IT 289W - Notice of Withdrawal - Orchid growing: whether primary production

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Notice of Withdrawal

Taxation Ruling IT 289

Orchid growing: whether primary production

Taxation Ruling IT 289 is withdrawn with effect from today.

1. The purpose of IT 289 was to clarify the Commissioner's view on whether orchid growing qualified as primary production. When IT 289 (which replaced CITCM 759) was issued, the only paragraph in the definition of 'primary production' in subsection 6(1) of the *Income Tax Assessment Act 1936* (ITAA 1936) relevant to horticultural activities was paragraph (a) 'the cultivation of land', leaving room for doubt as to whether orchids which were not grown directly in the soil fell within the definition.

2. The definition of 'primary production' was amended by *Tax Laws Amendment Act (No. 3) 1992* to include paragraph (e). At the same time a definition of 'horticulture' was inserted into subsection 6(1) of the ITAA 1936. These amendments left no doubt that orchid growing fell within the definition of primary production.

3. The 1992 amendments are reflected in paragraph (a) of the definition of 'primary production business' in section 995-1 of the *Income Tax Assessment Act 1997* which incorporates the essence of the former definition of 'horticulture' in the ITAA 1936. Under the current provisions, an orchid growing business is clearly a primary production business.

Commissioner of Taxation
16 November 2011

ATO references
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