

TD 94/D18 - Income tax: can a taxpayer who jointly acquires and uses an item of eligible property for which a general investment allowance deduction is allowable, claim a portion of the deduction?

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This document has been finalised by TD 94/41.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

Draft Taxation Determination

Income tax: can a taxpayer who jointly acquires and uses an item of eligible property for which a general investment allowance deduction is allowable, claim 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. In Case Q116 83 ATC 602; Case 44 27 CTBR (NS) 301 the Board of Review considered the question of the availability of the investment allowance deduction under the old law. The relevant provision considered in that case was materially the same as section 82AT. In that case a taxpayer and his neighbour jointly acquired a mower for use in their individual income-producing activities. The Board looked at each of the co-owner's contribution to the cost of the mower to see if it was greater than the threshold amount under the old legislation.
4. In order 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 & equipment).

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 would be entitled to claim a deduction under the investment allowance provisions.*

Commissioner of Taxation

24/2/94

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Related Determinations: -

Related Rulings: IT2142

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