

TR 93/D8 - Income tax: the value for depreciation purposes for a subsequent purchaser of a motor vehicle subject to the section 57AF luxury motor vehicle limit

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Draft Taxation Ruling

Income tax: the value for depreciation purposes for a subsequent purchaser of a motor vehicle subject to the section 57AF luxury motor vehicle limit

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Preamble

Draft Taxation Rulings (DTRs) represent the preliminary, though considered, views of the Australian Taxation Office. DTRs may not be relied on by taxation officers, taxpayers and practitioners. It is only final Taxation Rulings that represent authoritative statements by the Australian Taxation Office of its stance on the particular matters covered in the Ruling.

What this Ruling is about

Class of person/arrangement

1. Section 57AF of the *Income Tax Assessment Act 1936* (ITAA) limits the cost price of a motor vehicle available for depreciation for those who use motor vehicles to produce assessable income. Vehicles affected by this provision are usually referred to as luxury motor vehicles.
2. This Ruling examines the value of a previously owned (second hand) motor vehicle which will be accepted for depreciation purposes where the vehicle is subject to the monetary limits of section 57AF.
3. The Ruling applies only to arm's length transactions.

Ruling

4. Where a previously owned luxury motor vehicle is acquired the cost price for depreciation will be the purchase price subject to a section 57AF limitation.
5. The motor vehicle depreciation limit under subsection 57AF(2) is calculated by reference to the subsequent purchaser's year of first use and not any original owner's year of first use.
6. This Ruling applies whether or not the motor vehicle was previously depreciated and whether or not section 57AF applied to the motor vehicle.

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Date of effect

7. This Ruling applies to years commencing both before and after its date of issue. However, the Ruling does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Ruling (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Explanations

8. Section 57AF provides for a limit on the cost price for depreciation of motor vehicles usually referred to as luxury motor vehicles.

9. Subsection 57AF(2) provides that where the cost of a motor vehicle exceeds the motor vehicle depreciation limit in the year of first use by the taxpayer the depreciation allowable is limited to that year's motor vehicle depreciation limit. The provision refers to the year of first use and in respect of a subsequent purchaser the fact that another taxpayer has already had a year of first use in respect of that same motor vehicle is irrelevant.

10. In respect of previously depreciated property subsection 60(1) provides that a subsequent purchaser of an item of depreciable property is not entitled to a greater deduction than the original owner. Subsection 60(2) provides for the Commissioner to exercise a discretion that the provision not apply and the cost price for depreciation be calculated as if the purchaser were acquiring the property first hand.

11. In exercising the discretion under subsection 60(2) the Commissioner would not be influenced by the fact that a motor vehicle has previously been subject to the section 57AF limit. Accordingly, the actual cost of the motor vehicle to the subsequent purchaser can be considered for depreciation purposes.

12. The section 57AF motor vehicle depreciation limits are:

1984/85	\$25,342	1989/90	\$42,910
1985/86	\$26,660	1990/91	\$45,056
1986/87	\$29,646	1991/92	\$45,462
1987/88	\$34,775	1992/93	\$47,280
1988/89	\$39,331		

Examples

13. Mr Jones purchased a second hand 1988 BMW from The Luxury Car Company for \$50,000 during the 1991/92 financial year. The Commissioner will exercise a discretion under section 60. Therefore, the section 57AF motor vehicle cost limit will apply to the vehicle and Mr Jones would calculate his depreciation deductions based on a depreciable value of \$45,462 ie the 1991/92 limit.

14. Ms Happ leases a luxury motor vehicle, which cost \$80,000, from a finance company during the 88/89 financial year. Ms Happ, at a public auction, purchases the ex-lease vehicle for \$46,000 on 1/7/91. As the finance company purchased the vehicle in the 88/89 financial year, the company bases its depreciation deductions on the section 57AF limit of \$39,331. When Ms Happ purchases the motor vehicle in the 91/92 financial year, she bases her depreciation deductions on the 91/92 section 57AF limit of \$45,462 because the purchase price was in excess of the statutory limit for that year.

15. If the same circumstances in paragraph 14 exist, except that Ms Happ purchases the vehicle for \$43,000, depreciation deductions will be based on the purchase price of \$43,000. The section 57AF limit is not applicable.

Detailed contents list

16. Below is a detailed contents list for this draft Ruling:

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Commissioner of Taxation

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Previous draft:

Not previously released as a draft.

Subject references:

- cost limit

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- depreciated property
- depreciation
- luxury motor vehicles

Legislative references:

- ITAA 57 AF
- ITAA 60

ATO references:

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