VACC Submission to Senate Economics Committee's Inquiry into Luxury Car Tax Bills

- Tax laws Amendment (Luxury car tax) Bill 2008
- A new tax system (Luxury car tax imposition general) Amendment Bill 2008
- A new tax system (Luxury car tax imposition Customs) Amendment Bill 2008
- A new tax system (Luxury car tax imposition Excise) Amendment

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1. Introduction

Victorian Automobile Chamber of Commerce (VACC)

This submission is made behalf of members of the Victorian Automobile Chamber of Commerce, a registered association of retail automotive industry business owners representing over 5500 member businesses in Victoria and Tasmania.

Australian Automobile Dealers Association (Vic)

Among the VACC membership there are more than 350 franchised new car dealers in the Australian Automobile Dealers Association (Victoria) affected by the proposals to amend and increase luxury car tax (LCT) arrangement.

2. Summary of submission

The Victorian Automobile Chamber of Commerce does not support the imposition of a luxury car tax or the proposed increases that are the subject of these Bills.

Before Treasurer Swan announced that the Government Budget would include an increased luxury car tax, VACC and other industry bodies were unaware of the proposal. There was no consultation with the industry about the impact of an increase or arrangements that may have been made for a smooth transition to an increased luxury car tax. Consultation with industry on these sensitive tax and business issues could have occurred immediately after the Budget announcement but did not.

Therefore VACC protested about the uncertainty of the arrangements and we were pleased that the Senate decided to refer the Bills to the Senate Standing Committee on Economics for further consideration.

VACC supports the Senate process that allows Bills to be discussed in committee and for submissions to be made by the public and representative organisations in order to provide further information to the Parliament on the impact of proposed legislation.

VACC welcomes the opportunity to make this submission.

VACC is opposed to the Government decision to apply the LCT increase from 1 July despite the fact that the legislation has not passed the Senate.

We urge Senators to critically examine the LCT Bills without the presumption that the Bills should be passed in their current form and use the opportunity to evaluate the negative impact of retrospectivity on consumers and dealers. Retrospective taxes should be avoided. The LCT Bills should not commence to operate until the full Parliamentary process is completed.

3. Terms of reference

The Senate Committee was requested to inquire into and report into the following matters. This VACC submission approaches the issues in order from (a) to (i).

(a) The incidence of the luxury car tax (LCT) and the effect of the proposed increased in the LCT rate on rural and regional communities, small-business families and tourism operators.

Luxury car tax is applied to approximately 10% of new vehicles sold in Australia per annum. In our submission to the Review of the Australian Automotive Industry 2008 chaired by Steve Bracks the VACC submitted that the selective and discriminatory tax on luxury cars distorts the market and provides a particular disincentive to buyers of volume locally produced models. i.e. Holden Caprice and Ford FG G6E Turbo.

VACC recommended to the Bracks Review of the Automotive Industry that the luxury car tax be abolished or the tax threshold be increased to a new level of $75,000 or above. Submissions to the Bracks Review were due on 14 May. The Federal Budget announcement Pre-empted the Bracks Review. The VACC submissions to the Bracks Review are attached at appendix 1 and 2.

The LCT is a remnant of a time when sales taxes and other inequities existed prior to the GST, taxing products at different rates without sound policy objectives. Luxury car tax on cars priced over $57,123 is proposed to rise from 25% to 33% by the Bills that this committee is examining. These taxes are payable on the dollars over the threshold in addition to the 10% GST. The GST and other charges are included in the value of the vehicle. In other words GST often takes the value over the LCT threshold.

Other high-priced consumer goods are not taxed as luxuries, holidays, expensive homes, expensive restaurant meals, holiday homes, yachts, are not taxed as luxuries. Other imported goods such as furniture, artworks, plasma televisions, jewellery, watches and antiques are similarly not taxed as luxuries. Yet vehicles are taxed as luxuries, VACC challenges the assumption that cars should taxed as a luxury.

By increasing luxury car tax, the Government is pre-empting the findings of the Bracks enquiry and without consultation increasing the LCT. There is an inconsistency in this approach with the terms of reference for the Review of the Australian Automotive Industry and the Discussion Paper issued which asked questions about taxation of vehicles. VACC responded to the Bracks review and answered the questions. We await the Bracks Report with interest.

A further inquiry into future taxation arrangements is to be undertaken by Ken Henry and the luxury car tax is likely to be further reviewed during that process.

Purchase of a motor vehicle is a decision influenced by many inputs; buyers of vehicles residing in rural and regional communities are likely to purchase vehicles capable of performing transport tasks on roads that are not suitable for other than four-wheel drive access at certain times of the year and in certain weather conditions. Many of the vehicles capable of meeting the needs of rural buyers, Pajero, Landcruiser and Patrol are priced over the LCT threshold.

There is a built-in discrimination in luxury car tax that it applies to larger vehicles built to perform particular tasks, carry passengers and loads over rough roads. The effect luxury car tax on these vehicles is to tax a necessity not a luxury. Buyers of this class of vehicle may compromise because of the LCT and select a less appropriate vehicle.

Buyers in rural and regional Australia are more likely to choose vehicles that are taxed as a luxury. This is just one of the inequities created by the application of an additional tax on goods at an arbitrary figure.

It is VACC policy that the LCT be repealed. However in order to reduce the unfair effect of an increase in the on regional, rural, small business and tourism buyers VACC recommends:

VACC recommendation one:
That the threshold luxury car tax be increased to a minimum of at least $75,000 and preferably higher. Any increase from 25% to 33% in the LCT be applied only on vehicles sold for $100,000 and above

VACC recommendation two:
That the reports of Bracks and Henry should inform the Senate and Government on the future policy of taxing cars before an increase in the LCT is applied.

(b) The effect of the LCT increase on the prices of vehicles, the affordability of motor vehicles, the cost of living, and the consumer price index (CPI).

There is no doubt that LCT contributes to an unjustifiable addition to the cost of buying a car priced near or above the LCT threshold. With Treasurer Swan's resolve to apply the increase retrospectively from 1 July 2008 before the legislation has passed the Senate, further complications arise that impact of buyers of new car dealers.

Despite choosing to enforce the 1 July implementation date the Government have not provided a transition provision or offered consumers and the Automotive Industry any concessions to the difficulties created by retrospectivity.

The method of implementation on 1 July does not allow a transition to new arrangements. Advice from the ATO has caused confusion and chaos for new car dealers. It is most likely that new car dealers will be forced to absorb the LCT increase because the Government has not made appropriate arrangements for a prospective application of the increase. Market conditions have been adversely affected and the price of cars increased without a decent explanation of the policy drivers behind such an increase.

The implementation of the increase of 1 July has pulled forward sales for delivery before 1July and penalised those unable to secure delivery before that date or buying after 1 July.

The price of vehicles will increase, however the ability of a New Car Dealer to pass on the increase may be limited. It is likely that dealers will be forced absorb the LCT increase when the law has yet to pass and purchasers say; "It is not the law yet and I don't want to pay". The 1 July commencement date has confused consumers and dealers.

VACC recommendation three:
That increases in LCT be applied prospectively after the Bills actually
Passes all Parliamentary processes.

(c) The expected impact of the increase in the LCT rate on vehicle demand and the likely consequences on government revenues including from the LCT, goods and services tax and stamp duty.

Increases in prices are likely to diminish the demand for vehicles over and above the luxury car tax threshold and may also influence buyers generally because there is confusion as to how the LCT is applied as of 1 July.

There is no guarantee that simply by increasing the rate of the LCT that the government will collect more LCT. Consumers take many factors into consideration when deliberating over the purchase of the new car.

One of the consequences of increasing taxes on cars is that improved technologies and safety components may not be either purchased or included because the value of these items in dollar terms increases the price of the vehicle and takes it over the LCT threshold. Increasing the LCT has the potential to encourage consumers to compromise and choose vehicles at a lower price of a lower specification of safety equipment.

VACC is aware that the Victorian Government and the Federal Government are supportive of improvements in vehicle safety. Indeed the Victorian Government is committed to increasing the rate of application of electronic stability control (ESC) in vehicles to 100% of new passenger vehicles sold by 2010.

Application of an extra tax to vehicles works against advancements in vehicle technology and the introduction of safer vehicles. Over the years many advances in vehicle safety have been introduced in vehicles selling at the higher end of the market. Innovations that save lives like, anti-lock braking systems, driver and passenger airbags, seatbelt pre-tensioners, electronic stability control, collision crumple zones and many other advances have been developed, introduced and then trickled down through the market to lower-priced vehicles with a benefit to all concerned with road safety.

Prior to 1990 vehicles sold in Australia were often not fitted with anti-lock braking, electronic stability control or life saving airbags. Today new most vehicles are fitted with all of these safety features because the innovations were developed and introduced in higher priced vehicles and then introduced to lower-priced vehicles. Taxing vehicles as luxuries is likely to reduce the level of innovation. This is especially so when the taxing point has not moved significantly since 1996 while vehicle innovation in safety and technology has moved rapidly forwards.

State Governments collect stamp duty on vehicle sales in Victoria a higher rate of stamp duty applies to new vehicles sold over and above the $57,123 threshold. VACC has regularly argued that the so-called luxury stamp duty should be indexed to keep pace with movements in prices otherwise a form of bracket creep increases the stamp duty unfairly and applies extra taxes on purchasers of new cars.

Therefore VACC will argue that the Victorian stamp duty of $10 per $200 that applies to new cars sold over the $57,123 threshold should be increased in line with an increase in the luxury car tax threshold. To do anything else would again discriminate against people buying a vehicle at this level and does not recognize all the improvements in vehicle technology, affordability and the fact that the threshold has not kept up with increases in vehicle prices over the years.

New Motor vehicles are being treated as a cash cow by Governments that have failed to explain why vehicles should be treated as luxury items and taxes have been increased by bracket creep.

VACC recommendation four:
That all Governments reduce their reliance on taxes derived from the sale of motor vehicles.

(d) The growing incidence of the LCT overtime and the adequacy of current arrangements for indexing of the LCT threshold, in comparison with alternative measures including a CPI average weekly earnings and the increase in retail price.

The VACC is aware of research undertaken by the Federal Chamber of Automotive Industries and Australian Automotive Intelligence that clearly identifies that the luxury car tax threshold has fallen well behind indexation of prices of vehicles above the luxury car tax threshold.

The VACC supports the findings of the Australian Automotive Intelligence research and agrees that the appropriate threshold point should be at the very least above $75,000 and preferably above $100,000

We note that the current threshold is based on the depreciation limit of the Income Tax Act we are unsure why this particular measure is used and believe it to be inappropriate to the application of an extra tax on vehicles. It is apparent that there has been insufficient attention given to changes that have occurred in the market and therefore the luxury car tax threshold has not kept up with its original intent. Over time a greater percentage of vehicles have been taxed as luxury items.

VACC recommendation five:
VACC recommends that the LCT threshold be increased to at least $75,000 and preferably to over $100,000 in order to catch up with the failure to index the threshold appropriately in the past. Reference should be made back to the original legislative intent of the Luxury Car Tax legislation. Bracket creep should not be permitted to unintentionally increase taxes. Regular indexation should be applied to tax brackets.

(e) the rationale for taxing luxury cars at a higher rate than other goods and services

It is the view of VACC that there is no rationale to continue to tax vehicles based on price alone. Since the introduction of a goods and services tax vehicles should be all treated equally rather than with a discriminatory LCT.

In our view there is no rationale but a desire to collect taxes from those consumers who elect to purchase a vehicle above a certain price point. This is bad policy as it does not take into consideration many other variables of need for particular vehicle characteristics to perform certain tasks.

There is no rationale that applies similarly to other goods and services; there is no luxury restaurant tax, there is no luxury golf club tax, there is no luxury hotel tax, there is no luxury yacht tax, there is no luxury racehorse tax. It is anomalous for vehicles to be taxed at two separate rates (GST and LCT) and then to also attract stamp duty at higher rates just because of the arbitrary determination of a particular price point in the market.

VACC recommendation six:
VACC recommends that the whole concept of a luxury car tax be reviewed. VACC made this submission to the Bracks Review.

(f) the effect of the LCT and a proposed increase in the LCT rate on Australian motor vehicle manufacturers and vehicle importers and distributors

VACC submits that the luxury car tax increase will have a detrimental effect on the vehicle market and is likely to reduce sales particularly in those models approaching the luxury car tax threshold that are manufactured in Australia against very strong global automotive market competition.

(g) the overall taxation burden on ownership and operation of motor vehicles including customs duty, GST, LCT stamp duty and excise on fuel

As previously stated VACC believes that the overall tax burden on ownership and operation of motor vehicles is excessive and accumulates to a level that is unidentified by consumers, yet contributes to government revenue disproportionately when compared to other goods.

Taxes applied to vehicles or their use includes the following:

- Tariffs
- GST
- FBT (on employers and employees)
- Stamp duties on new purchase and transfer
- Stamp duties on insurance premiums
- Registration fees
- Compulsory Third Party Insurance
- Fuel excise (and GST on the Excise)
- GST on repairs and maintenance
- Road access fees (tolls)
- LCT

(h) the effect of the LCT and a proposed increase in the LCT rate on the adoption of vehicle safety features and environmental technologies

As previously stated above VACC submits that increased luxury car taxes are likely to reduce the implementation of innovations in new vehicle technologies that make new vehicles safer. Therefore the luxury car tax can be regarded as applying an artificial barrier to the supply of safer vehicles.

(i) the extent to which the LCT is viewed as a non tariff barrier by other car exporting countries

VACC submits that the LCT has been observed by the European Union as a non-tariff trade barrier and that it is likely to be raised by the EU and others as an intentional measure to provide protection for Australian manufactured vehicles.

A copy of the EU submission to the Bracks Review is attached at appendix 3

The EU has recommended that the LCT be abolished immediately.

4. Impact of July implementation decision on New Car Dealers

There is significant confusion and chaos in the new car market caused by the retrospective application of the proposal to apply increased LCT from 1 July 2008.

New Car Dealers are not only disturbed by the decision to increase the tax but even more concerned by a failure to provide a well managed transition period so that both consumers and dealers were not adversely impacted by the consequences of the increase. VACC members are likely to be forced to absorb the LCT increase because the consumer did not bargain for the contracted price to include the increased LCT. This is a trading reality. Unless there is certainty about an increase and the consumer is convinced it applies they will object and rightly so. New Car Dealers cannot afford to absorb LCT increases that may run into thousands of dollars. Net profit margins in new car Dealerships are thin, at less that 2 or 3% on average.

5. Increased complexity of LCT collection and administrative burden

The Australian Tax Office have provided information for New Car Dealers regarding the introduction of a LCT increase (please refer to appendix 4). VACC objects to the complexity of the ATO arrangements and the administrative burden that the two suggested options create. These options would be unnecessary if the tax was not being applied retrospectively without the Bills having passed the Senate.

Implementation in the way that the two ATO options apply, increase the paperwork required at the New Car Dealership. Any increase in a tax collected by business is likely to increase red tape. The ATO options are at odds with Government strategies to reduce regulatory burden on businesses.

On July 3, 2008 the Council of Australian Governments announced that significant efforts are to be made to reduce duplication of regulatory burden on businesses. Treasurer Swan and Minister Tanner sent out a Joint Media release that said in part:

"Current Government reporting requirements impose a major burden on business and the Rudd Government is committed to reducing this through the Standardised Business Reporting (SBR) initiative" and further on SBR was said to be working on: *"Aligning government reporting with natural business processes"*

These positive statements are completely at odds with the decisions taken to introduce an increase in LCT, asking New Car Dealers to apply the tax retrospectively, anticipate the increased LCT and hold it until the law is passed or to collect the tax from the consumer after the vehicle has been delivered after the new laws have passed using a separate contract from the sales contract. All adding complexity and risk to the LCT collection arrangements.

None of these LCT implementation options are consistent with *"aligning government reporting with natural business processes"* as it was expressed under the heading of *"COAG agrees to a new way forward to reduce red tape"*

This is a most important point, LCT is a complex tax (see appendix 5 – ATO calculation of LCT) now to be applied retrospectively to contracts signed by consumers that, either did not know about the increase, or in circumstances where the increase had not passed as a law.

New Car Dealers are right to question the inconsistent approach taken by Government that does not have to administer the consequences. LCT is paid for, collected and remitted in New Car Dealerships and therefore we submit that greater care should be taken with decisions that increase complexity, create uncertainty and pressurise dealers to discount the tax because a Government has not considered the impact on trading and natural business processes.

It is also observed that the cost to business of the retrospective application of the LCT has not be accounted for or taken into consideration. Most regulatory changes require assessment of the cost to business, and a cost benefit analysis, but the LCT appears to avoid this obligation.

6. Deals contracted prior to 12 May 2008 should be exempt from the increase.

VACC recommendation seven:
VACC recommends that the Senate Economics Committee recommends to the Senate that consumers who had signed a contract for purchase of a vehicle before 12 May, the day that Treasurer Swan announced the increase, is exempt from the LCT increase regardless of wether or not the vehicle was delivered prior to 1 July 2008.

Deals contracted prior to 1 July 2008 should be exempt from the increase.
VACC recommendation eight:
VACC recommends that due to the fact that the LCT amending law, although foreshadowed, did not pass the Senate before 1 July and that consumers signing contracts were not aware that the LCT would be applied because the law had not passed, contracts signed after May 12 but before 1 July should also be exempt.

Luxury car tax increases should not be applied retrospectively to the period 1 July to the date of assent of the amending Acts.
VACC recommendation nine:
Tax laws should not be applied retrospectively and the implementation of new taxes should not pre-empt debate in the Parliament therefore the increased LCT should be applied only with a prospective date of commencement.

7. The possibility of refunds to consumers

Because of the retrospective application of the proposed Bills it is likley that new car dealers will be forced to collect increased LCT and hold it until such time as it becomes clear what will become of the Bills. Many variables may change and cause new car dealers to refund LCT collected. The administrative cost associated with this would be borne entirely by the Retail Automotive businesses. It is bad policy for a Government to create a situation where business owners are uncertain of how and what to do and that business owners bear the cost of Government tax collection decisions.

8. The probability of New Car Dealers becoming LCT debt collectors

If a New Car Dealer uses the ATO option two and delays collection of the increased LCT using a separate contract then the New Car Dealer is likely to become a debt collector of unpaid LCT. This may sound all well and good but some debts can be hard to recover. Consumers move address, without leaving a forwarding address. Once again why should it be that New Car Dealers take this risk and bear the brunt of the administrative burden? The ATO should be prepared to accept that new car dealers do not collect tax debts and take responsibility for collection of these increases into its own substantial administrative capacity.

VACC recommendation ten:
New car dealers are tax collectors on behalf of Governments but not debt collectors. In the current circumstances the Government should take some responsibility and collect the increased LCT until the Bills pass, are amended or fail.

9. Summary of VACC Recommendations

VACC recommendation one:
That the threshold luxury car tax be increased to a minimum of at least $75,000 and preferably higher. Any increase from 25% to 33% in the LCT be applied only on vehicles sold for $100,000 and above

VACC recommendation two:
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VACC recommendation three:
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Passes all Parliamentary processes.

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VACC recommendation six:
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Appendices:

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4	Appendix 1	VACC Submission to Brack's Review
4	Appendix 2	VACC Submission to Brack's Review on Luxury Car Tax
9	Appendix 3	EU Letter to Brack's Review
9	Appendix 4	ATO Administrative Treatment of Luxury Car Tax increase
10	Appendix 5	ATO Document – Calculation of Luxury Car Tax