IT 77 - Investment allowance - aircraft

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TAXATION RULING NO. IT 77

INVESTMENT ALLOWANCE - AIRCRAFT

F.O.I. EMBARGO: May be released

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PREAMBLE The eligibility for investment allowance of an aircraft used in an air service between mainland Australia and an external Territory of Australia has been considered. Questions arose concerning whether the aircraft was being used to derive exempt income (if the taxpayer is a Territory resident or a Territory company all or part of its airline income may be exempt - section 24G) and whether the aircraft was being used outside Australia.

RULING 2. To qualify for the investment allowance, two relevant conditions that the aircraft must satisfy are that it be for use wholly and exclusively in Australia and wholly and exclusively for the purpose of producing assessable income. The investment allowance deduction will not be available if either of these tests is not satisfied.

3. If the taxpayer operating the air service between Australia and an external Territory is a Territory resident (section 24C) or a Territory company (section 24D), all or part of its airline income may be exempt (section 24G). In that event, eligibility for the investment allowance in respect of the aircraft operating on that service would be lost. On the other hand, if all income derived from operating the aircraft is assessable to Australian tax, the arguable question whether an aircraft flying between Australia and an external Territory is being used outside Australia may be ignored and, all other conditions of the allowance being satisfied, the investment allowance deduction allowed in respect of the aircraft.

4. In considering similar cases the availability of the investment allowance should be decided on the basis of whether all income from use of the aircraft is assessable. If the aircraft is used to derive exempt income, the investment allowance will not be available. If disallowance of an investment allowance deduction on this basis were to be challenged for any reason, consideration should be given to developing a secondary argument in defence of the assessment that, in flying over international waters between the Australian

mainland and the external Territory, the aircraft is being used outside Australia.

COMMISSIONER OF TAXATION