TD 94/D86 - Income tax: are second schedule charges incurred by a motor vehicle dealer, upon the acquisition from the manufacturer/importer of a new vehicle, components of cost price for the purposes of calculating the value of that vehicle in terms of subsection 31(1) of the Income Tax Assessment Act 1936 (the Act)?

This document has been finalised by TD 94/93.

Taxation Determination **TD 94/D86**

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Draft Taxation Determination

Income tax: are second schedule charges incurred by a motor vehicle dealer, upon the acquisition from the manufacturer/importer of a new vehicle, components of cost price for the purposes of calculating the value of that vehicle in terms of subsection 31(1) of the *Income Tax Assessment Act 1936* (the Act)?

1. Yes. The cost price of a new motor vehicle to a dealer includes all charges made by the manufacturer and/or its associated entities in delivering the motor vehicle to the dealer.

2. Second schedule charges include such items as dealer delivery charges, marketing and sales incentives, warranty charges, national advertising, transportation and freight charges. Second schedule charges are also known as retail dealer billings or column two expenses.

3. Some manufacturers and importers of new motor vehicles have adopted a practice of dividing the total amount charged for a new vehicle into two components. The greater amount charged, generally described as first schedule charges, relates to the amount upon which sales tax is ultimately payable. The remainder, generally described as second schedule charges, has no sales tax levied upon it.

4. It is common practice in the new motor vehicle retail industry to finance the total amount charged for the vehicle by the manufacturer/importer by the means of an arrangement known as a 'floor plan' agreement.

5. In *FC of T v. Suttons Motors (Chullora) Wholesale Pty Ltd* 85 ATC 4398; (1985) 16 ATR 567, the court commented on the question of 'cost price' in relation to new motor vehicles held by a company subject to a floor plan arrangement. It was stated in the majority decision (ATC at 4403; ATR at 574):

> 'The simple answer to that submission is that the "cost price" of the vehicles was what was in truth the wholesale purchase price described as the 'Hiring Amount' under the floor plan agreement which the taxpayer had agreed to pay on the purchase which would, as a matter of commercial reality, take place in due course.'

6. The 'Hiring Amount' referred to in the *Suttons Motors* case included the second schedule charges. Accordingly, the second schedule charges are considered to be so directly aligned or connected with the acquisition of the new motor vehicle that they represent a component of cost price for the purposes of subsection 31(1) of the Act.

7. Other factors taken into account in making this determination are:

(i) the charges are incurred by the dealer as the result of a contractual arrangement to acquire a new vehicle;
(ii) the charges are paid to the new vehicle manufacturer/importer, or an associate;
(iii) the charges are generally accounted for on the basis that they relate to a particular vehicle and are an unavoidable cost if a new vehicle is to be available for retail sale; and
(iv) on occasions when motor vehicle stock is transferred between dealers, the second schedule charges are transferred with the vehicle.

Example

Jocular Motors Pty Ltd, a dealer of the new Jaunty range of motor vehicles, takes delivery of a number of new vehicles. It receives an invoice for each vehicle. A typical invoice shows the final amount owed as divided into two categories:

First schedule charges	*$11,000*
Second schedule charges	*$ 1,500*

Assuming that there are no additional costs in getting the vehicles to their showroom location then the cost price of each vehicle for the purposes of subsection 31(1) would be $12,500 i.e., the total of the first and second schedule charges.

Commissioner of Taxation
11/8/94

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