



TD 94/59 - Income tax: will a leasing company be entitled to claim the investment allowance if it has entered into a lease agreement with a lessee before 1 July 1994, and the lease agreement is treated as a purchase order between the leasing company and a supplier?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *30 June 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: will a leasing company be entitled to claim the investment allowance if it has entered into a lease agreement with a lessee before 1 July 1994, and the lease agreement is treated as a purchase order between the leasing company and a supplier?

1. Yes. Provided that entering into the lease commits the leasing company before 1 July 1994 to the acquisition of the asset and provided the other requirements of the investment allowance provisions are met.
2. IT 2158 discusses circumstances where a contract may contain terms and conditions that affect whether and when a contract has been entered into for the acquisition of the asset.

Example

Leasing Co. 'L' has an agreement with Manufacturer Co. 'M' under which, when L enters into a lease agreement with a lessee, M treats the lease agreement as a firm and immediate order for the acquisition of the leased asset by L.

L will be able to claim the investment allowance in relation to all eligible assets which are the subject of such leases entered into by L before 1 July 1994, provided that the other requirements of the investment allowance provisions are met. This is so whether or not M and L are related entities or in common ownership.

The same effect would be achieved if the leasing company and the manufacturing company were the same entity. As a leasing company must carry on the business of banking or of borrowing money and providing finance as at least its principal business, it will be rare for a leasing company to be a manufacturer as well.

Commissioner of Taxation

30/6/94

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Related Determinations:

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Subject Ref: investment allowance; leased property

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