

# ***PR 2000/66A - Addendum - Income tax: Australian Cricket Bat Willow Project 2000***

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## Addendum

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### Income tax: Australian Cricket Bat Willow Project 2000

#### **At paragraph 15:**

##### **Delete:**

- Facsimile to ATO from Project Manager, dated 30 May 2000.

##### **Replace with:**

- Facsimile to ATO from Project Manager dated 30 May 2000 and letters and attachments from applicant's representative, dated 17 January 2001 and 21 February 2001.

#### **Add to the Ruling part of the Product Ruling at paragraph 55:**

##### **Division 35 – deferral of losses from non-commercial business activities**

##### **Section 35-55 – Commissioner's discretion**

55.1. For a Grower who is an individual and who entered the Project on or after 14 June 2000 and prior to any withdrawal of this Product Ruling, the rule in section 35-10 may apply to the business activity comprised by their involvement in this Project. Under paragraph 35-55(1)(b) the Commissioner has decided for the income years ended 30 June 2001 to 30 June 2010 that the rule in section 35-10 does not apply to this business activity provided that the Project has been, and continues to be, carried on in a manner that is not materially different to the arrangement described in this Ruling.

55.2. This exercise of the discretion in subsection 35-55(1) will not be required where for any year in question:

- a Grower's business activity satisfies one of the objective tests in sections 35-30, 35-35, 35-40 or 35-45; or
- the 'Exception' in subsection 35-10(4) applies.

55.3. Where either the Grower's business activity satisfies one of the objective tests, the discretion in subsection 35-55(1) is exercised, or the Exception in subsection 35-10(4) applies, section 35-10 will not apply. This means that a Grower will not be required to defer any

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excess of deductions attributable to their business activity in excess of any assessable income from that activity, i.e., any 'loss' from that activity, to a later year. Instead, this 'loss' can be offset against other assessable income for the year in which it arises.

55.4. Growers are reminded of the important statement made on Page 1 of this Product Ruling. Therefore, Growers should not see the Commissioner's decision to exercise the discretion in paragraph 35-55(1)(b) as an indication that the Tax Office sanctions or guarantees the Project or the product to be a commercially viable investment. An assessment of the Project or the product from such a perspective has not been made.

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**Commissioner of Taxation**

27 June 2001

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ATO references:

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