

# ***LCTD 2023/1 - Luxury car tax: how to determine the principal purpose of a vehicle***

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## Luxury Car Tax Determination

# Luxury car tax: how to determine the principal purpose of a vehicle

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### **📌 Relying on this Determination**

This publication (excluding paragraphs 1 to 2, and Appendix) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

If this Determination applies to you, and you correctly rely on it, we will apply the law to you in the way set out in this Determination. That is, you will not pay any more tax or penalties or interest in respect of the matters covered by this Determination.

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### What this Determination is about

1. This Determination explains how to determine the principal purpose<sup>1</sup> of a car for the purposes of the *A New Tax System (Luxury Car Tax) Act 1999* (LCT Act). The Appendix to this Determination also sets out a compliance approach which outlines how the Commissioner will allocate compliance resources with respect to this issue.
2. The term 'principal purpose' is relevant in determining whether a car is a 'luxury car' on which luxury car tax (LCT) may be payable. LCT is not payable on the supply or importation of cars whose principal purpose is the carriage of goods rather than passengers.
3. All legislative references in this Determination are to the LCT Act, unless otherwise indicated.

### Ruling

4. Subject to certain exceptions, a luxury car is a car whose LCT value exceeds the LCT threshold.<sup>2</sup>
5. A car<sup>3</sup> is a motor-powered road vehicle (except a motor cycle or similar vehicle) that is:
  - designed to carry a load of less than 2 tonnes and less than 9 passengers, or
  - a limousine (regardless of the number of passengers it is designed to carry).<sup>4</sup>
6. However, paragraph 25-1(2)(c) excludes a car as a luxury car if it is:
  - a commercial vehicle, and
  - not designed for the principal purpose of carrying passengers.
7. The term 'commercial vehicle' is not defined in the LCT Act. It takes its meaning from its ordinary definition within the statutory context of the LCT Act. The ordinary meaning of 'commercial vehicle' is set out in the Macquarie dictionary as, 'a vehicle able to carry goods or passengers, and designated for use by businesses, as a panel van, utility, etc'.<sup>5</sup> Whether a car is a 'commercial vehicle' in the context of the LCT Act is to be

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<sup>1</sup> The 'principal purpose' of a vehicle is used in other statutory contexts, such as fringe benefits tax (FBT). See the Commissioner's views on identifying a vehicle's principal purpose for FBT in Taxation Determination TD 94/19 *Fringe benefits tax: is the method outlined in Taxation Ruling MT 2024 appropriate for determining whether a vehicle, other than a dual or crew cab, is 'designed for the principal purpose of carrying passengers' and thereby ineligible for the work-related use exemption available under subsection 8(2) of the Fringe Benefits Tax Assessment Act 1986?*, Miscellaneous Taxation Ruling MT 2024 *Fringe benefits tax: dual cab vehicles eligibility for exemption where private use is limited to certain work-related travel* and Miscellaneous Taxation Ruling MT 2033 *Fringe benefits tax: application of sub-section 8(2) exemption to modified cars*.

<sup>2</sup> Subsection 25-1(1).

<sup>3</sup> Subsection 27-1(1). 'Car' has a different meaning for LCT purposes than for the purposes of the *Income Tax Assessment Act 1997* (ITAA 1997), the *Fringe Benefits Tax Assessment Act 1986*, and the *A New Tax System (Goods and Services Tax) Act 1999* where it has the meaning provided in section 995-1 of the ITAA 1997. Importantly, section 995-1 of the ITAA 1997 defines a car as road vehicles designed to carry a load of less than one tonne.

<sup>4</sup> Section 27-1.

<sup>5</sup> Macmillan Publishers Australia, The Macquarie Dictionary online, [www.macquariedictionary.com.au](http://www.macquariedictionary.com.au), accessed 15 August 2023.

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determined objectively based on the car's design, rather than how a particular operator intends to use the car in practice.

8. The question of whether or not a car has the 'principal purpose' of carrying passengers must be considered objectively. The focus is on the design of the car, rather than how it is intended to be used in practice by any particular operator.

9. There may be several purposes for which a car is designed. The exclusion in paragraph 25-1(2)(c) only requires that the principal purpose must not be the carrying of passengers. It does not matter if a car carries some passengers, as long as this is not the principal purpose for which it is designed.

10. In situations where there are several design purposes, one of which is the carrying of passengers, it will be a question of fact and degree whether that purpose is the principal purpose. Paragraph 25-1(2)(c) does not require that the principal purpose in question be assessed at over 50% of purposes taken together, only that the principal purpose be objectively greater than each of the other design purposes. That is, it is not necessary to assign a percentage to the design purposes but to follow the principles set out in paragraphs 13 to 30 of this Determination.

11. In paragraphs 13 to 30 of this Determination, we consider the following in more detail:

- factors to consider in determining the principal purpose of all vehicles, including utility vehicles, and
- design modifications that may alter a vehicle's purpose.

12. In paragraphs 33 to 47 of this Determination, we apply those factors in examples, with a focus on vehicles that are cars for the purposes of the LCT Act but need further consideration of their principal purpose to determine if they are excluded as a luxury car, such as modified off-road 4WD wagons.

### ***Principal purpose test for all vehicles***

13. Factors to be considered in determining the principal purpose of all vehicles include but are not limited to:

- the appearance and presentation of the vehicle
- any relevant promotional literature
- the emphasis evident in marketing
- the vehicle's specifications
- the Australian Design Rules (ADRs) applicable to the vehicle, according to *Vehicle Standard (Australian Design Rule – Definitions and Vehicle Categories) 2005* (ADR)<sup>6</sup> vehicle category classification
- the load carrying capacity
- the passenger carrying capacity.

14. Each of the factors in paragraph 13 of this Determination are to be considered objectively, with no specific weighting applied to any individual factor. None of the factors are of themselves determinative of a vehicle's principal purpose, and each factor must be considered in light of all factors together. A vehicle's classification for the purposes of the

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<sup>6</sup> The ADR is made under section 12 of the *Road Vehicle Standards Act 2018*.

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ADRs as either a 'goods vehicle' or a 'passenger vehicle', while a relevant factor, is not conclusive in determining its principal purpose for the purposes of the LCT Act.

15. Where the factors support the position that the principal purpose of a vehicle is to carry passengers, the vehicle is a luxury car for the purposes of the LCT Act, regardless of whether it is classified as a 'goods vehicle' under the ADRs.

### **Modifications**

16. When assessing a vehicle's principal purpose, consideration is given to the principal purpose of the vehicle as originally designed and any modifications that are incapable of being readily reversed. When assessing modifications to a vehicle, factors to consider include, but are not limited to:

- the significance and extent of modifications that are incapable of being readily reversed, including differences from the vehicle's original design features, and changes to ADR vehicle category classification and applicable ADRs as a result of any modification processes
- the details of any process to effect or reverse a modification, such as the tools, parts, process and time taken to complete the modifications, and changes to ADR vehicle category classification and applicable ADRs as a result of any modification processes
- whether modification plans are required by law, are approved by a regulator, and are developed for one-off custom modifications or large-scale commercial modifications.

17. Permanent alterations may change a vehicle's original design after manufacture but modifications that can be readily reversed, so that the vehicle can be easily used for its original purpose, do not change its design.

18. Whether modifications to a vehicle's design effect a permanent alteration is a question of fact and degree. This requires an assessment of the nature of the modification, not how that modification relates to any intended use of the vehicle by a particular operator. The fact that re-conversion may be made difficult by any bulky equipment or goods regularly stored in a section of the vehicle is not relevant to the assessment of permanency of modifications.

19. Further, it is not relevant whether modifications are actually reversed or whether anyone intends for those modifications to be reversed. The relevant question is whether the modification is capable of being readily reversed.

20. The removal of seats, without also removing the associated anchorage points and mounting plate is an example of a readily reversible modification. Accordingly, unless there is a permanent feature which obstructs use of the seats, anchorage points and mounting plates, the Commissioner will include seats removed in this fashion in the total passenger seat count when assessing a vehicle's principal purpose, regardless of whether the vehicle is registered for road use with a lesser number of passenger seats.

21. In assessing the permanency of modifications, consideration is given to the totality of modifications completed. The installation of individual parts or accessories, together with other minor modifications, may not be considered permanent as the time required or process involved in reversing that installation is not significant. By contrast, the installation of the same individual parts or accessories, together with other significant modifications, may be assessed as a permanent modification.

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*Significance and extent of modifications*

22. Whether a modification of a more permanent nature causes a change in design that alters a vehicle's principal purpose is a question of fact and degree, requiring assessment of the significance and extent to which the total effect of all modifications implemented differ from the vehicle's original design features.

23. Minor improvements to existing design features, or modifications directed equally to the carriage of goods or passengers, will not cause a change in design that alters a vehicle's principal purpose.

24. Modifications will generally be considered minor where they involve the replacement of existing parts with new parts which perform the same essential function. Minor modifications are readily accommodated by the original design of the vehicle and include upgrading a vehicle's suspension and differentials by replacing these parts with improved or different specification parts.

25. Significant modifications that alter a vehicle's design will typically involve alteration of the vehicle itself and the addition or removal of parts, especially where this requires inspection by a regulator (that is, a State or Federal Authority, or a delegate of such an Authority) to ensure the vehicle can continue being safely used on a public road. Significant modifications are ordinarily not accommodated by the original design of the vehicle, requiring new parts to be fabricated or existing parts to be modified so that they can be utilised by the vehicle. Significant modifications include the conversion of a wagon into a utility vehicle by cutting the body of the vehicle to lengthen it and installing a goods-carrying tray behind the passenger cabin.

26. Whether a modification is readily accommodated by a vehicle's design is a question of fact and degree. Relevant considerations include whether the existing design features can facilitate the relevant modification, what alterations need to be made to the vehicle to facilitate the modification, and the significance of those alterations.

27. For example:

- the installation of a cargo barrier and shelving is considered to be readily accommodated (and of itself a minor modification) where parts are installed according to an installation guide developed by the vehicle manufacturer, and the vehicle has design features, such as sufficient space and prefabricated holes which the barrier and shelving can be rigidly fixed to using screws and bolts
- by contrast, the installation of a cargo barrier and shelving is not considered to be readily accommodated where modification plans need to be developed, space needs to be created in the vehicle by cutting the frame into a suitable shape and permanently removing seats, and parts are rigidly fixed to the frame by welding or by drilling thread holes to screw or bolt parts into place, and
- similarly, the installation of seats is readily accommodated where installation is completed by following the modification process in the vehicle manufacturer's installation guide, and the vehicle has design features, including additional anchorage points, and a mounting plate to facilitate the installation of the extra seats.<sup>7</sup>

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<sup>7</sup> By extension, the removal of seats is also considered to be a minor modification, where reinstallation of the seats is achieved by following the manufacturers installation guide, and the seating anchorage points and mounting plate remain available for reinstallation of the seats.

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28. Further, the legal form and consequences of modifications (that is, the voiding of a manufacturer's warranty, modifications completed under an approved second stage of manufacture (SSM) process, and changes in the ADR vehicle category classification applicable to the vehicle) are indicative but not conclusive of the significance and extent of modifications. They are not conclusive of the vehicle's principal purpose.

29. For example, where an MC<sup>8</sup> category passenger vehicle is modified under an approved SSM process, and converted into an NB1<sup>9</sup> category goods vehicle, the vehicle is not on this basis alone, taken to be designed for the principal purpose of carrying goods for the purposes of the LCT Act. This is because the legal form of the modifications is merely informative of the significance and extent of the modifications.

30. Even where significant and extensive modifications are undertaken, if on balance the purpose of carrying passengers continues to be the main or the most important and prominent of the vehicle's design features, the principal purpose of the vehicle will remain that of carrying passengers.

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***Modifications do not change the character of separate taxable supplies or importations***

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31. LCT is payable on any:

- taxable supply<sup>10</sup> of a luxury car that you make, or
- taxable importation of a luxury car that you make.<sup>11</sup>

32. Where modifications are made to a luxury car under a separate supply after the car is supplied or imported, LCT will still be payable on the earlier supply or importation of the car. The separate supply (the modifications) will not change the character of the earlier supply or importation on which LCT was payable.

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**Examples**

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***Example 1 – principal purpose – vehicles with minor modifications***

33. *Derek sells luxury cars and is modifying a 4x4 off-road wagon with seating capacity for 7 people, including the driver. The car is classified as an MC category passenger vehicle at the time it is manufactured.*

34. *Derek modifies the car by:*

- *repainting the car to include reflective stripes and the customer's business logo*
- *reducing the car's seating capacity from 7 passengers to 5 passengers by removing 2 of the passenger seats and their anchorage points and mounting plate*
- *increasing the car's GVM by upgrading the car's suspension and differentials.*

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<sup>8</sup> An MC category passenger vehicle is an off-road passenger vehicle. See clause 4.3.3 of the ADR.

<sup>9</sup> An NB1 category goods vehicle is a medium goods vehicle with a gross vehicle mass (GVM) over 3.5 tonnes, up to 4.5 tonnes. See clauses 4.5.6 and 5.7 of the ADR.

<sup>10</sup> The meaning of 'supply' is considered in Goods and Services Taxation Ruling GSTR 2006/9 *Goods and services tax: supplies*.

<sup>11</sup> Sections 5-5 and 7-5.

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35. *The modifications will result in the majority of the car's load capacity being available to carry goods. The car will be reclassified from an MC category passenger vehicle to an NB1 category goods vehicle.*

36. *On review of each of the modifications, and having regard to each of the factors listed in paragraph 13 of this Determination, it is considered that:*

- *The GVM upgrade will have minimal effect on the design of the car, as the upgrade merely involves the replacement of existing parts with improved parts.*
- *While a paint job may be considered permanent and changes the appearance of the car, it will not alter the design of the car or impact passenger capacity.*
- *Although the seating capacity of the car has been reduced, the carriage of passengers continues to be the most important and prominent of the car's design features.*
- *The combined effect of the modifications will allow the car to carry a slightly heavier load and will free up a small amount of additional space to carry goods.*

37. *The principal purpose of the car has not changed from that of carrying passengers. Accordingly, the car is still considered to be a luxury car. When Derek sells the modified car, he makes a taxable supply of a luxury car and is liable to pay any LCT.*

**Example 2 – principal purpose – vehicles with significant modifications**

38. *Assume the same facts in Example 1 of this Determination, except that Derek modifies the car by:*

- *removing 5 of the seats and their respective anchorage points and mounting plates, converting the car into a 2-seater wagon*
- *installing a goods carrying tray behind the driver's seat, which extends throughout the rear cabin to the end of the car*
- *installing a cargo barrier behind the driver's and front passenger seat*
- *installing shelving and additional cargo restraints from behind the passenger seats, which extend throughout the rear cabin to the end of the car*
- *increasing the car's GVM by reinforcing the car's structure, and upgrading the suspension and differentials*
- *increasing the car's ground clearance.*

39. *The combined effect of the modifications will allow the car to carry a significantly heavier load and make substantially more space available to carry goods. At the same time, the modifications will significantly alter the appearance of the car, and significantly diminish the passenger carrying capacity of the car.*

40. *Having regard to the factors in paragraph 13 of this Determination, the design of the car has sufficiently changed such that it is not designed principally for the carriage of passengers for the purposes of the LCT Act. Accordingly, the modified car is not considered to be a luxury car. When Derek sells the modified car, he will make a taxable supply of the modified car but will not be liable to pay any LCT.*



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**Example 3 – modifications – readily reversible modifications**

41. Sanjeet is purchasing a modified luxury car from Tom, who operates a business trading in luxury cars. The original car is a 7-seater 4WD wagon designed for off-road use, which will be modified as follows:

- different tyres will be fitted to the car
- a roof bar will be installed, which attaches to the car using rubber clamps
- a platform rack will be installed using a simple bracket and thumb screws which attach to the roof bar
- stickers with business logos, advertising material and high-visibility reflective markings will be added
- 5 of the seats will be folded down and shelving, which is attached to the seats' existing anchorage points, will be installed throughout the rear of the car
- a rubber mat will be placed over the top of the folded-down seats
- a protective screen/barrier, which is attached using plastic vice grips, will be installed behind the driver's seat.

42. The modifications mount easily to the existing design of the car and do not affect or alter the existing design of the car, including the dimensions or load bearing capacity of the car.

43. None of the modifications made to the car are considered permanent as they are all capable of being readily reversed. Further, they do not effect a permanent reduction in the passenger carrying capacity of the car. Therefore, use of the car could alternate between carrying goods or passengers. Accordingly, the car is still a luxury car designed for the principal purpose of carrying passengers. When Tom sells the modified car to Sanjeet, he makes a taxable supply of a luxury car and is liable to pay any LCT.

**Example 4 – modifications – permanent modifications**

44. Matthew is purchasing a modified luxury car from Dao, who operates a business trading in luxury cars. The original car is an 8-seater 4WD wagon designed for off-road use, which will be modified as follows:

- the original chassis will be cut in half and a new custom-made section will be installed to extend the length of the chassis
- the 2 rear rows of passenger seats, their anchorage points and mounting plates will be removed, and an additional seat will be installed in the front row so the car has seating for 3 passengers, including the driver
- a goods carrying tray will be installed behind the remaining passenger seats, which extends to the rear of the car
- the car's suspension and differentials will be upgraded to increase the car's load carrying capacity
- a roof rack will be installed on the car's exterior by cutting the top of the car and welding the rack into place.

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45. *Each of the modifications are considered to be permanent because the extent of the modifications will prevent Matthew from regularly altering use of the car between a goods carrying and passenger carrying purpose.*

46. *Considering each of the factors listed at paragraph 13 of this Determination, the modified car is designed for the principal purpose of carrying goods.*

47. *When Dao sells the car, she makes a taxable supply of the modified car to Matthew. The modified car supplied to Matthew is designed for the principal purpose of carrying goods, therefore no LCT is payable on the supply by Dao.*

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## **Date of effect**

48. This Determination applies both before and after its date of issue. However, the Determination will not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 75 to 76 of Taxation Ruling TR 2006/10 *Public Rulings*).

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**Commissioner of Taxation**

23 August 2023

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## **Appendix – Compliance approach**

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**①** *This Appendix sets out a practical administration approach to assist taxpayers in complying with relevant tax laws. Provided you follow the advice in this appendix in good faith and consistently with the Ruling section, the Commissioner will administer the law in accordance with this approach.*

49. We use risk-based approaches to inform the application of our compliance resources. We will not apply compliance resources where we consider the arrangement to be low risk as explained in this compliance approach.

### **Commercial vehicle body types**

50. The Commissioner considers that in the statutory context of the LCT Act, commercial vehicles are unlikely to have the following body types:

- station wagons
- off-road passenger wagons
- passenger sedans
- people movers
- sports utility vehicles.

51. Where vehicles with the body types listed in paragraph 50 of this Determination are supplied for an amount above the LCT threshold, the supply of these vehicles without LCT being paid will be treated as high-risk arrangements to which we may apply compliance resources. This compliance approach is consistent with the Commissioner's long-standing approach to the issue.

52. The Commissioner accepts that in the statutory context of the LCT Act, commercial vehicles may have the following body types:

- trucks
- cargo or delivery vans.

53. Accordingly, where vehicles with these body types are supplied for an amount above the LCT threshold, the supply of these vehicles without LCT being paid will be treated as low-risk arrangements to which we will not apply compliance resources. This compliance approach is consistent with the Commissioner's long-standing approach to the issue.

### **Principal purpose of utility vehicles – simplified method**

54. The Commissioner further accepts that a commercial vehicle may have a utility vehicle body type. However, whether they are luxury cars requires an assessment of whether the vehicle is designed for the principal purpose of carrying passengers.

55. The Commissioner will not apply compliance resources to review the supply of a utility vehicle (including single cab, dual cab, and extra cab utility vehicles) where the

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passenger carrying capacity is less than 50% of the load carrying capacity. For the purposes of this simplified method:

- The 'passenger carrying capacity' is the number of seating positions multiplied by 68 kg.
- The number of seating positions includes the driver's seat.
- The 'load carrying capacity' is the difference between the GVM and the unladen mass, which is different to and does not include the towing capacity.
- GVM is the maximum laden mass of a motor vehicle as specified by the manufacturer.
- The manufacturer is the person who holds an approval under subsections 10A(1), (2) or (3) of the *Motor Vehicle Standards Act 1989*, to place an 'Identification Plate' on the vehicle, or holds a road vehicle type approval or a road vehicle component type approval, granted under the *Road Vehicle Standards Act 2018*, which covers the vehicle or component (as applicable).
- The 'unladen mass' is the mass of the vehicle in running order unoccupied and unladen with all fluid reservoirs filled to nominal capacity including fuel, and with all options fitted and standard equipment.

56. The simplified method is consistent with the 'dual purpose test' in clause 4.5.2 of the ADR and uses the figures at the time of supply or import of the vehicle – that is, when the vehicle is entered into home consumption. If the vehicle has been fitted with accessories at the time of supply, then the weight of those accessories must be taken into account. For example, where a cab chassis vehicle is supplied as a utility vehicle with a body affixed to it, the calculation is with respect to the complete vehicle which includes the cab chassis and the affixed body.

57. You cannot use the simplified method and must use the 'principal purpose test for all vehicles' as outlined at paragraph 13 of this Determination if either:

- a body is affixed to a cab chassis such that the cab chassis vehicle supplied is not a utility vehicle
- the utility vehicle is classified as a 'passenger vehicle' for the purposes of the ADRs.

58. Where the simplified method is used, the Commissioner will only apply compliance resources to determine whether the requirements set out under that method have been satisfied. The Commissioner will otherwise not apply compliance resources to determine whether the vehicle is a luxury car. This compliance approach is consistent with the Commissioner's long-standing approach to the issue.

59. The simplified method does not affect the determination of the principal purpose of a utility vehicle having regard to the factors set out in paragraph 13 of this Determination. That is, having regard to the factors set out in paragraph 13, it may be determined that the utility vehicle is not designed for the principal purpose of carrying passengers despite the vehicle not meeting the requirements set out under the simplified method.

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**Example 5 – principal purpose – dual cab utility vehicle**

60. Brooke, a car dealer, sells a dual cab utility vehicle, which seats 5 people including the driver and is classified as a 'goods vehicle' under the ADRs.

61. The value of the car is more than the LCT threshold and the load carrying capacity of the vehicle is 960 kg (according to its specifications). That is, the difference between the GVM and the unladen mass is 960 kg.

62. Brooke can use the simplified method to work out whether the car is designed principally to carry passengers:

*Passenger carrying capacity = number of seating positions × 68 kg*

$$5 \times 68 \text{ kg} = 340 \text{ kg}$$

*Load carrying capacity × 50%*

$$960 \text{ kg} \times 0.5 = 480 \text{ kg}$$

63. In accordance with the simplified method, as the passenger carrying capacity is less than 50% of the load carrying capacity, the Commissioner will not allocate compliance resources to determine whether the car is a luxury car for the purposes of the LCT Act.

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## References

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*Previous draft:*

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*Related Rulings/Determinations:*

TD 94/19; GSTR 2006/9; MT 2024; MT 2033;  
TR 2006/10

*Legislative references:*

- ANTS(LCT)A 1999 5-5
- ANTS(LCT)A 1999 7-5
- ANTS(LCT)A 1999 25-1(1)
- ANTS(LCT)A 1999 25-1(2)(c)
- ANTS(LCT)A 1999 27-1

- ANTS(LCT)A 1999 27-1(1)
- ITAA 1997 995-1
- MVS Act 1989 10A(1)
- MVS Act 1989 10A(2)
- MVS Act 1989 10A(3)
- RVS Act 2018

*Other references:*

Vehicle Standard (Australian Design  
Rule – Definitions and Vehicle  
Categories) 2005

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ATO references

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