


IT 114 - Investment allowance - leverage lease arrangements

 This cover sheet is provided for information only. It does not form part of *IT 114 - Investment allowance - leverage lease arrangements*

This document has been Withdrawn.

There is a [Withdrawal notice](#) for this document.

TAXATION RULING NO. IT 114

INVESTMENT ALLOWANCE - LEVERAGE LEASE ARRANGEMENTS

F.O.I. EMBARGO: May be released

REF

H.O. REF: J.146/569/1 P1 F120

DATE OF EFFECT:

B.O. REF:

DATE ORIG. MEMO ISSUED: 30.08.78

F.O.I. INDEX DETAIL

REFERENCE NO:

SUBJECT REFS:

LEGISLAT. REFS:

I 1100614

LEVERAGE LEASE

82AA

ARRANGEMENTS

82AJ

LEASING COMPANIES

82AQ

PARTNERSHIP

INVESTMENT ALLOWANCE

OTHER RULINGS ON TOPIC

IT 2051

FACTS

Consideration was given to the application of the investment allowance provisions to eligible plant acquired and leased by leasing companies per medium of leverage lease agreements.

2. A leverage lease agreement involves:-

- (a) An arranger/packager (normally a bank or financier who negotiates, arranges finance and manages the lease).
- (b) the owner/lessor (the equity participant - normally a bank or financier either singly or in partnership) who purchases the equipment and leases it to the user. The owner/lessor generally puts up around 20% of the cost of the equipment from its own funds.
- (c) The lender (debt participant - normally a financial institution) who lends to the owner/lessor the balance of funds necessary for the purchase of the equipment and holds a first mortgage over both the asset and the lease payments.
- (d) The lessee/user.

Such an arrangement is workable only for amounts in excess of \$1 million.

3. It is understood that, for commercial and other reasons, the equity participants in a leverage lease are often unwilling to act directly as owner-lessor of the assets to be leased. Generally speaking, an owner of the assets would be required to give a charge over the property to the debt

participants as security for moneys provided by way of loan. For several reasons, equity participants frequently may not wish to give such a charge.

4. This problem has sometimes been resolved by the appointment of a company, as trustee for the equity participants, to acquire title to the subject plant and give security over the assets which it leases to the users. This arrangement could, however, result in a loss of investment allowance deductions in cases where it was not intended that the allowance be claimed by the lessee-user and possible alternatives to the appointment of a trustee to grant the security and lease were canvassed.

RULING 5. It is agreed that the investment allowance deductions for eligible leased plant would be available to a partnership of leasing companies consisting of one or more equity participants and a corporate trustee for the equity participants. If legal title to the subject plant is vested in the trustee partner, it is presumed that this would enable a charge over the plant to be given to the debt participants by the trustee.

6. Under a partnership arrangement of this kind, the investment allowance deduction, to the extent that this was not to be passed on to the lessee-user, would be allowable directly to the equity participants in the proportion in which they had contributed to the cost of the subject plant.

7. It is understood that, in an arrangement of this kind, the trustee partner would not contribute capital to the partnership and would be entitled only to a nominal and fixed share of partnership income, with the balance of the partnership net income or net loss (depending on whether depreciation, etc. charges exceeded leasing income) shared by the equity participants which were members of the partnership.

COMMISSIONER OF TAXATION