



Australian Government

Australian Taxation Office

Dear Sir / Madam,

I refer to our letter to the motor vehicle industry in February 2014 about further time to comply with the GST and LCT obligations following the Full Federal Court decision in *AP Group Ltd v Commissioner of Taxation* (2013) FCAFC 105 (AP Group). Dealers will need to have put processes in place to calculate, remit and document the correct amount of GST and LCT (if applicable) on sales of cars under contracts entered into on or after 1 May 2014.

The purpose of this letter is to provide further guidance on the GST and LCT implications of incentive payments that are **third party consideration** for the sale of a car to a customer, such as fleet rebates or run-out model support payments.

GST implications for the manufacturer or distributor

A manufacturer or distributor making an incentive payment that is third party consideration to a dealer for the sale of a car to a customer should not claim an input tax credit for the payment. They may instead have a third party decreasing adjustment. The adjustment is attributable when the manufacturer or distributor holds a third party adjustment note.

GST and LCT implications for the dealer

An incentive payment that is third party consideration is not to be treated as consideration for a taxable supply by the dealer to the manufacturer or distributor. The payment also doesn't give rise to an increasing adjustment for the dealer.

An incentive payment that is third party consideration for the sale of a car forms part of the price of the car. This means that, in working out the GST or LCT payable on the sale of the car, the dealer needs to add the amount of the incentive payment to the amount paid by the customer for the car.

The price of the car includes:

- any customs duty
- dealer delivery charges
- standard and statutory warranties.

But the price of the car doesn't include 'on road costs' such as:

- stamp duty
- transfer fees
- registration
- compulsory third-party insurance
- extended warranties
- costs associated with financing the purchase of the car.

As the incentive payment is part of the price of the car, the payment would include GST and LCT if the sale of the car is subject to GST and LCT.

If a dealer charges an additional amount to the customer for the sale of the car to cover the cost of the additional LCT payable because of the incentive payment, that additional amount would form part of the price of the car. This would increase the amount of GST and LCT payable on the sale of the car.

Calculation of GST and LCT if an incentive payment is third party consideration

The following table shows how to work out the:

- LCT and GST payable by the dealer on the sale of the car
- LCT and GST components in the customer's payment.

Steps for working out GST and LCT for third party consideration

1. The total price of the car	=	Incentive Payment + customer's payment (excluding on road costs)
2. LCT payable on sale of car	=	(total price of car – LCT threshold)/1.43 x 33%
3. GST payable on sale of car	=	(total price of car – LCT payable) x 1/11
4. GST component in customer's payment	=	(amount of customer's payment / total price of car) x GST payable
5. LCT component in customer's payment	=	(amount of customer's payment / total price of car) x LCT payable

Tax invoice information requirements

For a document issued by a dealer to meet the tax invoice requirements, the document must contain enough information for certain things to be clearly ascertainable. These things don't need to be specifically stated or presented in a particular format. What is required is that those things (including the total price of what is supplied and the GST payable on that supply) can be clearly ascertained from the information presented in the document.

To satisfy the information requirements about the total price of what is supplied and the GST payable on that supply, it is enough for the document to indicate the total GST inclusive price of the car. There's no need to separately show the total GST payable.

Information about the LCT payable or the amount of the GST or LCT referable to the customer's payment may be included in the document at the option of the dealer. However, customers may expect to see information about the:

- amount they are required to pay for the purchase of the car
- GST component in their payment (step 4 of table above)
- LCT component in their payment (step 5 of table above).

For more information about the tax invoice information requirements, please refer to [GSTR 2013/1: tax invoices](#).

Third party decreasing adjustment for the manufacturer

For incentive payments made on or after 1 July 2010 that are third party consideration, the manufacturer has a decreasing adjustment in the tax period in which the manufacturer holds a third party adjustment note. The information requirements for a third party adjustment note are set out in [A New Tax System \(Goods and Services Tax\) Third Party Adjustment Note Information Requirements Determination \(No. 1\) 2010](#).

The amount of the decreasing adjustment is worked out as the difference between:

- the amount of GST payable on the manufacturer's supply to an entity other than the dealer (for example, a financier under the bailment arrangement), and
- the amount of GST that would have been payable for that supply if the consideration for the supply had been reduced by the amount of the incentive payment made to the dealer.

Input tax credit (ITC) entitlement for a registered customer

A customer registered for GST is generally entitled to claim an ITC for the GST included in the purchase price of the car if the customer uses the car solely for a creditable purpose and holds a tax invoice. However, if the customer is only paying part of the price of the car (because the other part of the price is paid by the manufacturer or distributor), the customer may only claim a partial ITC worked out as follows:

$$\text{Partial amount of ITC} = \frac{\text{amount of customer's payment/total price of car}}{\text{GST payable on sale of car}} \times$$

This would be equal to the 'GST component in customer's payment' in step 4 of the table above.

If the car is used only partly for a creditable purpose, the ITC needs to be reduced proportionately based on how much the car is used for a creditable purpose.



If the price of the car (including the incentive payment) is more than the car limit for depreciation deductions under the income tax law, the maximum amount of ITC allowed is 1/11 of that limit.

For the 2013-14 financial year, the car limit is \$57,466 and the fuel efficient car limit is \$75,375. A fuel efficient car is a car that has a fuel consumption not exceeding seven litres per 100 kilometres. LCT does not apply to fuel efficient cars under the fuel efficient car limit.

This limit is reviewed each financial year and may change.

Attribution of GST and LCT

For dealers using the cash method, the GST and LCT payable is attributable to the tax period to the extent payment is received.

For dealers using the non-cash method, the GST and LCT payable is generally attributable to the earlier of the tax period in which:

- any of the consideration for the sale of the car is received, or
- an invoice for the sale is issued.

Examples

Example 1 – sale of car subject to GST but not LCT

Waymar Manufacturer pays its dealers a run-out model incentive of \$2,200 for each 'Jaki' model car that is sold to a customer in July 2014.

Capability Motors, a dealer, sells a 'Jaki' to a customer, Sofia, who pays \$33,000. Capability Motors pays the finance company \$27,500 for the car and title is transferred to Capability Motors, and then to Sofia. Waymar Manufacturer pays Capability Motors the run-out model incentive of \$2,200.

The total price for the sale of the car by Capability Motors is \$35,200 (sum of \$33,000 paid by Sofia and \$2,200 paid by Waymar Manufacturer).

Capability Motors is liable for GST of \$3,200, which is worked out as follows:

$$\begin{aligned} \text{GST payable} &= (\text{total price of car} - \text{LCT payable on sale of car}) \times 1/11 \\ &= (\$35,200 - \text{Nil}) \times 1/11 \\ &= \$3,200 \end{aligned}$$

$$\begin{aligned} \text{GST component} &= (\text{amount of customer's payment} / \text{total price of car}) \times \\ \text{in Sofia's payment} & \qquad \qquad \qquad \text{GST payable} \\ &= \$33,000 / \$35,200 \times \$3,200 \\ &= \$3,000 \end{aligned}$$

The tax invoice issued by Capability Motors needs to contain information for the GST inclusive price of \$35,200 to be ascertainable. For example, the tax invoice may state:

'Total price (inc GST) \$35,200'

Waymar Manufacturer has a third party decreasing adjustment of \$200, which is worked out as follows:

$$\begin{aligned} \text{Third party decreasing adjustment} &= (\text{GST payable on sale to finance} \\ & \text{company for } \$27,500) \text{ minus } (\text{GST payable} \\ & \text{on sale to finance company for } \$27,500 \\ & \text{less incentive payment of } \$2,200) \\ &= (1/11 \times \$27,500) - (1/11 \times \$25,300) \\ &= \$200 \end{aligned}$$

If Sofia is registered for GST, uses the car solely for a creditable purpose and has a tax invoice, she can claim an ITC of \$3,000. However, if Sofia only uses the car for 70% creditable purpose, she may only claim a partial ITC of \$2,100 (70% x \$3,000).

Example 2 – sale of car subject to GST and LCT

Waymar Manufacturer pays its dealers a fleet rebate of \$3,575 for each 'Masi' model car (non-fuel efficient) that is sold to a fleet customer in May 2014.

Capability Motors sells a 'Masi' to a fleet customer, ITX Ltd, which pays \$71,280. ITX Ltd is registered for GST and uses the car solely for a creditable purpose.

Capability Motors pays the finance company \$66,000 for the car and title is transferred to Capability Motors, and then to ITX Ltd. Waymar Manufacturer pays Capability Motors the fleet rebate of \$3,575.

The total price for the sale of the car by Capability Motors is \$74,855 (sum of \$71,280 paid by ITX Ltd and \$3,575 paid by Waymar Manufacturer).

Capability Motors is liable for LCT of \$3,355.15, which is worked out as follows:

$$\begin{aligned} \text{LCT payable on sale of car} &= (\text{total price of car} - \text{LCT threshold}) / 1.43 \times 33\% \\ &= (\$74,855 - \$60,316) / 1.43 \times 33\% \\ &= \$3,355.15 \end{aligned}$$

Capability Motors is liable for GST of \$6,500, which is worked out as follows:

$$\begin{aligned} \text{GST payable} &= (\text{total price of car} - \text{LCT payable on sale of car}) \times 1/11 \\ &= (\$74,855 - \$3,355.15) \times 1/11 \\ &= \$6,500 \text{ (rounded up)} \end{aligned}$$

The tax invoice issued by Capability Motors needs to contain information for the GST inclusive price of \$74,855 to be ascertainable. For example, the tax invoice may state:

'Total price (inc GST) \$74,855'

Waymar Manufacturer has a third party decreasing adjustment of \$325, which is worked out as follows:

$$\begin{aligned} \text{Third party decreasing adjustment} &= (\text{GST payable on sale to finance company for} \\ &\quad \$66,000) \text{ minus } (\text{GST payable on sale to finance} \\ &\quad \text{company for } \$66,000 \text{ less incentive payment of} \\ &\quad \$3,575) \\ &= (1/11 \times \$66,000) - (1/11 \times \$62,425) \\ &= \$325 \end{aligned}$$

As the price (\$74,855) of the car is more than the car limit for the 2013-14 financial year (\$57,466), ITX Ltd can only claim an ITC of \$5,224.18 (1/11 of \$57,466). This is so even though the GST component in its payment for the purchase of the car is \$6,189.57 (\$71,280/\$74,855 x \$6,500).

More information

We are developing a draft GST public ruling to help you determine the GST treatment of motor vehicle incentive payments. The draft ruling is expected to issue on 28 May 2014. In the

interim, the Decision Impact Statement provides the ATO view. You can find the Decision Impact Statement at law.ato.gov.au and search for 'AP Group Ltd (NSD 1569 of 2012)'.

If you have any further queries, please email GSTMVPayments@ato.gov.au or call us on 13 28 69 – ask for Wayne Tripp on extension 33842.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'S. Howlin', written in a cursive style.

Steve Howlin
Assistant Commissioner
Australian Taxation Office