

IT 99 - Investment allowance - leased plant



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TAXATION RULING NO. IT 99

INVESTMENT ALLOWANCE - LEASED PLANT

F.O.I. EMBARGO: May be released

REF H.O. REF: J153/119/10 P16 F54

B.O. REF: DATE ORIG. MEMO ISSUED: 05.06.79

F.O.I. INDEX DETAIL

REFERENCE NO: SUBJECT REFS: LEGISLAT. REFS:

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|-----------|----------------------|------|
| I 1101553 | INVESTMENT ALLOWANCE | 82AA |
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PREAMBLE The following advice was given concerning the eligibility for the investment allowance of equipment leased by a company and used on a sub-lease basis by related companies under arrangements entered into with those related companies before the leases were in force.

RULING 2. On the basis that the equipment has been leased to the company on long-term leases, and that suitable section 82AD declarations have been lodged by the leasing companies concerned, investment allowance deductions would be available, in terms of section 82AA(b), if the company has used the equipment wholly and exclusively in Australia and solely for the purpose of producing assessable income.

3. But for the possible application of sub-section 82AG(3), those conditions would have been satisfied by the company using the equipment solely to derive income, in the form of cross charges for rental, by granting the related companies rights to use the equipment.

4. It is considered that sub-section 82AG(3) has no application if the sequence of events relating to the sub-leasing of plant to the related companies can be substantiated. More specifically, if it can be shown that, before it leased the equipment from the leasing company the company entered into contracts or arrangements with its related companies for them to use the equipment, it is considered that those contracts or arrangements could not be treated as having been entered into "while the lease was in force" for the purposes of paragraph 82AG(3) (d).

5. The decision should be applied in similar cases.

NOTE : Sub-section 82AG(4), effective from 20 August 1979, provides that the investment allowance will not now be available in the circumstances outlined above.

COMMISSIONER OF TAXATION