


TD 95/48A - Addendum - 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)??

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Addendum

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)?

This Addendum amends Taxation Determination TD 95/48 to reflect the changes to the law caused by the repeal of inoperative provisions.

Taxation Determination TD 95/48 is amended as follows:

1. Title

- (a) Omit 'subsection 6(1)'; substitute 'section 70-10 of the *Income Tax Assessment Act 1997*'.
- (b) Omit 'subsection 28(1) of the *Income Tax Assessment Act 1936* ('the Act')'; substitute 'section 70-35 of that Act'.

2. Example

Omit the Example (including heading); substitute:

Example

5. *The wholesaler has 37 demonstrators with prospective purchasers and 18 demonstrators with retailers for display only purposes at the close of business 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.*

6. *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, market selling value (which would be its second-hand or used value as at 30 June) or its replacement value in accordance with subsection 70-45(1) of the Income Tax Assessment Act 1997.*

3. Legislative references

Omit the references; substitute:

ITAA 1997; ITAA 1997 70-10; ITAA 1997 70-35; ITAA 1997 70-45(1)

This Addendum applies on and from 1 July 1997.

Commissioner of Taxation

23 June 2010

ATO references

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ATOlaw topic: Income Tax ~~ Trading stock and work in progress