

BUSINESS

PRIMARY PRODUCERS

GUIDE

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SEGMENT

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Australian Government
Australian Taxation Office

Farm management deposits scheme

Shifting before-tax income from years when you need it least, to years when you need it most.



If you are eligible you can claim a tax deduction for farm management deposits you make.

OUR COMMITMENT TO YOU

We are committed to providing you with advice and information you can rely on.

We make every effort to ensure that our advice and information is correct. If you follow advice in this publication and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we must still apply the law correctly. If that means you owe us money, we must ask you to pay it. However, we will not charge you a penalty or interest if you acted reasonably and in good faith.

If you make an honest mistake when you try to follow our advice and you owe us money as a result, we will not charge you a penalty. However, we will ask you to pay the money, and we may also charge you interest.

If correcting the mistake means we owe you money, we will pay it to you. We will also pay you any interest you are entitled to.

You are protected under GST law if you have acted on any GST advice in this publication. If you have relied on GST advice in this publication and that advice later changes, you will not have to pay any extra GST for the period up to the date of the change. Similarly, you will not have to pay any penalty or interest.

If you feel this publication does not fully cover your circumstances, please seek help from the Tax Office or a professional adviser.

The information in this publication is current at April 2007.

We regularly revise our publications to take account of any changes to the law, so make sure that you have the latest information. If you are unsure, you can check for a more recent version on our website at www.ato.gov.au or contact us.

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ABOUT THE FARM MANAGEMENT DEPOSITS SCHEME

The farm management deposits (FMD) scheme commenced on 2 January 1999, and replaced the income equalisation deposits scheme. The scheme's legislation provisions are in Schedule 2G of the *Income Tax Assessment Act 1936*.

Farm management deposits provide an important risk management tool to help farmers deal with uneven income, common in agriculture because of climate and market changes. They complement other risk management strategies available to primary producers such as developing fodder and water reserves, financial planning and diversifying their production systems.

This scheme allows you to claim a deduction for farm management deposits made in the year you deposit. If you withdraw a farm management deposit, the amount of the deduction previously allowed is included in your assessable income in the withdrawal tax year.

WHO IS ELIGIBLE?

To be eligible you must be a primary producer at the time you make a deposit.

The scheme is restricted to individuals. Companies or other entities are not eligible. Deposits cannot be made by two or more people jointly, or made on behalf of two or more people.

Trustees can only make deposits on behalf of a beneficiary who is entitled to a share of the income of the trust estate and is under a legal disability.

WHO IS A PRIMARY PRODUCER?

A primary producer is an individual who:

- has a primary production business in Australia, but not as a trustee of a trust estate (for example, a dairy farm, trout hatchery, pecan plantation, olive grove, pine plantation, orchardist, wheat farm, beef cattle lot)
- is a partner (not a company) in a partnership that has a primary production business in Australia, or
- is a beneficiary (not a company) who is currently entitled to a share of the income of a trust estate where the trustee has a primary production business in Australia.

MAKING DEPOSITS

HOW MUCH TO DEPOSIT

If you are eligible to make a farm management deposit you need to make sure that deposits are:

- at least \$1,000, and
- no more than \$400,000 in total at any one time.

WHERE TO MAKE DEPOSITS

You can make deposits with only a single authorised deposit-taking institution (ADI), or with an entity that has a state or territory guarantee in relation to deposits.

All banks, building societies and credit unions are ADIs. ADIs are regulated by the Australian Prudential Regulation Authority. A list of authorised deposit-taking institutions can be found on the Australian Prudential Regulation Authority website at www.apra.gov.au

SETTING UP AN ACCOUNT

You must have an agreement in place with your financial institution that describes the deposit as a farm management deposit.

You must apply to the financial institution to make a deposit by completing and signing an application form that details:

- your name, address and phone number
- the amount of the deposit
- a description of the major commodity or commodities produced in the year of the deposit, and
- if you are not the owner of the deposit, the owners name, address and date of birth.

You should also supply your tax file number or Australian Business Number to the financial institution. If you do not quote your tax file number or your Australian Business Number to the financial institution, the amount of the deposit withdrawn will be subject to withholding tax at the top marginal tax rate plus the Medicare levy.

Merging multiple farm management deposits

If multiple farm management deposits are merged, in order to make it a farm management deposit you will need to enter into another written agreement with your financial institution.

Having all of your farm management deposits recorded on a single account does not necessarily mean that the deposits have been merged. Authorised deposit-taking institutions can offer you a single farm management deposit account facility that records new and existing deposits. In this case all deposits and withdrawals should be shown individually in the account.

A single account may assist you to monitor your holdings and give an overall balance, but it will not indicate which deposits have been claimed as a deduction or withdrawn. You will still need to maintain sufficient records for tax purposes.

If you merge your deposits into a single deposit, tax legislation regards these deposits as being repaid.

Where a farm management deposit is treated as repaid, if the deposit has been claimed as a deduction you will need to either:

- amend the previous tax return to cancel the deduction, or
- declare the amount repaid as income.

A farm management deposit deduction claim must be cancelled where the FMD is repaid within 12 months after the deposit was made, unless the withdrawal is made:

- in exceptional circumstances, or
- because the owner:
 - dies
 - becomes bankrupt
 - ceases to be a primary producer for 120 days or more, or
 - has requested the deposit be transferred to another financial institution.

WHAT CAN AND CANNOT BE DONE WITH DEPOSITS

A deposit can be held in accounts of any term (including at-call accounts). To qualify for the tax deduction, the deposit must remain in the account for 12 months from the date of deposit (except in certain circumstances).

Your financial institution cannot at any time deduct any administration fee or other amount required from the deposit.

Your rights as a depositor cannot be transferred, and the deposit itself cannot be encumbered. That is you cannot:

- use the deposit as security for any amount owed to the financial institution or any other person,
- use the deposit as a mortgage offset account to reduce your liability to pay interest on other debts to the financial institution, or
- reinvest the interest or other earnings on the deposit as a farm management deposit with the financial institution without it having first been paid to you.

Transferring a deposit to another financial institution is not classified as a withdrawal of the deposit or the making of a deposit. This means you will not be assessed on the amount transferred and the transfer will not lead to an income tax deduction.

Transfers of deposits between financial institutions must be made by electronic means.

If you immediately reinvest a deposit with the same financial institution, the reinvestment is not classified as a new deposit.

If you extend the term of a farm management deposit, the extension does not involve the repayment or the making of a new farm management deposit.


DEPOSITS MADE WITH NON-COMPLYING ENTITIES

If you have made a deposit in good faith with a non-complying entity offering products described as farm management deposits, the tax status of your deposit will be protected.

A non-complying entity is considered to be a 'financial institution' for certain pre-1 July 2003 deposits and transfers. Provided all other requirements of the scheme are met, your deposits will be treated as farm management deposits. Your deposits will retain this tax status into future years provided you transfer them to a complying financial institution within specified periods.

Deposits with a term maturity of less than or equal to 12 months at 30 June 2003, needed to be transferred to an authorised deposit-taking institution, or an entity with a state or territory guarantee, before 1 July 2004.

If you have fixed term deposits with a term longer than 12 months at 30 June 2003, you will need to transfer the deposit before or at maturity of that deposit, or before 1 July 2007, whichever comes first.

 A deposit made with a non-complying entity after 1 July 2003 is not a farm management deposit.

If you wish to make another deposit before the end of your relevant transfer period, you will be exempt from the rule that all deposits are to be with one financial institution.

Transferring your deposit to a complying financial institution

You must make a written request to the non-complying entity to transfer your deposit to a complying financial institution. The non-complying entity must transfer the deposit electronically to another financial institution that agrees to accept the deposit as a farm management deposit.

If you do not make a written request or the non-complying entity fails to transfer the deposit in a reasonable period of time, the deposit will be considered to have been repaid immediately before the end of the relevant transfer period. These amounts are included in your assessable income to the extent they have been previously claimed as a deduction.

CLAIMING DEDUCTIONS

Deposits are deductible in the income year they were made. You cannot claim a deduction for deposits if your taxable non-primary production income for the financial year exceeds \$65,000.

Any deduction you claim cannot exceed:

- the deposits you made, or
- your taxable primary production income for the financial year.

A deduction claim must be cancelled where it is repaid within 12 months after the deposit was made, unless the withdrawal is made:

- in exceptional circumstances, or
- because the owner:
 - dies
 - becomes bankrupt
 - ceases to be a primary producer for 120 days or more, or
 - has requested the deposit be transferred to another financial institution.

DEATH

If you die during the income year the deposits must be repaid.

The deposits are considered to have been repaid in the income year when the death occurs. They are considered assessable income (to the extent they were previously allowed as a deduction) in the individual's income tax return up to the date of death, not the estate return.

If the deposits are repaid within 12 months because of death, the deposits will still be considered to be farm management deposits but there will only be an income tax deduction if the death occurs after the income year in which the deposits are made.

BANKRUPTCY

If you become bankrupt any deposits become repayable to you and are assessable income (to the extent they were previously allowed as a deduction). Your deductions in earlier years are not affected even where such a repayment is within 12 months of making the deposit.

CEASING TO BE A PRIMARY PRODUCER

If you stop being a primary producer during the income year for at least 120 days, your deposits become repayable to you and are assessable income (to the extent they were previously allowed as a deduction) in the year of income when the primary production activities cease. Your deductions in earlier years are not affected even where such a repayment is within 12 months of making the deposit.

You should inform the financial institution that you have stopped primary production activities.

➔ To claim a deduction and include assessable income you should read question 16 of the supplementary section of the *TaxPack*.

MAKING WITHDRAWALS

If you make a withdrawal you must remember that the minimum amount you can withdraw is \$1,000, except where the entire balance of the deposit is repaid.

DEPOSITS WITHDRAWN WITHIN 12 MONTHS

If you withdraw part of a deposit within 12 months, any amount remaining will continue to qualify for a tax deduction, providing:

- it remains in the account for at least 12 months, and
- the residual amount does not fall below \$1,000.

Amounts withdrawn within 12 months of deposit are not, and are considered never to have been, part of an FMD.

Where a deduction has been claimed for the part of the farm management deposit withdrawn within 12 months of deposit you are not able to retain the tax benefit of the deduction. You will need to request an amendment of your assessment for that prior income year,

Where more than one withdrawal has been made within 12 months at different times, you may need to request additional amended assessments.

! If your primary production business is in an area covered by an exceptional circumstance declaration made by the Minister for Agriculture, Fisheries and Forestry, you can withdraw funds within 12 months of deposit and still retain the tax deduction for the original amount in the income year the deposit was made. See exceptional circumstances on page 8.

ASSESSABLE INCOME

Withdrawals are considered to be assessable income if the deposit was claimed as a deduction.

Farm management deposits may contain both deductible and non-deductible deposits. Withdrawals of non-deductible deposits are not considered to be assessable income. When you make a withdrawal, you are considered to have withdrawn any non-deductible amounts first.

Interest earned on deposits is assessable in the year that it is earned. However, interest earned on deposits cannot be invested as a farm management deposit without it first being paid to you.

Under the pay as you go (PAYG) system withdrawals are considered to be part of the instalment income for that instalment period. Paying into farm management deposits reduces your instalment income for the period. The instalment income cannot be reduced below zero. Withdrawing from farm management deposits increases your instalment income.

EXAMPLE: Making a withdrawal

On 1 November 2004, Angela, a farmer, made an \$8,000 deposit into a farm management deposit account. For the income year ended 30 June 2005, Angela claimed a farm management deposit deduction of \$8,000. On 1 October 2005, Angela had to withdraw \$5,000 from her farm management deposit account.

The \$3,000 that remains in the farm management deposit account still qualifies as a farm management deposit deduction provided it remains in the account until 1 November 2005. The \$5,000 withdrawn is not, and is considered never to have been, part of her farm management deposit. Consequently, Angela's farm management deposit deduction for the year ended 30 June 2005 has to be reduced by \$5,000.

SPECIAL ARRANGEMENTS AND EXCEPTIONAL CIRCUMSTANCES

SPECIAL ARRANGEMENTS FOR DROUGHT AFFECTED AREAS

In October 2002, special arrangements for taxpayers in drought affected areas were announced.

If you are not able to meet your tax obligations because of the drought, we will view your circumstances sympathetically and do everything possible to assist you.

If you require earlier access to your farm management deposits because of drought conditions we will not impose penalty tax amendments to assessments. However, in your request for an amended assessment, you will also need to request a remission of the general interest charge (GIC) which is automatically imposed by law.

We have the discretion to remit GIC in special circumstances like the drought where it is fair and reasonable to do so. Your GIC remission request should outline those circumstances describing how the drought has affected your financial circumstances and necessitated earlier access to your farm management deposits.

EXCEPTIONAL CIRCUMSTANCES

The Minister for Agriculture, Fisheries and Forestry is able to declare an area as being in exceptional circumstances.

An exceptional circumstances declaration allows eligible primary producers who have an exceptional circumstances certificate access to their farm management deposits within 12 months of deposit and retain their tax benefits.

This ability to withdraw deposits early only applies to deposits made when the area was not under an exceptional circumstance declaration.

! If you make an early withdrawal, to be able to retain the deduction in your income tax return you will need to obtain an exceptional circumstances certificate from Centrelink no later than three months after the end of the income year in which you made the withdrawal.

The certificate is issued for a specified period for the person and relates to your primary production activities.

The amount withdrawn is assessable in the income year it was withdrawn.

You cannot claim a deduction for any subsequent deposits made in the same income year a withdrawal is made.

EXAMPLE: Exceptional circumstances

On 1 February 2004, Rowena, a farmer, made a \$12,000 deposit into a farm management deposit account. For the income year ended 30 June 2004, Rowena claimed a farm management deposit deduction of \$12,000. On 15 October 2004, an exceptional circumstances declaration was made which covered Rowena's property. On 2 January 2005, she had to withdraw \$12,000 from the FMD account. At the time of withdrawal Rowena's area was still subject to an exceptional circumstances declaration.

The \$12,000 withdrawal does not affect the \$12,000 farm management deposit deduction Rowena claimed for the year ended 30 June 2004. The \$12,000 withdrawn is included as part of Rowena's assessable income in the year ended 30 June 2005. Rowena has until 30 September 2005 to obtain an exceptional circumstances certificate.

To find out if your area has been declared to be in exceptional circumstances:

- visit the Australian Government Department of Agriculture, Fisheries and Forestry website at www.daff.gov.au/droughtassist
- phone the Centrelink Drought Assistance Line on **13 23 16**, or
- phone the Australian Government Regional Information Service on **1800 026 222**.

If you need an Exceptional Circumstances certificate, phone the Centrelink Drought Assistance Line on **13 23 16**.

MORE INFORMATION

More information about the farm management scheme is available by:

- phoning us on **13 28 66**
- writing to us at PO Box 1130, Penrith NSW 2740, or
- visiting the Department of Agriculture, Fisheries and Forestry website **www.daff.gov.au/fmds**

If you do not speak English well and want to talk to a tax officer, phone the Translating and Interpreting Service on **13 14 50** for help with your call.

If you have a hearing or speech impairment and have access to appropriate TTY or modem equipment, phone **13 36 77**. If you do not have access to TTY or modem equipment, phone the Speech to Speech Relay Service on **1300 555 727**.