difference between the 'Gross Vehicle Mass' and the 'Un-laden Mass'.

35. Thus, the process to determine whether any of the dual purpose vehicles supplied pre and post 1 July 2011 constitutes a luxury car is as follows:

- determine whether the LCT value of the vehicle exceeds the LCT threshold. If so;
- calculate the difference between the gross vehicle mass and the un-laden mass of the vehicle in kilograms and then calculate 50% of that difference;
- calculate the total passenger weight by multiplying the total seating capacity including the driver by 68kg;
- determine whether the total passenger weight exceeds 50% of the difference between the gross vehicle mass and the un-laden mass;
- if so, the principal purpose of the vehicle is to carry passengers and it is a luxury car within the meaning of section 25-1 of the LCT Act; and
- If not, the principal purpose of the vehicle is for the carriage of goods and it is not a luxury car within the meaning of section 25-1 of the LCT Act.

36. Attachments A and B list the 32 models of the HiLux Vehicles that are not luxury cars under section 25-1 of the LCT Act.

Appendix 2 – Detailed contents list

37. The following is a detailed contents list for this Ruling:

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Attachment A

Toyota HiLux vehicle models supplied prior to 1 July 2011

Toyota HiLux Single Cab Vehicles	Gross vehicle mass (GVM) Kg	Un-laden mass (UM) Kg	Load Capacity (GVM-UM) Kg	50% of (GVM-UM) Kg	Seats	Total Passenger Weight (TPW) Kg	TPW < 50% of (GVM-UM)	Luxury Car
HiLux SR 4x2, Single Cab Pickup, Petrol 5 Auto	2,780	1,575	1,205	602.5	2	136	Yes	No
HiLux SR 4x2, Single Cab Pickup, Petrol 5 Manual	2,780	1,555	1,225	612.5	3	204	Yes	No
HiLux SR 4x2, Single Cab Chassis, Diesel 5 Manual	2,780	1,640	1,140	570.0	3	204	Yes	No
HiLux SR 4x2, Single Cab Chassis, Petro 5 Auto	2,780	1,565	1,215	607.5	2	136	Yes	No
HiLux SR 4x2, Single Cab Chassis, Petro 5 Manual	2,780	1,550	1,230	615.0	3	204	Yes	No
HiLux SR 4x4, Single Cab Chassis, Diesel 4 Auto	2,835	1,825	1,010	505.0	2	136	Yes	No
HiLux SR 4x4, Single Cab Pickup, Diesel 5 Manual	2,835	1,820	1,015	507.5	3	204	Yes	No
HiLux SR 4x4, Single Cab Chassis, Petro 5 Auto	2,750	1,725	1,025	512.5	2	136	Yes	No

HiLux SR 4x4, Single Cab Chassis, Petro 5 Manual	2,750	1,700	1,050	525.0	3	204	Yes	No
HiLux Workmate 4x2, Single Cab, Petrol 5 Auto	2,780	1,565	1,215	607.5	2	136	Yes	No
HiLux Workmate 4x2, Single Cab, Petrol 5 Manual	2,780	1,540	1,240	620.0	3	204	Yes	No
Toyota HiLux Xtra Cab Vehicles	GVM Kg	UM Kg	Load Capacity (GVM-UM) Kg	50% of (GVM-UM) Kg	Seats	Total Passenger Weight (TPW) Kg	TPW < 50% of (GVM-UM)	Luxury Car
HiLux SR 4x2, Xtra Cab Pickup	2,740	1,600	1,140	570.0	4	272	Yes	No
HiLux SR 4x2, Xtra Cab Chassis	2,710	1,860	850	425.0	4	272	Yes	No
HiLux 9R5 4x2, Xtra Cab Pickup	2,740	1,610	1,130	565.0	4	272	Yes	No
Toyota HiLux Double Cab Vehicles	GVM Kg	UM Kg	Load Capacity (GVM-UM) Kg	50% of GVM-UM) Kg	Seats	Total Passenger Weight (TPW) Kg	TPW < 50% GVM-UM	Luxury Car
HiLux SR 4x2, Double Cab Pickup, Diesel 5 Manual	2,710	1,705	1,005	502.5	5	340	Yes	No
HiLux SR 4x2, Double Cab Pickup, Petrol 5 Auto	2,710	1,655	1,055	527.5	5	340	Yes	No

HiLux SR 4x2, Double Cab Pickup, Petrol 5 Manual	2,710	1,630	1,080	540.0	5	340	Yes	No
HiLux SR 4x4, Double Cab Pickup, Diesel 4 Auto	2,780	1,920	860	430.0	5	340	Yes	No
HiLux SR 4x4, Double Cab Pickup, Diesel 5 Manual	2,780	1,895	885	442.50	5	340	Yes	No
HiLux SR 4x4, Double Cab Pickup, Petrol 5 Auto	2,810	1,810	1,000	500.0	5	340	Yes	No
HiLux SR 4x4, Double Cab Pickup, Petrol 5 Manual	2,810	1,785	1,025	512.5	5	340	Yes	No
HiLux SR 4x4, Double Cab Chassis	2,780	1,865	915	457.5	5	340	Yes	No
HiLux SR5 4x2, Double Cab Pickup, Petrol 5 Auto	2,710	1,655	1,055	527.5	5	340	Yes	No
HiLux SR5 4x2, Double Cab Pickup, Petrol 5 Manual	2,710	1,625	1,085	542.5	5	340	Yes	No
HiLux SR5 4x4, Double Cab Pickup, V6 Petrol 5 Manual	2,810	1,780	1,030	515.0	5	340	Yes	No
HiLux SR5 4x4, Double Cab Pickup, Diesel 4 Auto	2,780	1,925	855	427.5	5	340	Yes	No

HiLux SR5 4x4, Double Cab Pickup, Diesel 5 Manual	2,780	1,895	885	442.5	5	340	Yes	No
HiLux SR5 4x4, Double Cab Pickup, V6 5 Auto	2,810	1,820	990	495.0	5	340	Yes	No
HiLux Workmate 4x2, Double Cab Pickup, Petrol 5 Manual	2,710	1,600	1,110	555.0	6	408	Yes	No
Workmate 4x2, Double Cab Pickup, Petrol Auto	2,710	1,625	1,085	542.5	5	340	Yes	No
Toyota HiLux TRD Vehicles	GVM Kg	UM Kg	Load Capacity (GVM-UM) Kg	50% of GVM-UM) Kg	Seats	Total Passenger Weight (TPW) Kg	TPW < 50% GVM-UM	Luxury Car
HiLux TRD 4000S	2,810	1,850	960	480	5	340	Yes	No
HiLux TRD 4000SL	2,810	1,855	955	477.5	5	340	Yes	No

Attachment B

Toyota HiLux vehicle models supplied after 1 July 2011

Toyota HiLux Single Cab Vehicles	GVM Kg	UM Kg	Load Capacity (GVM-UM) Kg	50% of (GVM-UM) Kg	Seats	Total Passenger Weight (TPW) Kg	TPW < 50% of (GVM-UM)	Luxury Car
HiLux SR 4x2, Single Cab Pickup, Petrol 5 Auto	2,780	1,575	1,205	602.5	2	136	Yes	No
HiLux SR 4x2, Single Cab Pickup, Petrol 5 Manual	2,780	1,555	1,225	612.5	3	204	Yes	No
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HiLux TRD 4000SL	2,810	1,855	955	477.5	5	340	Yes	No

References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

TR 2006/10; LCTD 2010/1;
LCTD 2011/1

Subject references:

- LCT
- luxury car
- commercial vehicle
- dual purpose vehicle

Legislative references:

- LCT Act
- LCT Act 5-5
- LCT Act 5-10
- LCT Act 5 10(1)
- LCT Act 25-1
- LCT Act 25-1(1)
- LCT Act 25-1(2)(c)
- TAA 1953
- Copyright Act 1968

Other references:

- NAT 3394

ATO references

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