


# ***CR 2012/81 - Luxury car tax: meaning of 'luxury car'***

 This cover sheet is provided for information only. It does not form part of *CR 2012/81 - 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 The scope of the new term, however, remains the same as the now repealed definition of 'Australia' used in those Acts.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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#### **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.

## 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

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10. This Ruling applies to tax periods commencing on and after 1 January 2007. The Ruling applies to all entities within the specified class who entered into the specified scheme on or after 1 January 2007. 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).

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## Scheme

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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 29 May 2012;
- Copy of the template of agreement used between Toyota and its dealers (Toyota Dealer Agreement);
- The three Toyota Landcruiser 70 Series vehicles which are the Troop Carrier GXL, Wagon Workmate and Wagon GXL, (together known as the LC70 vehicles);
- Information for each of the above three vehicles, consisting of the gross vehicle mass (GVM), un-laden mass (UM), and the seating capacity including the driver;
- Correspondences dated 17 November 2011 and 24 December 2010 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) Troop Carrier GXL;
- (b) Wagon Workmate; and

(c) Wagon GXL

16. There are three Toyota Landcruiser 70 Series vehicles to which this Ruling relates. They are:

- (a) Troop Carrier GXL;
- (b) Wagon Workmate; and
- (c) Wagon GXL

17. In this Ruling, these three Toyota Landcruiser 70 Series vehicles are collectively referred to as the LC70 vehicles.

18. All the LC70 vehicles are designed to carry a load of less than two tonnes and fewer than 9 passengers.

19. For the purposes of this Ruling, the LC70 vehicles are vehicles from 1 January 2007 production modifications.

## Ruling

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20. The LC70 vehicles do not fall within the meaning of 'luxury car' under section 25-1 of the LCT Act.

21. Accordingly, no luxury car tax (LCT) is payable on the supply of a LC70 vehicle by a Toyota dealer.

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**Commissioner of Taxation**

26 September 2012

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## 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

22. Section 5-5 provides that an entity must pay LCT on any taxable supply of a luxury car that it makes.
23. Section 5-10 sets out the requirements for a taxable supply of a luxury car, including that the supply is that of a luxury car.
24. Subsection 25-1(1) provides that a luxury car is a car, whose luxury car tax value exceeds the luxury car tax threshold.
25. The Dictionary in section 27-1 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).
26. However, paragraph 25-1(2)(c) 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.
27. 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.

### Commercial vehicle

28. The ATO publication, *Luxury car tax: Guide for taxpayers with a luxury car tax obligation* NAT 3394 (Guide) provides the ATO view on the application of the LCT provisions. The Guide defines a 'commercial vehicle' as a vehicle designed for the principal purpose of carrying goods for business or trade.
29. The term 'commercial vehicle' is not defined in the LCT Act and therefore, the ordinary meaning of the words applies. The *Macquarie Dictionary* (Australia) gives the following meaning to the term 'commercial vehicle':  

a vehicle able to carry goods or passengers, and designated for use by businesses, as a panel van, utility, etc.'
30. In this instance what needs to be established is whether the LC70 vehicles are designed for the principal purpose of carrying goods for business or trade.

### Principal purpose

31. The Guide provides that to work out the principal purpose for which a vehicle has been designed, things to consider include:
  - its appearance and presentation

- relevant promotional material and how it is marketed
- its specifications
- the load carrying capacity, and
- the number of passengers it can carry.

This is known as the 'principal purpose test'.

This broader test allows factors, such as appearance and marketing to be taken into account when determining the classification of a vehicle. It should be noted that the determination of the question is generally the result of a process of weighing all the relevant factors. No single factor is determinative.

### ***Appearance and presentation***

32. Although the family sport utility vehicle (SUV) model offshoot (Land Cruiser (LC) 60 and later LC80 series) have developed significantly since their launch, the LC70 series has retained its basic model styling and has continued to be sold for industry purposes since its launch in 1984. Prior to this date, the Land Cruiser models were marketed as the LC20 series (from 1959) and used principally in the heavy construction industry, whilst in 1960, the model was upgraded to the LC40 series and further used in commercial applications such as by the military.

33. In addition the historical development of the LC70 vehicles indicate that the appearance and presentation of the LC70 vehicles have a different design, construction and purpose to sports utility vehicles/derivatives such as the LC60 and 80 series and have retained their basic rugged look and model styling characterised in the earlier LC20 and 40 series.

34. According to the facts provided with the historical development, original design and purpose and in particular evidence provided shows that the LC70 vehicles still carry many of the features from the LC20 and 40 series as evidenced above.

### ***Relevant promotional material and how the vehicle is marketed***

35. The Toyota Landcruiser 70 Series brochure describes the LandCruiser 70 Series as:

... just a further chapter in the LandCruiser legend that has been forged in the roughest rural, mining and construction projects across Australia. LandCruiser first proved itself on the slopes of the Snowy Mountains Hydro scheme.

36. The Landcruiser 70 Series is further marketed in the brochure as:

... the work horses of the LandCruiser line-up come with a fresh face and plenty of muscle. They're known as the LandCruiser 70 series and they have more power than ever before.

37. The brochure goes on to mention that:

... the Troop Carrier and Wagon, LandCruiser 70 Series is one worker that's prepared to do more for less pay.

The increased power is easily manageable thanks to LandCruiser's proven 5-speed manual transmission with high and low range, giving you the right ratios for climbing steep slopes and carrying heavy loads. As for the suspension, LandCruiser 70 has a wide front track with a durable stabiliser bar and lateral control rod. So LandCruiser is altogether a more stable, easier machine to drive even when loaded to the gunwales.

38. Further, the Toyota's Fleet marketing website shows the connection between the LC70 vehicles and the mining, energy and resources sector.

39. Literature and sales figure provided indicate that the majority of purchasers (75% of all purchasers) of LC70 vehicles purchase those vehicles for use in commercial operations.

### ***Specifications***

40. With regard to the specifications outlined below, no single specification can be considered as determinative of the absolute use or design of the vehicles, but the specifications as outlined taken together, indicate that the LC 70 series vehicles are not principally designed for the carriage of passengers

### ***Chassis type***

41. In addressing the significance of the specifications of the LC70 vehicles it is necessary to understand the LC70 vehicles' design.

42. There are different chassis types used in the design of vehicles. The two main types of chassis are the ladder frame chassis and the integral or monocoque chassis.

43. A ladder frame chassis is best described as side rails with cross beams, like a ladder shape and is widely used for light commercial vehicles such as pick-ups through to the heavy truck.

44. Integral chassis types are found in the mass-produced car. The advantage of this structure is that the structure weighs less than other types of chassis structures, costs less and produces a quieter car; features which are important for passenger vehicles.

45. The LC70 vehicles use a ladder frame chassis. According to information provided, a ladder frame chassis design lacks a number of key features found in passenger cars, including low production cost, lower weight and quieter operation.

46. The use of a ladder frame chassis would tend to support the proposition that the LC70 vehicles have not been primarily designed for carrying passengers.



## *Engine type*

47. The LC70 vehicles are available only with diesel engines. Diesel engines have better fuel economy than petrol engines but tend to become noisy and vibrate on their mountings as the operating load is reduced. The combustion process is quieter and smoother in petrol engines resulting in greater passenger comfort. Petrol engines are also cheaper than diesel engines.

48. This factor also tends to support the characterisation of the LC70 vehicles as primarily not designed to carry passengers.

## *Axles*

49. Axles are structures maintaining the position of the wheels relative to each other and to the vehicle body. These can be divided into rigid axles (with a rigid connection of the wheels to an axle), independent wheel suspensions (in which the wheels are suspended independently of each other), and semi-rigid axles (a form of axle that combines the characteristics of rigid axles and independent wheel suspensions).

50. Rigid axles have a number of disadvantages that are a consideration in passenger cars, but which can be accepted in commercial vehicles. According to information provided, rigid axles are no longer found in standard passenger cars and are only used in four-wheel drive and special all-terrain vehicles.

51. The rigid axles found in the LC70 vehicles also tend to support the proposition that these vehicles have not been primarily designed for carrying passengers.

## *Transmission*

52. Transmission takes the power from the engine to the wheels and can be manual or automatic.

53. The LC70 vehicles are only available in manual transmission. Information provided suggests that the absence of an automatic gear indicates the LC70 vehicles are not principally designed for convenience and city-driving.

## *Gears*

54. The design of a vehicle depends on the conditions at which the vehicle has to operate and determines the gear ratios.

55. Commercial and rear wheel drive vehicles usually have gear ratios ranging from 4:1 to about 0.8:1. By contrast, a front wheel drive passenger car will have a range from about 12:1 to 3:1.

56. The LC70 vehicles have the following gear ratios:

<b>Gear</b>	<b>Ratio</b>
1 <sup>st</sup>	4.529:1
2 <sup>nd</sup>	2.464:1
3 <sup>rd</sup>	1.490:1
4 <sup>th</sup>	1.000:1
5 <sup>th</sup>	0.881:1

57. According to information provided, the LC70 vehicles' gear ratios are comparable to those appropriate for a 'light van', and are significantly different to those that would be appropriate for a passenger carrying vehicle, such as the 'popular car' or 'powerful saloon'.

### ***Load carrying capacity and number of passengers***

58. The Guide provides that to work out the load a vehicle can carry, subtract the tare mass from the gross vehicle mass (GVM).

59. The table below shows the load carrying capacity and the number of passengers the LC70 vehicles are designed to carry.

<b>Vehicle</b>	<b>GVM (kg)</b>	<b>Unladen Mass (kg)</b>	<b>Load carrying capacity</b>	<b>Seats</b>
Troop Carrier GXL	3,300	2,345	955	5
Wagon GXL	3,000	2,230	770	5
Wagon Workmate	3,000	2,230	770	5

### **Dual purpose**

60. The Guide provides that some vehicles with a load carrying 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.

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

62. The 'principal purpose test' when applied to the LC70 vehicles indicate that the appearance and presentation, relevant promotional material, specifications, number of passengers the LC70 vehicles are designed to carry; together with the load carrying capacity evidence that the LC70 vehicles can have a 'dual purpose'.

63. The *Vehicle Standard (Australian Design Rule - Definitions and Vehicle Categories) 2005, (ADR)* (The Australian Design Rules) states 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'.

64. Thus, the process to determine whether any of the dual purpose vehicles supplied 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; 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.

65. From the information provided, in relation to the gross vehicle mass, un-laden mass and the seating capacity including the driver, it is concluded that the majority of the designed load carrying capacity of the LC70 vehicles is not attributable to their passenger carrying capacity.

66. As the majority of the designed load carrying capacity of the LC70 vehicles is not attributable to their passenger carrying capacity; the vehicles are not designed for the purpose of carrying passengers. As such the vehicles are excluded from being luxury cars by virtue of paragraph 25-1(2)(c).

67. Attachment A lists the three LC70 vehicles that are not luxury cars under section 25-1.

## **Appendix 2 – Detailed contents list**

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

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**Attachment A: LC70 vehicles that are not luxury cars**

<b>VEHICLES</b>	<b>Gross vehicle mass (GVM) kg</b>	<b>Unladen mass (UM) kg</b>	<b>Load capacity (GVM - UM) kg</b>	<b>50% of (GVM - UM) kg</b>	<b>Seats</b>	<b>Total passenger weight (TPW) kg</b>	<b>TPW &lt; 50% of (GVM-UM) kg</b>	<b>Luxury car</b>
Troop Carrier GXL	3,300	2,345	955	477.5	5	340	Yes	No
Wagon GXL	3,000	2,230	770	385.0	5	340	Yes	No
Wagon Workmate	3,000	2,230	770	385.0	5	340	Yes	No

## References

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*Previous draft:*

Not previously issued as a draft

*Related Rulings/Determinations:*

TR 2006/10; LCTD 2010/1;  
LCTD 2011/1; LCTD 2012/1

*Subject references:*

- commercial vehicle
- dual purpose vehicle
- luxury car
- luxury car tax

*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:*

- Luxury car tax: Guide for taxpayers with a luxury car tax obligation (NAT 3394).

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*ATO references*

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