

TD 93/D258 - Income tax: a wholesaler of computers loans demonstration computers ('demonstrators') to prospective purchasers (including retailers) on the basis of 'approval or return'. The wholesaler retains ownership at the time of providing the demonstrators. Are the demonstrators 'trading stock on hand' of the wholesaler for the purposes of subsection 28(1) of the Income Tax Assessment Act 1936?

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This document has been finalised by TD 95/48.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

Draft Taxation Determination

Income tax: a wholesaler of computers loans demonstration computers ('demonstrators') to prospective purchasers (including retailers) on the basis of 'approval or return'. The wholesaler retains ownership at the time of providing the demonstrators. Are the demonstrators 'trading stock on hand' of the wholesaler for the purposes of subsection 28(1) of the *Income Tax Assessment Act 1936*?

1. Yes, where at the end of the income tax year the prospective purchasers are still yet to contractually agree to the purchase of the demonstrators. This follows from the wholesaler acquiring the demonstrators for the purpose of sale or exchange and still retaining dispositive power over them. Income Tax Ruling IT 2670 provides an extensive discussion on the meaning of 'dispositive power'.
2. No, where at the end of the income tax year the prospective purchasers have agreed to purchase the demonstrators. This follows from the wholesaler now having entered into a contract of sale for the demonstrators and therefore no longer having the dispositive power.
3. Where the demonstrators are trading stock on hand as at the end of the income tax year, the value of each demonstrator will, at the option of the wholesaler, be its cost price, market selling value or replacement cost.
4. This determination also applies to other industries and taxpayers which lend out equipment under similar circumstances.

Example:

The wholesaler has 37 demonstrators with prospective purchasers at the close of business on 30 June. During the weeks prior to 30 June the wholesaler had been advised that 13 of these demonstrators would be purchased.

The tax return of the wholesaler will show 24 of the demonstrators as trading stock with the other 13 being treated as sales.

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings: IT 2670

Subject Ref: trading stock on hand

Legislative Ref: ITAA 6(1), 31(1)

Case Ref:

ATO Ref: CHA

ISSN 1038 - 8982