

IT 2087 - Income tax : forward purchase contracts : part of consideration paid to stakeholder

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TAXATION RULING NO.IT 2087

INCOME TAX : FORWARD PURCHASE CONTRACTS : PART OF
CONSIDERATION PAID TO STAKEHOLDER

F.O.I. EMBARGO: May be released

REF

H.O. REF: J 35/567 P13 F178

DATE OF EFFECT:

B.O. REF: SYDNEY 27/B1 4054 DATE ORIG. MEMO ISSUED: 16/12/83

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1089794	ASSESSABLE INCOME:	25(1)
	LOSSES & OUTGOINGS	51(1)
	INCURRED	
	FORWARD PURCHASE	
	CONTRACTS - PART OF	
	PURCHASE PRICE	
	PAID TO STAKEHOLDER	

PREAMBLE

An enquiry recently dealt with in this office involved, amongst other things, consideration of the correct income tax treatment to be accorded to contractual arrangements to purchase goods to be delivered in the future.

2. In the particular circumstances the contractual arrangements required the vendor to supply goods at future dates extending over a period of years. Although the purchase price was payable on the signing of the contract the vendor was required under the terms of the contract to deposit a specified percentage of the purchase price with a stakeholder. The vendor could then draw against the stakeholder as and when goods were delivered. In the event of non-delivery by the vendor any balance of the purchase money held by the stakeholder would be refunded to the purchasers.

3. It was claimed on behalf of the purchaser that the contract price paid on signing of the contract was an allowable income tax deduction in the year of payment, i.e. it represented a loss or outgoing incurred in that year.

4. It was the response of this office, however, that the payment of the purchase price on the signing of the contract did not represent a loss or outgoing incurred in the year of payment in the sense required by sub-section 51(1). In the light of the totality of the contractual arrangements the holding of a specified proportion of the purchase price by the stakeholder was in effect the creation of a fund by the purchaser from which the goods could be paid for as and when they were delivered in the future. A loss or outgoing would be incurred by the purchaser in terms of sub-section 51(1), i.e. a liability would come home to the purchaser in each year of income when goods were delivered to him. Correspondingly assessable income would be derived by the vendor as and when he

became entitled to payment for the delivery of goods.

RULING 5. In practical terms income tax deductions will be allowed to the purchaser and assessable income derived by the vendor when amounts are released by the stakeholder to the vendor.

COMMISSIONER OF TAXATION
25 JUNE 1984