


# ***IT 216 - Investment allowance - racehorse on lease***

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TAXATION RULING NO. IT 216

INVESTMENT ALLOWANCE - RACEHORSE ON LEASE

F.O.I. EMBARGO: May be released

REF

H.O. REF: 81/3498 F29

DATE OF EFFECT:

B.O. REF:

DATE ORIG. MEMO ISSUED: 03.03.82

F.O.I. INDEX DETAIL

REFERENCE NO:

SUBJECT REFS:

LEGISLAT. REFS:

I 1100727

RACEHORSES

54

HORSE RACING

82AG(3)(d)

LIVESTOCK

LEASING

INVESTMENT ALLOWANCE

DEPRECIATION

PREAMBLE

The question of the availability of an investment allowance deduction in the case where a leasing company enters into an arrangement for the purchase and lease back of an unraced yearling racehorse and where the intended lessee is in the business of horse racing, has been considered.

RULING

2. It is accepted that a racehorse may qualify as plant for the purposes of section 54 of the Income Tax Assessment Act and to that extent the investment allowance provisions may be seen as applying to a racehorse. There are, of course, other matters which require consideration in determining whether an investment allowance deduction is available, i.e. whether, in the sense in which the term is used in the investment allowance provisions, a racehorse could be said to be 'new'.

3. In the case in question it is not considered necessary to come to any firm conclusion on all aspects, however, for it appears that section 82AG(3)(d) would operate to deny the investment allowance. Because the horse is to be put into the hands of a trainer, it is presumed that the lessee would enter into a contract or arrangement with the trainer for the latter to do all things necessary to prepare the horse for racing. The trainer would charge an appropriate fee for his services. This would constitute a contract or arrangement with the trainer for the use of the horse by the trainer in terms of section 82AG(3)(d) and consequently an investment allowance deduction would not be available.

COMMISSIONER OF TAXATION