IT 61 - Investment allowance - helicopters

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TAXATION RULING NO. IT 61

INVESTMENT ALLOWANCE - HELICOPTERS

F.O.I. EMBARGO: May be released

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F.O.I. INDEX DETAIL REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1100887	HELICOPTER AMUSEMENT OR RECREATION INVESTMENT ALLOWANCE SOLE OR DOMINANT USE	82AF(2)(f)(i)

OTHER RULINGS ON SUBJECT IT 59

FACTS The question of whether the investment allowance applied to helicopters used both for ordinary business purposes and for joy flights has been considered.

2. The circumstances of their use were that three aircraft were acquired by one company which runs an ordinary charter service and on occasions they were chartered (with pilots) to an associated company who then in turn used them for normal business activities and for joy flights for the general public.

RULING 3. The actual flight records were examined and it was evident that the use of two of the aircraft in amusement or recreation (i.e. joy flights) was substantial in degree and it was considered by virtue of section 82AF(2)(f)(i) that both aircraft would not be eligible for the allowance.

4. With regard to the third aircraft it was evident from the facts that prior to the unforeseen damage to one of the other aircraft the third aircraft was not used at all in amusement or recreation. It was considered in the circumstances that this aircraft was not acquired with the intention of being used in, or primarily and principally in connection with, amusement or recreation and accordingly section 82AF(2)(f)(i) did not apply to deny the investment allowance on this aircraft.

5. On a more general note it is considered consistent with the policy that led to the sub-paragraph 82AF(2)(f)(i) exclusion, that the provision not be applied narrowly and that for this purpose "use" should be read as "sole or dominant use". It will follow therefore that plant used in amusement or recreation is to be excluded from the allowance only if its use or intended use in amusement or recreation is substantial in degree. Merely incidental use in amusement or recreation should not be taken as invoking the excluding function of the provision to deny an investment allowance deduction. In other words, use

in pleasure-related activities (as evidence of intended use on acquisition) may be ignored for purposes of applying sub-paragraph 82AF(2)(f)(i) if that use is insignificant or not substantial in degree.

6. It should be noted that paragraph (f) of sub-section 82AF(2) was repealed with effect from 1 October 1980.

COMMISSIONER OF TAXATION