

# ***IT 58 - Investment allowance - cargo ships***



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TAXATION RULING NO. IT 58

INVESTMENT ALLOWANCE - CARGO SHIPS

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CARGO SHIPS

82AA

SHIP - COST OF

82AG(1)(c)

- USE OUTSIDE

AUSTRALIA

INVESTMENT ALLOWANCE

PREAMBLE

The following questions were considered in relation to the application of the investment allowance to cargo ships:

1. What is the cost of a ship for investment allowance purposes where the ship is constructed in an overseas country for use by an Australian company in the Australian Coastal trade?
2. Would the investment allowance be available if the ship carried a cargo on its delivery voyage?
3. What extent of use of a ship outside Australia would result in the disallowance of the investment allowance concession?

RULING

2. A decision on the first question will depend on whether the ship is brought to Australia in ballast or with cargo. If in ballast, the cost will include the cost of company engineers in attendance during the construction, the cost of crewing including fares for sending the crew overseas and the costs of the delivery voyage to Australia. If the ship carries a cargo to Australia, the costs of the delivery voyage will not form part of the capital cost of the ship but will be treated as revenue expenditure. Where this is incurred in gaining assessable income it will be deductible under the general deduction provisions. Of course, should the income be exempt, no deduction will be allowable.

3. As to the second question, it is accepted that the investment allowance would be available where a cargo was carried on the delivery voyage provided the ship followed its normal delivery route to Australia. Thus, it would be acceptable for a cargo to be carried from the country of construction to Australia, from the country of construction to an intermediate port or from an intermediate port to Australia subject to the intermediate port being on the normal route.

4. In relation to the final question, it is pointed out that one of the basic requirements of the investment allowance provisions is that the relevant plant be for use wholly and exclusively in Australia. The law also specifically provides for the automatic disallowance of the investment allowance where plant is used outside Australia within the first 12 months of use. It also provides for the disallowance of the concession where plant is used outside Australia after the first 12 months of use and the Commissioner is satisfied that at the time the taxpayer acquired the plant it was the taxpayer's intention to use the plant outside Australia after becoming entitled to the allowance.

5. In applying the second test, the Commissioner will be guided by the facts of each case in deciding the taxpayer's intention at the time of acquisition of the plant. Because of the terms of the test, it is not possible to give any assurances that the investment allowance will not be forfeited if a taxpayer commences to use the plant outside Australia after, say, 4 years of use in Australia. At the same time, it is recognised that after an extended period of use in Australia, circumstances could arise that were not present at the time of acquisition of the plant. If, as a result of these changed circumstances, the plant is used outside Australia, the investment allowance would not be forfeited.

6. Subject to the comments in the preceding paragraph, therefore, any planned voyage outside Australia would cause the loss of the allowance. However, the allowance would not be lost where due to unforeseen or unexpected circumstances the ship does go outside Australia waters. In these circumstances, there would be no question of disallowing the concession.

COMMISSIONER OF TAXATION