



# Motor Traders' Association of New South Wales (MTA) Policy 2010-11.

## Taxation

Taxation is an important mechanism that allows Government's to redistribute wealth and facilitate the provision of infrastructure and services in order to provide a reliable, sustainable and fair nation. MTA supports a taxation system that is fair and equitable to business and their employees. Within this framework taxation levels should be maintained as low as possible to stimulate business and employment growth and to generate economic growth with benefits for the Australian economy and community.

### *Federal & State Issues*

#### Tax on Motor Vehicles

Motor vehicles are already very highly taxed. Taxes on motor vehicles should not increase beyond the levels that presently apply. Motor vehicles are an essential family requirement with most families having two vehicles. Increasing tax on motor vehicles beyond the present levels will put at risk a families capacity to service and repair vehicles which puts at risk road safety and increases pollution levels.

### *State Issues*

#### Third Party Insurance for Rental Vehicles

The existing rate should be reviewed given the level of accidents of rental vehicles when compared to vehicles generally.

#### Payroll Tax

Payroll tax is a very inefficient tax. This is particularly the case in very many vehicle industry businesses which are low margin, low profit but are also labour intensive. This tax has the potential to put a business at risk of failure given, unlike company tax, the payroll tax must be paid regardless of the trading circumstances of the business. This tax is a tax on employment.

The NSW Government must accelerate the reduction on its reliance on this tax which is presently 5.5% (reducing to 5.4% on 1 January, 2011) applied to total wages in excess of \$658,000.00pa. The ultimate removal of this tax will provide NSW with a very large advantage as it seeks to attract business to this State (Victoria 4.9% - threshold \$550,000.00;



& Queensland 4.75% - threshold \$1,000,000.00). It will also put the employees of NSW in a better position during times when downturns occur in the market.

Businesses within areas where a state emergency has been declared, should qualify for a reduction in payroll tax given the exceptional circumstances. This will assist such businesses to remain viable during these difficult trading times.

Payroll tax should be abolished with any Government funding shortfalls being picked up through the broader based GST and redistributed. In the shorter term the rate should reduce to below the levels of NSW neighbouring States and the threshold should also be increased to in excess of \$1M in wages. Salaries of employees over 50 should not be included in any assessment of liability for payroll tax in the same way as this applies to training wages.

### *Federal Issues*

#### Goods and Services Tax

##### Notional Tax Input Credit Scheme

This system applies when a registered buyer (With ABN No.) purchases used goods from an unregistered seller (No ABN No.). Under the NTIC system registered purchases must account for input tax credits on items acquired from unregistered sellers. This is a significant burden (from a cost and administrative perspective) on motor vehicle dealers. To alleviate this, the purchase of used goods from any registered business should generally give rise to actual input credits regardless of whether the seller is registered or not. Notional tax credits would only apply to associated parties.

The GST has left second hand vehicle dealers at a significant disadvantage in comparison to the private sector. There needs to be a level playing field in this regard. AN option to achieve this could include a duty being imposed (by a NSW government) on buyers of private second hand vehicles equal to an additional 10% of the market or sale price of the vehicle (whichever is the greater).

#### Luxury Car Tax

Motor vehicles above a GST value of \$57,466 (2010-11) are subject to an additional 33% "luxury car" tax. This tax distorts the market for higher value vehicles and penalises dealers, manufacturers, distributors and consumers and has no place in Australia's tax system. This tax should be abolished. This tax denies State Government's revenue as all tax that a motor vehicle attracts as LCT goes to the Federal Government, not State Governments as GST.

#### Review of Red Tape

There needs to be a critical review of the red tape associated with government regulation and flow-on activity obligations that arise on business.



The lodgement of BAS statements on a monthly basis and its complexity is a constant source of angst for business, in particular small business. More simplified reporting and payment options need to be under constant review to reduce the administrative burden on business, in particular small business.

The costs associated with employers having to respond to child support agency issues, court orders in relation to garnishee orders add to employer costs. These types of administrative costs are set to continue with proposed introduction of paid parental leave payment regimes.

## **Fair Trading**

MTA supports a system that is both fair to traders and consumers. To facilitate an effective fair trading environment in NSW the MTA supports a licensing and disputes resolution system specific to the automotive repair and motor dealer sectors of the industry which is funded by industry, and government and industry co-administered that incorporates pertinent consumer and industry representation that includes MTA. The MTA support a separate entity that is funded by the licensing system and resourced to enforce compliance, issue licences, undertake dispute resolution and determination and maintain records management.

Businesses that seek to trade in the repair and service of motor vehicles to the consumer must be licensed for the type of repair work to which the business holds itself out to undertake. Further, those persons in such automotive repair businesses that purport to be qualified to undertake such repairs must hold a licence issued only after it is confirmed that the person is a fit and proper person to hold such a licence.

A dealer licensing system for new and used motor dealers that regulates these businesses and upholds the integrity of such business is fundamental to achieving an effective fair trading system for this sector of the retail motor industry. MTA support the fund financed through licence fees to protect consumers in case of motor dealer failure.

### *Federal & State Issues*

#### Review of Motor Vehicle Repairs Act 1980 – Scope of Work & National Licensing system.

It is time for a review of the Motor Vehicle Repairs Regulation. A number of shortcomings in this legislation have become evident. Indeed restrictions on various types of work need to be revisited to provide effective outcomes for the industry and consumers. Coupled with this is the proposal for the introduction of a national licensing system for classes of work. Through these processes MTA seek to maintain the integrity and build on the effectiveness of the system/s.

### *Federal Issues*



## Franchising

Only a system that recognises that a franchisee is at a substantial disadvantage than a franchisor is a fair system. Franchisees must have effective methods of dispute resolution and enforcement to ensure a balanced and fair system. Small businesses do not have the resources to respond when unfairness arises in relation to larger business.

## Franchising Code of Conduct

MTA has a long history of working for members to ensure that franchising agreements operate fairly for members. MTA supports the existing mandatory Franchising Code of Conduct.

In addition MTA seeks the establishment of a stand alone “Motor Vehicle Franchising Code of Conduct.”

Any Franchising Code of Conduct needs to include provisions that outlaw “take it or leave it” contracts, and must include minimum tenure periods. As well any Franchising Code should include all franchising agreements.

The Unfair Contracts laws should be expanded to include franchise arrangements and importantly business to business activities. The definition of small business within these laws should be based simply on the basis that a business is a small business provided that the business is smaller than the business it was dealing with.

## Oil Code

The Government has yet to release its response to the Oilcode review. The Oilcode should be reformed to provide a minimum tenure of 5 years where the lessee is required to display and sell products under the lessor’s brand.

Oilcode should also be reformed to provide proper transparency of terminal gates prices and require that all sales be made at the posted TGP.

Oilcode should be reformed to ban selling petrol, diesel and LPG below cost.

Oilcode should be reformed to render the decisions from the dispute resolution process binding on all parties.

## Trade Practices Act

Section 46 needs to be strengthened to address abuse of market power. Specifically, the practice of predatory pricing should be targeted and eliminated by giving courts the direction to consider the effect of specific pricing and selling tactics have on surrounding competing businesses.



Section 51ac (unconscionable conduct) needs to be strengthened to give broader definition to the term 'unconscionable' and an "unfair contract" provision be inserted and a cost free tribunal be established to adjudicate on the fairness of contracts between motor dealers and motor vehicle manufacturers/distributors. A court or tribunal should be able to issue 'cease and desist' orders until a proper hearing can be held. A court or tribunal should be able to award damages.

Limit third line forcing in the service station sector. The relevant provisions of the Trade Practices Act should be reformed to mandate that all fuel shopper docket schemes docket holders can be redeemed at any service station wishing to participate and be reimbursed the amount of the discount by the issuer, less an appropriate administration fee.

#### Small Business Ombudsman and Minister

MTA support the establishment of the Small Business Ombudsman. The powers of such an office would need to be sufficiently broad enough to allow such an office to initiate action on behalf of the smaller business against the larger business where the conciliation process fails and the office considers that there has been a breach of various fair trading, unfair contract and/re respective codes of practice.

#### The Small Business Minister should be a member of Cabinet

The definition of small business needs to be consistent across all legislation. An appropriate definition would be that a business is classed as a small business where it employs less than 50 employees.

### **Motor Vehicle Repair Standards**

MTA support quality standards of collision repair of vehicles. To facilitate this outcome the MTA support the Motor Vehicle Insurance & Repair Industry Code of Conduct as a means to deliver quality repair standards.

#### *Federal & State Issues*

#### National Mandatory Motor Vehicle Insurance and Repair Industry Code of Conduct

MTA is calling for a National approach to motor vehicle body repairs based upon the Principals of the Motor Vehicle Insurance & Repair Industry Code of Conduct, which is a mandated code in NSW.

This code of conduct requires when vehicles are repaired after sustaining collision damage, those repairs are conducted to manufacturer's documented repair specifications and the vehicle remains compliant with Australian Design Rules.



## National Statutory Written Off Vehicle Law

MTA is calling for NSW to lead the way and encourage other States to also ban the re-registration of all Written Off vehicles and that these be declared Statutory Written-Off Vehicles.

### *State Issues*

## Motor Vehicle Repair Standards

The MTA calls on Government to support the implementation of recommendations arising from the Stay Safe Committee Review, Repair to a Standard Not to a Price. MTA also call for a public Inquiry into unsafe repairs that have occurred under the motor vehicle repair two quote system.

## The Motor Vehicle Repairs Act

This Act needs to reflect a minimum repair standard as being to that of the manufacturer's standard.

## Vehicle Regulation (Incl safety Inspections)

A system of safety inspection of motor vehicles is strongly supported by MTA to ensure that the community is safe. MTA supports a system of safety inspections for all vehicles. Such inspections should be conducted by licensed businesses and suitably qualified and approved persons.

The vehicle inspection system should be regularly reviewed, safety inspections should be undertaken annually on all vehicles 3 years of age and older, and at the time that a vehicle's ownership is transferred. Licensed inspection stations should be fairly remunerated for undertaking this work.

To maintain integrity of the New South Wales registration and inspection system the Government should monitor vehicle garaging arrangements along State border regions for interstate registered vehicles residing in NSW. These vehicles avoid NSW registration and inspection requirements by their owners to the detriment of other vehicle users in NSW.

## **Employment Relations**

## **Occupational Health & Safety**

The MTA supports a system of workplace safety regulation that shares the responsibility for safety at work across employers, employees and others engaged in work at an employer's facility. The system should recognise that it is highly unlikely if not impossible that a



workplace can be made 100% safe, that there is risk in all work undertaken with the conclusion that employers cannot guarantee a workplace that is totally safe from risk.

MTA supports the present approach in relation to national model OHS laws and the broad direction contained within the draft model legislation as agreed to by the Commonwealth and the majority of States. MTA does not agree to a system of reverse onus nor to a right of a union to prosecute an employer in the event of suspect break of duties under any model national legislation.

### *State Issues*

#### Duties of designers, manufacturers and suppliers of plant and substances for use at work

There should be no potential to implicate businesses in matters until clear evidence of a breach of the Act is established by WorkCover.

In the case of re/sellers of products or equipment, provided the product or equipment has not been altered from manufacture requirements, any safety issue arising from such product or equipment is the responsibility of the designers, manufacturers or importers/distributors of the equipment or product – not the end seller. Liability associated with the re/seller would be limited as to whether such seller reasonably passed on to the buyer/user of the product or equipment, the safety information supplied by the designer, manufacturer or importer/distributor.

## **Workers Compensation**

MTA supports a worker's compensation system that provides medical and rehabilitation assistance to those injured at work with a view to getting the injured person back to work as soon as possible. Where a person is unable to work in their previous role or another role then such person should be compensated. Any system should be sufficiently flexible to allow an industry sector to manage itself.

### *State Issues*

Employer premium levels to fund such a system on average should be less than 2%.

The coverage of journey claims to and from work should not be covered under any system. An incident that occurs in these situations is not one that occurs at work and should not be funded by the system.

Reintroduce scope for an industry sector to opt out of the general system and self manage that industry sector's workers compensation.

Claims that reflect body degeneration should not have an impact on an individual employer's policy. Such a claim should only be accepted by the authorities where it can be



clearly demonstrated that activities during work across the claimant's working life impacted on the current condition. Only then should a claim be acceptable and then the claim should be borne by the system (and not impact on the claimant's existing employer's premium).

## **Industrial Relations**

MTA supports a system that offers fairness to its members and their employees. An effective system of industrial relations incorporates the ability for employers to choose how they will be regulated – by an award, individual agreement or collective agreement. MTA supports the establishment/existence of an industry award that applies to the retail motor industry (incorporating automotive body building and component manufacturing) nationally. Such industry award system must provide a set of minimum working conditions that are designed to meet the needs of the particular industry to which an award applies. MTA supports a single federal system and award for the industry with a central umpire with power to conciliate and arbitrate on disputes that arise from award matters and an inspectorate to enforce entitlements under awards.

### *Federal Issues*

#### Adverse Action Claims

Employers should have a right to hire and terminate employees without the fear of unfair dismissal. On termination no employer should be immune for unlawful termination or the payment of employee entitlements that have accrued whilst working for an employer. However there should not be a reverse onus on an employer in the event that an employee lodges an adverse action against an employer.

#### Family Friendly Working Arrangements

Great inroads have been made in recent years to provide family friendly working arrangements for employees - carers leave and increased levels of parental leave. Introduction of these entitlements also come at a cost to employers – the smaller the business, the greater the cost and impact on that business. This cost should be recognised and there should be no further extension of statutory entitlements. No further costs should be borne by employers. In the circumstances the existing arrangements should be declared fair and reasonable. Any extension of these provisions and entitlements should not impact on small business.

#### Sunday Trading

Motor Traders' Association of NSW seeks an amendment to the Shop Trading Act 2008 to prohibit motor dealers trading on Sunday. This is an important issue to motor dealers as this is causing a great difficulty in the sector to recruit quality sales staff. This also extends to the difficulty businesses have in retaining female sales staff who have families as working Sunday is difficult as no childcare facilities are available on Sundays.



## Superannuation

An effective superannuation system that encourages individuals to save for their retirement provides long term benefits for existing Australians as well as relieving the total tax burden on future generations. MTA supports tax and other incentives that encourage self employed and employees to provide for their own retirement. MTA accept that employers are obligated to provide a 9% contribution on behalf of employees.

### *Federal Issues*

#### Employer contribution levels

Contribution levels should not be increased beyond the existing 9%. Any contributions in excess of this level should be shared by government and employees. Any employer contribution above 9% should be in lieu of wage increases.

#### Payment of after tax superannuation contributions on behalf of employee

Timing of any after tax employee contributions made via employer deduction from wages should be submitted to the employee's superannuation fund at the time the employer contributions are made.

## Employee Retention

The industry and businesses within it strive to keep its skilled workers. Substantial costs go into training apprentices. These issues are magnified in regional NSW. More needs to be done to attract people into apprenticeship and to assist in retaining tradesman once the training is completed.

### *Federal & State Issues*

#### Regional Workplace Retention Bonus Scheme

MTA call on the NSW (and Federal) Government to introduce a regional workplace retention bonus scheme. This scheme would be for tradespeople, employed by employers in regional NSW, that have moved from apprenticeship to trade status. This bonus would become payable where an employee remains with the same employer for over 2 years beyond



qualification as a tradesperson. The bonus would be equivalent to the first home owners grant and would be used for the purpose of purchasing a home.

## Environment

MTA support policies and systems that are economically and operationally feasible, that provide environmentally sustainable outcomes. Government co-operation and assistance to support legislative framework is important to the longer term education and sustainability of viable systems in the retail motor industry small business environment. At the same time policies and strategies to reduce emissions and waste from motor vehicles should not place undue cost or compliance burdens on the retail motor industry.

### *Federal & State Issues*

#### Recycling & waste minimisation

Shared responsibility between consumer, industry and all levels of government for waste.

#### End of life vehicles

Policy supporting reconditioning and recycling of appropriate parts.

#### Alternative fuels

Yes but to levels recommended by manufacturers.

#### Leaking Underground Storage Tanks

A fund should be established by State and Federal Governments to pay for the cost of service station remediation when a site has been detected as leaking. At the Federal level, an increase in the fuel excise of 0.1 cpl would be sufficient to clean up 250 contaminated sites each year. State Governments would have access to the fund for remediation and would administer the program. The LUST fund should be based on the scheme operating in the USA.

#### Water Allocation Scheme

At present there is much debate in relation to a water allocation scheme that will add flow to the Murray River. The introduction of this scheme has the potential to decimate the economy of key regional areas such as the MIA. Businesses beyond the farming community will also be impacted. The Federal Government must ensure that businesses in the retail motor industry that suffer loss due to the introduction of any water allocation scheme are recompense for losses at the same level as farmers.



### E10 Mandate

The introduction of the E10 mandate should be deferred until there is sufficient ethanol manufacturing capacity in eastern states to ensure that vibrant competition can exist.

### Stage II Vapour Recovery

The requirement that medium sized existing service stations be retrofitted with Stage II vapour recovery equipment should be put on hold until the first round of installations have been in place for at least five years to determine the impact of them on air quality and future developments in the national vehicle fleet can also be fully assessed.

### Environmental Legislation Review

MTA is seeking a review of the air quality standards for Volatile Organic Compounds, VOC's, and would call upon a Liberal Party Government to legislate recommendations from a review conducted by the Department of Environment Climate Change and Water, DECCW.

## **Motor Vehicle and Fuel Theft**

Motor vehicle theft increases the cost of owning and running motor vehicles. MTA supports a united approach by Australian, State and Territory governments to reduce the incidence and cost of this activity. Fuel drive off theft needs to be dealt with more effectively.

### *Federal & State Issues*

#### National Statutory Write-off Vehicle Register

MTA supports the introduction of a nationally consistent and accessible written-off vehicle register. Such a register is an essential strategy to reduce the trade in stolen vehicles and the re-birthing of stolen vehicles.

### *State Issues*

#### Drive Offs

Driving off from service stations without paying for fuel taken into a vehicle should be treated by police the same way that shop lifting is treated. The perpetrator should be issued with an infringement notice.

This should also be the case in the event where vehicles are repaired and the vehicle owner or their representative takes a vehicle without paying for the repairs.

### *Federal Issues*



### Export of Stolen Vehicles/Parts

Increased measures should be taken to eradicate the export of stolen car parts and vehicles.  
Anti Theft ADR's

MTA supports the ongoing development of higher standards in Australian Design Rules designed to reduce theft capability including coding and identification strategies for car parts.

### Low Volume (Vehicle) Import Scheme

MTA support a system where all import application approvals issued by the government be restricted to licensed motor dealers. Any applications made by entities other than licensed motor dealers be restricted to one vehicle per annum.

## **Industry Skills and Training**

The MTA supports training that addresses the skill requirements of the industry. Flexibility in training delivery and entry are both important to having a system that is able to effectively respond to the changing skill needs and skill demands of the industry.

### *Federal & State Issues*

MTA supports the development of more flexible training options in response to existing skill shortage issues. MTA supports the greater use of school based apprenticeship and traineeship options.

Trade training completed should provide advanced standing towards further education (other qualifications) such as diploma and degree qualifications.

## **Tobacco Products Legislation**

### *State Issue*

The State Government should remove the ban on tobacco products displays at licensed retail establishments and should remove the ban on having only one cash register for the sale of tobacco products.

### *Federal Issue*

The Federal Government should not proceed with the proposal to mandate plain packaging of tobacco products, which are a vitally important component of service stations' sales and revenue mix.