



VACC submission

Modernisation and reform of



State Revenue Office Ruling DA.022

3 September 2019



## About VACC

The Victorian Automobile Chamber of Commerce (VACC) is Victoria's peak automotive industry association, representing the interests of more than 5,500 members in over 20 retail automotive sectors that employ over 50,000 Victorians.

VACC members range from new and used vehicle dealers (passenger, truck, commercial, motorcycles, recreational and farm machinery), repairers (mechanical, electrical, body and repair specialists, i.e. radiators and engines), vehicle servicing (service stations, vehicle washing, rental, windscreens), parts and component wholesale/retail and distribution and aftermarket manufacture (i.e. specialist vehicle, parts or component modification and/or manufacture), and automotive dismantlers and recyclers.

VACC is also an active member of the Motor Trades Association of Australia (MTAA) and contributes significantly to the national policy debate through Australia's peak national automotive association.

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# Modernisation and reform of Victorian State Revenue

## Office Revenue Ruling DA.022

### Background

VACC has provided commentary on the Victorian State Revenue Office (SRO) draft Revenue Rulings DA-034v2 and DA-035v2. The commentary provided by VACC was in response to measures announced by the Victorian Government in its 2019-20 Budget.

Based on the needs to ensure fairness and consistency across all Revenue Rulings that affect LMCTs, prudence dictates that VACC also provide commentary to SRO concerning Revenue Ruling DA.022 released in the year 2002. DA.022 replaced Revenue Ruling SD.004 that came into effect in 1993. VACC advises that DA.022 is no longer fit for purpose in so far as 2019 new and used car dealership models are concerned and seeks relief from archaic and discriminatory factors contained within the ruling.

The VACC commentary is the first instance since 2002 that VACC has been provided with an official opportunity to address issues contained within the original rulings that so affect Victorian Licensed Motor Car Traders (LMCTs). SRO has advised VACC that the draft rulings issued on 16 August 2019 are worded to provide a more contemporary set of guidelines, and this is consistent with the ideology put forward within the August 2018 VACC submission *'Impacts of the unintended double duties for Victorian new car dealers'*.

VACC is disappointed that SRO did not take the opportunity to seek industry commentary or modernisation to the Duties 2000, specifically to the associated to Revenue Ruling DA.022 as VACC requested in our August 2018 submission and State Election Manifesto. This would have officially provided industry and government with a chance to address what is an outdated and discriminatory set of rulings that is curtailing industry growth opportunities.

### Preamble

The purpose of Revenue Ruling DA.022 is to clarify the meaning of dutiable value of a new motor vehicle for the purposes of the Act<sup>1</sup>.

Section 214(1)(a) of the Duties Act 2000 (the Act) imposes duty on the application for registration of a motor vehicle under the Road Safety Act 1986. The motor vehicle duty on an application for registration of a motor vehicle is payable by the applicant and is calculated on the dutiable value of the motor vehicle.

Section 219 of the Act states that the dutiable value of a motor vehicle is the greater of the consideration in money or money's worth given for the acquisition of a motor vehicle or the price at which the vehicle might reasonably be sold, free from encumbrances, in the open market.

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<sup>1</sup> SRO Revenue Ruling DA.022 July 1 2000

## About the industry

Over the past 12 years, the industry has contracted by 187 businesses or 14.3 per cent in Victoria. This sector of the industry seeks relief and assistance through modern duty laws that allow for equal competition. There have also been substantial increases in the number of vehicle brands, as well as in the annual volume of new vehicles sold<sup>2</sup>.

In the year 2000, approximately 580k new cars were sold in Australia<sup>3</sup>. This peaked to 1.2 million new cars sold in 2017. The landscape has change significantly but the legislation and regulation affecting LMCTs remains harsh and tax centric.

In terms of industry structure, dealerships range from family-owned small businesses to larger businesses including three public companies (AHG Ltd, AP Eagers Ltd and Autosports Group Ltd). However, and importantly, these listed entities account for around 12 per cent of total vehicle dealerships.

As 88 per cent of franchised dealerships continue to be owned and operated by individual or family groups, the industry is far from being dominated by large multinational operators. Furthermore, the industry is not characterised by duopoly or oligopoly market dynamics as witnessed within retail banking and groceries industries in Australia. Annually, new car franchise dealers also contribute over \$3 billion in industry value-added to the Victorian economy<sup>4</sup>.

## Current taxes in Victoria

Victoria's new car motor vehicle dealers are currently required to comply with a multitude of taxes, fees and duties that place a considerable financial, regulatory and administrative burden on these businesses. There are at least five state based and up to three federally based prescribed duties or fees that apply to the sale of a new motor vehicle in Victoria. Indirect taxes applied to new car sale do not include other Landed Taxes such as shipping, handling, warehousing, customs duties that are all passed on to the dealer in the manufacturer-supplier list pricing.

On a typical \$35,000 motor vehicle these direct charges include:

- Motor vehicle duty of \$1,470 (\$8.40 per \$200)
- Registration fees (\$295.10)
- TAC Fee (\$425.00)
- Insurance Duty (\$45.00)
- Transfer Fee (\$20.20)
- GST
- LMCT Fees
- PPSR search fees

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<sup>2</sup> VACC paper; Impacts of the unintended consequences of double duty 2018

<sup>3</sup> FCAI retrieved 29 August 2019 from

[https://www.fcai.com.au/library/publication/fcai6049\\_full\\_version\\_final\\_\(2\).pdf](https://www.fcai.com.au/library/publication/fcai6049_full_version_final_(2).pdf)

<sup>4</sup> AADA Dealernomics

<sup>5</sup> Parts industry recovering from shutdown: AAAA boss says there is a lot to be positive about with local parts industry Retrieved 30 August 2018 from <https://premium.goauto.com.au/parts-industry-recovering-from-shutdown-aaaa/>

## VACC commentary on the determination of dutiable value as announced in SRO Bulletin DA.022.

### DA.022 Factor 1

VACC agrees with the determination as far as how Motor Vehicle Duty will be determined.

VACC however does not agree with the SRO preferred valuation methodology of using private commercial data aggregators to validate and declare a vehicle's market price.

It is VACC's view that the market price is determined by elements that these data aggregators do not and cannot factor in. Supply and demand, odometer reading, vehicle condition, colour, location of vehicle are just a few elements that must be factored in.

***VACC recommends that a vehicle's dutiable value be determined by the price paid for that vehicle on the day of its sale.***

### DA.022 Factor 2

#### Discriminatory duty payable on aftermarket/ accessories fitted to new car

A further complication and burden to new car dealers is that accessories added to the vehicle at the point of the sale attract duty as they become part of the dutiable value of the vehicle. These aftermarket accessories can include the fitment of sun roofs, bull bars, tinted windows etc.

The impact of this impost results in the loss of revenue to dealerships as consumers often bypass the dealerships in favor of independent aftermarket sellers that do not attract a duty on these aftermarket products. In an environment of low margin, this profit center at dealerships is heavily relied upon. The discriminatory imposition of duty on these fittings and favoritism provided to aftermarket providers in this regard would never have been the original intention of SRO Ruling DA.022. VACC believes the discriminatory nature of the application of duty on one party that directly provides a market advantage to another party, shakes the very core of free market opportunities and provides scope for the attention of ACCC under anti-competition laws. VACC members believe that substantial lessening of competition exists in this environment.

In October 2018 the Australian Automotive Aftermarket Association advised that *'the local parts and aftermarket industry is generally in good health'*<sup>5</sup>. Whilst VACC applauds the healthy state of those aftermarket providers, many participants within the new car franchise system are not enjoying the same health status as they cannot compete for a slice of that market on equal terms. The original SD.004 and DA.022 were written at a time when aftermarket providers were few and far between. The aftermarket now comprises monoliths such as GPC Corporation who have

recorded turnover of over \$16 billion in 2017<sup>6</sup> and ARB Corporation who had sales of \$443.9 million in 2019, a staggering five percent increase from 2018<sup>7</sup>. Do not be fooled that any potential lost business will affect these giant multi-nationals. It is the classic instance of David vs Goliath with the new car franchise dealer becoming a quasi-source of referral business for these aftermarket suppliers. VACC cannot sit by and see business lost to aftermarket suppliers that they cannot compete with as a result of discriminatory regulation.

The Australian Government acknowledged in a 2014 Productivity Commission review that certain government regulation and policy arrangements can also affect economic efficiency by directly or indirectly impeding competition<sup>8</sup> and that broadly, governments intervene in markets either through regulations, policy instruments such as taxes and subsidies, or through the ownership of businesses and the funding of service delivery<sup>9</sup>.

The example of the Victorian Government intervening and impacting a market has never been so clear and is unfairly impacting competition between franchise dealers and aftermarket suppliers. The disadvantage to franchise dealers is perverse and unjust. It is VACC's view that the identification of this issue has created the perfect storm and for opportunity for further duty reform and efficiency gain and will test the resolve of Premier Andrews to ensure that Victoria has a fairer tax system<sup>10</sup>. It is not difficult to understand how the modern dealership has become disadvantaged from a set of criteria that was developed 26 years ago.

The serious impact of these duties, and of concern to VACC, is the effect on regional dealers and consequently regional communities. Regional dealerships engage heavily with their local community through sponsorships of sporting clubs, charities and not for profit associations. The loss of revenue due to the tax impost will significantly impact their ability to support such activities within their local communities and subsequently the wellbeing of the community overall. The value of support provided by vehicle dealerships to regional communities, should not be overlooked or under estimated<sup>11</sup>.

***VACC recommends and calls for the exemption of duty application to the fitment of accessories and/or aftermarket parts from being calculated into a vehicles dutiable value. The dutiable value should be based on Recommended Retail Price or the negotiated retail price of a vehicle***

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<sup>6</sup> Celebrating 90 Years 2017 GPC Annual Report

<sup>7</sup> ARB 2019 Annual Report

<sup>8</sup> Australian Government .Productivity Commission Submission to the Competition Policy Review 2014 retrieved 29 August 2019 from <https://www.pc.gov.au/research/supporting/competition-policy-review/competition-policy-review-submission.pdf>

<sup>9</sup> Australian Government .Productivity Commission Submission to the Competition Policy Review 2014 retrieved 29 August 2019 from <https://www.pc.gov.au/research/supporting/competition-policy-review/competition-policy-review-submission.pdf>

<sup>10</sup> *Tax cuts for Victorians in a fairer tax system*. Retrieved 29 August 2019 from <https://www.premier.vic.gov.au/tax-cuts-for-victorian-businesses-in-a-fairer-tax-system/>

<sup>11</sup> VACC submission to SRO DTF & Victorian Treasurer August 2018 'Modernisation of the Duties Act 2000 and State Revenue Office Rulings DA.022 DA.034 and DA.035'.

### DA.022 Factor 3

VACC has no commentary on this factor.

### DA.022 Factor 4

VACC has no commentary on this factor.

### DA.022 Factor 5

VACC has no commentary on this factor.

### DA.022 Factor 6

VACC does not agree that any element relating to a Dealer Delivery Fee should be included in the dutiable value for a vehicle for duty purposes.

Over the past few years it is becoming apparent that manufacturers are setting drive-away prices that are steadily eating into dealership delivery charges. As a result, dealers have had no alternative but to absorb some of the costs associated with receiving and preparing a vehicle for delivery. Often the dealer has been left in a negative situation<sup>12</sup>. There is no windfall opportunity left for dealers in a dealer delivery fee as manufacturers are, more so than ever, decreasing margin. Most dealers have seen reduced profit margins from average levels of 4.8 per cent in 2006 to 2.6 per cent in 2017<sup>13</sup>. This is of course a best-case scenario. To ask that a dealer and subsequently a consumer to absorb further motor vehicle duty charges on a charge that already has income tax applied is unjust.

***VACC recommends that Dealer Delivery Charges are exempted from a vehicles dutiable value and exempted from application of motor vehicle duty.***

### Other factors within DA.022

VACC agrees that the following items do not form part of the dutiable value of a new vehicle:

- Registration Fees
- Third Party Insurance (TAC Charges)
- Comprehensive or third-party property insurance
- Consumer credit insurance
- Unemployment insurance
- Service or maintenance contracts, and;
- Mechanical warranty/insurance policies for which a separate fee is charged.

VACC thanks the Victorian Government for the concessions granted in the 2019-20 Victorian State Budget. Further modernisation and reform to the Duties Act and associated revenue rulings is desperately required to ensure Victorian retail automotive dealers and consumers can continue to compete with their interstate counterparts and be given every opportunity to prosper.

Members of the Victorian Automobile Dealers Association are available for government consultation.

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<sup>12</sup> VADA ; A Guideline of elements to consider in dealer delivery July 2019

<sup>13</sup> VACC Impacts of Unintended Double Duties for Victorian New Car Dealers 2018

# Examples of taxes absorbed by consumers on new vehicles in Victoria

**Government fees on top of list price**

**Mercedes-Benz E200**



**VADA**  
VICTORIAN  
AUTOMOBILE  
DEALERS  
ASSOCIATION

List price <b>\$80,000</b>	GST \$8,399	Rego (inc TAC) \$861.80	Federal Luxury Car Tax \$7,817.40	Vic Stamp Duty \$7,028
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**Total extra taxes**  
**\$24,106.20**

**Government fees on top of list price**

**Mercedes-Benz G63 S AMG SUV**



**VADA**  
VICTORIAN  
AUTOMOBILE  
DEALERS  
ASSOCIATION

List price <b>\$200,000</b>	GST \$20,499	Rego (inc TAC) \$861.80	Federal Luxury Car Tax \$47,747.40	Vic Stamp Duty \$24,606
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**Total extra taxes**  
**\$93,714.20**

Government fees on top of list price



Mercedes-Benz C63 S AMG Coupe

List price  
**\$140,000**

GST  
\$14,499

Rego (inc TAC)  
\$861.80

Federal Luxury Car Tax  
\$27,947.40

Vic Stamp Duty  
\$16,884

**Total extra taxes  
\$60,192.20**

