

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Draft Taxation Determination

Income tax: whether a fruit grower is entitled to a tax deduction under section 75B or section 75D for the cost of changing to a different watering system which has a secondary purpose of preventing or combatting land degradation?

1. The cost of construction, acquisition or installation of a watering system undertaken 'primarily and principally' for the purpose of conveying water, is deductible over three (3) years under section 75B.
2. The main test of eligibility under sections 75B and 75D is whether the expenditure has been incurred '**primarily and principally**' for the relevant purpose. Under section 75B the expenditure must be for the relevant purpose of conserving or conveying water and under section 75D for the relevant purpose of preventing or combating land degradation or related measures.
3. Where the expenditure is incurred for a **dual purpose**, the 'primarily and principally' test does not require a consideration of the subjective or objective purpose or motives of the taxpayer in incurring the expenditure. The test requires an examination of the **primary and principal function or purpose of the result produced** by incurring the expenditure.
4. The construction, acquisition or installation of the watering system is undertaken 'primarily and principally' for the purpose of conveying water for use on the land. The primary and principal function or purpose of the watering system is to water the orchard. Preventing or combating salinity or soil erosion may be important considerations which will influence a taxpayer's choice of a watering system. However, this is a secondary, subsidiary or subordinate function or purpose and does not detract from the fact that the primary and principal purpose of the watering system is to convey water.
5. The new sprinkler system is 'plant or articles' for the purposes of section 54, and accordingly, subsection 75D(3) would deny a deduction under section 75D as expenditure in preventing and combatting land degradation.

Example: *Purchasing a low level sprinkler system and a long lasting trickle irrigation system to replace a flood irrigation system and high level sprinklers*

Farmer Mirco, is a fruit grower carrying on a business of primary production. The topography of Mirco's property is such that irrigating the orchard by flood irrigation or high level sprinklers is resulting in salinity problems and causing the water table to rise in the lower

portions of the property. Leaf analysis studies have been conducted on various trees throughout the orchard. The results of these studies indicate that the level of salt throughout the orchard varies according to the degree of exposure to water. Too high a salt level will eventually kill the orchard trees in the immediate vicinity.

Mirco decides to solve the salinity problem by altering the means of irrigation whereby water control can be regulated to the various sections of the orchard. Mirco therefore purchases a low level sprinkler system as well as a long lasting trickle irrigation system. The cost of the low level sprinkler system and the long lasting trickle irrigation system is respectively \$40,000 and \$20,000.

The primary and principal function or purpose of the new sprinkler system is to water the orchard. The secondary, subsidiary or subordinate function or purpose of the new sprinkler system is to prevent or combat salinity. The expenditure of \$40,000 and \$20,000 respectively on the low level sprinkler system and the long lasting trickle irrigation system, is capital or of a capital nature. As this expenditure is not incurred primarily and principally to prevent or combat land degradation, it is not deductible outright under section 75D. The new sprinkler system is 'plant or articles' for the purposes of section 54, and accordingly, subsection 75D(3) would deny a deduction of \$60,000 under section 75D.

The \$60,000 is deductible over three (3) years under section 75B as expenditure in conserving and conveying water.

Commissioner of Taxation

20/1/94

FOI INDEX DETAIL: Reference No. I 1216949

Previously issued as Draft TD 93/D238

Related Determinations:

Related Rulings: IT 2339, IT 2394

Subject Ref: primary production, land degradation, land degradation prevention, soil erosion, irrigation, water conservation, irrigation channels, sprinkler system, trickle irrigation system, plant or articles

Legislative Ref: ITAA 54, ITAA 75B, ITAA 75D

Case Ref:

ATO Ref: Albury ADVN 890377; Mildura Expo

ISSN 1038 - 8982