



**A New Tax System (Luxury Car Tax)
Act 1999**

No. 76, 1999



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**An Act about a luxury car tax to implement A New
Tax System, and for related purposes**

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A New Tax System (Luxury Car Tax) Act 1999

No. 76, 1999

An Act about a luxury car tax to implement A New Tax System, and for related purposes

[Assented to 8 July 1999]

The Parliament of Australia enacts:

Part 1—Preliminary

Division 1—Preliminary

1-1 Short title

This Act may be cited as the *A New Tax System (Luxury Car Tax) Act 1999*.

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Part 1 Preliminary
Division 1 Preliminary

Section 1-2

1-2 Commencement

This Act commences on 1 July 2000.

1-3 States and Territories are bound by the luxury car tax law

The *luxury car tax law binds the Crown in right of each of the States, of the Australian Capital Territory and of the Northern Territory. However, it does not make the Crown liable to be prosecuted for an offence.

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Division 2—Overview of the luxury car tax legislation

2-1 What this Act is about

This Act is about the luxury car tax. It is a single stage tax that is imposed on supplies and importations of luxury cars and is in addition to any GST that may be payable. The tax is only calculated on the value of the car that exceeds the luxury car tax threshold.

Note: The luxury car tax is imposed by 3 Acts:

- (a) the *A New Tax System (Luxury Car Tax Imposition—General) Act 1999*; and
- (b) the *A New Tax System (Luxury Car Tax Imposition—Customs) Act 1999*; and
- (c) the *A New Tax System (Luxury Car Tax Imposition—Excise) Act 1999*.

2-5 Luxury car tax (Part 2)

- (1) Part 2 sets out the rules that establish liability for the luxury car tax. The tax applies to both supplies and importations of luxury cars. (Divisions 5 and 7)
- (2) There is a system of quoting which is designed to prevent the tax becoming payable until the car is sold or imported at the retail level. (Division 9)

2-10 Paying the luxury car tax (Part 3)

- (1) Amounts of luxury car tax are included in net amounts under the GST system. This has the effect of incorporating the luxury car tax into the payments and refunds system for the GST. However, luxury car tax on importations is paid with customs duty (where appropriate). (Division 13)
- (2) Adjustments to the net amount can arise out of circumstances that occur after the supply or importation of the car. (Division 15)

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Part 1 Preliminary

Division 2 Overview of the luxury car tax legislation

Section 2-15

- (3) Credits can arise for people who are not entitled to an adjustment but who, for example, have paid too much tax. (Division 17)

2-15 Miscellaneous (Part 4)

Part 4 deals with miscellaneous matters.

2-20 Interpretative provisions (Part 5)

Part 5 contains the Dictionary, which sets out a list of all the terms that are defined in this Act. It also sets out the meanings of some important concepts and rules on how to interpret this Act.

2-25 Administration, collection and recovery provisions (Part VI of the *Taxation Administration Act 1953*)

Part VI of the *Taxation Administration Act 1953* contains provisions relating to the administration of the luxury car tax, and to the collection and recovery of amounts of luxury car tax.

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Division 3—Identifying defined terms

3-1 When defined terms are identified

- (1) Many of the terms used in this Act are defined.
- (2) Most defined terms in this Act are identified by an asterisk appearing at the start of the term: as in “*luxury car”. The footnote that goes with the asterisk contains a signpost to the Dictionary definitions in section 27-1.

3-5 When terms are *not* identified

- (1) Once a defined term has been identified by an asterisk, later occurrences of the term in the same subsection are *not* usually asterisked.
- (2) Terms are *not* asterisked in the non-operative material contained in this Act.

Note: The non-operative material is described in Division 4.

- (3) The following basic terms used throughout the Act are *not* identified with an asterisk.

Common definitions that are not asterisked	
Item	This term:
1	luxury car tax
2	supply
3	you

3-10 Identifying the defined term in a definition

Within a definition, the defined term is identified by ***bold italics***.

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Division 4—Non-operative material

4-1 Non-operative material

In addition to the operative provisions themselves, this Act contains other material to help you identify accurately and quickly the provisions that are relevant to you and to help you understand them.

This other material falls into 2 main categories.

4-5 Explanatory sections

One category is the explanatory section in many Divisions. Under the section heading “What this Division is about”, a short explanation of the Division appears in boxed text.

Explanatory sections form part of this Act but are not operative provisions. In interpreting an operative provision, explanatory sections may only be considered for limited purposes. They are set out in section 23-10.

4-10 Other material

The other category consists of material such as notes and examples. These also form part of the Act. They are distinguished by type size from the operative provisions (except for formulas), but are not kept separate from them.

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Part 2—Luxury car tax

Division 5—Taxable supplies of luxury cars

5-1 What this Division is about

Luxury car tax is payable on taxable supplies of luxury cars. This Division defines taxable supplies of luxury cars, states who is liable for the luxury car tax, and describes how to work out the amount of luxury car tax on those supplies.

5-5 Liability for luxury car tax

You must pay the luxury car tax payable on any *taxable supply of a luxury car that you make.

5-10 Taxable supplies of luxury cars

- (1) You make a *taxable supply of a luxury car* if:
 - (a) you supply a *luxury car; and
 - (b) the supply is made in the course or furtherance of an *enterprise that you *carry on; and
 - (c) the supply is *connected with Australia; and
 - (d) you are *registered, or *required to be registered.
- (2) However, you do not make a *taxable supply of a luxury car* if:
 - (a) the *recipient *quotes for the supply of the car; or
 - (b) the car is *more than 2 years old; or
 - (c) you export the car in circumstances where the export is *GST-free under Subdivision 38-E of the *GST Act.
- (3) A *car is *more than 2 years old* at the time of a supply if:

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Part 2 Luxury car tax

Division 5 Taxable supplies of luxury cars

Section 5-15

- (a) for a car that has not been *imported—the car was manufactured more than 2 years before the time of the supply; or
- (b) the car was imported more than 2 years before the time of the supply.

5-15 The amount of luxury car tax payable

- (1) The amount of luxury car tax payable on a *taxable supply of a luxury car is as follows:

$$\frac{25}{100} \times \frac{10}{11} \times \left[\text{*Luxury car tax value} - \text{*Luxury car tax threshold} \right]$$

- (2) However, if luxury car tax has already become payable in respect of the car, the amount of luxury car tax payable on a *taxable supply of a luxury car is:

- (a) the amount of luxury car tax on the supply (worked out in accordance with subsection (1)); minus
- (b) the sum of all luxury car tax that was payable in respect of any previous *importation or supply of the car.

The amount of luxury car tax payable on a taxable supply of a luxury car is zero if the amount in paragraph (a) is less than the amount in paragraph (b).

- (3) In determining the luxury car tax that was payable in respect of any previous *importation or supply of a *car for the purposes of paragraph (2)(b), take into account *luxury car tax adjustments (if any) other than luxury car tax adjustments made under Subdivision 15-C (bad debts adjustments).

5-20 The *luxury car tax value* of a car

- (1) 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

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

(b) any other *Australian tax, other than *GST and *customs duty;
payable on the supply.

Supply of car to associate etc.

- (2) If:
- (a) the supply of the *car is to an *associate of the supplier, or an employee or *officer of either the supplier or an associate of the supplier; and
 - (b) there is no *consideration for the supply or the consideration is less than the *GST inclusive market value of the car;
- the *luxury car tax value of the car is the GST inclusive market value of the car excluding any luxury car tax payable on the supply.

Additional supplies and modifications for cars

- (3) The *luxury car tax value of a *car includes the *price of all supplies in relation to the car that are made to, or are paid for by, the *recipient of the car, or an *associate of the recipient and that are:
- (a) made before the *end supply of the car; or
 - (b) made under an arrangement made with the supplier of the car, or with an associate of the supplier, at or before the time of the end supply.
- (4) If a supply in relation to the *car is made by an *associate of the *recipient of the car and there is no *consideration for the supply or the consideration is less than the *GST inclusive market value of the car, the *price of the supply is the GST inclusive market value of the supply.

Modifications for disabled people

- (5) The *luxury car tax value of a *car does not include the *price of modifications made to the car solely for the purpose of:
- (a) adapting it for driving by a *disabled person; or

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Part 2 Luxury car tax

Division 5 Taxable supplies of luxury cars

Section 5-20

(b) adapting it for transporting a disabled person.

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Division 7—Taxable importations of luxury cars

7-1 What this Division is about

Luxury car tax is payable on taxable importations of luxury cars. This Division defines taxable importations of luxury cars, states who is liable for the luxury car tax and describes how to work out the amount of luxury car tax on those importations.

7-5 Liability for luxury car tax on taxable importations

You must pay the luxury car tax payable on any *taxable importation of a luxury car that you make.

7-10 Taxable importations of luxury cars

- (1) You make a *taxable importation of a luxury car* if you *import the *luxury car.

Note: There is no registration requirement for taxable importations, and the importer need not be carrying on an enterprise.

- (2) The *importation of the car includes any *car parts, accessories or attachments that you import at the same time as the car and that could reasonably be expected to be fitted to the car.
- (3) However, you do not make a *taxable importation of a luxury car* if:
- (a) you *quote for the *importation of the *car; or
 - (b) luxury car tax has already become payable in respect of the car; or
 - (c) the car is covered by item 17, 18A, 18B, 18C, 21 or 24 in Schedule 4 to the Customs Tariff.
- (4) To avoid doubt, a reference to a car that is covered by an item in Schedule 4 to the Customs Tariff includes a reference to a car to

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Part 2 Luxury car tax

Division 7 Taxable importations of luxury cars

Section 7-15

which that item would apply if the car were dutiable goods within the meaning of the *Customs Act 1901*.

7-15 The amount of luxury car tax

The amount of luxury car tax payable on a *taxable importation of a luxury car is as follows:

$$\frac{25}{100} \times \frac{10}{11} \times \left[\text{*Luxury car tax value} - \text{*Luxury car tax threshold} \right]$$

where:

luxury car tax value of the *car is the sum of:

- (a) the customs value (for the purposes of Division 2 of Part VIII of the *Customs Act 1901*) of the car and of any *car parts, accessories or attachments covered by subsection 7-10(2); and
- (b) the amount paid or payable:
 - (i) to transport the car and any car parts, accessories or attachments covered by subsection 7-10(2) to *Australia; and
 - (ii) to insure the car and any car parts, accessories or attachments covered by subsection 7-10(2) for that transport;to the extent that the amount is not already included under paragraph (a); and
- (c) any *customs duty payable in respect of the *importation of the car and of any car parts, accessories or attachments covered by subsection 7-10(2); and
- (d) any *GST payable in respect of the importation of the car and of any car parts, accessories or attachments covered by subsection 7-10(2).

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Division 9—Quoting

9-1 What this Division is about

In certain circumstances you can quote for a supply or importation of a luxury car and not pay the luxury car tax. This is designed to avoid the luxury car tax becoming payable unless the car is sold or imported at the retail level.

9-5 Quoting

- (1) You are entitled to *quote your *ABN in relation to a supply of a *luxury car or an *importation of a luxury car if, at the time of quoting, you have the intention of using the car for one of the following purposes, and for no other purpose:
 - (a) holding the car as trading stock, other than holding it for hire or lease; or
 - (b) *research and development for the manufacturer of the car; or
 - (c) exporting the car in circumstances where the export is *GST-free under Subdivision 38-E of the *GST Act.
- (2) However, you are not entitled to *quote unless you are *registered.

9-10 Periodic quoting

- (1) You may make a periodic quote under this section for supplies that you intend to receive from a supplier during the period covered by the periodic quote. The period must not exceed 12 months.
- (2) If you make a periodic quote on or before the first day of the period to which the quote relates, you are to be treated as having *quoted your *ABN for all supplies from the supplier during that period, other than supplies in respect of which you have notified the supplier in accordance with subsection (3).

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

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(3) If you are not entitled to *quote for a particular supply from the supplier during the period, you must notify the supplier of that fact at or before the time of the supply. The notification must be in the *approved form.

(4) You are guilty of an offence if you contravene subsection (3).

Maximum penalty: 20 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

(5) Section 9-25 applies to a *quote that you are treated as having made under subsection (2) of this section for a particular supply.

9-15 Manner in which quote must be made

(1) A *quote (including a periodic quote) must be in the *approved form.

(2) A *quote is not effective unless it is made at or before the time of the supply or *importation.

9-20 Incorrect quote nevertheless effective for certain purposes

If you *quote in circumstances in which you are not entitled to quote, or the quote is not in the *approved form, the quote is nevertheless effective for the purpose of subsection 5-10(2) or 7-10(3) (whichever is relevant), unless section 9-25 applies.

9-25 Quote not effective for certain purposes if there are grounds for believing it was improperly made

A *quote is not effective, so far as it would have resulted in you not paying luxury car tax, if at the time of the quote the person to whom the quote is made has reasonable grounds for believing that:

- (a) you are not entitled to quote in the particular circumstances;
- or

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

- (b) the quote is not made in the *approved form; or
- (c) the quote is false or misleading in a material particular (either because of something stated in the quote or something left out).

9-30 Improper quoting is an offence

You must not, in relation to any supply or *importation of a *luxury car:

- (a) *quote an *ABN:
 - (i) in circumstances in which you are not entitled to quote; or
 - (ii) in contravention of subsection 9-15(1); or
- (b) in any other way falsely quote an ABN.

Maximum penalty: 20 penalty units.

- Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.
- Note 2: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.
- Note 3: Section 23 of the *A New Tax System (Australian Business Number) Act 1999* provides penalties for misuse of ABNs.

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Part 3—Paying the luxury car tax

Division 13—Paying the luxury car tax

13-1 What this Division is about

Luxury car tax on supplies of luxury cars is added to net amounts under Division 17 of the GST Act. Adjustments in relation to supplies or importations can be made to net amounts. They may increase or decrease net amounts.

Luxury car tax on importations of luxury cars is not incorporated into net amounts but is generally paid with customs duty.

Note: Division 165 (Anti-avoidance) of the GST Act will cover avoidance schemes relating to luxury car tax so far as they affect net amounts, because such schemes affect amounts payable under the GST Act.

Subdivision 13-A—Net amounts and adjustments

13-5 Luxury car tax added to net amount

Your *net amount for a *tax period is increased by adding the sum of all of the amounts of luxury car tax (if any) that are attributable to that tax period, other than amounts on *taxable importations of luxury cars.

13-10 Adjustments

- (1) If you have any *luxury car tax adjustments that are attributable to a *tax period applying to you, alter your *net amount for the period as follows:
 - (a) add to that net amount for the period the sum of all the *increasing luxury car tax adjustments (if any) that are attributable to the period;

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

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- (b) subtract from that net amount the sum of all the *decreasing luxury car tax adjustments (if any) that are attributable to the period.
- (2) A *luxury car tax adjustment must be made within 4 years after the supply or *importation to which the adjustment relates.

13-15 Attribution rules for taxable supplies of luxury cars and luxury car tax adjustments

- (1) The luxury car tax payable by you on a *taxable supply of a luxury car is attributable to the same *tax period, or tax periods, applying to you as the tax period or tax periods to which:
- (a) if the *supply is a *taxable supply—the taxable supply is attributable; or
 - (b) if the supply is not a taxable supply—the supply would be attributable if it were a taxable supply.

Note: For the basic rules on attribution of taxable supplies, see section 29-5 of the GST Act.

- (2) A *luxury car tax adjustment that you have is attributable to the same *tax period, or tax periods, applying to you as the tax period or tax periods to which:
- (a) if the luxury car tax adjustment is an *adjustment—the adjustment is attributable; or
 - (b) if the luxury car tax adjustment is not an adjustment—the luxury car tax adjustment would be attributable if it were an adjustment.

Note: For the basic rules on attribution of adjustments, see section 29-20 of the GST Act.

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Section 13-20

Subdivision 13-B—Paying luxury car tax on taxable importations of luxury cars

13-20 Paying luxury car tax on taxable importations of luxury cars

Luxury car tax on a *taxable importation of a luxury car is to be paid by the importer to the Commonwealth:

- (a) at the same time, at the same place, and in the same manner, as *customs duty is payable on the car in question (or would be payable if the car were subject to customs duty); or
- (b) in the circumstances specified in the regulations, within such further time specified in the regulations, and at the place and in the manner specified in the regulations.

Note: The regulations could (for example) allow for deferral of payments to coincide with payments of net amounts.

13-25 Security or undertaking given under section 162 or 162A of the Customs Act

- (1) If:
 - (a) you make a *taxable importation of a luxury car; and
 - (b) a security or undertaking has been given under section 162 or 162A of the *Customs Act 1901* for the payment of *customs duty on the car;

any amount of luxury car tax on the importation is not payable while, under subsection 162(3) or 162A(5) of that Act (as the case requires), customs duty is not payable on the car.

- (2) This section has effect despite section 13-20.

13-30 Application of Division 165 of the GST Act

Division 165 of the *GST Act applies to amounts payable under this Subdivision as if they were amounts payable under the GST Act.

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Division 15—Adjustments

15-1 What this Division is about

Circumstances that occur after the supply or importation of a car may mean that too much or too little luxury car tax was imposed. Accordingly, adjustments are made to increase or decrease the net amount. Adjustments can be made by the supplier, the recipient or the importer, depending upon the circumstances.

Subdivision 15-A—General adjustments

15-5 Luxury car tax adjustment event

- (1) A *luxury car tax adjustment event* is any event which has the effect of:
 - (a) cancelling a supply of a *luxury car; or
 - (b) changing the *consideration for the supply; or
 - (c) causing the supply to become, or stop being, a *taxable supply of a luxury car.
- (2) Without limiting subsection (1), these are *luxury car tax adjustment events:
 - (a) the return to a supplier of a *car supplied (whether or not the return involves a change of ownership of the car);
 - (b) a change to the previously agreed *consideration for a supply of a car, whether due to the offer of a discount or otherwise.
- (3) A *luxury car tax adjustment event can arise in relation to a supply of a *car even if it is not a *taxable supply of a luxury car.

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Section 15-10

15-10 Where adjustments for luxury car tax arise

You have a *luxury car tax adjustment* for a supply of a *luxury car for which you are liable to pay luxury car tax (or would be liable to pay luxury car tax if it were a *taxable supply of a luxury car) if:

- (a) in relation to the supply, one or more *luxury car tax adjustment events occur during a *tax period; and
- (b) luxury car tax on the supply was attributable to an earlier tax period (or, if the supply was not a taxable supply of a luxury car, would have been attributable to an earlier tax period had the supply been a taxable supply of a luxury car); and
- (c) as a result of that adjustment event or those adjustment events, the *previously attributed luxury car tax amount for the supply no longer correctly reflects the amount of luxury car tax on the supply (the *corrected luxury car tax amount*), taking into account any luxury car tax adjustments for the supply.

15-15 Previously attributed luxury car tax amounts

The *previously attributed luxury car tax amount* for a supply of a *luxury car is:

- (a) the amount of any luxury car tax that was attributable to a *tax period in respect of the supply; plus
- (b) the sum of any *increasing luxury car tax adjustments, under this Subdivision, that were previously attributable to a tax period in respect of the supply; minus
- (c) the sum of any *decreasing luxury car tax adjustments, under this Subdivision, that were previously attributable to a tax period in respect of the supply.

15-20 Increasing adjustments for supplies

If the *corrected luxury car tax amount is *greater* than the *previously attributed luxury car tax amount, you have an *increasing luxury car tax adjustment* equal to the difference

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

between the corrected luxury car tax amount and the previously attributed luxury car tax amount.

15-25 Decreasing adjustments for supplies

If the *corrected luxury car tax amount is *less* than the *previously attributed luxury car tax amount, you have a ***decreasing luxury car tax adjustment*** equal to the difference between the previously attributed luxury car tax amount and the corrected luxury car tax amount.

Subdivision 15-B—Change of use adjustments

15-30 Changes of use—supplies of luxury cars

- (1) You have a ***decreasing luxury car tax adjustment*** if:
 - (a) you were supplied with a *luxury car; and
 - (b) luxury car tax was payable on the supply because you did not *quote for the supply; and
 - (c) you were *registered at the time of the supply; and
 - (d) you intend to use the car for a *quotable purpose; and
 - (e) you have only used the car for a quotable purpose.
- (2) The *decreasing luxury car tax adjustment is equal to the amount of luxury car tax that was payable on the supply.
- (3) You have an ***increasing luxury car tax adjustment*** if:
 - (a) you were supplied with a *luxury car; and
 - (b) either:
 - (i) no luxury car tax was payable on the supply because you *quoted for the supply; or
 - (ii) you had a decreasing luxury car tax adjustment under subsection (1); and
 - (c) you use the car for a purpose other than a *quotable purpose.
- (4) The *increasing luxury car tax adjustment is equal to:

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Section 15-35

- (a) the amount of luxury car tax that the supplier of the car would have had to pay if you had not *quoted for the supply; or
- (b) the amount of the *decreasing luxury car tax adjustment; whichever is relevant.

15-35 Changes of use—importing luxury cars

- (1) You have a *decreasing luxury car tax adjustment* if:
 - (a) you *imported a *luxury car; and
 - (b) luxury car tax was payable on the importation because you did not *quote for the importation; and
 - (c) you were *registered at the time of the importation; and
 - (d) you intend to use the car for a *quotable purpose; and
 - (e) you have only used the car for a quotable purpose.
- (2) The *decreasing luxury car tax adjustment is equal to the amount of luxury car tax that was payable on the importation.
- (3) You have an *increasing luxury car tax adjustment* if
 - (a) you *imported a *luxury car; and
 - (b) either:
 - (i) no luxury car tax was payable on the importation because you *quoted for the importation; or
 - (ii) you had a decreasing luxury car tax adjustment under subsection (1); and
 - (c) you used the car for a purpose other than a *quotable purpose.
- (4) The *increasing luxury car tax adjustment is equal to:
 - (a) the amount of luxury car tax that you would have had to pay if you had not *quoted for the *importation; or
 - (b) the amount of the decreasing luxury car tax adjustment; whichever is relevant.

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Subdivision 15-C—Bad debts adjustments

15-40 Writing off bad debts

- (1) You have a *decreasing luxury car tax adjustment* if:
 - (a) you made a *taxable supply of a luxury car; and
 - (b) the whole or part of the *consideration for the supply has not been received; and
 - (c) you write off as bad the whole or a part of the debt.
- (2) The decreasing luxury car tax adjustment is equal to:
 - (a) the amount of luxury car tax that was payable by you on the supply; minus
 - (b) the amount of luxury car tax (if any) that would be payable if the *luxury car tax value relating to the supply of the car were an amount equal to that value reduced by an amount equal to the amount of the debt written off as bad.
- (3) You cannot have a *luxury car tax adjustment under this section if you *account on a cash basis.

15-45 Recovering amounts previously written off

- (1) You have an *increasing luxury car tax adjustment* if:
 - (a) you made a *taxable supply of a luxury car in relation to which you had a *decreasing luxury car tax adjustment under section 15-40 for a debt written off as bad; and
 - (b) you recover the whole or a part of the amount written off.
- (2) The increasing luxury car tax adjustment is equal to:
 - (a) the amount of luxury car tax (if any) that would be payable if the *luxury car tax value relating to the supply of the car were an amount equal to that value reduced by the amount of the debt previously written off as bad and then increased by an amount equal to the amount recovered; minus
 - (b) the amount of luxury car tax (if any) that would be payable if the *luxury car tax value of the car were an amount equal to

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Part 3 Paying the luxury car tax

Division 15 Adjustments

Section 15-45

that value reduced by an amount equal to the amount of the debt previously written off as bad.

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Division 17—Credits

17-1 What this Division is about

You may, in some circumstances, be able to claim a credit for luxury car tax paid either by yourself or by the supplier of the luxury car. Credits are only available to people who are not entitled to an adjustment for the circumstance.

17-5 Credits for tax borne

- (1) You are entitled to a credit if:
 - (a) you have a credit entitlement under this section; and
 - (b) you are not *registered or *required to be registered; and
 - (c) no one else has made a valid claim for a credit in relation to the credit entitlement.
- (2) You have a credit entitlement if:
 - (a) luxury car tax on a supply to you was overpaid (that is, the supplier paid an amount of luxury car tax that was not legally payable); and
 - (b) you have *borne the overpaid luxury car tax.
- (3) You have a credit entitlement if you have *borne luxury car tax on a supply of a *car for which you could have *quoted except that you were not *registered at the time of the supply.
- (4) You have a credit entitlement if you have paid luxury car tax on the *importation of a *luxury car for which you could have *quoted except that you were not *registered at the time of the importation.
- (5) The amount of the credit is the amount of:
 - (a) overpaid luxury car tax *borne by you; or

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Part 3 Paying the luxury car tax

Division 17 Credits

Section 17-10

- (b) luxury car tax that would not have been payable by the supplier had you *quoted for the supply in question and that was borne by you; or
- (c) luxury car tax that you would not have paid had you quoted for the *importation in question;
but only to the extent that you have not *passed on that amount or have not already been credited in respect of that amount.

17-10 Claiming credits

- (1) You must claim a credit within 4 years of becoming entitled to the credit.
- (2) A claim for a credit must be made in the *approved form.

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Part 4—Miscellaneous

Division 21—Miscellaneous

21-1 Commonwealth etc. not liable to pay luxury car tax

- (1) The Commonwealth and *Commonwealth entities are not liable to pay luxury car tax payable under this Act. However, it is the Parliament's intention that the Commonwealth and Commonwealth entities should:
 - (a) be notionally liable to pay luxury car tax payable under this Act; and
 - (b) notionally have *luxury car tax adjustments arising under this Act.
- (2) The *Finance Minister may give such written directions as are necessary or convenient for carrying out or giving effect to subsection (1) and, in particular, may give directions in relation to the transfer of *money within an account, or between accounts, operated by the Commonwealth or a *Commonwealth entity.
- (3) Directions under subsection (2) have effect, and must be complied with, despite any other Commonwealth law.
- (4) **Commonwealth entity** means:
 - (a) an Agency (within the meaning of the *Financial Management and Accountability Act 1997*); or
 - (b) a Commonwealth authority (within the meaning of the *Commonwealth Authorities and Companies Act 1997*);that cannot be made liable to taxation by a Commonwealth law.

21-5 Cancellation of exemptions from luxury car tax

- (1) This section cancels the effect of a provision of another Act that would have the effect of exempting a person from liability to pay luxury car tax payable under this Act.

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Part 4 Miscellaneous

Division 21 Miscellaneous

Section 21-10

- (2) The cancellation does not apply if the provision of the other Act:
 - (a) commences after this section commences; and
 - (b) refers specifically to luxury car tax payable under this Act.

21-10 Agreement with Commissioner regarding calculation of luxury car tax values

- (1) The *Commissioner may enter into an agreement with you about calculating the *luxury car tax values of particular supplies or *importations of *luxury cars.
- (2) So far as the agreement is inconsistent with this Act, the agreement prevails.

21-15 Application of the *Criminal Code*

The *Criminal Code* applies to all offences against this Act.

21-20 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Part 5—Rules for interpreting this Act

Division 23—What forms part of this Act

23-1 What forms part of this Act

- (1) These all form part of this Act:
 - the headings to the Parts, Divisions and Subdivisions of this Act;
 - *explanatory sections;
 - the headings to the sections and subsections of this Act;
 - the notes and examples (however described) that follow provisions of this Act.
- (2) The asterisks used to identify defined terms form part of this Act. However, if a term is not identified by an asterisk, disregard that fact in deciding whether or not to apply to that term a definition or other interpretation provision.

23-5 What does not form part of this Act

Footnotes and endnotes do not form part of this Act.

23-10 Explanatory sections, and their role in interpreting this Act

- (1) An *explanatory section* is:
 - (a) any section that is the first section in a Division and that has as its heading “What this Division is about”; or
 - (b) any section in Divisions 2, 3 and 4.
- (2) Explanatory sections form part of this Act, but they are not operative provisions. In interpreting an operative provision, an explanatory section may only be considered:

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Part 5 Rules for interpreting this Act

Division 23 What forms part of this Act

Section 23-10

- (a) in determining the purpose or object underlying the provision; or
- (b) to confirm that the provision's meaning is the ordinary meaning conveyed by its text, taking into account its context in this Act and the purpose or object underlying the provision; or
- (c) in determining the provision's meaning if the provision is ambiguous or obscure; or
- (d) in determining the provision's meaning if the ordinary meaning conveyed by its text, taking into account its context in this Act and the purpose or object underlying the provision, leads to a result that is manifestly absurd or is unreasonable.

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Division 25—Meaning of some important concepts

25-1 Meaning of *luxury car*

- (1) A *luxury car* is a *car whose *luxury car tax value exceeds the *luxury car tax threshold.
- (2) However, a *car is not a *luxury car if it is:
 - (a) a vehicle that is specified in the regulations to be an emergency vehicle, or that is in a class of vehicles that are specified in the regulations to be emergency vehicles; or
 - (b) specially fitted out for transporting *disabled people seated in wheelchairs (unless the supply of the car is *GST-free under Subdivision 38-P of the *GST Act).
- (3) The *luxury car tax threshold* is the car depreciation limit that applies under Subdivision 42-B of the *ITAA 1997 for the year in which the supply of the car occurred.

25-5 Meaning of *approved form*

- (1) A notice, application or other document is in the *approved form* if:
 - (a) it is in the form approved in writing by the *Commissioner in relation to that kind of notice, application or other document; and
 - (b) it contains the information that the form requires, and such further information as the Commissioner requires; and
 - (c) it is given, to the *entity to which it is required to be given, in the manner (if any) that the Commissioner requires; and
 - (d) it is, if required by this Act to be given to the Commissioner, lodged at the place that the Commissioner requires.
- (2) The *Commissioner may combine in the same approved form more than one notice, application or other document.

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Division 27—The Dictionary

27-1 Dictionary

In this Act, unless the contrary intention appears:

ABN has the meaning given by section 41 of the *A New Tax System (Australian Business Number) Act 1999*.

account on a cash basis: you account on a cash basis while a choice you make under section 29-40 of the *GST Act, or a permission of the *Commissioner under section 29-45 of the *GST Act in relation to you, has effect.

adjustment has the meaning given by section 195-1 of the *GST Act.

approved form has the meaning given by section 25-5.

associate has the meaning given by section 318 of the *ITAA 1936.

Australia does not include any external Territory. However, it includes an installation (within the meaning of the *Customs Act 1901*) that is deemed to be part of Australia by section 5C of that Act.

Australian tax has the meaning given by section 195-1 of the *GST Act.

borne: you have borne luxury car tax on the supply of a *car if the *consideration that you provided for the supply included the tax.

car means a *motor vehicle (except a motor cycle or similar vehicle) designed to carry a load of less than 2 tonnes and fewer than 9 passengers.

car parts has the meaning given by section 195-1 of the *GST Act.

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Section 27-1

carrying on an *enterprise includes doing anything in the course of the commencement or termination of the enterprise.

Commissioner means the Commissioner of Taxation.

Commonwealth entity has the meaning given by subsection 21-1(4).

connected with Australia, in relation to a supply, has the meaning given by section 195-1 of the *GST Act.

consideration has the meaning given by section 195-1 of the *GST Act.

corrected luxury car tax amount has the meaning given by paragraph 15-10(c).

customs duty means any duty of customs imposed by that name under a law of the Commonwealth, other than:

- (a) the *A New Tax System (Goods and Services Tax Imposition—Customs) Act 1999*; or
- (b) the *A New Tax System (Luxury Car Tax Imposition—Customs) Act 1999*.

Customs Tariff means the *Customs Tariff Act 1995* as amended by any Act, and as proposed to be amended by Customs Tariff Proposals introduced into the House of Representatives.

decreasing luxury car tax adjustment has the meaning given by sections 15-25, 15-30, 15-35 and 15-40.

disabled person means a person described in:

- (a) paragraphs 38-505(1)(a) and (b) of the *GST Act (disabled veteran); or
- (b) paragraph 38-510(1)(a) of the GST Act (person with a disability certificate).

end supply of a *car means a supply of a car to a *recipient who is not entitled to *quote in relation to that supply.

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Section 27-1

enterprise has the meaning given by section 9-20 of the *GST Act.

entity has the meaning given by section 184-1 of the *GST Act.

explanatory section has the meaning given by section 23-10.

Finance Minister means the Minister administering the *Financial Management and Accountability Act 1997*.

GST has the meaning given by section 195-1 of the *GST Act.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999*.

GST-free: a supply is GST-free if it is GST-free under Division 38 of the *GST Act.

GST inclusive market value has the meaning given by section 195-1 of the *GST Act.

import has the meaning given by section 195-1 of the *GST Act.

increasing luxury car tax adjustment has the meaning given by sections 15-20, 15-30, 15-35 and 15-45.

ITAA 1936 means the *Income Tax Assessment Act 1936*.

ITAA 1997 means the *Income Tax Assessment Act 1997*.

luxury car has the meaning given by section 25-1.

luxury car tax means tax that is payable under the *luxury car tax law and imposed as luxury car tax by any of these:

- (a) the *A New Tax System (Luxury Car Tax Imposition—General) Act 1999*; or
- (b) the *A New Tax System (Luxury Car Tax Imposition—Customs) Act 1999*; or
- (c) the *A New Tax System (Luxury Car Tax Imposition—Excise) Act 1999*.

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Section 27-1

luxury car tax adjustment means an *increasing luxury car tax adjustment or a *decreasing luxury car tax adjustment.

Note: Luxury car tax adjustments are provided for in Division 15.

luxury car tax adjustment event has the meaning given by section 15-5.

luxury car tax law means:

- (a) this Act; and
- (b) any Act that imposes luxury car tax; and
- (c) the *A New Tax System (Wine Equalisation Tax and Luxury Car Tax Transition) Act 1999*; and
- (d) the *Taxation Administration Act 1953*, so far as it relates to any Act covered by paragraphs (a) to (c); and
- (e) any other Act, so far as it relates to any Act covered by paragraphs (a) to (d) (or to so much of that Act as is covered); and
- (f) regulations under any Act, so far as they relate to any Act covered by paragraphs (a) to (e) (or to so much of that Act as is covered).

luxury car tax threshold has the meaning given by subsection 25-1(3).

luxury car tax value, of a *car, means:

- (a) in relation to the *supply of the car—the value given by section 5-20; or
- (b) in relation to the *importation of the car—the value given by section 7-15.

money has the meaning given by section 195-1 of the *GST Act.

more than 2 years old has the meaning given by subsection 5-10(3).

motor vehicle means a motor-powered road vehicle (including a 4 wheel drive vehicle).

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Section 27-1

net amount has the meaning given by section 195-1 of the *GST Act.

officer has the meaning given by the Corporations Law.

passed on, in relation to an amount of tax that has been borne by a entity, does not include an amount that the entity has passed on to another entity, but has later refunded to that other entity.

previously attributed luxury car tax amount has the meaning given in section 15-15.

price, in relation to a supply, has the meaning given by section 9-75 of the *GST Act.

quotable purpose means a use of a *car for which you may *quote under section 9-5.

quote means quote an *ABN.

recipient, in relation to a supply, means the *entity to which the supply was made.

registered means registered under Part 2-5 of the *GST Act.

required to be registered has the meaning given by section 195-1 of the *GST Act.

research and development means systematic, investigative and experimental activities that involve innovation or high levels of technical risk and are carried on for the purpose of:

- (a) acquiring new knowledge (whether or not that knowledge will have a specific practical application); or
- (b) creating new or improved materials, products, devices or processes.

supply has the meaning given by section 9-10 of the *GST Act.

taxable importation of a luxury car has the meaning given by section 7-10.

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.

Section 27-1

taxable supply has the meaning given by section 195-1 of the *GST Act.

taxable supply of a luxury car has the meaning given by section 5-10.

tax period has the meaning given by section 195-1 of the *GST Act.

you: if a provision of this Act uses the expression **you**, it applies to entities generally, unless its application is expressly limited.

Note: The expression **you** is not used in provisions that apply only to entities that are not individuals.

*[Minister's second reading speech made in—
House of Representatives on 24 March 1999
Senate on 31 March 1999]*

(55/99)

*To find definitions of asterisked terms, see the Dictionary, in section 27-1.
