


TD 94/D42 - Income tax: will a lessor be entitled to claim the investment allowance if it has entered into a lease agreement prior to 1 July 1994, and the lease agreement is treated as a purchase order?

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This document has been finalised by TD 94/59.

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: will a lessor be entitled to claim the investment allowance if it has entered into a lease agreement prior to 1 July 1994, and the lease agreement is treated as a purchase order?

1. Yes. Provided that entering into the lease commits the lessor 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

21/4/94

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings: IT 2158

Subject Ref: investment allowance; leased property

Legislative Ref: ITAA 82AT

Case Ref:

ATO Ref: NAT 94/1969-1
