

IT 209 - Deductibility of lease payments on farm sheds

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TAXATION RULING NO. IT 209

DEDUCTIBILITY OF LEASE PAYMENTS ON FARM SHEDS

F.O.I. EMBARGO: May be released

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I 1102277

FARM SHEDS

51(1)

LEASE PAYMENTS

57AE

INTEREST PAID

82AA

DEPRECIATION

82AE

FACTS

The deductibility of payments made with respect to the leasing of farm sheds has been considered.

2. The sheds are of varying sizes and of prefabricated steel and iron or aluminium construction. They are either bolted to a concrete base or constructed on steel uprights embedded in concrete but are said to be removable. Specific uses of the sheds include shearing sheds, machinery sheds, grain storage sheds or combinations thereof. The primary producer enters into a "leasing" agreement covering a term of between four and five years, with an agreed residual value of about ten percent of the original cost of the shed. There is usually a clause written into the lease agreement which allegedly sets aside the common law rule that whatever is affixed to the freehold becomes the property of the owner of the freehold. The "lease" agreements examined did not expressly grant the lessee an option to purchase the shed on the termination of the lease but, in practice, it is unlikely that the lessor or lessee would contemplate entering into such an agreement with the prospect of the shed being dismantled and removed from a remote country location at considerable cost within the relative short period of four or five years.

RULING

3. It is considered that a building of this type fixed to the land in such a manner would become part of the realty and would not be goods or chattels. Therefore the agreements, despite their form, would not be considered lease agreements but a form of sale of the building on deferred payment terms.

4. As such, the primary production "lessees" would not be entitled to an income tax deduction for payments made under the agreement. Deductions would be available for depreciation and the interest element in the financial arrangements. Alternatively, of course, the interest component could be added to the cost of the building and depreciation allowed on the combined value. In addition, accelerated depreciation at the rate of 20% and investment allowance will be allowable if the building is used for the purpose of the storage of grain, hay or

fodder.

5. Under the circumstances mentioned, no deduction for depreciation or investment allowance would be available to the lessor.

COMMISSIONER OF TAXATION