


IT 207 - Peanut sharefarming partnerships facts

 This cover sheet is provided for information only. It does not form part of *IT 207 - Peanut sharefarming partnerships facts*

TAXATION RULING NO. IT 207

PEANUT SHAREFARMING PARTNERSHIPS

F.O.I. EMBARGO: May be released

REF

H.O. REF: J209/58 F112

DATE OF EFFECT:

B.O. REF:

DATE ORIG. MEMO ISSUED: 09.02.79

F.O.I. INDEX DETAIL

REFERENCE NO:

SUBJECT REFS:

LEGISLAT. REFS:

I 1102839

DEFINITION - PRIMARY
PRODUCTION
PEANUT SHAREFARMING
SHAREFARMERS

6

FACTS

An arrangement has been proposed in which a farmer enters into a series of partnership agreements with investors in a peanut farming venture. The main details of the partnership agreements are -

- (a) The area of land to be farmed is owned by the farmer;
- (b) The farmer will enter into partnership with an investor to farm on behalf of the latter a certain number of acres of peanuts for a period of 8 years or longer;
- (c) The investor will lend or pay the farmer \$500 for each acre of peanuts farmed in the partnership (cash or terms arrangements are provided for);
- (d)
 - (i) The expenses of the peanut farming are to be the first charge against the income of the partnership, and any surplus or shortfall to be distributed in equal parts; and
 - (ii) Under one form of agreement the farmer is paid (in addition to the \$500 paid by the investor) an annual fee by the partnership for managing and supervising the crop equal to 50% of the gross receipts received for the partnership crop; and
- (e) No interest in the land is created by the agreement.

2. In addition, provision has been made for the termination of the partnership and the several arrangements are -

- (a) Upon giving 12 months notice
 - (i) the farmer repays \$500 for each acre;
 - (ii) the investor by requesting payment of \$500 for each acre agrees to compensate the farmer for

cancellation

\$150 for each acre in year one
\$125 for each acre in year two
\$100 for each acre in year three
\$50 for each acre in year four and thereafter

receiving full repayment of the loan of \$500 per acre up to and including the termination of the agreement at the end of 8 years or an extended period;

(b) Upon giving 12 months notice where a management fee is charged

- (i) the farmer by paying \$100 goodwill for each acre for each year;
- (ii) the investor by requesting the payment of the \$100 goodwill agrees to compensate the farmer for cancellation in the same manner as (a)(ii) above with the exception that after year four no compensation is required;
- (iii) upon the expiry of ten years the farmer undertakes to pay the investor the sum of \$1,000 for each acre as goodwill and in consideration for purchasing all the rights, title and interest of the investor in the partnership agreement.

RULING

3. Broadly, the peanut sharefarming arrangements have features not unlike those based on cattle leasing arrangements and afforestation ventures. There have so far been three basic ventures reviewed which provide for a potentially large tax deduction to the "investor" in the first year of operation, a minimum return of income during the currency of the agreement and a return of funds plus profit some years later under the guise of capital.

4. It is presently not accepted that the "farmer" and the "investor" carry on a business in partnership. It would appear that the "farmer" merely advises the "investor" of what he has done and what he proposes to do. There is no specific right for the "investor" to do anything but contribute his funds and receive his share of the profits. The alleged partners do not appear to be carrying on business in common nor to be in receipt of income jointly. The "farmer" has usually been in business as a peanut grower on his own account prior to the advent of the scheme and there is a clear inference that he intends to continue to run the business by himself. The "farmer" receives the income and disburses it; the "investor" has no say whatever.

5. In summary, the arrangements appear to be that the "investor" is simply investing funds for an 8 or 10 year period at a rate of return varying with the profitability of their use, with a right to withdraw his investment subject to a penalty as

he wishes.

6. In view of the foregoing, it should not be accepted at this stage that the "investor" is carrying on a business in relation to the venture. Accordingly, all claims for deductions relating to such ventures should be disallowed. Claims may relate to the income year ended 30 June 1977 and later years.

COMMISSIONER OF TAXATION