IT 2668 - Income tax: barter and countertrade transactions

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There is an Addendum notice for this document.

This ruling contains references to repealed provisions, some of which may have been rewritten. The ruling still has effect. Paragraph 32 in TR 2006/10 provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.

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FOI INDEX DETAIL

Reference no.:	Subject refs:	Legislative refs:
I 1013044	**BARTER TRANSACTIONS** **COUNTERTRADE TRANSACTIONS**	**21** **21A** **23L** **25** **51** **160B** **Income Tax Reg 58** **FBTAA** **STAA** **Sales Tax Reg 30**

OTHER RULINGS ON THIS TOPIC:

TITLE: INCOME TAX: BARTER AND COUNTERTRADE TRANSACTIONS

NOTE: . Income Tax Rulings do not have the force of law.

. Each decision made by the Australian Taxation Office is made on the merits of each individual case having regard to any relevant Ruling.

PREAMBLE

The purpose of this Ruling is to set out this Office's views on:

(a) When does a barter or countertrade transaction give rise to assessable income;

(b) What monetary value should be placed on barter or countertrade transactions;

(c) When does a barter or countertrade transaction give rise to an allowable deduction;

(d) Sales tax implications.

2. In its simplest form, bartering involves the direct exchange of goods or services for other goods or services without reference to money or a money value. Barter may occur between two people on a private basis, e.g., neighbours may exchange produce grown for their own consumption. Bartering may also occur in the commercial field, e.g., a firm may agree to purchase goods or services from another firm provided its own products are taken in exchange, either in full or partial satisfaction of the purchase price. Of course, a combination of both the above situations may also occur, that is, barter between a firm and a private individual.

At one end of the spectrum, barter may arise through both parties subscribing to a barter directory (a published listing of goods and services available for barter) and identifying a mutual need. At the other end of the spectrum, multinational companies may barter "big-ticket" items to conserve cash flow.

3. In recent times more refined forms of barter have arisen in the marketplace both locally and internationally. Referred to in this Ruling as countertrading, these arrangements are typically controlled by member only organisations where credit units have become the medium of exchange. These countertrade organisations vary in their degree of sophistication, from community-based organisations to large business-oriented organisations.

4. The membership of the community-based countertrade organisations generally consists of private individuals and usually these organisations are run on a non-profit basis. The membership of the business-oriented countertrade organisations generally consists wholly of businesses and these organisations are usually run for profit. These business-oriented countertrade organisations are often referred to as trade exchanges. Countertrade organisations have a record-keeping function with most having detailed computer records of members' transactions. These records will assist this Office in ensuring a high level of tax compliance is maintained by these organisations and their members.

5. The principles set out in this Ruling are intended to apply to all forms of barter and countertrade transactions.

RULING

Assessable Income

6. Subsection 25(1) of the Income Tax Assessment Act 1936 ("the Act") requires that all income derived by a taxpayer, other than exempt income and certain termination payments (assessable under other provisions of the Act), shall be included in the assessable income of the taxpayer.

7. The extent to which the consideration received or receivable during a barter or countertrade transaction (either in terms of cash, credit units, goods or services) represents assessable income under subsection 25(1) depends upon the nature of the consideration in the hands of the recipient. The essential principle when dealing with barter or countertrade transactions is that these transactions are assessable and deductible only to the same extent as a similar cash or credit transaction. Similarly, timing principles for the derivation of income and the incurring of expenditure that apply to cash or credit transactions apply equally to barter and countertrade transactions.

8. Consideration received by non-employees for personal services rendered constitutes assessable income in terms of subsection 25(1). For example, where a self-employed tradesman receives a non-cash benefit in payment for services rendered, the

value of that benefit will be assessable income. Consideration which forms part of a business or is received in satisfaction of a business obligation constitutes assessable income of the business and falls within subsection 25(1). For example, where a local hardware store accepts the provision of services for part or full payment against the purchase of a piece of plant, the value of those services is assessable income. However, where the total of any non-cash business benefits do not exceed $300 in any one income year, no amount would be assessable income under subsection 25(1) as these benefits are exempted by virtue of section 23L of the Act.

9. Consideration received by employees (other than in cash) for services rendered falls within the provisions of the Fringe Benefits Tax Assessment Act 1986. For example, where the award amount of an employee's remuneration is paid in cash and the over-award amount of the remuneration is paid by way of credit units through a countertrade organisation, the cash payment is assessable to the employee while the value of the credit units is assessable (under the Fringe Benefits Tax Assessment Act) to the employer.

10. It has also been noted that some businesses, through business-oriented countertrade organisations, have been issuing trade discounts by way of vouchers with a specified credit unit value. The value of these vouchers becomes assessable income in the hands of the recipient at the time the conditions attached to the voucher have been fulfilled. For example, where a trading business issues a voucher which is valid only if the trader's account is paid within 30 days and the customer does not make the necessary payment within 30 days, no amount would be assessable to the customer. Nor, of course, would any deduction be allowable to the trader. If, on the other hand, the account was paid within the 30 days, the customer would be assessable on the value of the voucher at the time the account was paid. The trader would similarly be entitled to a deduction for the same value at that time.

11. By way of contrast, consideration which is merely the proceeds of a hobby, pastime, domestic or social arrangement, or the receipt of a windfall gain would not fall within the concept of income in subsection 25(1). For example, neighbours who exchange some home-grown vegetables over the back fence will not have derived income in terms of subsection 25(1). Also, benefits derived from the use of informal babysitting clubs would not fall for assessment under subsection 25(1). It is noted that a large proportion of transactions made through community-based countertrade organisations would not fall within the concept of income in subsection 25(1). Only those transactions within these organisations which arise from the carrying on of a business or the provision of skilled services would generally fall for consideration as assessable income.

12. It is also necessary, if the consideration from a barter or countertrade transaction is to fall within the concept of income in subsection 25(1), that the consideration be received or

receivable as money, in the form of money's worth or in a form which can be employed in the acquisition of some other right or commodity (F.C. of T. v. Cooke & Sherden 80 ATC 4140; 10 ATR 696). The consideration from a barter transaction would, in most cases, be in the form of money's worth (either inherently or as a result of section 21 or section 21A of the Act deeming the consideration to be convertible to cash). The consideration from a countertrade transaction (credit units) would fall within the form which can be employed in the acquisition of some other right or commodity.

13. Where the consideration received during a barter or countertrade transaction is not assessable under subsection 25(1) but the transaction involves the disposal or acquisition of an asset, the capital gains provisions of Part IIIA of the Act may apply. It is noted, however, that many of these transactions may involve "non-listed personal use assets" (as defined in section 160B of the Act) where the consideration is less than $5000. The disposal of these assets will not be affected by the capital gains provisions. For example, where a taxpayer exchanges a guitar for another taxpayer's record collection of a similar value (both being less than $5000), and the exchange is not otherwise part of a business transaction, no capital gains tax consequences would arise.

Valuation

14. The consideration from barter or countertrade transactions would fall to be valued as either the money value (section 21 of the Act) or the arm's length value (section 21A of the Act) of that consideration.

15. As a general rule when valuing the consideration arising from barter or countertrade transactions, this Office will accept a fair market value as adequately reflecting the money value or arm's length value, as applicable. In most cases, this Office will accept as a fair market value, the cash price which the taxpayer would normally have charged a stranger for the services or for the sale of the goods or property. However, in the case of a business-oriented countertrade organisation, this Office will deem the fair market value of each of their credit units to equal one Australian dollar unless it can be shown that the organisation's credit units are being traded consistently at a different value.

Deductions

16. This Office accepts, on the valuation basis mentioned in paragraph 15, that deductions under section 51 and other sections of the Act would be available where those sections would otherwise apply to similar cash transactions. For example, where a computer sales business gives a painter a computer in consideration for the painter's services in repainting the business premises, the arm's length value of the computer would be an allowable deduction to the computer sales business.

17. It is noted that business-oriented countertrade organisations levy a number of charges and fees on their members. The extent to which these charges or fees are allowable deductions will depend upon the application of subsection 51(1) of the Act. In most cases, recurring fees such as service and transaction fees, where they relate directly to business transactions (as opposed to private transactions), would be deductible expenses. Joining fees are considered to be capital in nature and not deductible under subsection 51(1). These fees are usually one-off payments which give the member access to the countertrade organisation's services and to new areas of opportunity for trade.

Sales Tax

18. To the extent that a barter or countertrade transaction of goods takes place before the goods have passed their taxing point, for example, upon the last wholesale sale of locally manufactured goods or goods imported into Australia, the goods are liable to sales tax in the same way as they would have been if the goods had been sold or imported in the conventional manner. The bartering or countertrading of goods which have already passed their taxing point (and this is the more usual situation) would not have any sales tax implications.

Payment of Tax

19. The form in which tax may be paid is set out in Regulation 58 of the Income Tax Regulations and Regulation 30 of the Sales Tax Regulations. Broadly, these forms are cash, cheques, bank notes, bank drafts, money orders, postal notes or tax stamps. Credit units arising from barter and countertrade transactions are not acceptable forms of payment.

Date of Effect

20. As this Ruling does not deal with new legislation or any changes in Office policy, it may be applied to transactions entered into both before and after the date of issue of this Ruling.

COMMISSIONER OF TAXATION
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