

# Motor Vehicles Taxation Act 1988 No 111

[1988-111]



New South Wales

## Status Information

### Currency of version

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Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
[Road Transport Legislation Miscellaneous Amendments Act 2018 No 23](#) (not commenced — to commence on 1.7.2018)
- **See also**  
[Local Government Amendment \(Parliamentary Inquiry Recommendations\) Bill 2016](#) [Non-government Bill: Rev the Hon F J Nile, MLC]

### Authorisation

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# Motor Vehicles Taxation Act 1988 No 111



New South Wales

An Act to provide for the imposition, assessment and collection of tax on the registration of motor vehicles; and to provide for related matters.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Motor Vehicles Taxation Act 1988*.

### 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

### 3 Definitions (cf Act No 34, 1949, s 3)

(1) In this Act:

**articulated vehicle** means any motor vehicle having at its rear a portion, on wheels, which is pivoted to, and a part of which (not being a pole, draw-bar or similar device or an accessory to a pole, draw-bar or similar device) is superimposed on, the forward portion of the vehicle.

**authorised officer** means any person authorised by the Authority for the purposes of this Act either generally or in any particular case.

**Authority** means Roads and Maritime Services constituted under the *Transport Administration Act 1988*.

**bus** means a motor vehicle (not being a taxi-cab):

- (a) plying on a road or road related area for hire for the conveyance of passengers at separate fares, or
- (b) fitted or equipped or constructed so as to seat more than 8 adult persons and used or let or intended to be used or let for the conveyance of passengers for hire or for any consideration or in the course of any trade or business.

**civil defence work** means the work of dealing with an emergency (within the

meaning of the *State Emergency and Rescue Management Act 1989*).

**eligible pensioner** means a person:

(a) who is entitled to hold any of the following cards issued by the Commonwealth:

- (i) a card known as a pensioner concession card,
- (ii) a card known as a gold repatriation health card that is embossed with TPI, EDA, WAR WIDOW or WAR WIDOWER,

**Note—**

TPI refers to totally and permanently incapacitated and EDA refers to extreme disablement adjustment.

- (iii) a card prescribed by the regulations as being equivalent to any of those cards, or
- (b) who is entitled to receive, in respect of any injury or disease, a pension, or other amount, approved by the Authority that is payable under the *Veterans' Entitlements Act 1986* of the Commonwealth or the *Military Rehabilitation and Compensation Act 2004* of the Commonwealth, or
- (c) who is a war widow or war widower (within the meaning of section 5E of the *Veterans' Entitlements Act 1986* of the Commonwealth).

**financial year** means a period of 12 months commencing on 1 July.

**lower taxed motor vehicle** means a motor vehicle not exceeding 2,500 kilograms in weight that:

- (a) is used substantially for private purposes and has been modified in a manner or to an extent that is recognised by the Authority as being solely or primarily for the transport of a wheelchair, or
- (b) is owned by at least one person who receives a carer allowance or carer payment under the *Social Security Act 1991* of the Commonwealth, or
- (c) is designated by the Authority as a kind of energy efficient motor vehicle in a list that is maintained for the purposes of this definition by the Authority and is made publicly available on its website or in some other manner that the Authority considers appropriate, or
- (d) is a trailer.

**maintenance**, in relation to a road, includes cleaning, sweeping, watering or any similar process.

**motor car** means a motor vehicle constructed to be used principally for the carriage

of persons, but does not include a bus or a motor cycle.

**motor cycle** means:

- (a) any motor vehicle with 2 wheels (not being a trailer), or
- (b) any motor vehicle with 3 wheels, one of which is designed to enable a side-car to be carried, or
- (c) any motor vehicle which weighs not more than 250 kilograms when unladen and is specially constructed to be used, while on a road or road related area, solely for the conveyance of an invalid,

and includes a motor tricycle.

**motor lorry** means a motor vehicle (not being a motor cycle or a tractor or a trailer) constructed to be used principally:

- (a) for the carriage of goods, or
- (b) for the conveyance of any kind of materials used in any trade, business or industry, or
- (c) for use in any work whatever other than the conveyance of persons.

**motor tricycle** means any motor vehicle with 3 wheels and having a GVM (within the meaning of the [Road Transport Act 2013](#)) of 1 tonne or less.

**motor vehicle** means a motor vehicle (other than a light rail vehicle) or trailer within the meaning of the [Road Transport Act 2013](#).

**motor vehicle tax** or **tax** means the motor vehicle tax imposed under section 4.

**owner**, in relation to a motor vehicle, includes:

- (a) every person who is the owner, joint owner or part owner of the vehicle, and
- (b) any person who has the use of the vehicle under a hire-purchase or a hiring agreement,

but does not include the lessor of a motor vehicle under a hire-purchase agreement.

**plant** means a motor vehicle which wholly comprises:

- (a) a machine or implement that is not capable of carrying any load other than tools and accessories usually carried, or
- (b) a crane or a fork lift truck.

**primary producer** means a person:

- (a) who cultivates or uses the person's own land or that of another for the person's own benefit:
  - (i) for the production of fruit, grain, flowers, vegetables, tobacco or farm or agricultural produce of any description, or
  - (ii) for dairy farming, poultry or other bird farming, pig farming, bee keeping or oyster or fish culture, or
  - (iii) for a nursery, or
  - (iv) as a pastoralist for the rearing or grazing of horses, cattle or sheep, or
- (b) who gathers leaves from which eucalyptus or other oil is to be distilled.

**primary producer's vehicle** means a motor vehicle (not being a motor vehicle which is used or let for hire):

- (a) which is owned by a primary producer and while on a road or road related area is used solely or principally:
  - (i) for carting primary products that the or another primary producer has produced, or
  - (ii) for carting leaves which the or another primary producer has gathered and from which eucalyptus or other oil is to be distilled, or
  - (iii) for carting goods of any kind for use in the or another primary producer's business as such a producer or in the or another primary producer's household, or
  - (iv) for purposes connected with the clearing of land that the or another primary producer proposes to use for primary production, or
- (b) which is owned by a rural society that is a co-operative or a participating co-operative within the meaning of the *Co-operatives National Law (NSW)* (being a society of which at least 75 per cent of the shares in the society are held by primary producers) and which while on a road or road related area is used solely or principally:
  - (i) for carting primary products that primary producers who are members of the society have produced, or
  - (ii) for carting primary products that the society has produced or has acquired from primary producers who are members of the society, or
  - (iii) for carting leaves which primary producers who are members of the society have gathered and from which eucalyptus or other oil is to be distilled, or

- (iv) for carting leaves of that kind which the society has gathered or has acquired from primary producers who are members of the society, or
- (v) for carting goods of any description for use in the businesses of primary producers who are members of the society or in their households, or
- (vi) for purposes connected with the clearing of land to be cultivated or used by the society or members of the society for primary production.

**registered**, in relation to a motor vehicle, means registered within the meaning of the [Road Transport Act 2013](#).

**road** means a road within the meaning of section 4 (1) of the [Road Transport Act 2013](#) (other than a road that is the subject of a declaration made under section 18 (1) (b) of that Act relating to all of the provisions of that Act).

**road related area** means a road related area within the meaning of section 4 (1) of the [Road Transport Act 2013](#) (other than a road related area that is the subject of a declaration made under section 18 (1) (b) of that Act relating to all of the provisions of that Act).

**semi-trailer** means a vehicle used or intended to be used as the rear portion of an articulated vehicle.

**side-car** means any car, box or other receptacle attached to the side of a motor cycle and for the carriage of which a third wheel is provided.

**station wagon** has the same meaning as in the [Road Transport \(Vehicle Registration\) Regulation 2017](#).

**tractor** means any motor vehicle constructed principally for the purpose of supplying motive power for machinery or of hauling any vehicle, but which is not capable of carrying any load (other than tools, spare parts, fuel, water, oil or other accessories necessary for use in connection with the vehicle) or any part of the weight of a vehicle being drawn or its load.

**trailer** includes a semi-trailer.

**Note—**

The [Interpretation Act 1987](#) contains definitions and other provisions that affect the interpretation and application of this Act.

- (2) For the purposes of this Act, a motor vehicle is not a motor vehicle used substantially for private purposes unless:
  - (a) in the case of a motor vehicle used by a minister of religion—it is used for the purposes of the minister's calling or for social or domestic purposes or for pleasure, or



- (b) in the case of a motor car or a station wagon owned by a primary producer—it is used for purposes directly connected with the primary producer’s business as a primary producer or for social or domestic purposes or for pleasure, or
  - (c) in the case of a motor vehicle used by or on behalf of:
    - (i) a public health organisation within the meaning of the *Health Services Act 1997*, or
    - (ii) a non-profit organisation having as one of its objects a charitable, benevolent, philanthropic or patriotic purpose, or
    - (iii) a benevolent or religious organisation or institution,it is used for purposes directly connected with the management or business of the organisation or institution or for social or domestic purposes or for pleasure, or
  - (d) in the case of:
    - (i) a motor car, or
    - (ii) a station wagon, or
    - (iii) a trailer of the type ordinarily used for social or domestic purposes or for pleasure (including a caravan trailer), or
    - (iv) any other motor vehicle the weight of which does not exceed 2 500 kilograms, other than a trailer,owned, and registered pursuant to an application made, by the holder of a motor dealer’s licence under the *Motor Dealers and Repairers Act 2013*—it is used or displayed for the purposes of resale or exchange or for social or domestic purposes or for pleasure, or
  - (e) in the case of a motor vehicle owned by a person who is an officer or an employee of the Crown or of a public authority constituted by or under an Act (including a council or a county council within the meaning of the *Local Government Act 1993*)—it is used for the purposes of the person’s employment or for social or domestic purposes or for pleasure, or
  - (f) in any other case—it is used for social or domestic purposes or for pleasure, and, in the opinion of the Authority, its use for any other purpose is minimal.
- (3) Unless the Authority otherwise determines in a particular case or class of cases, a motor vehicle is not a motor vehicle used substantially for private purposes if it is registered otherwise than in the name of a natural person or natural persons.
- (4) A motor vehicle is not within paragraph (a) of the definition of **primary producer’s**

**vehicle** if its use in connection with another primary producer for a purpose referred to in that paragraph is for fee or reward.

(5) Notes included in this Act do not form part of this Act.

### **3A Act binds Crown**

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

### **3B Relationship with Schedule 2 to [Road Transport Act 2013](#)**

This Act applies to motor vehicles in respect of which an amount of tax (including a nil amount) is specified in Schedule 1, but does not apply to:

- (a) a vehicle in respect of which a registration charge (including a nil charge) is imposed under Schedule 2 to the [Road Transport Act 2013](#), or
- (b) unless otherwise expressly provided in Schedule 1, a vehicle that is exempt from registration charges under Schedule 2 to the [Road Transport Act 2013](#).

#### **Note—**

Schedule 2 to the [Road Transport Act 2013](#) makes provision for registration charges for heavy vehicles.

## **Part 2 Imposition of motor vehicle tax**

### **4 Tax on motor vehicles** (cf Act No 119, 1980, s 5)

- (1) When the registration or renewal of registration of a motor vehicle is effected in respect of a period beginning after the commencement of this section, motor vehicle tax shall be levied and collected under this Act in respect of the vehicle for the use of the Crown.
- (2) Subsection (1) is subject to the exemptions and reductions provided for by this Act.

### **5 Amount of tax** (cf Act No 119, 1980, ss 6 and 7)

- (1) If registration or renewal of registration of a motor vehicle is effected for 1 year commencing on any date during the calendar year 2010, the amount of motor vehicle tax applicable to the vehicle is the amount specified in respect of the vehicle in Schedule 1.
- (1A) If registration or renewal of registration of a motor vehicle of a class described in Schedule 1 is effected for 1 year commencing on any date (referred to in this section as the **registration date**), the amount of motor vehicle tax applicable to the vehicle on registration or renewal of registration is:
  - (a) in a case where the registration date occurs in the calendar year 2011—the amount of such tax specified in Schedule 1 for a motor vehicle of that class,

adjusted by the prescribed proportion, or

(b) in a case where the registration date occurs in any subsequent calendar year—the amount of such tax for which a motor vehicle of that class was liable during the previous year, adjusted by the prescribed proportion.

(1B) For the purposes of subsection (1A), the prescribed proportion is obtained by subtracting the CPI number for the first previous financial year from the CPI number for the second previous financial year, and expressing the difference so obtained as a percentage of the CPI number for the first previous financial year, rounded down to 2 decimal places.

(1C) In subsection (1B):

**CPI** means the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.

**first previous financial year** means the financial year immediately preceding the second previous financial year.

**second previous financial year** means the financial year immediately preceding the financial year that ends on 30 June of the calendar year that includes the registration date.

(1D) If the Australian Statistician:

(a) ceases to issue material referred to in subsection (1B) or (1C), or

(b) fails to issue the material within sufficient time to enable the calculation of the prescribed proportion referred to in subsection (1A) to be made for a particular year,

the prescribed proportion for the purposes of subsection (1A) is to be the proportion prescribed by, or determined in accordance with, the regulations.

(1E) For the purposes of the calculation of the amount of motor vehicle tax as provided by subsection (1A) for a calendar year (or part of a calendar year) occurring after the commencement of Schedule 2 to the *Road Transport Act 2013*:

(a) any reference in Schedule 1 to charges (including a nil charge) under Part 2A of the *Road Transport (Vehicle Registration) Act 1997* is to be read as a reference to registration charges (including a nil charge) under the *Road Transport Act 2013*, and

(b) any reference in Schedule 1 to a vehicle being exempt from charges under Part 2A of the *Road Transport (Vehicle Registration) Act 1997* is to be read as a reference to a vehicle being exempt from registration charges under the *Road Transport Act 2013*.

- (2) The amount of motor vehicle tax applicable to a motor vehicle for a period of less than one year is the amount calculated by multiplying the relevant motor vehicle tax for one year by the number of days for which registration or renewal of registration is to have effect and dividing the result by 365.
- (3) If registration or renewal of registration of a motor vehicle is to have effect for a period of less than one year, the Authority may impose an additional administration fee of not more than 10 per cent of the relevant motor vehicle tax for that period.
- (4) If an amount of motor vehicle tax comprises, in addition to a number of dollars, a number of cents, that number of cents:
  - (a) if it is less than 50 cents, is to be disregarded, and
  - (b) if it is 50 cents or more than 50 cents, is to be taken to be another dollar.

## **6 (Repealed)**

## **7 Determination of weight** (cf Act No 119, 1980, s 8; Act No 34, 1949, s 8A)

- (1) For the purposes of Schedule 1:
  - (a) the weight of a trailer is the gross weight of the trailer (including any articles affixed to it) unladen and ready for attachment to another motor vehicle, and
  - (b) the weight of a motor vehicle (other than a trailer) is the gross weight of the motor vehicle, laden with the tools and accessories usually carried and with such fuel, water and oil as are in or on it, but otherwise unladen, and
  - (c) the weight of a motor vehicle (including any trailer drawn by it) that exceeds 5 000 kilograms shall, if it is used solely for mining purposes within the Western Division of the State, be taken to be 5 000 kilograms.
- (2) For the purposes of this section, the weight of a motor vehicle shall be rounded off to the nearest multiple of 10 when the weight is expressed in kilograms.
- (3) The Authority may, by order, direct that the weight of a vehicle of a specified make and description is, for the purposes of this Act, the weight specified in the order.
- (4) The weight to be specified is the weight which the Authority has determined is the average weight of vehicles of the make and description concerned.
- (5) Such a direction has effect for the purposes of determining the tax payable under this Act in respect of a vehicle of the make and description concerned, despite anything to the contrary in this section.

### **Part 3 Assessment and collection of motor vehicle tax**

#### **8 Payment of tax** (cf Act No 34, 1949, s 4)

- (1) Subject to this Act, tax shall be paid to the Authority in respect of every motor vehicle:
- (a) at the time of application for registration of the motor vehicle, and
  - (b) at the time of application for each renewal of the registration of that vehicle,
- and shall be so paid by the person in whose name the application is made.

- (2) A person who fails to pay the full amount of tax as required by subsection (1) is guilty of an offence.

Maximum penalty: 5 penalty units.

- (3) Despite the conviction of a person for an offence under this section, the person remains liable to pay the unpaid amount of the tax.

#### **9 Unregistered vehicles and vehicles upon which tax has not been paid** (cf Act No 34, 1949, s 5)

- (1) The owner of a motor vehicle which (not being a motor vehicle exempted from registration) is not registered, or which being registered is liable to tax (including any tax or additional tax payable under section 12) but on which such tax though due and payable has not been paid, who:

- (a) uses or drives the vehicle on a road or road related area, or
- (b) causes or permits it to be used or driven on a road or road related area,

is guilty of an offence.

Maximum penalty: 6 penalty units.

- (2) In addition to imposing a penalty for an offence under subsection (1), the court concerned may order the owner to pay to the Authority within a time to be specified in the order:

- (a) if the vehicle is not registered, the tax which would be due on the application for the registration or renewal of registration of the vehicle for a period of 1 year or for such greater or lesser period as the court in all the circumstances thinks just, or

- (b) if the vehicle is registered, the tax so due and payable.

#### **10 Determination of tax** (cf Act No 34, 1949, s 8)

- (1) For the purpose of determining whether any tax or additional tax is payable on a

motor vehicle and, if so, the amount of the tax, the Authority or an authorised officer may:

- (a) require the owner or person in charge of the vehicle to produce the vehicle within a specified period and at a specified place and provide all reasonable facilities to enable an authorised officer to examine it, or
- (b) require the owner of the vehicle or the person in whose name an application for the registration or renewal of registration of the vehicle is made to provide such information in writing by statutory declaration or otherwise as the Authority or the authorised officer considers appropriate.

(2) If:

- (a) the owner or person in charge of a motor vehicle fails to comply with a requirement made in accordance with subsection (1) (a), or
- (b) the owner or person in whose name an application for the registration or renewal of registration of a motor vehicle is made:
  - (i) fails to comply with a requirement made in accordance with subsection (1) (b), or
  - (ii) otherwise than by statutory declaration wilfully provides information which he or she knows is false or misleading in respect of any matter necessary or convenient to enable the appropriate amount of tax or additional tax payable on a motor vehicle to be determined,

that owner or person is guilty of an offence.

Maximum penalty: 5 penalty units.

- (3) The Authority shall determine whether any tax or additional tax is payable on any motor vehicle and, if there is, the amount of the tax.

#### **11 Adjustment of tax** (cf Act No 34, 1949, s 9)

- (1) For the purpose of ensuring that the provisions of this Act are complied with, the Authority may, at any time, alter, vary or rescind any determination in regard to tax or additional tax on a motor vehicle or may refund the whole or any portion of any tax paid.

(2) If:

- (a) the Authority has altered, varied or rescinded a determination under subsection (1), and
- (b) tax or additional tax is payable as a result of the alteration, variation or rescission,

the Authority may require the person in whose name the vehicle was registered at the time when the determination was made to pay such tax or additional tax, as the case may be, within a time stipulated by the Authority.

- (3) If the person fails to comply with the requirement within the time so stipulated, the person is guilty of an offence.

Maximum penalty: 5 penalty units.

- (4) In addition to imposing a penalty for any such offence, the court may order the person to pay to the Authority within a period to be specified in the order the amount of the tax or additional tax.

- (5) A person is not liable to pay tax or additional tax as a result of any alteration, variation or rescission of a determination referred to in subsection (1) if:

- (a) the determination was made more than 3 years before the date of the alteration, variation or rescission, and
- (b) the person satisfies the Authority that there was no intent to avoid payment of tax.

**12 Notice of alteration and additional tax** (cf Act No 34, 1949, s 10)

- (1) If, during the currency of the registration of a motor vehicle, there is an alteration, whether temporary or otherwise, in the construction, equipment, use or ownership of the vehicle of such a nature that tax or additional tax would be payable if the registration were renewed when the alteration was effected:

- (a) the person in whose name the vehicle is registered shall forthwith notify the Authority of the alteration, and

- (b) if the alteration:

- (i) is in the construction, equipment or use of the vehicle, the person in whose name it is registered, or

- (ii) is in the ownership of the vehicle, the new owner,

shall pay to the Authority the appropriate amount of tax or additional tax either forthwith or within such period as the Authority may allow.

- (2) The tax or additional tax payable under this section:

- (a) shall be for the unexpired period for which the vehicle is registered at the date of the alteration or for such shorter period as the Authority, having regard to the temporary nature of any alteration referred to in subsection (1), determines should be applicable, and

(b) shall be calculated at the rate of:

- (i) if the registration current at the date of the alteration was effected for a period exceeding 3 months—one-twelfth of the tax applicable after the alteration in respect of a yearly registration of the vehicle where the vehicle was exempt from or not liable to tax before the alteration or, as the case may be, one-twelfth of the difference between the tax applicable before the alteration and the tax applicable after the alteration in respect of a yearly registration of the vehicle, or
- (ii) if the registration current at the date of the alteration was effected for a period not exceeding 3 months—one-third of the tax applicable after the alteration in respect of a quarterly registration of the vehicle where the vehicle was exempt from or not liable to tax before the alteration or, as the case may be, one-third of the difference between the tax applicable before the alteration and the tax applicable after the alteration in respect of a quarterly registration of the vehicle,

for each month or part of a month in the unexpired period or the shorter period, as the case may be.

(3) Any person who fails to comply with subsection (1) is guilty of an offence.

Maximum penalty: 5 penalty units and, in addition, 1 penalty unit for each month during any part of which the offence continues.

(4) In addition to imposing a penalty for an offence under subsection (3), the court concerned may order the offender to pay to the Authority within a period to be specified in the order any amount which, from the evidence given during the proceedings, the court is satisfied the offender should have paid to the Authority as tax or additional tax.

### **13 Refund of tax on surrender of registration** (cf Act No 34, 1949, s 11)

If, before the expiration of the registration of a motor vehicle, the Authority cancels the registration on the application of the person in whose name the vehicle is registered, the Authority may, in its discretion, grant to the person a refund of the tax imposed in respect of the vehicle:

- (a) calculated at the rate of one-twelfth of that tax applicable in respect of a yearly registration of the motor vehicle for each complete month in the portion of the period for which the vehicle was registered unexpired at the date on which the registration was cancelled, less any cancellation fee determined by the Authority, or
- (b) calculated in such manner as may be prescribed by the regulations.



**14 Time limit for refunds** (cf Act No 34, 1949, s 12)

A person is not entitled to a refund of tax where application for the refund is made more than 3 years from the date of payment of the tax.

**15 Recovery of tax** (cf Act No 34, 1949, s 13)

The amount of tax imposed in respect of a motor vehicle is a debt due to the Crown and, except as provided by section 19 (2), is recoverable in a court of competent jurisdiction by the Authority from the person liable to pay the tax.

## **Part 4 Exemptions**

**16A Definition**

In this Part, **government-owned motor vehicle** means a motor vehicle owned by the Crown or by a statutory body representing the Crown.

**16 Vehicles totally exempt from tax** (cf Act No 34, 1949, s 7)

(1) The following kinds of vehicle are exempt from tax:

- (a) any motor vehicle (other than a government-owned motor vehicle) specially constructed for the work of conveying sick or injured persons or to carry out mine rescue work for the purposes of the *Coal Industry Act 2001*, if the vehicle while on a road or road related area is used solely for or in connection with that work,
- (b) any motor vehicle on which a trader's plate is being used in accordance with the *Road Transport Act 2013* or the statutory rules under that Act,
- (c) any motor vehicle which is owned by a council, a county council or a joint organisation within the meaning of the *Local Government Act 1993* and which:
  - (i) not being a vehicle provided for in subparagraph (ii) or (iii), is not used or let for hire and is used solely for or in connection with road construction, road maintenance, road repair, removal of garbage or night soil, the work of fighting bush fires or civil defence work or any 2 or more of those purposes, or
  - (ii) comprises a plough, bulldozer, mechanical scoop or shovel, road grader, road roller or similar machinery or apparatus and is used solely or principally for or in connection with road construction, road maintenance, road repair, the work of fighting bush fires or civil defence work or any 2 or more of those purposes, or
  - (iii) comprises a roller, lawn mower or similar machinery or apparatus and is used solely or principally for or in connection with the rolling or maintenance of tennis courts, cricket pitches, lawns or pathways or improving the surface of the ground or similar work,

- (d) subject to subsection (2), any motor vehicle which:
  - (i) is solely owned by an eligible pensioner or jointly owned by 2 or more eligible pensioners only, and
  - (ii) is not used in the course of any trade, business or profession or let out for hire, and
  - (iii) is used solely or principally by the eligible pensioner or those eligible pensioners, and
  - (iv) is used substantially for social or domestic purposes or for pleasure, and
  - (v) does not weigh more than 2 tonnes or is a motor vehicle, or a motor vehicle of a class or description of motor vehicles, approved for the time being by the Authority,
- (e) any motor vehicle (other than a government-owned motor vehicle) which while on a road or road related area is used solely for or in connection with the work of fighting bush fires or civil defence work and is registered in the name of a rural fire brigade or other body controlling that work,
- (f) (Repealed)
- (g) any motor vehicle which is exempted from registration.

(2) An eligible pensioner:

- (a) except as provided by paragraph (b), is entitled to an exemption from tax under subsection (1) (d) in respect of one motor vehicle only, or
- (b) is entitled to such an exemption from tax in respect of 2 motor vehicles where:
  - (i) the eligible pensioner and another eligible pensioner are the joint registered owners of the motor vehicles, and
  - (ii) the eligible pensioners referred to in subparagraph (i) are married to each other or are de facto partners of each other, or reside in the same household.

**Note—**

“De facto partner” is defined in section 21C of the [Interpretation Act 1987](#).

- (3) The regulations may exempt from tax any motor vehicle owned by and used by or on behalf of a consul or consulate or another person or body duly appointed to represent any country or overseas territory or any State or Territory other than New South Wales.
- (4) (Repealed)

**17 Exemptions granted by Minister** (cf Act No 34, 1949, s 7)

- (1) The Minister may grant exemption or partial exemption from motor vehicle tax in respect of:
- (a) any motor vehicle if the Minister is satisfied that it does not travel on a road or road related area except for purposes connected with the operation of a plough, hoe, chaff-cutter, thresher or other farming or agricultural implement, or well-boring or dam-sinking plant, or
  - (b) any trailer (not being a semi-trailer which is comprised in the registration of an articulated vehicle):
    - (i) if it is owned by a primary producer and the Minister is satisfied that it does not travel on a road or road related area except for purposes connected with the operation of any implement or plant referred to in paragraph (a) of this subsection or for purposes mentioned in paragraph (a) (i) or (ii) of the definition of **primary producer's vehicle** in section 3, or
    - (ii) if it is owned by a rural society that is a co-operative, or a participating co-operative, within the meaning of the *Co-operatives National Law (NSW)* and at least 75 per cent of the shares in the society are held by primary producers and the Minister is satisfied that the trailer does not travel on a road or road related area except for purposes connected with the operation of any implement or plant referred to in paragraph (a) of this subsection or for purposes mentioned in paragraph (b) (ii) of the definition of **primary producer's vehicle** in section 3, or
  - (c) any motor vehicle (not being a vehicle constructed principally for the conveyance of persons, goods or materials or a vehicle provided for in section 16 (1) (c)) which while on a road or road related area is used solely or principally for or in connection with road construction, maintenance or repair, or
  - (d) any motor vehicle, for which exemption or power to exempt in whole or in part from tax is not provided elsewhere in this Act, which comprises a crane, concrete mixer, welding plant, air compressor or other similar machinery or apparatus and does not, while on a road or road related area, carry any loading other than accessories used in connection with the operation of the machinery or apparatus, or
  - (e) any motor vehicle which is used mainly on private property or on a wharf, railway station, airport or similar place and travels on roads or road related areas only when proceeding to or from that property or place, if the Minister is satisfied that:
    - (i) because of the nature and construction of the vehicle, it is not suitable to be used to any material degree on a road or road related area, and

- (ii) the vehicle does not, while on the road or road related area, carry or haul any trailer which carries loading other than accessories used in connection with the operation of the vehicle, or
- (f) any trailer weighing not more than 250 kilograms when unladen, which while on a road or road related area is used principally or solely for the carriage of camping equipment or a boat or other materials or goods used in connection with tours made for recreation purposes and which is not used or let for hire or for any consideration or is not used in the course of trade or business, or
- (g) any motor vehicle which is not driven on a road or road related area except while being driven across the road or road related area, or
- (h) any motor vehicle which weighs not more than 250 kilograms when unladen and is specially constructed to be used, and while on a road or road related area is used, solely for the conveyance of an invalid, or
- (i) any motor vehicle (other than a government-owned motor vehicle), for which exemption or power to exempt in whole or in part from tax is not provided elsewhere in this Act, which is used solely or principally as an ambulance, or
- (j) any motor lorry, tractor or trailer which is owned by a pastures protection board constituted or continued by or under the [Pastures Protection Act 1934](#) and which, while on a road or road related area, is used solely for carrying out the statutory functions of any such board, or
- (k) any:
  - (i) tractor or trailer, or
  - (ii) motor vehicle which comprises a chaff-cutter, thresher, plough, air compressor, welding plant or bulldozer or apparatus for well-boring or the excavation or shovelling of earth or a concrete agitator, crane, fork-lift truck or similar machinery or apparatus,  
  
for which exemption or power to exempt in whole or in part from tax is not provided elsewhere in this Act, if the Minister is satisfied that, because of the construction, use or ownership of such tractor or trailer or motor vehicle, it will travel on roads or road related areas to a limited degree only, or
- (l) any motor vehicle (other than a government-owned motor vehicle) which is used for or in connection with civil defence work and which, while on a road or road related area, is used solely for or in connection with that work, or
- (m) any motor vehicle which is used solely or principally by a government school or a registered non-government school (within the meaning of the [Education Act 1990](#)) for the purposes of driver education for school children, or

- (n) any motor vehicle which is registered on behalf of a Police-Citizens Youth Club and which is used solely or principally for the purposes of such a Club, or
  - (o) any motor vehicle of a type or description approved by the Minister for the purposes of this paragraph that is fitted with a monitoring device of a type or description so approved, or
  - (p) any motor vehicle that is registered conditionally under the statutory rules under the *Road Transport Act 2013*.
- (2) The Minister may grant such reduction of tax in respect of an interchangeable trailer as the Minister thinks fit, but so that any such reduction does not exceed 75 per cent of the amount which would, but for the reduction, be payable as tax.

## Part 5 Miscellaneous

### 18 Proceedings for offences (cf Act No 34, 1949, s 14)

Proceedings for an offence against this Act or the regulations shall be dealt with summarily before the Local Court.

### 19 Particulars of conviction or order (cf Act No 34, 1949, s 15)

- (1) The relevant registrar of the Local Court is to forward to the Authority particulars of any conviction or order under this Act or the regulations.
- (2) Whenever a person is by an order made under section 9, 11 or 12 adjudged to pay tax or additional tax, the provisions of any other Act do not apply to or in respect of the order, but instead the order:
  - (a) operates as an order for the payment of money under the *Civil Procedure Act 2005*, and
  - (b) is enforceable as such an order under the provisions of that Act.
- (3) For the purposes of subsection (2), an order referred to in that subsection may be entered in the records of the Local Court in such manner as may be prescribed by rules made under the *Civil Procedure Act 2005*.
- (4) An amount paid to a registrar of the Local Court under an order referred to in subsection (2) shall be paid by that registrar to the Authority.

### 20 Evidence (cf Act No 34, 1949, s 16)

In any proceedings under this Act, the production by the Authority or on its behalf of a certificate purporting to be signed by an authorised officer certifying:

- (a) that the amount specified in the certificate as being the amount of tax payable in respect of a motor vehicle is due and unpaid, or was due or paid on a specified date,

or was not paid before a specified date, and

- (b) that an adjustment of tax or a requirement to pay tax or additional tax in respect of a motor vehicle was made in accordance with section 11,

is admissible in those proceedings and is evidence of the particulars contained in the certificate.

**21 Minister or Authority may impose, revoke or vary conditions etc** (cf Act No 34, 1949, s 18)

- (1) In this section:

***the relevant person*** means:

- (a) in the case of an exemption or partial exemption from tax—the Minister, or
- (b) in any other case—the Authority.
- (2) In respect of any exemption or partial exemption from, or reduction or refund of, tax or any approval granted by or under this Act or the regulations:
- (a) the relevant person may impose such conditions as the person thinks fit, and
- (b) may revoke or vary any such condition or may add any condition at any time during the period in respect of which the exemption, partial exemption, reduction or refund or approval operates.
- (3) Any person who fails to comply with a condition in force under this section is guilty of an offence.

Maximum penalty: 5 penalty units.

**22 Exemptions etc may be revoked or varied** (cf Act No 34, 1949, s 19)

When this Act or the regulations confer power on the Minister, the Authority or an authorised officer:

- (a) to grant an exemption or partial exemption from, or reduction of, tax, or
- (b) to grant an approval, or
- (c) to give a direction, or
- (d) to make a request, or
- (e) to do any act, matter or thing,

the Minister, Authority or officer, as the case may be, is also empowered to revoke or vary the exemption, partial exemption, approval, direction, request, act, matter or thing.

## **22A Tax to be paid into Roads and Maritime Services Fund**

(1) In this section:

**Roads Fund** means the Roads and Maritime Services Fund established under the *Transport Administration Act 1988*.

(2) There is appropriated by this section for payment out of the Consolidated Fund into the Roads Fund all amounts received on or after 1 January 1990 in payment of tax under this Act.

(3) It does not matter that any amount appropriated under subsection (2) became payable before 1 January 1990.

(4) There is payable out of the Roads Fund such amounts as may become payable under this Act by way of refunds of tax (being tax paid on or after 1 January 1990).

## **23 Regulations** (cf Act No 34, 1949, s 20; Act No 119, 1980, s 15)

(1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, the regulations may make provision for or with respect to:

(a) regulating matters relating to exemptions and partial exemptions from, or reductions of, tax, and

(b) providing that specified buses or specified classes of buses shall be subject to tax at the rates applicable to motor cars, and

(c) providing for and regulating the granting to a prescribed person of a refund of a portion of the tax paid in respect of the registration of a motor vehicle where, during the currency of the registration of the vehicle, an alteration is made in the construction, equipment, use or ownership of the vehicle of such a nature that no tax or a reduced amount of tax would be payable in respect of the vehicle on the renewal of its registration, and

(d) providing for the amount of any such refund to be calculated in accordance with a formula to be prescribed, and

(e) providing for:

(i) the production, at the time of application for registration or renewal of registration of a motor vehicle or at any time during the currency of the registration, of weighbridge tickets showing the weight of the vehicle, or

(ii) the determination of that weight at a weight approximating the average weight of motor vehicles of the same make and description.

- (3) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

## **24 Transitional provision**

- (1) The repeal of the *Motor Vehicles (Taxation) Act 1980* and the *Motor Vehicles Taxation Management Act 1949* does not affect any motor vehicle tax payable under those Acts for the registration or renewal of registration of a motor vehicle effected in respect of a period beginning before the commencement of section 4, and those Acts continue to apply to and in respect of any such motor vehicle tax.
- (2) Any exemption, approval, direction, request, certificate or other matter or thing made, given or done under the *Motor Vehicles Taxation Management Act 1949* and in force or having effect immediately before the repeal of that Act:
- (a) shall, in connection with any motor vehicle tax referred to in subsection (1), continue in force, and
- (b) shall, in connection with motor vehicle tax imposed under this Act, be taken to have been made, given or done under the corresponding provision of this Act.
- (3) All motor vehicle tax paid before 1 July 1989 under this Act (including any tax referred to in subsection (1)) shall be paid into the Roads and Traffic Authority Fund.

## **25 Savings and transitional provisions**

Schedule 2 has effect.

## **Schedule 1 Motor vehicle tax for 2010**

(Section 5)

### **Note—**

Clause 2 of Schedule 2 provides that the amounts of tax specified in this Schedule do not apply to motor vehicle tax payable under this Act before 1 July 2010. Registrations and renewals effected in 2011 and subsequent calendar years attract motor vehicle tax at indexed rates determined in accordance with section 5.

### **1 Motor cycles**

The amount of tax for a motor cycle is \$52.

### **2 Motor vehicles not exceeding 2,500 kg**

The amount of tax for a motor vehicle (other than a motor cycle) that has a weight not exceeding 2,500 kilograms is:

- (a) if the vehicle is used substantially for private purposes and is not a lower taxed motor vehicle—the amount specified in Column 2 of Table 1 to this clause shown opposite the appropriate range of weights for the vehicle in Column 1 of that Table, or



- (b) if the vehicle is not used substantially for private purposes and is not a lower taxed motor vehicle—the amount specified in Column 3 of Table 1 to this clause shown opposite the appropriate range of weights for the vehicle in Column 1 of that Table, or
- (c) if the vehicle is used substantially for private purposes and is a lower taxed motor vehicle—the amount specified in Column 2 of Table 2 to this clause shown opposite the appropriate range of weights for the vehicle in Column 1 of that Table, or
- (d) if the vehicle is not used substantially for private purposes and is a lower taxed motor vehicle—the amount specified in Column 3 of Table 2 to this clause shown opposite the appropriate range of weights for the vehicle in Column 1 of that Table.

**Table 1—Motor vehicles that are not lower taxed motor vehicles**

Column 1		Column 2	Column 3
Weight of vehicle		Tax if vehicle used substantially for private purposes	Tax if vehicle not used substantially for private purposes
Exceeding kg	Not exceeding kg	\$	\$
	975	176	286
975	1,150	204	325
1,150	1,500	250	394
1,500	2,500	381	594

**Table 2—Lower taxed motor vehicles**

Column 1		Column 2	Column 3
Weight of vehicle		Tax if vehicle used substantially for private purposes	Tax if vehicle not used substantially for private purposes
Exceeding kg	Not exceeding kg	\$	\$
	975	176	286
975	1,150	199	320
1,150	1,500	230	374
1,500	2,500	351	564

**3 Motor vehicles exceeding 2,500 kg that are not buses, private use vehicles, motor**

**lorries or light self-propelled plant**

The amount of tax for a motor vehicle with all of the following characteristics is the amount specified in, or calculated in the manner specified in, Column 2 of the Table to this clause shown opposite the appropriate range of weights for the vehicle in Column 1 of that Table:

- (a) the vehicle has a weight exceeding 2,500 kilograms,
- (b) the vehicle is not liable to registration charges (including a nil charge) under Part 2A of the *Road Transport (Vehicle Registration) Act 1997* or is exempt from registration charges under that Part,
- (c) the vehicle is not used substantially for private purposes,
- (d) the vehicle is not a bus, motor lorry or light self-propelled plant as defined in clause 6.

**Table**

<b>Column 1</b>		<b>Column 2</b>
<b>Weight of the vehicle</b>		<b>Tax</b>
<b>Exceeding kg</b>	<b>Not exceeding kg</b>	<b>\$</b>
2,500	2,790	922
2,790	3,050	1,048
3,050	3,300	1,148
3,300	3,560	1,248
3,560	3,810	1,340
3,810	4,060	1,442
4,060	4,320	1,537
4,320	4,500	1,636
4,500	4,830	1,730
4,830	5,080	1,828
5,080	5,330	1,931
5,330	5,590	2,025
5,590	5,840	2,125
5,840	6,100	2,221
6,100	6,350	2,318

6,350	6,600	2,413
6,600	6,860	2,515
6,860	7,110	2,609
7,110	...	\$2,609 plus \$94.90 for each 254 kg or part thereof by which the weight exceeds 7,110 kg

#### 4 Buses and private use vehicles exceeding 2,500 kg

The amount of tax for a motor vehicle with all of the following characteristics is 60 per cent of the amount applicable to a vehicle of the same weight under clause 3:

- (a) the vehicle has a weight exceeding 2,500 kilograms,
- (b) the vehicle is not liable to registration charges (including a nil charge) under Part 2A of the [Road Transport \(Vehicle Registration\) Act 1997](#) or is exempt from registration charges under that Part,
- (c) the vehicle is used substantially for private purposes or is a bus.

#### 5 Motor lorries exceeding 2,500 kg

The amount of tax for a motor lorry that has a weight exceeding 2,500 kilograms and is not liable to registration charges (including a nil charge) under Part 2A of the [Road Transport \(Vehicle Registration\) Act 1997](#) or is exempt from registration charges under that Part is \$564.

#### 6 Light self-propelled plant

- (1) In this clause, **light self-propelled plant** means plant (other than a trailer) that:
  - (a) has a weight exceeding 2,500 kilograms, and
  - (b) is not liable to registration charges (including a nil charge) under Part 2A of the [Road Transport \(Vehicle Registration\) Act 1997](#) or is exempt from registration charges under that Part, and
  - (c) is not used substantially for private purposes.
- (2) The amount of tax for a light self-propelled plant is the amount specified in Column 2 of the Table to this clause shown opposite the appropriate range of weights for the vehicle in Column 1 of that Table.

#### Table

**Column 1**

**Column 2**

<b>Weight of vehicle</b>		<b>Tax</b>
<b>Exceeding kg</b>	<b>Not exceeding kg</b>	<b>\$</b>
2,500	2,790	960
2,790	3,050	1,092
3,050	3,300	1,196
3,300	3,560	1,301
3,560	3,810	1,397
3,810	4,060	1,503
4,060	4,320	1,603
4,320	4,500	1,705

### **7 Primary producers' vehicles—special provisions**

The amount of tax for a primary producer's vehicle that is a motor lorry (other than a station wagon), a tractor or a trailer is the lesser of the following amounts:

- (a) 55 per cent of the amount which would, but for this clause, be applicable to the vehicle under clause 2 or 3,
- (b) \$564 (in the case of a lower taxed motor vehicle) or \$594 (in the case of a motor vehicle that is not a lower taxed motor vehicle).

### **8 Tractors—special provisions**

Despite any other provision of this Schedule:

- (a) the amount of tax payable for a tractor that is not a primary producer's vehicle is not to exceed:
  - (i) if the tractor is a lower taxed motor vehicle—\$960, or
  - (ii) if the tractor is not a lower taxed motor vehicle—\$990, and
- (b) the amount of tax payable for a tractor that is a primary producer's vehicle is not to exceed:
  - (i) if the tractor is a lower taxed motor vehicle—\$528, or
  - (ii) if the tractor is not a lower taxed motor vehicle—\$545.

### **9 Additional amount of tax—vehicles over 3,560 kg**

- (1) This clause applies to a motor vehicle that:

- (a) has a weight exceeding 3,560 kilograms, and
  - (b) is not liable to registration charges (including a nil charge) under Part 2A of the *Road Transport (Vehicle Registration) Act 1997* or is exempt from registration charges under that Part, and
  - (c) is not used substantially for private purposes.
- (2) The amount of tax applicable under clause 3 or 4 to a vehicle to which this clause applies is increased:
- (a) if the vehicle is not a bus—by \$221, or
  - (b) if the vehicle is a bus—by \$133.

## Schedule 2 Savings and transitional provisions

(Section 25)

### 1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
- Traffic Legislation Amendment Act 1997*, but only in relation to the amendments made to this Act
  - State Revenue Legislation Amendment Act 2010*
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

### 2 Provision consequent on enactment of *State Revenue Legislation Amendment Act 2010*

The amendments made to section 5 and Schedule 1 by the *State Revenue Legislation Amendment Act 2010* do not affect any motor vehicle tax that was or is payable in relation to the registration or renewal of registration of a motor vehicle if that registration or renewal was required before 1 July 2010. Accordingly, any such motor vehicle tax is payable in accordance with this Act as in force before the commencement of those

amendments.