


LCTD 2013/D1 - Luxury car tax: does the luxury car tax value for a car acquired under a hire purchase agreement include the consideration provided for the supply of credit under the agreement?

 This cover sheet is provided for information only. It does not form part of *LCTD 2013/D1 - Luxury car tax: does the luxury car tax value for a car acquired under a hire purchase agreement include the consideration provided for the supply of credit under the agreement?*

This document has been finalised by LCTD 2014/1.



Draft Luxury Car Tax Determination

Luxury car tax: does the luxury car tax value for a car acquired under a hire purchase agreement include the consideration provided for the supply of credit under the agreement?

Preamble

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

This publication (excluding appendixes) 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.

Ruling

1. No. The luxury car tax value for a car acquired under a hire purchase agreement under subsection 5-20(1) of the *A New Tax System (Luxury Car Tax) Act 1999* (LCT Act) is the price of the car subject to certain exclusions. The luxury car tax value does not include the consideration provided for the supply of credit under the hire purchase agreement.

Example

2. *Andrea is registered for GST. On 30 September 2012, Andrea enters into a hire purchase agreement with Hocum Car Finance, a finance company, to purchase a car. The GST inclusive price of the car is \$55,000 (excluding any Australian tax, fee or charge) and the scheduled credit charges over the term of the hire purchase agreement total \$6,600 (including GST of \$600).*

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3. *The hire purchase agreement involves the supply of the luxury car and the supply of credit. The luxury car tax value of the car is \$55,000. The consideration Andrea provides for the supply of credit is not included in the luxury car tax value.*

Date of effect

4. When the final Determination is issued, it is proposed to apply both before and after its date of issue. However, this Determination 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 Determination (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

Commissioner of Taxation

18 December 2013

Appendix 1 – Explanation

① *This Appendix is provided as information to help you understand how the Commissioner's preliminary view has been reached. It does not form part of the proposed binding public ruling.*

5. Subsection 5-20(1) of the LCT Act provides that in relation to the supply of a car, the luxury car tax value is the price of the car excluding:

- (a) any luxury car tax for that supply; and
- (b) any other Australian tax or Australian fee or charge, other than GST and customs duty;

payable on the supply.

6. In applying subsection 5-20(1) of the LCT Act, it is necessary to determine the price of the car. Section 27-1 of the LCT Act provides that the term 'price', in relation to a supply, has the meaning given by section 9-75 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act). Pursuant to subsection 9-75(1) of the GST Act, the price of the car includes the amount of any monetary consideration (including GST) and the GST inclusive market value of any non-monetary consideration provided for the supply of the car. Section 27-1 of the LCT Act also provides that the term 'consideration' has the meaning given by section 195-1 of the GST Act.

7. The GST law recognises that a hire purchase agreement involves both the supply of goods and the supply of credit. Both the GST Act and the *A New Tax System (Goods and Services Tax) Regulations 1999* (GST Regulations) provide textual support for recognising the supply of goods and the supply of credit made under a hire purchase agreement. Section 156-23 of the GST Act makes reference to a supply or acquisition of goods or credit under a hire purchase agreement.¹ The GST Regulations make specific reference to credit under a hire purchase agreement in item 8 in the table in subregulation 40-5.09(3)² and item 20 in the table in regulation 40-5.12.³

8. This view is consistent with the following statements made in the Explanatory Statement to the *A New Tax System (Goods and Services Tax) Amendment Regulation 2012 (No. 1)* concerning the application of item 20 in the table in regulation 40-5.12 of the GST Regulations which specifies that a supply of credit under a hire purchase agreement entered into on or after 1 July 2012 is not a financial supply:

The amendments are not intended to affect the calculation of luxury car tax. In working out whether a car is a luxury car with respect to exceeding the luxury car tax threshold, only the price of the car is taken into account. The price includes GST and customs duty and does not include any luxury car tax, or any other Australian tax, fee or charge. The GST-inclusive price of the supply of credit is not relevant to the calculation.

The supply of the car and the supply of the credit continue to be treated as two separate supplies.

9. The consideration provided for the supply of credit therefore does not affect the price of the car in determining the luxury car tax value for the car.

¹ Section 156-23 of the GST Act applies in relation to hire purchase agreements entered into on or after 1 July 2012.

² Applicable to hire purchase agreements entered into before 1 July 2012.

³ Applicable to hire purchase agreements entered into on or after 1 July 2012.

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10. The consideration provided for the supply of credit and the consideration provided for the supply of the car will be identified pursuant to the terms of the hire purchase agreement.

Appendix 3 – Your comments

11. You are invited to comment on this draft Determination. Please forward your comments to the contact officer by the due date.

12. A compendium of comments is prepared for the consideration of the relevant Rulings Panel or relevant tax officers. An edited version (names and identifying information removed) of the compendium of comments will also be prepared to:

- provide responses to persons providing comments; and
- be published on the ATO website at www.ato.gov.au.

Please advise if you do not want your comments included in the edited version of the compendium.

Due date:	31 January 2014
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References

Previous draft:

Not previously issued as a draft

Subject references:

- GST hire purchase
- luxury car tax

Legislative references:

- ANTS(GST)A 1999 9-75
- ANTS(GST)A 1999 9-75(1)
- ANTS(GST)A 1999 156-23

- ANTS(GST)A 1999 195-1
- ANTS(GST)R 1999 40-5.09(3)
- ANTS(GST)R 1999 40-5.12
- ANTS(LCT)A 1999 5-20(1)
- ANTS(LCT)A 1999 27-1

Other references:

- Explanatory Statement to A New Tax System (Goods and Services Tax) Amendment Regulation 2012 (No. 1)

ATO references

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