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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F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1206795	INCOME FROM NON-LEVERAGED FINANCE LEASES	DIVISION 16D

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