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# Taxation Determination

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Income tax: does subsection 40-230(1) of the *Income Tax Assessment Act 1997* reduce the first element of the cost of a car designed mainly for carrying passengers by the amount of any input tax credit the taxpayer is or becomes entitled to for the acquisition or importation of the car before the car limit is applied?

**❶ This publication provides you with the following level of protection:**

This publication (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*. A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes. If you rely on this ruling, we must apply the law to you in the way set out in the ruling (or in a way that is more favourable for you if we are satisfied that the ruling is incorrect and disadvantages you, and we are not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

## Ruling

1. Yes. Subsection 40-230(1) of the *Income Tax Assessment Act 1997*<sup>1</sup> does reduce the first element of the cost of a car designed mainly for carrying passengers by the amount of any input tax credit the taxpayer is or becomes entitled to for the acquisition or importation of the car before the car limit is applied.<sup>2</sup>

## Example 1

2. A taxpayer, who is registered for GST purposes, purchases a car designed mainly for carrying passengers in July 2005. The car is acquired solely for a creditable purpose.

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<sup>1</sup> All legislative references in this Determination are to the *Income Tax Assessment Act 1997* unless otherwise stated.

<sup>2</sup> Generally, under section 69-10 of the *A New Tax System (Goods and Services Tax) Act 1999*, any input tax credit entitlement cannot exceed  $\frac{1}{11}$  of the car limit.

# TD 2006/40

3. The car had a purchase price of \$77,000. The car limit for the 2005-06 financial years is \$57,009. The first element of the cost of the car (\$77,000) is reduced by the input tax credit of \$5,182 (1/11 of \$57,009) that the taxpayer is entitled to for the acquisition of the car to \$71,818. As this amount exceeds the car limit, the first element of the cost of the car will be further reduced to the car limit of \$57,009.

## **Example 2**

4. The taxpayer referred to in Example 1 purchases another car designed mainly for carrying passengers in July 2005. The car is acquired solely for a creditable purpose.

5. The car had a purchase price of \$60,000. The car limit for the 2005-06 financial year is \$57,009. The first element of the cost of the car (\$60,000) is reduced by the input tax credit of \$5,182 (1/11 of \$57,009) that the taxpayer is entitled to for the acquisition of the car to \$54,818. As this does not exceed the car limit, the first element of the cost of the car will not be further reduced under section 40-230.

## **Date of effect**

6. This Determination applies to years of income commencing both before and after its date of issue. However, the Determination does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of the Determination.

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**Commissioner of Taxation**

31 May 2006

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## Appendix 1 – Explanation

**❶** *This Appendix is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.*

### Explanation

7. Subsection 40-230(1) reduces the first element of the cost of a car designed mainly for carrying passengers to the car limit for the financial year in which the taxpayer starts to hold the car if the car's cost exceeds that limit.<sup>3</sup> However, if the acquisition or importation of the car also constitutes a creditable acquisition or creditable importation, the first element of the cost of the car is first reduced under Subdivision 27-B by any input tax credit the taxpayer is or becomes entitled to for the acquisition or importation of the car.<sup>4</sup>

8. The use of the words 'after applying Subdivision 27-B' in subsection 40-230(1) ensure that:

- Subdivision 27-B applies first to reduce the first element of the cost of the car by the amount of any input tax credit to which the taxpayer is or becomes entitled for the acquisition or importation of the car; and
- that reduced cost is then further reduced to the car limit to the extent it exceeds that limit.

9. This ordering of the reductions to the first element of the cost of the car ensures that the reduction for any input tax credit does not apply after the first element of the cost of the car has been reduced to the car limit thereby reducing the first element of cost of the car below the car limit.

<sup>3</sup> The car limit for a financial year is indexed annually in accordance with Subdivision 960-M.

<sup>4</sup> Generally, under section 69-10 of the *A New Tax System (Goods and Services Tax) Act 1999*, any input tax credit entitlement cannot exceed  $\frac{1}{11}$  of the car limit.

## References

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*Previous draft:*

TD 2006/D11

*Subject references:*

- car limit
- cost adjustments
- cost of a depreciating asset
- first element of cost
- input tax credit entitlement

*Legislative references:*

- TAA 1953
  - ANTS(GST)A 1999 69-10
  - ITAA 1997 Subdiv 27-B
  - ITAA 1997 40-230
  - ITAA 1997 40-230(1)
  - ITAA 1997 Subdiv 960-M
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ATO references

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