

IT 72 - Investment allowance - orders for plant placed prior to 1 July 1978

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TAXATION RULING NO. IT 72

INVESTMENT ALLOWANCE - ORDERS FOR PLANT PLACED PRIOR TO
1 JULY 1978.

F.O.I. EMBARGO: May be released

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INVESTMENT ALLOWANCE 82AB
PLANT - PURCHASE OF

PREAMBLE

The practice of taxpayers entering non-binding agreements for the purchase of plant before 1 July 1978, so that they may be eligible for investment allowance on that plant at the rate of 40 per cent was considered.

RULING

2. Taxpayers are generally accepted as having contracted to purchase plant at the time they order it unless it is established that the "order" is only tentative, that is, it is made on the understanding that the "purchaser" is not legally bound by the order, or is made subject to later confirmation in certain circumstances, for example, if the would-be purchaser has a good year, etc. It is understood that plant may also be "ordered" in some cases by means of an unsigned order initiated by a salesman who has discussed a possible purchase with a prospective purchaser and that plant may be held at the request of a person while he considers an alternative purchase. It is in circumstances such as these that the "order" would not be accepted as a contract entered into before 1 July 1978 for investment allowance purposes.

3. It is a question of fact whether ordering arrangements entered into before 1 July 1978 constitute a binding contract to purchase eligible investment allowance property. It may be difficult to discover the true facts where the purchaser and supplier tacitly agree that, on the happening of some circumstance or event, the purchaser may withdraw from what is otherwise a seemingly binding purchase agreement.

4. The significant aspect of all this is, however, that orders placed with suppliers would need to be accepted as effective for investment allowance purposes unless it is established that there are associated agreements or understandings that the purchaser may withdraw from the arrangement. This guarantees to taxpayers who have placed genuine orders that the investment allowance deduction will follow the kind of purchase arrangements that they have made with their suppliers. The possibility that some taxpayers may cheat and perhaps may obtain 40 per cent investment allowance deductions to which they are not entitled should not be

permitted to disturb the procedures relating to genuine ordering arrangements. This is best left to be resolved in the light of such facts as can be established in relation to irregular ordering arrangements.

5. It appears that the most practical approach to this matter is for interested parties to be advised that the 40 per cent rate of investment allowance cannot be expected to be available under any ordering arrangement entered into before 1 July 1978 unless it gives rise to a firm commitment to purchase the ordered equipment.

COMMISSIONER OF TAXATION