

IT 2395 - Income tax : chattel leasing transactions - lease payments

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TAXATION RULING NO. IT 2395

INCOME TAX : CHATTEL LEASING TRANSACTIONS - LEASE
PAYMENTS

F.O.I. EMBARGO: May be released

REF N.O. REF: 84/1579-0 DATE OF EFFECT:

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F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1210752	CHATTEL LEASES LEASE PAYMENTS	51(1)

OTHER RULINGS ON TOPIC IT 28, IT 174, IT 2051

PREAMBLE From time to time enquiries are received in this office about the acceptability for income tax purposes of chattel leasing arrangements which provide for the payment of varied rentals. Acceptability for income tax purposes means whether this office accepts the agreement as a lease and the lease rentals as allowable income tax deductions.

2. In the leasing of motor vehicles it is not uncommon for the lease rentals to be higher in the initial term of the lease than in the later part. The reason given for this is that the value of motor vehicles, along with other chattels, decreases with age and that, from a commercial consideration, rentals should equate with the current value of vehicles. On the other hand there may be situations where commercial considerations lead to reduced rentals in the initial term of a lease and higher rentals later on. This could occur where industry, or a section of it, is depressed and lessors, in order to do business, have to offer leases on these terms.

RULING 3. The approach of this Office to chattel leasing is outlined in Taxation Ruling No. IT28. The basic question to be answered is whether a particular transaction is, in practical effect, an ordinary commercial lease entered into in the normal course of trade.

4. Whether a particular transaction is in substance a lease of chattels depends upon determination of the true nature of the agreement between the parties. As IT28 recognises, the lease document may not be the only matter to be taken into consideration. There may be auxiliary agreements and oral understandings or commitments which bear upon the true nature of the agreement between the parties. Where, however, it is established that the true nature of the agreement is that of a lease, that the rental payments are solely for the use of the chattels and that the terms of the lease reflect current commercial practice, the terms of the agreement will be recognised by this office.

5. Occasions arise, particularly where parties are not at arm's length, where the terms of a lease agreement may not reflect current commercial practice but appear to be more designed to bring about desired tax consequences for the parties. The lessor party, for example, may be in a loss situation and rentals payable under the lease agreement may be significantly higher than current commercial rentals to take advantage of the loss situation. Where doubt arises in a branch office about whether a particular leasing arrangement ought to be accepted for income tax purposes, the matter should be referred to National Office for consideration.

COMMISSIONER OF TAXATION

16 April 1987