

IT 2376 - Income tax : basis of accounting for income from Division 16D lease transactions

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TAXATION RULING NO. IT 2376

INCOME TAX : BASIS OF ACCOUNTING FOR INCOME FROM
DIVISION 16D LEASE TRANSACTIONS

F.O.I. EMBARGO: May be released.

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REFERENCE NO: SUBJECT REFS: LEGISLAT. REFS:

I 1206795 INCOME FROM NON- DIVISION 16D
LEVERAGED FINANCE
LEASES

OTHER RULINGS ON TOPIC IT 2162 IT 2166

PREAMBLE The question has been raised as to the application of
Taxation Rulings IT 2162 and IT 2166 in the case of a lease that
is subject to Division 16D of the Income Tax Assessment Act 1936.

2. In broad terms, Division 16D denies lessors the capital
expenditure deductions associated with the ownership of items of
property that are the subject of non-leveraged finance leases to
certain tax-exempt lessees. Where the Division applies, section
159GK of the Assessment Act operates to include in the lessor's
assessable income only so much of the rental as is, effectively,
the interest component. Division 16D thus requires income from
these leases to be accounted for on a financial or actuarial
basis.

3. Taxation Ruling IT 2162 essentially provides a lessor
company with a once only choice of accounting for income from
chattel leasing transactions by either the financial or
actuarial method or the gross rentals less depreciation method.
Taxation Ruling IT 2166 requires companies in a group to return
income from chattel leases entered into on or after 1 July 1985
on a common basis.

RULING 4. Taxation Rulings IT 2162 and IT 2166 cannot override
the specific legislative requirement of Division 16D that
certain lease rentals be brought to account as income on the
basis provided for in section 159GK. The Rulings should
therefore be treated as applying only to those leasing
transactions to which Division 16D does not apply.

5. There would be no objection to one company in a company
group effecting, for the group, the chattel lease transactions
to which Division 16D applies.

COMMISSIONER OF TAXATION

5 December 1986

