




TD 95/48 - Income tax: a wholesaler of computers lends demonstration computers ('demonstrators') to prospective purchasers (excluding retailers) on the basis of 'approval, exchange or return' or to retailers for display purposes only. The wholesaler retains ownership at the time of providing the demonstrators. The demonstrators are not on consignment. Are the demonstrators 'trading stock' of the wholesaler for the purposes of subsection 6(1) and 'trading stock on hand' of the wholesaler for the purposes of subsection 28(1) of the Income Tax Assessment Act 1936 ('the Act')?

 This cover sheet is provided for information only. It does not form part of *TD 95/48 - Income tax: a wholesaler of computers lends demonstration computers ('demonstrators') to prospective purchasers (excluding retailers) on the basis of 'approval, exchange or return' or to retailers for display purposes only. The wholesaler retains ownership at the time of providing the demonstrators. The demonstrators are not on consignment. Are the demonstrators 'trading stock' of the wholesaler for the purposes of subsection 6(1) and 'trading stock on hand' of the wholesaler for the purposes of subsection 28(1) of the Income Tax Assessment Act 1936 ('the Act')?*

 This ruling contains references to repealed provisions, some of which may have been rewritten.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in [TR 2006/10](#) provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.

 This document has changed over time. This is a consolidated version of the ruling which was published on 29 November 2006



This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Income tax: a wholesaler of computers lends demonstration computers ('demonstrators') to prospective purchasers (excluding retailers) on the basis of 'approval, exchange or return' or to retailers for display purposes only. The wholesaler retains ownership at the time of providing the demonstrators. The demonstrators are not on consignment. Are the demonstrators 'trading stock' of the wholesaler for the purposes of subsection 6(1) and 'trading stock on hand' of the wholesaler for the purposes of subsection 28(1) of the *Income Tax Assessment Act 1936* ('the Act')?

1. Yes, where at the end of the income tax year the prospective purchasers are still yet to contractually agree to the purchase of the demonstrators or the retailers still hold them for display purposes only. This follows from the wholesaler acquiring the demonstrators for the purpose of sale or exchange and still retaining dispositive power over them. Taxation Ruling IT 2670 provides an extensive discussion on the meaning of 'dispositive power'.
2. No, where at the end of the income tax year the prospective purchasers have agreed to purchase the demonstrators or the retailer now has dispositive power. This follows from the wholesaler now having entered into a contract of sale or consignment for the demonstrators and therefore no longer having the dispositive power.
3. Demonstrators lent out on a consignment basis would be subject to Taxation Ruling IT 2472.
4. This Determination also applies to other industries and taxpayers which lend out equipment under similar circumstances.

Example

The wholesaler has 37 demonstrators with prospective purchasers and 18 with retailers for display only purposes at the close of business on 30 June. During the weeks prior to 30 June the

wholesaler had been advised that 13 of these demonstrators with prospective purchasers would be purchased and has entered agreements with retailers to dispose of 8 display only demonstrators.

The tax return of the wholesaler will show at least 34 of the demonstrators $[(37-13)+(18-8)]$ as trading stock since the dispositive power is still retained over these demonstrators. The value of the trading stock will be valued, at the wholesaler's option, at cost price, market selling price (which would be its second-hand or used value as at 30 June) or its replacement price in accordance with subsection 31(1) of the Act.

Commissioner of Taxation

30/08/95

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Related Determinations:

Related Rulings: IT 2472; IT 2670

Subject Ref: trading stock; trading stock on hand

Legislative Ref: ITAA 6(1); ITAA 28(1); ITAA 31(1)

Case Ref:

ATO Ref: CWD 264; NAT 95/6111-1

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