


IT 75 - Investment allowance - contracts prior to 1 July 1978

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TAXATION RULING NO. IT 75

INVESTMENT ALLOWANCE - CONTRACTS PRIOR TO 1 JULY 1978

F.O.I. EMBARGO: May be released

REF

H.O. REF: 78/3588 F6

DATE OF EFFECT:

B.O. REF:

DATE ORIG. MEMO ISSUED: 13.06.78

F.O.I. INDEX DETAIL

REFERENCE NO:

SUBJECT REFS:

LEGISLAT. REFS:

I 1100916

LEASED PLANT
INVESTMENT ALLOWANCE

82AB(2)

OTHER RULINGS ON TOPIC

IT 73

FACTS

A leasing company sought confirmation that the order form used by it would constitute a contract for the purposes of s.82AB(2).

2. The enquiry related to certain wording on the order form placed by the company. The wording in question is only intended to protect the company from any unforeseen circumstances which may arise before the lease is entered into and the goods are installed.

3. The proposed wording is as follows.

"If prior to the delivery of the goods by the Supplier -

(a) the Customer having entered into such lease, there occurs any event which entitles the lessor to terminate such lease and the lessor does so or

(b) the Customer for any reason fails to enter into such lease when required by the lessor so to do,

and the lessor gives the Supplier written notice of such fact, the Customer will thereupon be considered the party which has ordered the goods and will be solely liable accordingly for all payments to the Supplier in respect thereof."

4. A further alternative to (a) or (b) above covers the case where, after the leasing company has placed an order for the relevant plant with the supplier and before a lease agreement has been entered into with the prospective lessee, there occurs in relation to that "lessee" an event that would entitle the leasing company to terminate a lease that had been entered into between them with the result that no lease agreement eventuates with that lessee.

RULING

5. It has been decided that an order form with the above

alternatives would be acceptable for the purposes of section 82AB(2) .

COMMISSIONER OF TAXATION