

IT 358 - Investment allowance - aircraft : use of property outside Australia

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TAXATION RULING NO. IT 358

INVESTMENT ALLOWANCE - AIRCRAFT : USE OF PROPERTY
OUTSIDE AUSTRALIA

F.O.I. EMBARGO: May be released

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INVESTMENT ALLOWANCE

82AG

AIRCRAFT - INVESTMENT ALLOWANCE

82AH

PROPERTY - USED OUTSIDE AUSTRALIA

PREAMBLE

This Office has advised on the operation of sections 82AG and 82AH in circumstances where a domestic airline company proposes to use certain of its aircraft for scheduled flights between Australia and New Zealand.

RULING

2. Section 82AH would not operate to withdraw the investment allowance deductions previously allowed in respect of expenditure on aircraft which were acquired for and used on the domestic airline service in Australia more than 12 months prior to their use on the Australia/New Zealand service. It is accepted that it was not the company's intention, at the time of acquisition of the aircraft, to use them outside Australia.

3. The position as regards the one aircraft which was first used on the domestic airline service in Australia less than 12 months before it will be used on the Australia/New Zealand service is not so clear. Section 82AG operates to cause investment allowance deductions to be forfeited if property is used outside Australia within 12 months of its first use in Australia for the purpose of producing assessable income. In the administration of this provision a limited use of property outside Australia in circumstances where that use is attributable to some emergency situation or other unforeseen event is disregarded in determining whether there was a use outside Australia sufficient to warrant the forfeiture of the investment allowance.

4. If it is planned to use this one aircraft regularly on the Australia/New Zealand service, and it is so used, section 82AG would operate to cause the loss of any investment allowance deduction. On the other hand, if the aircraft is used only on those occasions when the other aircraft are not available, such a use would not attract the operation of section 82AG.

COMMISSIONER OF TAXATION

