


# ***STD 98/1 - Taxable value of new motor vehicles with a gross vehicle mass of less than 7.5 tonnes***

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This Document is a Ruling for the purposes of section 77 of the *Sales Tax Assessment Act 1992* and may be relied upon by any person to whom it applies.

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## Sales Tax Determination

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**Title:**                      **Taxable value of new motor vehicles with a gross vehicle mass of less than 7.5 tonnes**

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### Background

The Australian Taxation Office (ATO) and the Motor Vehicle Industry (MVI) peak bodies have a longstanding arrangement for the purpose of calculating the sales tax payable on new motor vehicles with a gross vehicle mass (GVM) of less than 7.5 tonnes. The Commissioner has now settled the terms of an agreement (the MVI agreement), under section 43 of the *Sales Tax Assessment Act 1992* (STAA), with the Federal Chamber of Automotive Industries, the Australian Finance Conference and the Motor Traders Association of Australia. The MVI agreement covers the calculation of the taxable value of new motor vehicles. It has also consolidated a number of rulings that affect the taxable value of motor vehicles.

This Determination summarises the terms of the MVI agreement and offers arrangements on identical terms to other taxpayers. It also explains how the law applies to taxable dealings involving new motor vehicles that are not covered by an agreement.

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### Issues

1. What are the taxable values of new motor vehicles with a GVM of less than 7.5 tonnes covered by the MVI agreement?
2. What taxable value applies to motor vehicles not covered by the MVI agreement?
3. What is the treatment of goods included with the motor vehicle that are not parts or accessories to the vehicle?
4. What credits are available for goods used in warranty repairs?

5. What is the effect of this Determination on existing rulings relating to issues covered by the MVI agreement?
  6. Does the MVI agreement affect the sales tax liability of upgraders/modifiers?
  7. When the 'list price' referred to in the MVI agreement is amended while the new vehicle is under bailment, should the *original list price* or the *amended list price* be adopted to calculate the taxable value?
  8. What happens if a party breaches the terms or the spirit of the MVI agreement?
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## Decision

1. A summary of the taxable values that apply to new motor vehicles covered by the MVI agreement is outlined below:-
  - (a) The taxable value of a new motor vehicle sold by a manufacturer/importer, wholesale finance company or dealer wholesale company is the list price less a non-taxable component of 22.25%.
  - (b) The taxable value of a new motor vehicle applied to own use by manufacturers/importers, or leased to them for use in their business, is the list price less 24%, provided the motor vehicle is not to be later sold as a new motor vehicle, in which case the taxable value is the list price less 22.5%.
  - (c) The taxable value of a new motor vehicle sold by retail in taxable circumstances at a price lower than price list less 22.25% to:
    - government or municipal bodies, or their nominated finance representative acting on their behalf;
    - large volume purchasers, or their nominated finance representative acting on their behalf; or
    - employees of group entities,is the full tender (contract) price, provided that:

- the retail buyer's order is in the name of the person entitled to purchase at the full tender (contact) price, or their nominated finance representative acting on their behalf; and
  - if sold from the dealer's bailment stock, the dealer notifies the manufacturer/importer who in turn notifies the wholesale finance company, either in writing or electronically, that the vehicle has been sold at a price less than the value in paragraph 1(a) above; and
  - if sold from the dealer's bailment stock, the finance company keeps details of the original invoice from the manufacturer/importer for a period of 5 years.
- (d) The taxable value of a vehicle damaged or stolen before a taxable dealing is the lesser of the taxable value covered in paragraph (a) above or gross receipts less 22.25% of gross receipts.

**Note : Gross receipts** is defined in the MVI agreement to mean *'the amount received by the party that is liable to pay sales tax. It includes any amounts received as proceeds of an insurance claim and/or the tax inclusive selling price received by that party for the damaged vehicle, less the actual cost of repair'*.

- (e) The taxable value of a new motor vehicle that is upgraded/modified before the taxable dealing, where:
- the retail value of the upgrade/modification(s) exceeds \$2,682; and
  - the value of any upgrade/modification(s) is not included in the list price of the new motor vehicle,

is the retail value of the upgrade/modification(s) (less sales tax) added to the list price of the new motor vehicle less 22.25%.

For the purposes of the MVI agreement, the effective date for this taxable value, which is provided by the Addendum to the agreement, is 1 May 1998.

The sales tax calculated on this taxable value is then reduced by any sales tax previously borne/paid on parts, accessories and materials used in the upgrade/modification(s) to arrive at the net sales tax to be paid. Where the dealer is unable to determine or obtain the amount of sales tax included in the cost of the parts, accessories and materials, the dealer can determine an acceptable approximation of the sales tax paid by applying the formula:

'1/2 of the current rate (i.e., currently 50% of 22%) of tax on motor vehicle parts multiplied by the cost of the parts to the dealer'.

Alternatively, tax can be calculated on upgrade/modification(s), exclusive of the motor vehicle, and subsequently added to the tax payable on the motor vehicle (see the example at Attachment A). This information is to be provided by the dealer to the finance company.

The threshold of \$2,682 applies only to those taxpayers who have entered into an agreement with the Commissioner. Other taxpayers must include in the taxable value all upgrade/modification(s) that occur before the taxable dealing, regardless of value.

Where the retail value of upgrade/modification(s) is less than \$2,682 or is carried out after the taxable dealing, it is not necessary to include the value of the upgrade/modification(s) in the calculation of the taxable value of a motor vehicle. The upgrader/modifier is required to pay sales tax on the parts and accessories used in the upgrade/modification(s).

**Note:** **Upgrade/modification(s)** is defined in the MVI agreement to mean *'any alteration or change to a new motor vehicle after it leaves the manufacturer/importer that does not constitute manufacture as defined in section 5 of the STAA.'*

2. The taxable value of a new motor vehicle not covered by an agreement should be calculated in accordance with the general principles of the sales tax law. Taxation Ruling SST 6 *Sales tax: taxable value*, provides guidance on the calculation of taxable values. The MVI agreement only applies if the manufacturer/importer, finance company and dealer wholesale company in respect of all assessable dealings with a new motor vehicle have all entered into an agreement with the Commissioner in respect of the taxable value of new motor vehicles.
3. Goods included with new motor vehicles that are not parts of, or accessories to, the vehicle (e.g., golf clubs), if they are not otherwise exempt from sales tax, should bear tax paid at the time of purchase. The inclusion of these goods with the vehicle is treated as 'give-aways' and not as a sale of goods.
4. Credits are available under *Credit Ground 9* for tax borne on imported or locally produced replacement parts used in warranty repairs, including recall or goodwill warranty work.
5. This Determination withdraws all existing public and private rulings that relate to the issues covered by paragraphs 1 to 4 under '**Decisions**'.
6. The liability of upgraders/modifiers has not changed. Their liability is covered by Sales Tax Bulletin Number 23 - *The motor vehicle spare parts industry*. The legislation does not allow a sales tax credit to the modifiers for sales tax paid on parts and accessories where the value of upgrades/modifications are included in the taxable value of the motor vehicle as outlined in paragraph 1(e) under '**Decisions**'.
7. When the 'list price' referred to in the MVI agreement is amended by the manufacturer/importer, either up or down, the amended list price must be adopted as the basis of calculating the taxable value for all new vehicles under bailment.

Manufacturers/importers are required to re-invoice all changes to the list price and manufacturers/importers, finance companies and dealer wholesale companies are to account for sales tax using the amended list price. This decision will take effect 3 months from the date of this Determination for vehicles covered by the MVI agreement.

8. Should any party breach the terms of the MVI agreement or engage in conduct that, in the view of the Commissioner, is against the spirit or objectives of the agreement, they may be excluded from coverage of the agreement.

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**Date of effect**

The MVI agreement applies to members of the signing parties from the date specified in the agreement. The MVI agreement expires on 30 June 2002.

Taxpayers who are not a party to the MVI agreement and are not a member of the signatory industry bodies, may request an agreement on terms identical to the MVI agreement, summarised in this Determination, by writing to the Manager, Withholding Tax Large Client Team, Private Bag 4554, Moonee Ponds, Vic 3039. That agreement is effective from the date it is signed.

To the extent that this Determination applies to new motor vehicles not covered by any agreement, it is effective immediately.

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**Reasons**

The Commissioner has the general administration of the sales tax law (section 111 of the STAA). Section 43 of STAA provides that the Commissioner may enter into an agreement with a taxpayer about calculating the taxable values of particular taxable dealings.

An agreement under section 43 is considered in circumstances where there are difficulties in determining or calculating a taxable value using the general principles set out in Taxation Ruling SST 6 *Sales tax: taxable value*. Those difficulties may be caused by many factors, including the complexity of commercial arrangements and situations involving extensive non-arm's length dealings.

*We have based our decision on the following legislative provisions:*

*Sections 43 and 111 of the Sales Tax Assessment Act 1992.*

Because of the presence of such factors in the motor vehicle industry, the Commissioner has entered into the MVI agreement to provide consistency, clarity, certainty and equity to the calculation of the taxable value of motor vehicles, and to reduce the costs of complying with the sales tax law.

Taxpayers in the motor vehicle industry who are not parties to the MVI agreement and who subsequently enter into an identical agreement with the ATO are similarly able to obtain consistent, certain and equitable treatment while reducing their costs of complying with the sales tax law.

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**Communication of the Decision**

This Determination has been made available for publication by the sales tax publishing houses and will be provided directly to industry bodies.

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**Commissioner of Taxation**28 January 1998

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Not previously released in draft form

Related Determinations:

Related Rulings: SST 6; Sales Tax Bulletin No 23

Subject Ref: motor vehicles; spare parts and accessories; taxable value

Legislative Ref: STAA 43; STAA 111

Case Ref:

ATO Ref: NAT 98/127-3

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## Attachment A

### Dealer motor vehicle upgrade/modification(s) with a retail price exceeding \$2,682

#### Example

Upgrade/modification(s) with a dealer retail value of \$5,000

Cost of the upgrade/modification(s) to the dealer:

Labour	\$2,000
Parts	\$1,000

Actual sales tax included in the cost of parts    \$180 (Note 1)

Calculation of tax payable on the upgrade/modification(s):

Retail price of upgrade/mod(s)	\$5,000
Less tax paid	<u>\$ 180</u>
	\$4,820
Less non-taxable component 22.25%	<u>\$1,072</u>
	\$3,748
Tax payable @ 22% (Note 2)	\$ 825
Less tax previously paid	<u>\$ 180</u>
Net sales tax payable (Note 3)	<u>\$ 645</u>

#### Notes

- (1) Where a dealer is unable to determine or obtain the amount of tax included in the cost of parts, the dealer can use the formula: '1/2 of the current rate (i.e., currently 50% of 22%) of tax on motor vehicle parts multiplied by the cost of the parts to the dealer' in order to determine an acceptable approximation of the sales tax paid (e.g., in the above example if the actual tax could not be determined the notional tax figure would be 11% of \$1,000 = \$110).
- (2) The current rate of tax for Schedule 4 of the *Sales Tax (Exemptions and Classifications) Act 1992* is 22%. This example assumes that the value of the vehicle, including the retail price of the upgrade/modification(s) (excluding tax paid on parts) to which the upgrade/modification(s) are made is below the luxury threshold. Otherwise, the luxury tax rate provisions would apply to the proportion exceeding the luxury vehicle threshold.
- (3) Should the calculation result in a negative tax payable, this amount may be reduced from the tax payable on the motor vehicle that has been upgraded/modified.