


TD 2006/D11 - Income tax: does subsection 40-230(1) of the Income Tax Assessment Act 1997 reduce the first element of the cost of a car designed mainly for carrying passengers by the amount of any input tax credit the taxpayer is or becomes entitled to for the acquisition or importation of the car before the car limit is applied?

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This document has been finalised by TD 2006/40.



Draft Taxation Determination

Income tax: does subsection 40-230(1) of the *Income Tax Assessment Act 1997* reduce the first element of the cost of a car designed mainly for carrying passengers by the amount of any input tax credit the taxpayer is or becomes entitled to for the acquisition or importation of the car before the car limit is applied?

❶ This Ruling provides you with the following level of protection:

This publication is a draft for industry and professional comment. It represents the Commissioner's preliminary view about the way in which a relevant taxation provision applies, or would apply to entities generally or to a class of entities in relation to a particular scheme or a class of schemes. You can rely on this publication (excluding appendices) to provide you with protection from interest and penalties in the way explained below. If a statement turns out to be incorrect and you under-pay your tax as a result, you will not have to pay a penalty. Nor will you have to pay interest on the under-payment provided you reasonably relied on the publication in good faith. However, even if you don't have to pay a penalty or interest, you will have to pay the correct amount of tax provided the time limits under the law allow it.

Ruling

1. Yes. Subsection 40-230(1) of the *Income Tax Assessment Act 1997*¹ does reduce the first element of the cost of a car designed mainly for carrying passengers by the amount of any input tax credit the taxpayer is or becomes entitled to for the acquisition or importation of the car before the car limit is applied.

Example 1

2. A taxpayer, who is registered for GST purposes, purchases a car designed mainly for carrying passengers in July 2005. The car is acquired solely for a creditable purpose.

3. The car had a purchase price of \$77,000. The car limit for the 2005-06 financial years is \$57,009. The first element of the cost of the car (\$77,000) is reduced by the input tax credit of \$5,182 (1/11 of \$57,009) that the taxpayer is entitled to for the acquisition of the car to \$71,818. As this amount exceeds the car limit, the first element of the cost of the car will be further reduced to the car limit of \$57,009.

¹ All legislative references in this Determination are to the *Income Tax Assessment Act 1997* unless otherwise stated.

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Example 2

4. *The taxpayer referred to in Example 1 purchases another car designed mainly for carrying passengers in July 2005. The car is acquired solely for a creditable purpose.*

5. *The car had a purchase price of \$60,000. The car limit for the 2005-06 financial year is \$57,009. The first element of the cost of the car (\$60,000) is reduced by the input tax credit of \$5,182 (1/11 of \$57,009) that the taxpayer is entitled to for the acquisition of the car to \$54,818. As this does not exceed the car limit, the first element of the cost of the car will not be further reduced under section 40-230.*

Date of effect

6. When the final Determination is issued, it is proposed to apply both before and after its date of issue. However, the Determination will not apply to taxpayers to the extent that it conflicts with the terms of 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).

Commissioner of Taxation

1 March 2006

Appendix 1 – Explanation

① *This Appendix is provided as information to help you understand how the Commissioner's preliminary view has been reached. It does not form part of the proposed binding public ruling.*

Explanation

7. Subsection 40-230(1) reduces the first element of the cost of a car designed mainly for carrying passengers to the car limit for the financial year in which the taxpayer starts to hold the car if the car's cost exceeds that limit.² However, if the acquisition or importation of the car also constitutes a creditable acquisition or creditable importation, the first element of the cost of the car is first reduced under Subdivision 27-B by any input tax credit the taxpayer is or becomes entitled to for the acquisition or importation of the car.³

8. The use of the words 'after applying Subdivision 27-B' in subsection 40-230(1) ensure that:

- Subdivision 27-B applies first to reduce the first element of the cost of the car by the amount of any input tax credit to which the taxpayer is or becomes entitled for the acquisition or importation of the car; and
- that reduced cost is then further reduced to the car limit to the extent it exceeds that limit.

9. This ordering of the reductions to the first element of the cost of the car ensures that the reduction for any input tax credit does not apply after the first element of the cost of the car has been reduced to the car limit thereby reducing the first element of cost of the car below the car limit.

² The car limit for a financial year is indexed annually in accordance with Subdivision 960-M.

³ Generally, under section 69-10 of the *A New Tax System (Goods and Services Tax) Act 1999*, any input tax credit entitlement cannot exceed $\frac{1}{11}$ of the car limit.

Appendix 2 – Your comments

10. We invite you to comment on this draft Taxation Determination. Please forward your comments to the contact officer by the due date. (Note: The Tax Office prepares a compendium of comments for the consideration of the relevant Rulings Panel. The Tax Office may use a sanitised version (names and identifying information removed) of the compendium in providing its responses to persons providing comments. Please advise if you do not want your comments included in a sanitised compendium.)

Due date: 31 March 2006

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References

Previous draft:

Not previously issued as a draft

- input tax credit entitlement
- uniform Capital allowances system

Related Rulings/Determinations:

TR 92/20

Legislative references:

- ANTS(GST)A 1999 69-10
- ITAA 1997 Subdiv 27-B
- ITAA 1997 40-230
- ITAA 1997 40-230(1)
- ITAA 1997 Subdiv 960-M

Subject references:

- car limit
- cost adjustments
- cost of a Depreciating asset
- first element of cost

ATO references

NO: 2006/2478

ISSN: 1038-8982

ATOlaw topic: Income Tax ~~ Capital allowances ~~ cost of depreciating assets