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Customs, Trade and Transport Law e-alert

Imported Hummer subject to luxury car tax

The Federal Court of Australia has confirmed that Hummers and potentially some other vehicles not fitting within the traditional description of 'luxury car', will now be subject to luxury car tax on top of GST and other customs and excise duties wherever applicable.

AAT decision

Our E-Alert dated 25 May 2009 reported the findings of the Administrative Appeals Tribunal ("**AAT**") decision of *Dreamtech International Pty Ltd –v– Commissioner of Taxation* [2009] AATA 365. In that decision Dreamtech having been assessed by the Commissioner of Taxation as liable to pay luxury car tax in the amount of \$22,548.59 for a Hummer limousine imported from the US, appealed against the Commissioner's decision to the AAT. The AAT held that the tax applied to the Hummer as a 'luxury car'. The AAT made a number of significant findings on the scope of definitions relating to the tax.

Federal Court appeal

Dreamtech appealed the AAT's decision to the Federal Court. The Federal Court dismissed Dreamtech's appeal and upheld the finding by the AAT that luxury car tax was payable on a Hummer imported from the US.

The impact of the decisions

The effect of these decisions is that a wider class of cars may now be caught by the tax if their luxury car tax value exceeds the threshold. This potentially could include four wheel drives with features that could be considered luxurious by a class of persons, or other large vehicles that may be colloquially called 'limousines' despite having significant design discrepancies.

The decisions will impact the luxury vehicle industry by expanding the scope of 'luxury' to include the subjective, and the scope of 'motor powered road vehicle' to include vehicles beyond those designed solely for road use. The fact that a vehicle will need to be modified prior to use on Australian roads does not negate its ability to be used on roads for the purposes of the definition.

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