# *IT 2207 - Income tax: F.C of T. v Suttons Motors (Chullora) Wholesale Pty Ltd - decision of High Court of Australia*

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# TAXATION RULING NO. IT 2207

INCOME TAX : F.C. OF T. v SUTTONS MOTORS (CHULLORA) WHOLESALE PTY LTD
DECISION OF HIGH COURT OF AUSTRALIA

F.O.I. EMBARGO: May be released

REF H.O. REF: 81/5796 Pt.2 DATE OF EFFECT: Immediate
85/4346-1

B.O. REF: DATE ORIG. MEMO ISSUED: 26 August 1985
28 October 1985

F.O.I. INDEX DETAIL

| REFERENCE NO: | SUBJECT REFS: | LEGISLAT. REFS: |
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| I 1199680 | TRADING STOCK VALUATION ADJUSTMENT | 82D |

FACTS Decision in the abovementioned case was given by the High Court on 11 July 1985. The case involved a claim by the company for a trading stock valuation adjustment deduction in the year ended 30 June 1977. The trading stock valuation adjustment deduction applied only in the years ended 30 June 1977 to 1979 inclusive.

2. The company was a member of a group of companies engaged in selling new motor vehicles. Its entitlement to the deduction claimed depended upon whether certain vehicles in its possession at the beginning of the year ended 30 June 1977 under the terms of a floor plan arrangement were trading stock on hand at the beginning of the year. The Court held that they were.

3. Under the terms of the floor plan arrangement title to the vehicles held by the company at the beginning of the year ended 30 June 1977 under the arrangement had not passed to the company. Title to the vehicles did not pass until the company had paid the wholesale price to the motor vehicle supplier. Usually this occurred within a day or two of the sale of a vehicle to a retail customer. It was argued for the Commissioner that the particular vehicles could not be trading stock because, at the beginning of the year ended 30 June 1977, the company had not made any payment in relation to them nor was it the owner of them or under any legally enforceable obligation to purchase them.

4. In deciding the matter in favour of the company the Court found that, at the commencement of the year ended 30 June 1977, the particular vehicles were in the possession of and at the risk of the company under the terms of the floor plan arrangement. Furthermore, the company was carrying on a business and the particular vehicles were in the process of being acquired by the company from the supplier and were held on hand in the possession of the company so as to be immediately

available to be sold at any time in the ordinary course of the business. For these reasons the Court concluded that the particular vehicles were, at the beginning of the year, stock-in-trade held by the company on hand in relation to its business.

RULING

5. There are a number of undetermined objections and appeals awaiting the decision of the High Court in this case. The decision is to be applied to resolve outstanding cases where the trading arrangements are comparable to those to which the decision of the High Court relates.

6. It is necessary to emphasise that the trading stock valuation adjustment deduction applies only to items which represent trading stock. It appears that some motor vehicle dealers, who have outstanding objections or appeals on this matter, may have based claims for trading stock valuation adjustment deductions not only on motor vehicles held under floor plan arrangements at the beginning of a relevant year but also on motor vehicles in transit from the supplier under the arrangements at the beginning of the year. Motor vehicles in transit in these circumstances are not accepted as trading stock on hand. Motor vehicle dealers in this category should amend their claims accordingly and provide appropriate advice to the Taxation Office where their returns of income are lodged.

7. In returns of income for the year ended 30 June 1986 and subsequent years the value of motor vehicles held by motor vehicle dealers under floor plan arrangements at the beginning and end of the year should be disclosed as trading stock on hand at the beginning and end of the year.

COMMISSIONER OF TAXATION
13 November 1985

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