IT 2472 - Income tax : whether goods on consignment are trading stock

This cover sheet is provided for information only. It does not form part of *IT 2472 - Income tax : whether goods on consignment are trading stock*

TAXATION RULING NO. IT 2472

INCOME TAX : WHETHER GOODS ON CONSIGNMENT ARE TRADING STOCK

F.O.I. EMBARGO: May be released

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

B.O. REF: 27/B13/AF1931/2 DATE ORIG. MEMO ISSUED: 22.1.88

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1019834	TRADING STOCK GOODS ON CONSIGNMENT	28 51(1)

OTHER RULINGS ON TOPIC: IT 2207 : IT 2325

PREAMBLE This Ruling considers the question of whether goods on consignment are to be treated as trading stock of the consignee.

2. In a recent audit conducted by a Branch Office, difficulties were encountered in applying subsection 51(1) of the Income Tax Assessment Act in conjunction with section 28. The audited taxpayer was a public company whose activities included trading in and manufacturing building products and floorings. An overseas firm supplied the taxpayer with many items of trading stock including some items under a stock on consignment arrangement.

3. In the case of the shipments to Australia, stock on consignment was treated differently from normally charged stock. Once on the taxpayer's premises, the stock on consignment was held amongst other trading stock until sold in the ordinary course of business. However, payment was not required for the stock on consignment until after its sale when upon being notified of the sales for the month, the overseas firm invoiced the taxpayer. The overseas firm had no control over the disposal of the stock on consignment once received by the taxpayer.

4. Questions arose concerning the point in time when a deduction should be allowed to the taxpayer for the purchase of the stock and whether it should be brought to account as trading stock on hand at the end of the year of income.
One suggestion was that a deduction for the cost of purchase of the stock on consignment was not incurred until the time it was sold by the taxpayer, but that the decision of the High Court in FC of T v Sutton Motors (Chullora) Wholesale Pty Ltd 157 CLR 277, required the taxpayer to account for its value under section 28 as stock on hand as at the end of the year of income.

5. It was recognised that this approach would place the taxpayer in the anomalous position of acquiring trading stock and being obliged to account for its value under section 28 but not obtaining, in the same year, a corresponding deduction for

purchases under section 51. Further, in the year in which the stock on consignment would be sold, a double deduction would be obtained through the opening stock on hand value and a deduction for purchases.

RULING 6. On the facts outlined above, where a sale to the consignee is contemplated the commercial realities of the arrangements should be given due recognition.

7. In considering the taxation treatment of stock on consignment it is important to distinguish between situations involving a sale to the consignee and those involving a sale by the consignee. As pointed out by Jackson J. in Universal Guarantee Pty Ltd v Metters Limited (1966) WAR 74, at page 79.

> "It is true that some difficulty and confusion arises through the use of the phrase 'on consignment' which is ordinarily used in commercial transactions in reference to the delivery of goods to an agent for sale by him on behalf of the consignor as principal. But the phrase need not necessarily bear this meaning. It is frequently used where goods are delivered 'on approval' or 'on sale or return' where a sale to and not by the consignee is contemplated. But to 'consign' is literally to 'deliver' goods and the purpose of the delivery must be ascertained in each case according to the particular facts".

8. Where stock on consignment refers to the delivery of goods to an agent for sale by the agent on behalf of the consignor as principal, the goods never become part of the trading stock of the consignee. The goods remain the trading stock of the consignor with the consignee being paid commission for any sales made on behalf of the consignor.

9. On the other hand, where goods are delivered to the consignee "on approval" or "on sale or return" and a sale to the consignee is contemplated, it could well be that, like the Suttons Motors case, the consignee is effectively committed to the ultimate purchase of the particular goods from the time of their delivery.

10. The purpose of the delivery of the goods on consignment must be ascertained according to the facts of each particular case. However, it may generally be accepted that consignments involving the sale of goods to the consignee require the approach adopted in the Suttons Motors case. Deductions should therefore be allowed to the consignee for the cost of the goods as at the date of delivery and the goods should be included as trading stock on hand of the consignee.

COMMISSIONER OF TAXATION
12 May 1988