


PR 2000/59 - Income tax: Beechworth Winegrape Project

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 This document has changed over time. This is a consolidated version of the ruling which was published on *17 May 2000*



Product Ruling

Income tax: Beechworth Winegrape Project

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Potential investors may wish to refer to the ATO's Internet site at <http://www.ato.gov.au> or contact the ATO directly to confirm the currency of this Product Ruling or any other Product Ruling that the ATO has issued.

Preamble

*The number, subject heading, and the **What this Product Ruling is about** (including **Tax law(s)**, **Class of persons** and **Qualifications** sections), **Date of effect**, **Withdrawal**, **Previous Rulings**, **Arrangement** and **Ruling** parts of this document are a 'public ruling' in terms of Part IVAAA of the **Taxation Administration Act 1953**. Product Ruling PR 1999/95 explains Product Rulings and Taxation Rulings TR 92/1 and TR 97/16 together explain when a Ruling is a public ruling and how it is binding on the Commissioner.*

No guarantee of commercial success

The Australian Taxation Office (ATO) **does not** sanction or guarantee this product as an investment. Further, we give no assurance that the product is commercially viable, that charges are reasonable, appropriate or represent industry norms, or that projected returns will be achieved or are reasonably based.

Potential investors must form their own view about the commercial and financial viability of the product. This will involve a consideration of important issues such as whether projected returns are realistic, the 'track record' of the management, the level of fees in comparison to similar products, how the investment fits an existing portfolio, etc. We recommend a financial (or other) adviser be consulted for such information.

This Product Ruling provides certainty for potential investors by confirming that the tax benefits set out below in the **Ruling** part of this document are available, **provided that** the arrangement is carried out in accordance with the information we have been given, and have described below in the **Arrangement** part of this document.

If the arrangement is not carried out as described below, investors lose the protection of this Product Ruling. Potential investors may wish to seek assurances from the promoter that the arrangement will be carried out as described in this Product Ruling.

Potential investors should be aware that the ATO will be undertaking review activities to confirm the arrangement has been implemented as described below and to ensure that the participants in the arrangement include in their income tax returns income derived in those future years.

Terms of Use of this Product Ruling

This Product Ruling has been given on the basis that the person(s) who applied for the Ruling, and their associates, will abide by strict terms of use. Any failure to comply with the terms of use may lead to the withdrawal of this Ruling.

What this Product Ruling is about

1. This Ruling sets out the Commissioner's opinion on the way in which the 'tax laws' identified below apply to the defined class of persons, who take part in the arrangement to which this Ruling relates. In this Ruling this arrangement is sometimes referred to as the Beechworth Winegrape Project, or just simply as 'the Project', or the 'Product'.

Tax law(s)

2. The tax law(s) dealt with in this Ruling are:

- section 8-1 of the *Income Tax Assessment Act 1997* ('ITAA 1997');
- section 27-5 of the ITAA 1997;
- section 27-30 of the ITAA 1997;
- section 42-15 of the ITAA 1997;
- section 387-55 of the ITAA 1997;
- section 387-125 of the ITAA 1997;
- section 387-165 of the ITAA 1997;
- section 388-55 of the ITAA 1997;
- section 82KL of the *Income Tax Assessment Act 1936* ('ITAA 1936');
- section 82KZM of the ITAA 1936;
- sections 82KZMB – 82KZMD
- of the ITAA 1936; and
- Part IVA of the ITAA 1936.

3. On 11 November 1999, the Government announced further changes to the tax system as part of The New Business Tax System. A number of those changes, especially those to do with 'tax shelters', could affect the tax laws dealt with in this Ruling. Some of the changes apply from the date of announcement and others are proposed to apply from nominated dates in the future.

4. Although this Ruling mentions certain of those announced changes, the information given on the treatment of expenditure which may be affected by them is not binding on the Commissioner. Legally binding advice in respect of those changes cannot be given until the relevant laws(s) are enacted.

5. However, if the changes become law the operation of that law will take precedence over the application of this Ruling, and to that extent, this Ruling will be superseded. If requested, when the relevant law(s) are enacted, the Commissioner will formalise the non-binding information shown in this Ruling by issuing a new Product Ruling that describes the operation of those law(s).

Class of persons

6. The class of persons to whom this Ruling applies is those who enter into the arrangement described below on or after the date this Ruling is made. They will have a purpose of staying in the arrangement until it is completed (i.e., being a party to the relevant agreements until their term expires) and deriving assessable income from this involvement as set out in the description of the arrangement. In this Ruling these persons are referred to as 'Farmers'.

7. The class of persons to whom this Ruling applies does not include persons who intend to terminate their involvement in the arrangement prior to its completion, or who otherwise do not intend to derive assessable income from it.

Qualifications

8. The Commissioner rules on the precise arrangement identified in the Ruling.

9. The class of persons defined in the Ruling may rely on its contents, provided the arrangement (described below at **paragraphs 15 to 39**) is carried out in accordance with details described in the Ruling. If the arrangement described in the Ruling is materially different from the arrangement that is actually carried out:

- the Ruling has no binding effect on the Commissioner, as the arrangement entered into is not the arrangement ruled upon; and
- the Ruling will be withdrawn or modified.

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Date of effect

11. This Ruling applies prospectively from 17 May 2000, the date this Ruling is made. However, the Ruling does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Ruling (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

12. If a taxpayer has a more favourable private ruling (which is legally binding), the taxpayer can rely on the private ruling if the income year to which the private ruling relates has ended, or has commenced but not yet ended. However, if the arrangement covered by the private ruling has not begun to be carried out, and the income year to which it relates has not yet commenced, this Ruling applies to the taxpayer to the extent of the inconsistency only (see Taxation Determination TD 93/34).

Withdrawal

13. This Product Ruling is withdrawn and ceases to have effect after 30 June 2002. The Ruling continues to apply, in respect of the tax law(s) ruled upon, to all persons within the specified class who enter into the specified arrangement during the term of the Ruling. Thus, the Ruling continues to apply to those persons, even following its withdrawal, who entered into the specified arrangement prior to withdrawal of the Ruling. This is subject to there being no change in the arrangement or in the persons' involvement in the arrangement.

Previous Rulings

14. This Ruling replaces Product Ruling PR 1999/26, which is withdrawn on and from the date this Ruling is made. Subject to changes in the law relating to certain prepayments, Product Ruling 1999/26 will continue to apply to investors who entered into the Project on or before 17 May 2000.

Arrangement

15. The arrangement that is the subject of this Ruling is described below. This description is based on the following documents. These documents, or relevant parts of them, as the case may be, form part of and are to be read with this description. The relevant documents or

parts of documents incorporated into this description of the arrangement are:

- Draft Prospectus prepared for Beechworth Vineyard Project;
- Draft copy of a Managed Investment Scheme **Constitution** between BVL Management Limited ('BVL') and Beechworth Vineyards Limited ('BVL') and the Farmer, which also incorporates a **Joint Venture Agreement** between BVLM, BVL and each Farmer in the Joint Venture;
- Draft copy of **Equity Investment** in Indigo Wine Company Limited ('IWC'), included in the Draft Prospectus;
- Draft copy of **Loan Application**, Principal and Interest Loan, included in the Draft Prospectus;
- Draft copy of **Loan Deed** between BVL Management Limited and the Borrower; and
- Facsimile transmission dated 13 April 2000 from Lear & Co to the Australian Taxation Office.

Note: certain information received from BVL Management Limited has been provided on a commercial-in-confidence basis and will not be disclosed or released under Freedom of Information legislation.

16. The documents highlighted are those that farmers enter into. The effect of each of these agreements is summarised as follows.

17. This arrangement is called the Beechworth Winegrape Project and is registered as a Managed Investment Scheme under the Corporations Law. By entering into the Joint Venture Agreement, a Farmer will conduct in joint venture with others the business of acquiring, planting, growing and cultivating grapevines for the production of wine grapes, and the harvesting, marketing and sale of the wine grapes and bulk wine produced therefrom and profit sharing in wine production profits over a period of 20 years from the commencement date. A Farmer will commence business by entering into a Joint Venture Agreement with BVLM (the Manager), BVL (the Landowner) and other Farmers whereby BVLM will be engaged to manage the Joint Venture and the Farmers' interests in it for 20 years.

18. The Joint Venture Farmers will grow the wine grapes on a property known as Big Valley, which is located approximately 10 kilometres west of the town of Beechworth in North East Victoria. The relevant property will be leased to the Joint Venture Farmers by BVL. The property is the subject of an Agreement to Lease and an

option to purchase by BVL. It is intended that BVL will lease the property from the present owners prior to the registration of the Draft Prospectus with the Australian Securities and Investments Commission and will complete the purchase of the property after 30 June 1999 and before 30 June 2000.

19. The Project aims to establish a vineyard of up to 140 hectares and, in this regard, up to 700 interests in the Joint Venture are on offer. The minimum investment per Farmer will be one participation or interest in the Joint Venture. The Project will not commence unless at least one hundred (100) Joint Venture interests / participations are taken up by Joint Venture Farmers by 30 June 1999. There is no maximum investment per Farmer in the Joint Venture. The planting of the vineyard will comprise 70 hectares of land in the first year of the Project and 70 hectares in the second year of the Project.

20. Each Joint Venture Farmer in the Project is required to subscribe for an equity stake in IWC, or to nominate another person or entity to do so. The required equity stake being the minimum equity interest in IWC comprises eight thousand (8,000) ordinary shares at a total cost of \$4,000. Additional equity of a multiple of eight thousand (8,000) ordinary shares must be taken to equate to the number of participation interests in the Project. It is intended that the IWC group of companies will acquire grapes from the Joint Venture and make, store and market wine and share the proceeds with the Farmers on the basis specified in the Joint Venture, being a margin of 40% of the wholesale price per bottle sold, which includes sufficient commercial payment for the cost of the grapes produced by the Farmers.

21. The relevant property will be owned by BVL, which company is owned 100% by IWC. IWC also owns 100% of BVLM. IWC will be owned as to twenty percent (20%) by Joint Venture Farmers or their nominated entities / persons in the same proportion as their Joint Venture participation.

22. It is proposed that Australian Rural Group Limited will act as Custodian of the Project for the Joint Venture Farmers.

23. Possible projected returns for Joint Venture Farmers are set out in the Draft Prospectus. However, these are dependent upon a range of assumptions and BVLM does not give any assurance or guarantee whatsoever in respect of the future success of, or financial returns associated with entering into the Joint Venture. Wine grape production is projected to commence in the year ending 30 June 2002. A harvest yield of 3.2 tonnes per hectare of wine grapes in the third year of the Project, increasing to 8.0 tonnes per hectare in Year 5 onwards, is anticipated. The Project is forecast to return (before allowing for any tax benefits) in excess of 15.38% averaged over the first 20 years.

Constitution and Joint Venture Agreement

24. In respect of the Project, a Farmer has an interest in specific property comprising the Managed Investment Scheme ('Scheme') property which is defined in the Constitution. There will be a Custodian of the Project for the Joint Venture Farmers as required by law. Farmers execute a power of attorney enabling BVLM to act on their behalf as required.

25. Farmers do not have any right to withdraw from the Scheme nor do they have a right to require their interest in the Scheme to be bought by the Manager or any other person or to have their interest in the Scheme redeemed (Clause 11, Constitution). A Farmer's / Member's Scheme interest may be transferred, provided such transfer is a transfer of the entire unencumbered interest in the Scheme (Clause 16, Constitution). BVLM keeps a register of Farmers.

26. The Farmers will remain Scheme members until the Scheme is determined on 30 June 2019, unless it is wound up earlier (Clause 7, Constitution).

27. The Farmers will each enter into a Joint Venture Agreement to carry out the Project as a Joint Venture and to appoint BVLM to manage the Joint Venture. The Project, as defined in the Joint Venture Agreement, is essentially the business of acquiring, planting, growing and cultivating grapevines to produce wine grapes and the harvesting, marketing and sale of the wine grapes and sharing in the profits from the sale of wine produced therefrom.

28. BVL, being the Landowner, will grant to the Custodian, as agent for the Manager, a lease of the relevant land. The Manager will hold the interest in the land, being the lease, on behalf of the Joint Venture of Farmers, to enable the vineyard to be planted out with grapevines.

Fees

29. The fees and contributions payable are as detailed below:

(a) management fees

A management fee of \$3,000 will be payable for each interest in the Joint Venture in respect of the first year of the Project. This fee will be payable on settlement of the application in respect of the Joint Venture Farmer. The fee is payable in advance for services to be provided by the Manager for the period of twelve (12) months, from the date of payment.

A management fee of \$3,000 will be payable for each interest in the Joint Venture in respect of the second year of the Project. The fee will be payable on the first anniversary of the

Settlement Date. The fee is also payable in advance for services to be provided by the Manager for the period of twelve (12) months from the date of payment.

A management fee of \$2,500 will be payable for each interest in the Joint Venture in respect of the third year of the Project. The fee will be payable on the first anniversary of the Settlement Date. The fee is also payable in advance for services to be provided by the Manager for the period of twelve (12) months from the date of payment.

Management fees in years subsequent to the third year will be payable on the anniversary of the Settlement Date yearly in advance on the basis of \$2,500 for the third year and then that amount increased by the Consumer Price Index (All Groups) Melbourne, or 3%, whichever is the greater, in each subsequent year, until there are sufficient funds from income of the Joint Venture to enable management fees to be payable yearly in advance from those funds.

(b) *Lease Rent Contribution fees*

The property necessary for the Project and necessary fencing and machinery sheds and other structural improvements, excluding irrigation equipment and trellising, will be leased to the Joint Venturers in Years 1, 2, 3 and 4 for \$125 per year for each interest in the Joint Venture. In Years 5 onwards, the previous year's Lease Rent Contribution fee will be increased by the Consumer Price Index (All Groups) Melbourne, or 3%, whichever is the greater, for each interest in the Joint Venture.

(c) *Joint Venture contributions*

Each Joint Venture Farmer will be required to pay to the Manager a Vineyard Establishment fee of \$3,225 upon Settlement Date of the Farmer's interest in the Joint Venture to establish the first 70 hectares in total, or 0.1 hectare per Farmer, which is comprised and allocated as follows:

Per Participation

Cost of acquisition of rootstock and field grafting	765
Vine establishment cost	75
Trellising cost	800
Landcare cost	100
Dam establishment cost	360
Irrigation establishment cost	950
Land preparation cost	175
	<u>\$3,225</u>

In addition, a further Vineyard Establishment fee of \$3,225 is due per participation at the commencement of the second year to establish the second 70 hectares in total, or 0.1 hectare per Farmer, which is comprised and allocated as follows:

Per Participation

Cost of acquisition of rootstock and field grafting	765
Vine establishment cost	75
Trellising cost	800
Landcare cost	100
Dam establishment cost	360
Irrigation establishment cost	950
Land preparation cost	175
	<u>\$3,225</u>

These fees must be applied by the Manager to acquire the necessary wine grape rootstock and undertake the necessary capital works for the benefit of the Joint Venture.

30. Each Joint Venture Farmer (or interests nominated by the Joint Venture Farmer) will be required to purchase shares in Indigo Wine Company Limited. A participation will require the payment of \$4,000 of capital to acquire 8,000 shares in the company at an issue price of \$0.50 per share, which payment will be required to be made on Settlement Date.

31. In the event that the Gross Income of the Joint Venture is insufficient in any year to meet payment of the relevant management fees and Lease Rent Contribution fees, the shortfall will be met by the Joint Venture Farmers and not from Gross Income of future years.

32. BVLM considers the fees and contributions payable above are reasonable and commercial.

Manager's services

33. The services to be provided by BVLM to the Joint Venture are specifically set out in the Joint Venture Agreement and they include:

- cultivating, fertilising and planting out the vineyard with rootstock in a healthy condition;
- carrying out field grafting, if required;
- applying water to the vineyard in order to maintain the grapevines on the vineyard in a healthy condition;
- pruning and/or training, stringing up, de-shooting and/or taking other measures that may be necessary in accordance with good viticultural practice to manage properly the growth of the grapevines to and along the trellises and to optimise as far as is reasonably possible in the circumstances the quality of the grapes produced therefrom;
- taking such reasonable measures as may be required to control the growth of weeds and other vegetable pests on the vineyard upon which the vines are growing;
- taking all reasonable measures in accordance with the principles of good viticultural practice and to the extent reasonably possible to deter and eradicate any insect, bird or animal pests from the vineyard that may detract from the health and vigour of the grapevines or yield thereof;
- taking representative soil samples from the vineyard from time to time and arranging to have those samples analysed by an accredited soil analysis laboratory and, having regard to the results and recommendations of any soil analysis undertaken, supply suitable fertiliser and apply it to the vineyard in accordance with the principles of good viticultural practice and in such quantities as may be required to promote healthy plant growth and yield;
- replacing any grapevines that die or become unproductive with juvenile grapevines of the same variety as those that die or have become unproductive;
- repairing and maintaining in a good condition all fences, trellises, accessways and other structural improvements and irrigation plant and equipment on the vineyard;
- arranging sales of the wine grapes and/or bulk wine from the vineyard, including entering into a contract or

contracts to supply grapes harvested from the vineyard or bulk wine produced therefrom;

- harvesting the wine grapes from the vineyard at or about the time instructed by the buyers of the grapes or as estimated by the Manager as being the appropriate time for harvesting the same;
- effecting the insurances referred to in the Agreement;
- employing such staff and labour as are necessary for the aforesaid purposes;
- carrying out the accounting, financial control and reporting needs and functions of the Joint Venture;
- keeping proper books of account for the Joint Venture and preparation and filing of income tax returns; and
- doing all other things necessary or incidental to the carrying out of the Project to produce a viable business of growing, marketing and sale of wine grapes and/or bulk wine.

34. The Vineyard Establishment fee payable by each Farmer to the Manager is to meet the costs of the following acquisition and/or works:

- acquisition of suitable wine grape rootstock and the carrying out of field grafting, if required, to establish the vineyard and the planting out of the rootstock in the ground;
- the provision of trellising for the training of the grapevines;
- the provision of land care in respect of the vineyard;
- the establishment of dams required for irrigating the vineyard;
- the establishment of irrigation works other than dams (as mentioned above) for irrigating the vineyard; and
- the preparation of the land so that it is suitable for the planting out of the wine grape rootstock.

35. The Manager will subcontract all proposed services and work.

Planting

36. It is intended that premium and super-premium red and white grape varieties, for example, shiraz, merlot, cabernet sauvignon and pinot noir of the red varieties, and chardonnay, sauvignon blanc,

riesling and pinot gris of the white varieties, will be planted. To this end, selective high quality grafted rootstock that is resistant to phylloxera will be purchased for the Project and field grafting will occur of the particular varieties required, if necessary. In order to maximise production levels, the quality of the soil will be enhanced prior to planting with the application of Aglime (calcium carbonate) fertiliser. This soil preparation will take place in the first year of the Project.

Finance

37. A finance option is offered by BVL Management Limited ('the Lender') to fund a Farmer's fees and expenses associated with the Joint Venture Project. The Lender will, if a loan option is taken, advance funds of \$2,000 on the Settlement Date, \$2,000 on the first anniversary of the Settlement Date and \$1,400 on the second and third anniversaries of the Settlement Date, for each Joint Venture interest. Security is to be enforced over the Farmer's interest in the Project, i.e., the Farmer's interest in the Joint Venture including the rights obtained as a result of the various Agreements entered into and payments made.

38. An interest rate will be charged of 8% payable yearly in advance. The loans will be repayable by monthly repayments of \$150 until the loan is repaid in full. The first repayment is required to be made on the first day of the month following the date of settlement of the loan.

39. The finance is provided as full recourse loans and the Lender will pursue legal action against outstanding borrowers. Finance arrangements organised directly by the Farmer with independent lenders are outside the arrangement to which this Ruling applies.

Ruling

Allowable deductions

40. For a Farmer who invests in the Project, the deduction available for the prepaid management fee, the prepaid Lease Rent Contribution Fee and interest prepaid to the Lender will depend upon the date that the investment is made and, in some cases, whether or not they are 'small business taxpayers'.

IMPORTANT: Paragraph 41 (relating to 'small business taxpayers') and paragraphs 42 to 44 (relating to taxpayers who are not 'small business taxpayers') describe the deductions allowable under the current law, but Farmers are advised to carefully examine the information contained in paragraphs 47 to 49 relating to proposed changes to the prepayment rules.

Farmers who invest in the Project after 1pm, AEST, 11 November 1999 may be affected by these changes.

Deductions for Farmers who are ‘small business taxpayers’

41. For a Farmer who is a ‘**small business taxpayer**’ and invests in the Project on or before 30 June 2000, the deductions shown in the Table below will be available for the years ended 30 June 2000 to 30 June 2002.

Fee type	ITAA 1997 section	Deductions for small business taxpayers only		
		Year 1	Year 2	Year 3
		30/6/2000	30/6/2001	30/6/2002
Management fee	8-1	\$3,000 – see Note (i) below	\$3,000	\$2,500
Lease Rent Contribution Fee	8-1	\$125	\$125	\$125
Interest	8-1	As incurred - see Note (ii) below	As incurred	As incurred
Trellising	42-15	- see Note (iii) below	- see Note (iii) below	- see Note (iii) below
Landcare	387-55	- \$100 – see Note (iv) below	\$100	Nil
Dam and Irrigation Establishment	387-125	\$437 - see Note (v) below	\$874	\$874
Land Preparation and Vine establishment	387-165	- see Note (vi) below	see Note (vi) below	see Note (vi) below

Notes:

- (i) Legislative change means that the full deduction will not be allowed in the year ended 30 June 2000 for Farmers who are not ‘small business taxpayers’. See paragraphs 42 to 44 and the Example at paragraph 97.
- (ii) Where a Farmer borrows funds from BVL Management Ltd in order to fund the obligation to pay the management fee in respect of the Joint Venture Project,

the interest paid in respect of the loan will be an allowable deduction. Finance arrangements organised with independent lenders are outside the arrangement to which this Ruling applies.

- (iii) A deduction for depreciation is allowable for capital expenditure incurred for trellising. This expenditure forms part of the Vineyard Establishment Fee paid by a Farmer at settlement and again in the second year of the Joint Venture. For Farmers who are 'small business taxpayers' and who comply with the conditions in section 42-345, the deduction for depreciation of trellising is determined using the rates in section 42-125 and the formula in either subsection 42-160(1), 'diminishing value method', or subsection 42-165(1), 'prime cost method'. The deduction allowed for the year ended 30 June 2000 will depend upon the number of 'days owned', being the number of days in the income year in which the Farmer owned an interest in the trellising. The project manager is to advise Farmers of relevant details to calculate their depreciation deductions for the year ended 30 June 2000. Depending upon the method that the Farmer elects to use, the rate for calculating the deduction will be 13% prime cost method or 20% diminishing value method.
- (iv) A deduction is allowable under section 387-55 for capital expenditure incurred for Landcare costs. This expenditure forms part of the Vineyard Establishment Fee paid by a Farmer at settlement and again in the second year of the Joint Venture. The deduction is allowable in the year that the expenditure is incurred. The relevant landcare operations are those defined in paragraph 387-60(1)(d) and sub-paragraph 387-60(1)(e)(iii).
- (v) A deduction is allowable under section 387-125 for capital expenditure representing the Dam Establishment and the Irrigation Establishment cost component of the Vineyard Establishment Fee paid by a Farmer at settlement and again in the second year of the Joint Venture. The deduction is calculated on the basis of one third of the capital expenditure in the year in which the expenditure is incurred, and one third in each of the next 2 years of income. Under the project, each Farmer incurs capital expenditure of \$1,310 in both the year ended 30 June 2000 and again in the year ended 30 June 2001. These costs, comprising the same amounts each year, enable the establishment of half the planting

of the rootstock in the first year and half in the second year.

- (vi) A deduction is allowable under section 387-165 for capital expenditure incurred for the acquisition and establishment of vines. This expenditure forms part of the Vineyard Establishment Fee paid by a Farmer at settlement and again in the second year of the Joint Venture. The deduction is allowable when the grapevines, as horticultural plants, enter their first commercial season. In calculating the deduction, a Farmer must use sections 387-175 and 387-185 to determine the 'effective life' of the grapevines. The project manager will inform investors of when the first and second plantings, respectively, enter their first commercial season.

Deductions for Farmers who are not 'small business taxpayers'

42. For a Farmer who invests in the Project on or before 30 June 2000 who is **not a 'small business taxpayer'** and is carrying on a business, the deduction available in respect of the management fee is determined under subsection 82KZMB(2), using the formula in subsection 82KZMB(3) and the percentages shown in Columns 3 and 4 of the Table in subsection 82KZMB(5). (The Example at paragraph 97 illustrates the application of this method).

43. In calculating the deduction available, the term 'expenditure' refers to expenditure for management fees that are otherwise allowable under section 8-1 whose 'eligible service period' ends not more than 13 months after being incurred by the taxpayer. The 'eligible service period' (defined in subsection 82KZL(1)) means, generally, the period over which the services are to be provided. **The project manager will inform affected taxpayers of the number of days in the eligible service period in the expenditure year. This figure is necessary for the deduction for management fees to be calculated.**

Year 1: Expenditure incurred on or before 30 June 2000

Available deduction = A + B

Where:

A = \$3,000 X
$$\frac{\text{Number of days of eligible service period in the expenditure year}}{\text{Total number of days of the eligible service period}}$$

B = (\$3,000 less A) x 80%

PR 2000/59**Year 2: Expenditure is incurred on or after 1 July 2000 and on or before 30 June 2001**

Available deduction = A + B + C

Where:

A = \$3,000 X $\frac{\text{Number of days of eligible service period in the expenditure year}}{\text{Total number of days of the eligible service period}}$

B = (\$3,000 less A) x 60%

C = balance of the Year 1 expenditure not previously deducted.

Year 3: Expenditure incurred on or after 1 July 2001 and on or before 30 June 2002

Available deduction = A + B + C

Where:

A = \$2,500 X $\frac{\text{Number of days of eligible service period in the expenditure year}}{\text{Total number of days of the eligible service period}}$

B = (\$2,500 less A) x 40%

C = balance of the Year 2 expenditure not previously deducted.

44. For a Farmer who invests in the Project on or before 30 June 2000 who is **not a 'small business taxpayer'** and is carrying on a business, deductions other than the management fee are shown in the Table below:

	ITAA 1997	Deductions for taxpayers who are not small business taxpayers		
Fee type	section	Year 1 30/6/1999	Year 2 30/6/2000	Year 3 30/6/2001
Lease Rent Contribution Fee	8-1	\$125 – see Note (vii) below	\$125	\$125
Interest	8-1	As incurred - see Note (vii) below	As incurred	As incurred
Trellising	42-15	- see Note (viii) below	- see Note (vi ii) below	- see Note (vi ii) below
Landcare	387-55	\$100 - see Note (iv) above	\$100	Nil

Dam and Irrigation Establishment	387-125	\$437 - see Note (v) above	\$874	\$874
Land Preparation and Vine establishment	387-165	- see Note (vi) above	- see Note (vi) above	- see Note (vi) above

Notes:

- (vii) Amounts of less than \$1,000 will be 'excluded expenditure' as defined in section 82KZL(1) and are deductible in full in the year in which they are incurred. Where these amounts exceed \$1,000, as may be the case where a Farmer has more than one interest in the Joint Venture, deductions are determined on the same basis as shown above for prepaid management fees.
- (viii) A deduction for depreciation is allowable for capital expenditure incurred for trellising. This expenditure forms part of the Vineyard Establishment Fee paid by a Farmer at settlement and again in the second year of the Joint Venture. For Farmers who are not 'small business taxpayers' the deduction for depreciation of trellising is determined using the formula in either subsection 42-160(3), 'Diminishing value method', or subsection 42-165(2A), 'Prime cost method'. Those formulae use 'effective life' to determine the deduction for depreciation. For the year ended 30 June 2000 the deduction will depend upon the number of 'days owned', being the number of days in the income year in which the Farmer owned an interest in the trellising. The project manager is to advise any affected Farmers of relevant details to calculate their depreciation deductions for the year ended 30 June 2000. Under section 42-100, Farmers are able to choose the method of determining the 'effective life' of the trellising and the depreciation deduction depends upon that choice.

Goods and Services Tax

45. For a Farmer who invests in the Project, sections 27-5 or 27-30 of the ITAA 1997 will apply to reduce the amount of any deduction allowable by any GST input tax credit to which the Farmer is entitled or, in the case of section 27-5, a decreasing adjustment that a Farmer has.

Sections 82KZM, 82KZMB, 82KL and Part IVA

46. For a Farmer who invests in the Project the following provisions have application as indicated:

- expenditure by Farmers who are small business taxpayers is not within the scope of section 82KZM;
- section 82KZMB applies to expenditure by Farmers who are not small business taxpayers and are carrying on a business;
- section 82KL does not apply to deny the deductions otherwise allowable; and
- the relevant provisions in Part IVA will not be applied to cancel a tax benefit obtained under a tax law dealt with in this Ruling.

Proposed new laws

Proposed changes to prepayment rules

47. On 11 November 1999, the Government announced a number of changes to the deductibility of certain prepaid expenditure incurred in respect of certain agreements. Legislation introduced into Parliament, but not yet enacted, provides that these changes will not apply if the relevant expenditure falls within one of the Exceptions to the proposed provisions. Provided the provisions are enacted as introduced, expenditure incurred by investors in this Project will be within Exception 5 to proposed section 82KZME.

48. Where Exception 5 applies to expenditure that has an 'eligible service period' ending not more than 13 months after the expenditure is incurred and is deductible under section 8-1:

- deductions for 'small business taxpayers' will be allowable in full in the year that the expenditure is incurred; and
- the amount and timing of deductions for taxpayers who are not 'small business taxpayers' will be determined under sections 82KZMB and 82KZMC of the ITAA 1936.

49. The practical effect of expenditure being within Exception 5 is that the deductions described in paragraphs 41 to 44 of this Product Ruling will not be affected by the proposed changes to the prepayment rules.

Explanations

Section 8-1

50. Consideration of whether management fees are deductible under section 8-1 begins with the first limb of the section. This view proceeds on the following basis:

- the outgoings in question must have a sufficient connection with the operations or activities that directly gain or produce the taxpayer's assessable income;
- the outgoings are not deductible under the second limb if they are incurred before the business has commenced; and
- where all that happens in a year of income is that a taxpayer contractually commits himself to a venture that may not turn out to be a business, there can be doubt about whether the relevant business has commenced and, hence, whether the second limb applies. However, that does not preclude the application of the first limb and determining whether the outgoings in question have a sufficient connection with activities to produce assessable income.

51. The growing of wine grapevines can constitute the carrying on of a 'primary production business', which is defined in subsection 995-1 to include a business of propagating and cultivating plants. Where there is a business, or a future business, the gross sale proceeds from the sale of the wine grapes and/or wine produced from the grapes and/or profit sharing in wine production profits will constitute gross assessable income. The generation of 'business income' from such a business, or future business, provides the backdrop against which to judge whether the outgoings in question have the requisite connection with the operations that more directly gain or produce this income. These operations will be the planting, tending and maintaining of the grapevines and harvesting the produce.

52. Under the Joint Venture Agreement, Farmers in this Project have rights in the form of a lease over an identifiable area of land consistent with the intention to carry on a business of growing wine grapevines to produce wine grapes and/or wine produced from the grapes for commercial exploitation. Under the Joint Venture Agreement, Farmers appoint BVL M, as Manager of the Joint Venture, to provide services such as planting, carrying out field grafting if required, cultivating, tending, pruning, fertilising, spraying, maintaining and otherwise caring for the wine grapevines. Farmers control their investment in the Joint Venture.

53. The Joint Venture Agreement gives Farmers full right, title and interest in the wine grapevines and their produce and the right to have the wine grapes and/or wine produced from the grapes sold for the Joint Venture Farmers' benefit.

54. The Joint Venture Farmers have the right to use the land for the growing of wine grapevines for producing wine grapes. They will appoint BVLM to perform the obligations and duties as imposed on the Manager under the Joint Venture Agreement. The Farmers' degree of control over BVLM, as evidenced by the Constitution of the Project being a Managed Investment Scheme which also incorporates the Joint Venture Agreement, and supplemented by the Corporations Law, is sufficient.

55. The general indicators of a business, as used by the Courts, are described in Taxation Ruling TR 97/11. Positive findings can be made from the arrangement's description for all the indicators discussed in that Ruling. Farmers who participate in this Project intend to derive assessable income from the Joint Venture Project. This intention is related to projections in the Draft Prospectus that suggest the Joint Venture Project should return a 'before tax' profit to the Farmers, i.e., a 'profit' in cash terms that does not depend on its calculation on the fees in question being allowed as a deduction.

56. Farmers will engage the professional services of a Manager who holds itself out as having the appropriate credentials. The Manager will subcontract certain works and services as appropriate. These services are based on accepted commercial agricultural / viticultural practices and are of the type ordinarily found in ventures that would commonly be said to be businesses.

57. Farmers have a continuing interest in the Project from the time they enter into the Joint Venture. The activities, and hence the fees associated with their procurement, are consistent with an intention to commence regular activities that have an 'air of permanence' about them. The Farmers' activities of conducting in joint venture the growing of wine grapevines for producing wine grapes and/or wine produced from the grapes for commercial sale and/or profit sharing in wine production profits will constitute the carrying on of a business.

58. The management and Lease Rent Contribution fees associated with the aforementioned activities will relate to the gaining of income from this business and, hence, have a sufficient connection to the operations by which this income (from the sale of wine grapes and/or wines) is to be gained from this business. Those fees will thus be deductible under the first limb of section 8-1. Further, no 'non-income producing' purpose in incurring the fees is identifiable from the arrangement. No capital component is identifiable. The tests of deductibility under both the first and second limbs of section 8-1 are met.

Sections 27-5 and 27-30 - Goods and Services Tax

59. Section 27-30 of the ITAA 1997 operates to deny a deduction that would be otherwise available under section 8-1 for the year ended 30 June 2000 to the extent that the loss or outgoing (incurred after 30 November 1999 and before 1 July 2000) includes an amount relating to an input tax credit to which a Farmer will be entitled on or after 1 July 2000.

60. Section 27-5 of the ITAA 1997 operates to deny a deduction, that would be otherwise available under section 8-1, to the extent that the loss or outgoing incurred (on or after 1 July 2000) includes an amount relating to an input tax credit to which a Farmer is entitled or a decreasing adjustment that a Farmer has.

Subdivision 960-Q - Small business taxpayers

61. In this product ruling the term ‘small business taxpayer’ is relevant for the purposes of certain prepaid expenditure and the depreciation of trellising.

62. Whether a Farmer is a ‘small business taxpayer’ depends upon the individual circumstances of each Farmer and is beyond the scope of this product ruling. It is the individual responsibility of each Farmer to determine whether or not they are within the definition of a ‘small business taxpayer’.

63. A ‘small business taxpayer’ is defined in section 960-335 of the ITAA 1997 as a taxpayer who is carrying on a business and either their ‘average turnover’ for the year is less than \$1,000,000 or their turnover recalculated under section 960-350 is less than \$1,000,000.

64. ‘Average turnover’ is determined under section 960-340 by reference to the average of the taxpayer’s ‘group turnover’. The group turnover is the sum of the ‘value of business supplies’ made by the taxpayer and entities connected with the taxpayer during the year (section 960-345).

Section 82KZM - Prepaid expenditure for ‘small business taxpayers’

65. Section 82KZM operates to spread over more than one income year a deduction for prepaid expenditure incurred by a ‘small business taxpayer’ that would otherwise be immediately deductible, in full, under section 8-1. The section applies if certain expenditure incurred under an agreement is in return for the doing of a thing under the agreement that is not wholly to be done within 13 months after the day on which the expenditure is incurred.

66. Under the Joint Venture Agreement, fees totalling \$3,125 per Joint Venture interest will be incurred upon execution of the Agreement comprising management fees of \$3,000 and Lease Rent Contribution fees of \$125. These fees are payable for providing services to Farmers within 13 months from the date of execution of the Joint Venture Agreement. For this Ruling's purposes, no explicit conclusion can be drawn from the arrangement's description that the fees have been inflated to result in reduced fees being payable for subsequent years. The fees are expressly stated to be for a number of specified services. There is evidence these fees are for services to be provided within 13 months of the fee being incurred.

67. Thus, for the purposes of this Ruling, it is accepted that no part of the initial management fee of \$3,000 and the Lease Contribution Fee of \$125 is for the doing of 'things' that are not to be wholly done within 13 months of the fee being incurred. On this basis, the basic precondition for the operation of section 82KZM is not satisfied and it will not apply to the expenditure of \$3,125 by Farmers who are 'small business taxpayers'.

Sections 82KZMA - 82KZMD - Prepaid expenditure for taxpayers other than small business taxpayers

68. For a Farmer who is not a 'small business taxpayer' and is carrying on a business, sections 82KZMA to 82KZMD determine the amount of a deduction otherwise allowable under section 8-1 where expenditure is incurred under an agreement for the doing of a thing that is not to be wholly done within the income year in which the expenditure is incurred ('the expenditure year'). Generally, these provisions operate to limit the amount of deduction available in the expenditure year to the amount that relates to that income year.

69. Section 82KZMA is a gateway provision that sets out when the new treatment will apply. Sections 82KZMB and 82KZMC set out the rules for prepayments incurred in the transitional period, for things to be done wholly within 13 months. For Farmers investing in the Project, transitional treatment applies to prepayments initially incurred in the 1999-2000 income year. Section 82KZMD governs the deductibility of prepayment expenditure where the eligible service period ends more than 13 months after the date the expenditure was incurred, and does not apply to the Project.

70. The deduction available to Farmers for the management fee will be determined in accordance with the rules contained in section 82KZMB. Because the quantum of the management fee is the same or lower in the second and subsequent years, the capping provisions contained in section 82KZMC will have no practical effect on the deduction available.

71. During the transitional period the amount of the deduction available to Farmers is determined using the formula in subsection 82KZMB(3) and the percentages shown in the table in subsection 82KZMB(5).

72. The Lease Rent Contribution fee of \$125 is 'excluded expenditure' as defined in section 82KZL(1). Pursuant to section 82KZMA(4), section 82KZMB does not apply to expenditure that is 'excluded expenditure'. 'Excluded expenditure' is deductible in full in the year in which it is incurred.

Interest deductibility

73. Some Farmers intend to finance their investment through a loan facility with BVL Management Ltd. Whether the interest is deductible under section 8-1 depends upon the same reasoning as that applied to the deductibility of the Lease Rent Contribution fee and management fee. The interest incurred in the year ending 30 June 2000, and in subsequent years of income, will be in respect of a loan to finance the business operations - the growing of the wine grapevines to produce wine grapes and/or wine - that will continue to be directly connected with the gaining of 'business income' from the Project. Such interest will, thus, also have a sufficient connection with the gaining of assessable income.

74. Where interest is prepaid by an investor who is not a 'small business taxpayer' it is income that would otherwise be subject to section 82KZMB. However, prepaid expenditure that is less than \$1,000 is 'excluded expenditure'. Interest prepaid to BVL Management Ltd that is 'excluded expenditure' is deductible in full in the year in which it is incurred for the same reasons advanced above in respect of the Lease Rent Contribution fee.

Proposed changes to prepayment rules

75. The changes announced by the Government, but not yet enacted, to apply from 11 November 1999 will affect all taxpayers that participate in certain agreements and prepay expenditure for up to 13 months. It is proposed that deductions otherwise allowable under section 8-1 of the ITAA 1997 will be spread over the period to which the prepayment relates. Under the proposed changes, there will be no exemption for small business taxpayers and no transitional rules will apply.

76. However, those changes will not apply where the expenditure incurred under the agreement is within one of the Exceptions to the proposed provisions.

77. Exception 5 provides that the expenditure must not be under an agreement to which a product ruling applies, describing expenditure under the agreement as being allowable as a deduction. The product ruling must be made:

- (a) on or before 1 pm (by legal time in the Australian Capital Territory) on 11 November 1999; or
- (b) in response to an application for a product ruling where:
 - (i) the application was received by the Commissioner on or before the time specified in paragraph (a); and
 - (ii) the Commissioner acknowledged receiving the application.

78. This product ruling is made in response to an application received by the Commissioner on or before 1 pm on 11 November 1999 and acknowledged. Expenditure incurred by investors in the Project will, therefore, be within Exception 5 if the proposed new law is enacted as introduced into parliament.

Expenditure of a capital nature

79. Any part of the expenditure of a Farmer entering into a primary production business that is attributable to acquiring an asset or advantage of an enduring kind is generally capital or capital in nature and will not be an allowable deduction under section 8-1. It is evident from the Project documentation that, in accordance with the Joint Venture Agreement, the Vineyard Establishment Fee of \$3,225 per Joint Venture interest, payable by Farmers at settlement of the Joint Venture and at the commencement of the second year of the Project is made up of amounts to cover the capital costs of carrying on their business.

80. Expenditures of this nature can fall for consideration under specific deduction provisions relevant to the carrying on a business of primary production, and under the general depreciation provisions of the ITAA 1997.

Section 42-15 - Depreciation of trellising

81. Each of the two Vineyard Establishment Fees payable by a Farmer includes an amount of \$800 on account of trellising costs to be incurred in the first and second years of the Project. These costs are considered to be capital expenditure on plant and equipment, used during the year of income for the purposes of producing assessable income when the trellising is installed ready for such use, or so used.

82. Trellising is attached to the land as a fixture. However, in the case of the Farmers being Joint Venturers, they are lessees who are considered to be owners of the trellising. This is based on Taxation Ruling IT 175 and the fact that the Farmers, as Joint Venturers, are entitled to be compensated for the trellising at the end of the term of the Joint Venture. The Farmers, as Joint Venturers, are treated as owners and, accordingly, depreciation is allowable on plant comprising trellising from the date it is installed and ready for use.

83. The deduction available, however, will depend on whether or not a Farmer is a 'small business taxpayer' as defined in section 960-335 and, if so, whether the Farmer complies with the conditions contained in section 42-345.

84. The depreciation deduction available to a Farmer who is a 'small business taxpayer' and who complies with the conditions contained in section 42-345 is calculated using the cost of the trellising and a rate of 13% prime cost or 20% diminishing value. These accelerated rates of depreciation are shown in section 42-125 and apply to plant with an effective life of between 13 and 30 years.

85. Farmers who are not 'small business taxpayers' will have entered the Project after 11:45am, AEST, 21 September 1999, and will not be able to claim accelerated depreciation on plant used in the Project because of section 42-118. The deduction for such Farmers is calculated using the cost of the trellising and its effective life only. Subdivision 42-C provides the choice of methods available for determining the effective life of plant.

Subdivision 387-A – Landcare operations

86. Each of the two Vineyard Establishment Fees payable by a Farmer includes an amount of \$100 on account of Landcare costs to be incurred in both the first and second years of the Project. This is considered to be capital expenditure incurred at a particular time on a 'landcare operation' for the prescribed purposes as set out in section 387-55. Landcare operations, as relevant to the Project, include, among other things, constructing surface or sub-surface drainage works on the land primarily and principally for controlling salinity or assisting in drainage control and/or an operation primarily and principally for the purpose of preventing land degradation and/or eradicating weeds and other pests and/or other erosion control measures.

87. In order to qualify for a deduction under section 387-55, a business must be carried on at the time the expenditure is incurred. It is considered that a business has commenced at the time the expenditure is incurred. It is accepted that the execution of the Joint Venture Agreement is sufficient to constitute the commencement of a

business. The business is considered to have commenced at the time the management fees were incurred by the Joint Venture Farmers. Further, it is considered the land care cost of \$100 in the first and second year is primarily and principally for the purpose of assisting in drainage control and/or preventing land degradation and the eradication of weeds and other pests. Accordingly, the expenditure is deductible to a Joint Venture Farmer under section 387-55 in the year of income in which it is incurred.

88. However, a deduction under section 387-55 is denied where the Farmer is entitled to claim a landcare tax offset under section 388-55 and elects to do so.

Subdivision 387-B - Expenditure on conserving or conveying water

89. Each of the two Vineyard Establishment Fees payable by a Farmer includes an amount of \$1,310 on account of Dam Establishment (\$360) and Irrigation Establishment costs (\$950) to be incurred in both the first and second years of the Project. These costs are considered to be capital expenditure incurred on the construction, manufacture, installation or acquisition of a 'water facility', primarily and principally for the purpose of conveying water for use in a primary production business, as set out in section 387-125. Examples of a water facility include a dam, tank, bore, irrigation channel (or similar improvement), pipe and pump. Under section 387-125 there is no requirement that the taxpayer actually own the 'water facility'.

90. The growing of wine grapevines to produce wine grapes for commercial exploitation is considered to be a primary production business, provided the taxpayer is actually carrying on a business. The Joint Venture Farmers of the Project satisfy the requirements of section 387-125. Accordingly, the dam and irrigation costs totalling \$1,310 in each of the first and second years of the Project, are deductible in equal amounts over three (3) years of income, commencing in the year of income the Farmers incur that expenditure.

91. However, a deduction under section 387-125 is denied where the Farmer is entitled to claim a water facility tax offset under section 388-55 and elects to do so.

Subdivision 387-C - Vines and horticultural provisions

92. Each of the two Vineyard Establishment Fees payable by a Farmer includes an amount of \$1,015 on account of Land preparation and Vine Establishment costs to be incurred in both the first and second years of the Project. This amount consists of \$765 for the acquisition of rootstock and field grafting, \$75 for vine establishment,

and \$175 for the preparation of land. These costs are considered to be capital expenditure attributable to the establishment of a horticultural plant for use in a horticulture business as set out in Division 387-C. It is considered the necessary conditions for the application of section 387-165 are satisfied, having regard to the following matters:

- wine grapevines fall within the definition of a horticultural plant;
- the Joint Venture Farmers are treated as owners of the horticultural plant on the basis that they hold a lease over the relevant lands to which the plant is attached (section 387-210);
- expenditure of a capital nature will be incurred in the establishment of the wine grapevines, such expenditure not being deductible under any other provision of the ITAA;
- the wine grapevines are considered to have an effective life of greater than 13 years and less than 30 years;
- the activities being carried on by the Farmers in Joint Venture constitute a horticulture business; and
- no part of the expenditure is in respect of draining swamp or low-lying land or the clearing of land.

93. Accordingly, section 387-165 provides a write-off for the relevant part of the Vineyard Establishment fees. In the case of the first year's rootstock acquisition, establishment and land preparation costs totalling \$1,015 per Joint Venture interest, it is considered the deductions under section 387-165 commence in the fourth year of the Project on the basis that it is then that the grapevines enter their first commercial season and hence begin to be used for the purpose of producing assessable income in a horticultural business. The appropriate write-off for the second year fee of \$1,015 on account of the same expenditure per Joint Venture interest will commence from the fifth year of the Project for the same reason mentioned earlier.

Section 82KL

94. Section 82KL's operation depends, among other things, on the identification of a certain quantum of 'additional benefit(s)'. Here, there may be a loan provided by BVL Management Limited to the Joint Venture Farmer. The loan is provided on a full recourse basis, and on commercial terms. Insufficient 'additional benefits' will be provided to trigger the application of section 82KL. It will not apply to deny the deductions otherwise allowable under section 8-1.

Part IVA

95. For Part IVA to apply there must be a 'scheme' (section 177A), a 'tax benefit' (section 177C), and a dominant purpose of entering into the scheme to obtain a tax benefit (section 177D).

The Beechworth Winegrape Project will be a 'scheme' commencing when the Prospectus is issued. The Joint Venture Farmers will obtain a 'tax benefit' from entering into the scheme, in the form of the deduction for the Lease Rent Contribution fee and management fee per Joint Venture interest allowable under section 8-1, and deductions allowable under subdivisions 387-A, 387-B and 387-C, and section 42-15, that would not have been obtained but for the scheme.

However, it is not possible to conclude that the scheme will be entered into or carried out with the dominant purpose of obtaining this tax benefit.

96. Farmers who invest in this Project intend to stay in the scheme for its full term and derive assessable income from the eventual harvesting and sale of the wine grapes and/or the wine produced therefrom and/or profit sharing in wine production profits. Further, there are no features of the Project that should result in insufficient 'real money' coming into the Manager's hands that might suggest the Project was so 'tax driven' and so designed to produce a tax deduction of a certain magnitude that it would attract the operation of Part IVA.

Example

97. Obligation to prepay expenditure arising on or after 11:45am AEST 21 September 1999 – applies to taxpayers who are not small business taxpayers and are carrying on a business:

Joseph Gardener enters into a contract with Pinetree Pty Ltd to manage his one hectare interest in the No 2 Pine Plantation. Joseph's management contract is executed on 20 October 1999 for management services to be provided from 1 June 2000. Under the contract, the first five year's management fees, payable in advance on 1 June each year for services to be provided for the following 12 months, are \$6,000 in the first year and \$1,200 for each of the following four years. Joseph has been in business for a number of years and has calculated his average turnover for the 1999/2000 income year to be greater than \$1 million. Therefore, he is not a small business taxpayer and is subject to the 21 September 1999 changes to the tax laws relating to prepaid expenditure. Joseph is unable to deduct the whole of his prepaid management fees in the years in which they are incurred. The fees are instead deductible over the eligible service period over which the management services will be provided. However, as the law currently stands, Joseph is able to take advantage of certain transitional rules that 'shade-in' the effect of the changes to the prepayment laws.

For 1999/2000 Joseph can claim a deduction of \$4,899 for expenditure incurred on or before 30 June 2000 on management fees. This amount is calculated as A + B where:

$$A = \text{Management fee} \times \frac{\text{Number of days of eligible service period in the expenditure year}}{\text{Total number of days of the eligible service period}}$$

$$= \$6,000 \times \frac{30}{365} = \$493$$

$$B = (\text{Management fee less } A) \times 80\%$$

$$= (\$6,000 - \$493) \times 80\% = \$4,406$$

The balance of the \$6,000 management fees that were prepaid on 1 June 2000 (i.e., \$1,101 is carried forward and can be claimed as a deduction in the 2000/2001-income year.

For 2000/2001, Joseph can claim a deduction of \$1,861 as expenditure incurred on or after 1 July 2000 and on or before 30 June 2001 on management fees. This amount is calculated as A + B + C where:

$$A = \$1,200 \times \frac{30}{365} = \$99$$

$$B = (\$1,200 - \$99) \times 60\% = \$661$$

$$C = \$1,101$$

Note that the third component (Part C) is the amount carried forward from 1999/2000. As in the first year, the balance of the \$1,200 management fees prepaid on 1 June 2001 (i.e., \$440) is carried forward and can be claimed as a deduction in the 2001/2002 income year. It should also be noted that in certain circumstances, not present in most projects with product rulings, 'capping provisions' will apply in the second and subsequent transitional years. These are complex and are not explained in this example.

Similarly, for 2001/2002, Joseph can claim a deduction of \$980 for expenditure incurred on or after 1 July 2001 and on or before 30 June 2002 on management fees. This amount is calculated as A + B + C where:

$$A = \$1,200 \times \frac{30}{365} = \$99$$

$$B = (\$1,200 - \$99) \times 40\% = \$441$$

$$C = \$440$$

Note that the third component (Part C) is again the amount carried forward from 2000/2001. As in the first two years, the balance of the \$1,200 management fees prepaid on 1 June 2002 (i.e., \$660) is carried

forward and can be claimed as a deduction in the 2002/2003-income year.

Detailed contents list

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Commissioner of Taxation

17 May 2000

Previous draft:

Not previously issued in draft form.

- schemes
- tax avoidance
- tax benefits
- viticultural expenses

Related Rulings/Determinations:

PR 1999/26; PR 1999/95;
 PR 1999/95; TR 92/1; TR 97/11;
 TR 97/16; TR 92/20; TR 98/22;
 IT 175; IT 2001; TD 93/34

Legislative references:

- ITAA 1997 8-1
- ITAA 1997 27-5
- ITAA 1997 27-30
- ITAA 1997 42-15
- ITAA 1997 42-100
- ITAA 1997 42-118
- ITAA 1997 42-125
- ITAA 1997 42-160
- ITAA 1997 42-165
- ITAA 1997 42-345
- ITAA 1997 Subdiv 387-A
- ITAA 1997 Subdiv 387-B
- ITAA 1997 Subdiv 387-C
- ITAA 1997 387-55

Subject references:

- carrying on a business
- commencement of a business
- interest expenses
- harvesting expenses
- management fees
- primary production
- primary production expenses
- producing assessable income
- product rulings
- public rulings

PR 2000/59

- | | |
|---------------------|--------------------|
| - ITAA 1997 387-125 | - ITAA 1936 82KZL |
| - ITAA 1997 387-165 | - ITAA 1936 82KZM |
| - ITAA 1997 387-175 | - ITAA 1936 82KZMA |
| - ITAA 1997 387-185 | - ITAA 1936 82KZMB |
| - ITAA 1997 387-210 | - ITAA 1936 82KZMC |
| - ITAA 1997 388-55 | - ITAA 1936 82KZMD |
| - ITAA 1997 960-335 | - ITAA 1936 PtIVA |
| - ITAA 1997 960-340 | - ITAA 1936 177A |
| - ITAA 1997 960-345 | - ITAA 1936 177C |
| - ITAA 1997 960-350 | - ITAA 1936 177D |
| - ITAA 1936 82KL | |

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