



# ***TR 93/24 - Income tax: the value for depreciation purposes for a subsequent purchaser of a motor vehicle subject to the section 57AF luxury motor vehicle limit***

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 This document has changed over time. This is a consolidated version of the ruling which was published on *29 July 1993*



## Taxation Ruling

Income tax: the value for depreciation purposes for a subsequent purchaser of a motor vehicle subject to the section 57AF luxury motor vehicle limit

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*This Ruling, 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 Ruling is a public ruling and how it is binding on the Commissioner.*

## What this Ruling is about

1. Section 57AF of the *Income Tax Assessment Act 1936* (ITAA) limits the cost price of a motor vehicle available for depreciation for those who use motor vehicles to produce assessable income. Vehicles affected by this provision are usually referred to as luxury motor vehicles.
2. This Ruling examines the value of a previously owned (second-hand) motor vehicle which will be accepted for depreciation purposes where the vehicle is subject to the monetary limits of section 57AF.
3. The Ruling applies only to parties dealing with each other at arm's length.

## Ruling

4. Where a previously owned luxury motor vehicle is acquired the cost price for depreciation will be the purchase price subject to a section 57AF limitation.
5. The motor vehicle depreciation limit under subsection 57AF(2) is calculated by reference to the subsequent purchaser's year of first use and not any original owner's year of first use.
6. This Ruling applies whether or not the motor vehicle was previously depreciated and whether or not section 57AF applied to the motor vehicle.

# TR 93/24

## Date of effect

7. This Ruling (that is, the final Taxation Ruling based on this Draft Taxation Ruling) has both a past and future application (see Taxation Ruling TR 92/20). However, it does not have a past application for a taxpayer who has agreed to a settlement of a dispute to the extent that the Ruling is less favourable than the settlement terms. To the extent that the Ruling is more favourable, it does not have a past application for the taxation years the subject of the settlement.

## Explanations

8. Section 57AF provides for a limit on the cost price for depreciation of motor vehicles usually referred to as luxury motor vehicles.

9. Subsection 57AF(2) provides that where the cost of a motor vehicle exceeds the motor vehicle depreciation limit in the year of first use by the taxpayer then the depreciation allowable is limited to that year's motor vehicle depreciation limit. The provision relates to the year the taxpayer first owns and uses the vehicle for any purpose. For a subsequent purchaser the fact that another taxpayer has already had a year of first use for that same motor vehicle will be irrelevant.

10. In respect of previously depreciated property subsection 60(1) provides that a subsequent purchaser of an item of depreciable property is not entitled to a greater deduction than the original owner. Subsection 60(2) provides for the Commissioner to exercise a discretion that the provision not apply and the cost price for depreciation be calculated as if the purchaser were acquiring the property first hand.

11. In exercising the discretion under subsection 60(2) the Commissioner would not be influenced by the fact that a motor vehicle has previously been subject to the section 57AF limit. Accordingly, the actual cost of the motor vehicle to the subsequent purchaser can be considered for depreciation purposes.

12. The section 57AF motor vehicle depreciation limits are:

1984/85	\$25,342	1989/90	\$42,910
1985/86	\$26,660	1990/91	\$45,056
1986/87	\$29,646	1991/92	\$45,462
1987/88	\$34,775	1992/93	\$47,280

1988/89      \$39,331                      1993/94      \$48,415

## Examples

13 Mr Jones purchased a second hand 1988 BMW from The Luxury Car Company for \$50,000 during the 1991/92 financial year. The Luxury Car Company had purchased the vehicle from the previous owner for \$45,000 during the 1991/92 financial year. The Commissioner will exercise the discretion under section 60. Therefore, the section 57AF motor vehicle cost limit will apply to the vehicle and Mr Jones would calculate his depreciation deductions based on a depreciable value of \$45,462 ie the 1991/92 limit.

14 Ms Happ leases a luxury motor vehicle, which cost \$80,000, from a finance company during the 88/89 financial year. Ms Happ, at a public auction, purchases the ex-lease vehicle for \$46,000 on 1/7/91. Ms Happ's first use of the motor vehicle as a taxpayer claiming a deduction for depreciation is during the 91/92 financial year. Therefore, she bases her depreciation deductions on the 91/92 section 57AF limit of \$45,462 because her purchase price was in excess of the statutory limit for that year.

15 If the same circumstances in paragraph 14 exist, except that Ms Happ purchases the vehicle for \$43,000, depreciation deductions will be based on the purchase price of \$43,000. The section 57AF limit is not applicable.

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## Commissioner of Taxation

29 July 1993

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ATO references

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### *subject references*

- cost limit
- depreciated property
- depreciation
- luxury motor vehicle

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### *legislative references*

- ITAA 57AF
- ITAA 60

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