Australia | Deloitte Motor Industry Services | 19 March 2020

Motor Dealer Tax Alert

Government Stimulus Package

To assist in applying these recently announced measures, and having regard to our past experience in respect of the former instant asset write-off provisions, please see the below commonly asked questions and our responses:

1. Has legislation been introduced on these matters?

No legislation has been introduced as yet.

At this early stage, the Government has only issued press releases however it is expected that the relevant legislation will be introduced into Parliament in late March 2020. We shall update you as to the progress of the legislation when it is introduced.

2. How is 'aggregated annual turnover' calculated?

The aggregated annual turnover of an entity is defined in the Tax Act and is broadly calculated as being the sum of the particular entity's annual turnover combined with the annual turnover of any entities that are considered as being 'connected' or 'affiliated' with that entity.

Generally speaking, entities are considered 'connected' where there is a sufficient level of control between the entities (e.g. one entity, or that entity together with its affiliates holds at least 40% of the voting interests in a company).

Determining which entities are 'affiliated' with you relies on an even broader test, which effectively requires a consideration of any entities which 'could reasonably be expected to act, in accordance with your directions or wishes, or in concert with you'.

Determining your aggregated turnover can therefore be a complicated calculation and we recommend seeking further advice to assist with the process.

3. Do the concessions apply to showroom construction or other building costs?

Both the instant asset write-off and accelerated depreciation deductions do not apply to 'capital works'. This effectively means that the costs spent on upgrading the 'bricks and mortar' of a showroom (e.g. roofing, tiling, walls etc.) would be unlikely to be eligible for the concessions. However, expenditure on plant, equipment and fittings type assets in the showroom (e.g. air-conditioner units, ceiling fans, carpets, blinds, furniture etc.) may still be eligible.

4. Does the new instant asset write-off relate to new cars, demonstrators or used cars acquired by customers?

The instant asset write-off applies to all cars (new, used, demo or otherwise) that are purchased after the announcement date and used or held ready for use, prior to 30 June 2020.

Should the asset not be delivered, and held ready for use, prior to 30 June 2020, the accelerated depreciation deduction may still be available for **new** cars only.

5. How do the announced concessions apply with the current car depreciation limits?

The Tax Act currently has a car limit for FY2020 of $57,581 (i.e. the luxury car cost limit for depreciation), which sets the maximum depreciable value of a car.

The ATO and Treasury are yet to release any guidance with regards to how the instant asset write off or accelerated depreciation concessions should apply to vehicles in excess of the luxury car cost limit for depreciation. We anticipate the write-off or accelerated depreciation claim will be similarly limited in the case of luxury cars, but this is not clear yet. We will remain in contact with the ATO in relation to this issue and advise our dealer network as soon as we hear any further details.

6. Does the buyer of the car have to have an ABN and be able to demonstrate they are carrying on a business? What onus falls on dealers to prove they are carrying on a business?

To claim either concession, the purchaser must be carrying on a business with an aggregated annual turnover below $500 million. Although this does not strictly require the purchaser to have an ABN, we would generally expect this to be the case.

Regarding the onus of proof, it is only necessary for the entity intending to claim the concession to be able to establish they are carrying on a business. The dealers who sell the cars have no role in determining the purchaser's eligibility.

7. What is cost? Does it include the accessories on the car, dealer delivery, registration, CTP, stamp duty etc.?

The cost of a motor vehicle effectively incorporates all costs associated with the asset. The 'cost' of an asset includes both the amount you paid for it, any additional amounts you spent on either transporting the asset or making it ready for use (including accessories added to the vehicle), as well as any costs incidental to holding that asset (i.e. stamp duty).

Where a cost is 'otherwise deductible' (which we would ordinarily expect to be the case for registration and CTP), it should be excluded from the total cost calculation. We do note there are specific rules regarding whether GST is required to be included in the cost of the asset. This effectively depends on whether the purchaser is registered for GST. If they are registered for GST, then GST can generally be excluded for the purpose of calculating the total cost for depreciation purposes. Conversely, if they are not registered for GST, then GST should be included in the total cost.

As mentioned above, the Tax Act has a car depreciation limit for FY2020 of $57,581. This threshold needs to be considered when determining whether the instant asset write off or accelerated depreciation are applicable. We recommend seeking additional tax advice when acquiring motor vehicles in excess of this threshold.

8. Would the purchase of a used vehicle qualify for the instant asset write-off?

As referred to above, purchases of used (i.e. second-hand) vehicles would qualify for the instant asset write off.

The purchase of a used vehicle would not, however be eligible for the accelerated depreciation deductions.

9. If a dealer transfers a car out of stock to fixed assets – would that qualify for the instant asset write-off?

Generally speaking, when you stop holding an item as trading stock and begin to use it as a depreciating asset, you are treated under the Tax Act as having sold it at cost (with that amount being included in your assessable income).

For depreciation purposes, you will then be deemed to have acquired it for the same cost. It is important to note that even in this situation all requirements for the instant asset write off have to be met in order to qualify for the write off. Little guidance has been provided regarding this scenario, however, in our view, this should mean the initial purchase of trading stock still needs to be after the announcement (irrespective of when the vehicle was moved from trading stock to fixed assets).

In addition, the transfer to fixed assets must also be properly documented and done so in the ordinary course of that dealer's business operations. In this respect we recommend dealers obtain further advice where they seek to immediately write off stock that moves to fixed assets.

10. Does the car need to be contracted and delivered to qualify for the write-off?

The newly announced measures require the asset to be acquired and first used or installed ready for use between the announcement (12 March 2020) and 30 June 2020 to be eligible for the instant asset write off. In the normal course, this would require delivery prior to 30 June 2020.

Should the asset not be first used or installed ready for use, prior to 30 June 2020, the accelerated depreciation deduction may still be available for new assets only.

11. Does it matter if the car is acquired through an operating lease?

The instant asset write-off and the accelerated depreciation deduction should not be available to any person acquiring use of a car under a lease. The legislation currently in place in relation to the existing instant asset write off specifically excludes assets purchased by way of a "depreciating asset lease".

12. Does it matter if the car is acquired through a Hire Purchase arrangement?

Where a car is purchased via a hire purchase agreement, the purchaser should still be entitled to access the relevant incentives provided the above threshold and timing requirements have also been satisfied.

We note the above comments are based on relevant press releases issued to date and we do not have any legislation. Consequently, our comments may be subject to change when the legislation becomes available. We recommend you seek professional tax advice for any significant asset purchases.

We expect significant activity in this area leading up to the end of the June 2020 financial year, and as always are at hand should you have any queries that arise.

Kind regards,

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