IT 2325 - Income tax : deduction for cost of motor vehicles under floor plan arrangements

TAXATION RULING NO. IT 2325

INCOME TAX : DEDUCTION FOR COST OF MOTOR VEHICLES UNDER FLOOR PLAN ARRANGEMENTS

F.O.I. EMBARGO: May be released

REF H.O. REF: 85/8945-3 DATE OF EFFECT: Immediate

B.O. REF: DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1209321	TRADING STOCK PURCHASE OF MOTOR VEHICLES	51(1)

PREAMBLE Taxation Ruling No. IT 2207 comments upon the application of the decision of the High Court in FCT v Suttons Motors (Chullora) Wholesale Pty Ltd, 85 ATC 4398; 16 ATR 567. The final paragraph of the ruling states:

> "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."

2. Since the issue of that ruling a number of enquirers have asked when motor vehicle dealers, who acquire motor vehicles under floor plan arrangements, are entitled to deductions under sub-section 51(1) of the Income Tax Assessment Act 1936 for expenditure incurred in acquiring the vehicles.

3. The reason for the enquiries stems probably from the nature of floor plan arrangements. As the decision in the Suttons Motors case indicates it appears to be the settled practice in floor plan arrangements that payment for a motor vehicle by a dealer is not made until the vehicle is sold by the dealer to a retail customer. In the light of the settled practice it may be thought that an income tax deduction for the cost of motor vehicles acquired under floor plan arrangements does not arise until a vehicle has been sold to a retail customer, i.e. in terms of sub-section 51(1) a loss or outgoing has not been incurred before that time.

4. If this were the case it would produce the anomalous situation that the value of motor vehicles held under floor plan arrangements at the end of a year would not be offset by an income tax deduction for the cost of the vehicles. This would be contrary to normal income tax and accounting practices and would result, it is thought, in the taxable income for a year calculated on this basis not being a true reflex of the earnings of a motor vehicle dealer. It may produce the

corresponding anomalous situation that the value of motor vehicles held under floor plan arrangements at the beginning of the year would effectively be allowed as an income tax deduction and the dealer would be able to claim an additional deduction when he sold the vehicles to retail customers.

RULING

5. Although this question was not a matter which the High Court was called upon to decide in the Suttons Motors case it was referred to, in a sense, in the majority decision. At page 4401, 75 ATC; page 571, 16 ATR the following passage appears:

> "The Suttons Group's liability to pay this "charge" (a reference to the interest factor payable to G.M.A.C.) and the settled course of dealing combined to produce a situation where, as a matter of commercial substance as distinct from strict legal obligation, the taxpayer was effectively committed to the ultimate purchase of the particular vehicle from the time it took delivery ----------." (underlining added)

6. Later on in the decision, in response to a submission on behalf of the Commissioner that the floor plan vehicles had no "cost price" because at the commencement of the tax year Suttons Motors had neither paid nor incurred a binding legal obligation to pay any price for them, it is said:-

> "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 a "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."

7. The term "incurred" in sub-section 51(1) has been the subject of much judicial consideration. For present purposes it is sufficient to say that it does not require actual payment - what is required is that, in the particular year of income, the taxpayer should have definitely committed himself to the outgoing. In the light of the quoted observations from the decision in the Suttons Motors case it is to be taken that dealers operating under floor plan arrangements incur expenditure in acquiring motor vehicles when they take delivery of the motor vehicles. Income tax deductions under sub-section 51(1) for the cost of the motor vehicles will be allowable, therefore, in the year in which delivery occurs.

8. The conclusion that income tax deductions for the costs of motor vehicles acquired under floor plan arrangements are allowable in the year of delivery removes the anomalies referred to earlier. In particular it means that there is no scope for double deductions in the year ended 30 June 1986, i.e. for the opening value of motor vehicles held under floor plan arrangements and for the subsequent payment for the vehicles.

9. It is also stated in Taxation Ruling No. IT 2207 that motor vehicles in transit under floor plan arrangements are not

accepted as trading stock on hand. In the light of the conclusion reached in this Ruling an income tax deduction for the cost of motor vehicles in transit under floor plan arrangements would not be allowable until delivery had taken place.

COMMISSIONER OF TAXATION
24 June 1986

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