

Dear Matthew,

Further to our recent discussions, we are taking this opportunity to comment on the "Small Business and General Business Tax Break-Draft Legislation".

At the outset let me say that Centrelease (originally formed in 1977) is committed to the Small to Medium Enterprises (SME) market. (We will be making a separate submission to The Treasurer and The Minister for Small Business in relation to a proposal that is designed to provide improved financial liquidity to the SME sector in conjunction with, but quite distinct from the Small and Medium Enterprises Tax Break Draft ("IA") Legislation now before Parliament).

The current draft Investment Allowance ("IA") Legislation does not of itself provide for much needed liquidity in the SME sector and is not necessarily designed to do so.. Submissions by Equipment Financing Industry Organisations do not mention a situation where this draft Legislation fails to address a specific and common scenario where intended recipients cannot utilise the IA deduction. Indeed, the main suggested change to the Legislation by some interested parties is in connection with the inability of equipment Lessors to transfer entitlement to the Investment Allowance. In some instances the reason is given that their current IT systems pose difficulties in this area (however one of the big 4 is in fact passing on some of the deuction). Their suggested change merely shifts a possible burden under the Legislation to the Lessee, who in many cases is similarly burdened to the main SME equipment lease financiers (the Lessors), if not more so.

We still believe however that there should be NO ability to transfer the Investment Allowance from Lessor to Lessee in respect of equipment leases, that is to say the Legislation should NOT be amended in this regard and should merely reflect legal ownership of the goods.

Background to Submission:

"Leasing" is a very often a generic term used by Small to Medium sized businesses to describe equipment financed by way of Operating leases, Finance Leases, Commercial Hire Purchase and Chattel Mortgage.

The intended immediate stimulus of the Investment Allowance is much reduced in a true Leasing situation (Operating and Finance leases) if the Lessor (financier) is unable to use the IA tax deduction and thereby reflect the benefit of the allowance in the lease rentals. (Commercial HP and Chattel Mortgage finance not being affected). Most SME financiers, eg. the regional and foreign banks especially, do not have the tax capacity to efficiently utilize the IA deduction and then price the benefit thereof into the lease, thereby passing on "some" of the benefit to the Lessee. Only the large Australian Banks (who are clearly not small businesses and traditionally have not adequately serviced the SME sector) are able to take the IA deduction. However, 'prized clients', such as large corporates in tax loss situations, would benefit from the IA deduction available on a lease, as they would make it a condition of the finance that the Banks reflect the IA benefit in the lease rate. The SME sector for a variety of reasons, including bargaining power, will not be able to press the financiers in this regard. A proposal to transfer the deduction to the Lessee only assists the larger Banks as opposed to the SME Lessees as a significant proportion of the SME sector would be in a tax loss situation and could not immediately benefit from the IA. There are alternate pass-through entities that could be used by the SMEs and the SME financiers that would allow an immediate benefit of the IA without the need for Legislation amendments.

In summary, there is no need to amend the Legislation in relation to IA transfers as it only passes the possible deductibility burden from the financiers to the SMEs who also cannot immediately take the IA deduction. Other SME/Financier entities can be used to solve this problem.

However, an amendment to the Legislation is justified to determine the small business test at the Lessee level which will allow SME's to benefit from the lower asset cost thresholds. An amendment should be made to allow Lessors to fund by way of lease, qualifying assets for IA between \$1,000 and \$10,000 such that the small business test is one at the Lessee level and NOT the Lessor/financier level.

If you require any further elaboration of the above please do not hesitate to contact the undersigned.

Kind Regards

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