



HIGH COURT OF AUSTRALIA

16 October 2024

AUTOMOTIVE INVEST PTY LIMITED v COMMISSIONER OF TAXATION
[2024] HCA 36

Today, the High Court allowed an appeal from a decision of the Full Court of the Federal Court of Australia concerning the characterisation of purpose pursuant to ss 9-5(1) and 15-30 of the *A New Tax System (Luxury Car Tax) Act 1999* (Cth) ("LCT Act").

Pursuant to the scheme of the LCT Act, luxury car tax ("LCT") is paid on any "taxable supply" of a luxury car (s 5-5). Section 5-10(2) of the LCT Act excludes the supply of a luxury car from being a "taxable supply" where the recipient "quotes" for the supply of the car. Circumstances in which a person is entitled to quote an Australian Business Number in relation to a luxury car include where the person, at the time of quoting, has the intention of using the car for the purpose of holding it as trading stock, "and for no other purpose" (s 9-5(1)). A person has an "increasing luxury car tax adjustment" if they were supplied with a luxury car and either quoted for the supply or had a "decreasing luxury car tax adjustment" and used the car for a purpose other than a quotable purpose (s 15-30(3)).

The appellant carried on a business of acquiring and selling luxury and collectable cars, using the technique of displaying cars in a museum (the "museum concept"). This appeal was concerned with 40 of those cars. The appellant was issued with a notice of amended assessments for payment of an additional amount by way of adjustments, which was premised on the assumption that each car was (i) used for the purpose of holding the car as trading stock, and (ii) also used for the additional purpose of being displayed as an exhibit in a car museum. The appellant objected and pursued its objection and appeal rights under Pt IVC of the *Taxation Administration Act 1953* (Cth). The Commissioner contended that in respect of the 40 cars the subject of the proceedings there was an increasing luxury car tax adjustment as the cars were used for the additional purpose of being displays in a museum, which was not a quotable purpose. The appellant's case was that the sole "purpose" for employing the museum concept was as a means to achieve the ultimate end of selling cars.

The primary judge relevantly held that the purpose of an activity is the end that is sought to be accomplished by it, and not the reasons for engaging in it, and concluded that the characterisation of purpose under ss 9-5(1) and 15-30 of the LCT Act was an "objective characterisation". The primary judge concluded that the 40 cars were being used for another purpose through the museum concept, while accepting that the appellant's "primary commercial objective" was to sell cars. The majority of the Full Court upheld the judgment and reasoning of the primary judge.

A majority of the High Court held that the identification of purpose within ss 9-5(1) and 15-30 requires the identification of the specific ends, objects or goals which are the ultimate reason or reasons why a taxpayer is using a car in a particular way. It is necessary to distinguish between this meaning of purpose and the concepts of "motive" and "means". Purpose is subjective in the sense that it belongs to a subject. The appellant's purpose in holding the cars was to hold them as trading stock, and the museum concept was only the means by which to achieve that purpose, rather than the ultimate object or end in itself.

This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.