



TD 94/41 - Income tax: is a taxpayer who jointly acquires and uses an item of eligible property for which a general investment allowance deduction is allowable, entitled to a portion of the deduction?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *12 May 1994*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Income tax: is a taxpayer who jointly acquires and uses an item of eligible property for which a general investment allowance deduction is allowable, entitled to a portion of the deduction?

1. Yes, provided the actual contribution made by the particular taxpayer is \$3,000 or more and all the other requirements specified in section 82AT have been met.
2. Section 82AT allows a deduction where a taxpayer incurs expenditure of a capital nature on certain types of new items of property which cost \$3,000 or more, for the purpose of producing assessable income. Under paragraph 82AT(1)(b) a taxpayer, in order to qualify for an investment allowance deduction, must have individually incurred \$3,000 or more on a new unit of eligible property. Thus where two or more taxpayers have jointly acquired such property the amounts which each taxpayer incurred in acquiring the property must be individually examined. It is not sufficient that the total cost of acquiring the property was \$3,000; each individual claiming the deduction must show that his/her contribution was \$3,000 or more.
3. To qualify for the allowance the taxpayer must acquire his/her interest in the property at the time the item was first constructed or acquired for the purpose of income production. It is only at this stage that the property can be said to be 'new', as that word is used in these provisions. This view is supported by the purpose intended to be served by the introduction of the general investment allowance (ie. to encourage taxpayers to invest in new income-producing plant and equipment).
4. If a partnership as defined in subsection 6(1) acquires or constructs eligible property, the partnership, rather than the individual partners, is the relevant taxpayer for the purposes of this Determination. Section 90 states that in determining the net partnership income or loss the partnership is to be treated as a resident taxpayer. The net income means income from all sources less allowable deductions (including the investment allowance deduction). When the net income is determined, it will be distributed to the partners in accordance with section 92.

Date of Effect

5. With the exception of the joint ventures defined in paragraph 6, this Determination applies to years commencing both before and after its date of issue. However, the Ruling does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Ruling (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

6. In respect of joint ventures which are not partnerships as defined in subsection 6(1), this Determination applies to all eligible expenditure incurred in respect of property constructed or acquired under a contract entered into after 24 February 1994, the date on which the draft of this Determination was published.

Examples

1 Taxpayers A & B jointly spend \$8,000 on a new item of eligible property with each contributing 50%. Since each contributed \$4,000 they are both entitled to an investment allowance of \$400 being 10% of their \$4,000 contribution.

2 Taxpayer A contributes \$2,000 and taxpayer B contributes \$6,000 to the purchase of a new unit of eligible property. A is not entitled to a deduction, while B is entitled to a \$600 deduction.

3 Taxpayers A & B purchase an item of plant over \$3,000 but their individual contribution is less than \$3,000 each. Neither taxpayer is entitled to claim a deduction under the investment allowance provisions.

4 Partnership A spends \$5000 on a new unit of eligible property. The partnership is entitled to an investment allowance deduction of \$500, being 10% of the \$5000 expenditure incurred, as the eligible expenditure is greater than the \$3000 threshold.

5 Partnership A enters into a joint venture with company B. The partnership contributes \$4000, and the B contributes \$2500 to the purchase of a new unit of eligible property. The partnership is entitled to an investment allowance deduction of \$400, being 10% of the \$4000 expenditure incurred. B is not entitled to an investment allowance deduction as its eligible expenditure is less than the \$3000 threshold.

Commissioner of Taxation

12/5/94

FOI INDEX DETAIL: Reference No. I 1217381

Previously issued as Draft TD 94/D18

Related Determinations:

Related Rulings: IT 2142

Subject Ref: investment allowance; joint ownership; eligible property

Legislative Ref: ITAA 82AT; ITAA 90; ITAA 92

Case Ref: Case Q116 83 ATC 602; Case 44 27 CTBR(NS) 301.

ATO Ref: NAT 93/8553-3

ISSN 1038 - 8982