



PR 2000/94 - Income tax: Margaret River Watershed Wine Project

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 This document has changed over time. This is a consolidated version of the ruling which was published on *30 August 2000*



Product Ruling

Income tax: Margaret River Watershed Wine Project

Contents	Para
What this Product Ruling is about	1
Date of effect	11
Withdrawal	13
Previous Rulings	14
Arrangement	15
Ruling	41
Explanations	50
Example	113
Detailed contents list	114

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.

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.

What this Product Ruling is about

1. This Ruling sets out the Commissioner's opinion on the way in which the 'tax law(s)' 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 Margaret River Watershed Wine Project, or just simply as 'the Project'.

Tax law(s)

2. The tax law(s) dealt with in this Ruling are:
- section 6-5 of the *Income Tax Assessment Act 1997* ('ITAA 1997');
 - section 8-1 (ITAA 1997);
 - section 17-5 (ITAA 1997);
 - section 42-15 (ITAA 1997);
 - section 42-125 (ITAA 1997);
 - section 387-55 (ITAA 1997);
 - section 387-125 (ITAA 1997);
 - section 387-165 (ITAA 1997);
 - section 82KL of the *Income Tax Assessment Act 1936* ('ITAA 1936');
 - sections 82KZM and 82KZMB - 82KZMD (ITAA 1936);
 - Part IVA (ITAA 1936);
 - Division 27 (ITAA 1997); and
 - Division 35 (ITAA 1997).

Goods and Services Tax

3. In this ruling, all fees and expenditure referred to include GST where applicable. In order for an entity (referred to in this ruling as a Grower) to be entitled to claim input tax credits for the Goods and Services Tax ('the GST') included in its expenditure, the entity must be registered, or required to be registered, for GST and hold a valid tax invoice.

Business Tax Reform

4. The Government is currently evaluating further changes to the tax system in response to the Ralph *Review of Business Taxation* and continuing business tax reform is expected to be implemented over a number of years. Although this Ruling deals with the laws enacted at the time it was issued, future tax changes may affect the operation of those laws and, in particular, the tax deductions that are allowable. Where tax laws change, those changes will take precedence over the application of this Ruling, and to that extent, this Ruling will be superseded.

5. Taxpayers who are considering investing in the Project are advised to confirm with their taxation adviser that changes in the law have not affected this Product Ruling since it was issued.

Note to promoters and advisers

6. Product Rulings were introduced for the purpose of providing certainty about tax consequences for investors in projects such as this. In keeping with that intention, the Tax Office suggests that promoters and advisers ensure that potential investors are fully informed of any changes in tax laws that take place after the Ruling is issued. Such action should minimise suggestions that potential investors have been negligently or otherwise misled.

Class of persons

7. 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 'Growers'.

8. 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

9. The Commissioner rules on the precise arrangements identified in this Ruling. If the arrangements described in the Ruling are materially different from the arrangements that are actually carried out:

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

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Date of effect

11. This Ruling applies prospectively from 30 August 2000, the date the 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, the Product 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 2003. 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 2000/65, which is withdrawn on and from the date this Ruling is made. Product Ruling PR 2000/65 will continue to apply to investors who entered into the project on or before 30 August 2000.

Arrangement

15. The arrangement that is the subject of this Ruling is described below. This description incorporates the following documents:

- Application for Product Ruling dated 17 January 2000;
- The Margaret River Watershed Project No.1 Draft Prospectus, undated;
- **Constitution for the Margaret River Watershed Project No.1 between Primary Securities Ltd [the ‘Responsible Entity’], Primary Securities Ltd [‘the Bare Trustee’] and the Grower, undated;**
- **Management and Marketing Agreement between Watershed Marketing and Management Pty Ltd [the Manager], Primary Securities Ltd [the ‘Responsible Entity’], Primary Securities Ltd [‘the Bare Trustee’] and the Grower, undated;**
- **Lease between Watershed Land Ltd [Owner], Primary Securities Ltd [the ‘Responsible Entity’], and the Grower, undated;**
- Compliance Plan for the Margaret River Watershed Project No.1, undated;
- Wine Production Agreement between Watershed Marketing and Management Pty Ltd [the Manager], Watershed Wines Ltd [the Winery] and Gillard Turner & O’Brien Pty Ltd T/as Custodian & Funds Management Services (the Custodian);
- Draft Supplementary Prospectus, undated; and
- Additional correspondence dated 23 May 2000, 25 May 2000 and 31 July 2000.

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

PR 2000/94

16. The documents highlighted are those the Growers enter into. There are no other agreements, whether formal or informal, and whether or not legally enforceable, which a Grower, or any associate of the Grower, will be a party to, with the exception of finance agreements, to which paragraphs 39 and 40 apply. The effect of these agreements is summarised as follows.

Overview

17. These arrangements are called the Margaret River Watershed Wine Project.

Location	South West Region of Western Australia, South of Margaret River.
Type of business each participant is carrying on	To carry on a commercial viticulture and wine production business for a period of 18 years.
Number of hectares under cultivation	80 hectares
Name used to describe the product	Margaret River Watershed Wine Project
Size of each Vinelot	0.05 hectares
Number of vines per hectare	1660
Expected production	300 cubic metres / hectare
The term of the investment in years	18 years
Initial cost	\$10,527
Initial cost per hectare	\$210,540
Ongoing costs	Annual Management Fees and Rent.

18. Growers applying under the Supplementary Prospectus enter into a Marketing and Management Agreement and a Lease. Watershed Land Ltd agrees to lease to the Grower an identifiable area of land called a 'Vinelot', until the Project is terminated on 30 June 2018. Each Vinelot is 0.05 hectares in size.

19. The Project Land is situated in the South West Region of Western Australia, approximately 5kms south of Margaret River. Watershed Land Ltd owns the land.

20. Watershed Land Ltd will lease the Vinelot to the Grower for the purpose of Cultivating Vines and Harvesting Grapes.

21. The Draft Supplementary Prospectus states that there is no minimum subscription for the Project. Each investor may subscribe for a minimum of one Vinelot. The Manager will plant approximately 83 vines per Vinelot (1660 per hectare) during the period up to 30 June 2002 following the execution of the Marketing and Management Agreement and Lease (cl 3.2 of Constitution).

22. Possible projected returns for Growers are outlined on page 18 of the Draft Prospectus. The projected returns are subject to the inherent risks of primary production and the commercial risks of a long term venture. Watershed Marketing and Management Pty Ltd has outlined these risks in the Draft Prospectus. Based on the example set out on page 18 of the Draft Prospectus, a Grower could expect to achieve an after tax internal rate of return of 10.92% per Vinelot. Growers will execute a Power of Attorney enabling the Responsible Entity, Primary Securities Ltd, to act on their behalf as required when they make an application for a Vinelot.

Constitution

23. The Constitution for the Project sets out the terms and conditions under which the Responsible Entity agrees to act for the Growers and to manage the Project. The Responsible Entity will keep a register of Growers. Growers are entitled to assign their Grower's Interest in certain circumstances. The Lease and Marketing and Management Agreement will be executed on behalf of a Grower following them signing the Application and a Power of Attorney Form in the Prospectus. Growers are bound by the Constitution and the Marketing and Management Agreement by virtue of their participation in the Project.

Compliance plan

24. The Responsible Entity has prepared a Compliance Plan in accordance with the Corporations Law. Its purpose is to ensure that the Responsible Entity meets its obligations as the Responsible Entity of the Project and that the rights of the Growers are protected.

Interest in land

25. A lease is granted by the Land Owner, Watershed Land Ltd, to the Growers under the terms of the Lease (cl.2.1). Growers are granted an interest in land in the form of a lease to use their Vinelots for the purpose of cultivating Vines and Harvesting Grapes for commercial grape production (Recital C). Growers must pay rent to the Lessor of an amount of \$352 per Vinelot per annum commencing on 30 June 2001, payable in arrears. This fee will be indexed

annually. The term of a Grower's lease is from the Commencement Date until 30 June 2018.

Marketing and Management Agreement

26. Each Grower enters into a Marketing and Management Agreement with the Manager. The termination of the project is the date on which all Wine has been sold, proceeds from the sale of Wine have been paid, and all accounts and reports have been given in relation thereto (cl.3). Growers contract with the Manager to plant, manage, maintain and harvest grapes from the vines. Growers pay a Management Fee of \$8,943 in Year One, \$4,840 in Year Two, \$4,576 in Year Three and an amount annually thereafter which is the Growers' proportion of the Manager's actual costs for performing the services under this agreement.

27. The Manager will carry out the following services under this agreement:-

- prepare and cultivate the Vinelots in a proper and skilful manner pursuant to the Marketing and Management Plan;
- take any necessary steps to prevent or combat land degradation in relation to the Vinelots;
- purchase and plant rootlings and vines in a healthy condition;
- tend to the rootlings and vines according to the principles of good husbandry, including applying fertiliser;
- maintain and/or upgrade fences to prevent the entry of kangaroos and vermin, soil degradation and protect the placement of vines;
- keep the vines in good and substantial repair and condition and conduct activities on them in a commercial manner in keeping with accepted viticulture industry standards; and
- do such things as may reasonably be required to eradicate, exterminate and keep the Vinelots and the land free from disease, vermin, noxious weeds, rabbits, kangaroos, insect pests and all other pests.

28. The Manager will harvest (cl 7) each season (except for the initial growing seasons) as and when deemed appropriate in keeping with sound viticultural practice, to produce the best results for the Grower. The Manager will be responsible for paying for the cost of annual insurance on the Vinelot (cl. 12).

Fees

29. The total fee payable in the first year under the Marketing and Management Agreement for the Project is \$10,063 per Vinelot. This fee includes the Management Fee which is payable in two instalments. The first instalment of \$3,410 is payable on 1 July 2000 and the second instalment of \$5,533 is payable in arrears on 30 June 2001. The balance of the Fee is made up of fees for Rootlings expenses of \$121, Irrigation costs of \$330, Landcare expenses of \$198 and Trellising expenses of \$583 which are all payable on 1 July 2000 (schedule to the Marketing and Management Agreement). These services will be performed during the period 1 July 2000 to 30 June 2001.

30. A Management Fee of \$4,840 is payable for services to be carried out in the period commencing 1 July 2001 until 30 June 2002 and is payable on 30 June 2002.

31. A Management Fee of \$4,576 is payable for services to be carried out in the period commencing 1 July 2002 until 30 June 2003 and is payable on 30 June 2003.

32. For the years from 1 July 2003 to 30 June 2018, Management Fees are payable by the Grower each year for the Grower's proportion of the actual cost to the Manager of performing the services under the Marketing and Management Agreement for the relevant financial year.

33. Rent of \$352 per year, indexed annually, is payable by the Grower.

34. The Viticulturist Consultant has reported, at pages 34 - 39 of the Draft Prospectus that with appropriate establishment procedures and sound management, this project can achieve its aims and objectives as outlined in the Prospectus.

35. The Subscription Monies will be held in the Trust Account by the Bare Trustee formed under the Project's Constitution (cl 6.1(a)).

Planting

36. During the period up to 30 June 2002 the Manager will be responsible for planting Rootlings and Vines on the leased area. After 30 June 2002, the Manager will tend to Rootlings and Vines according to the principles of good husbandry. The services to be provided by the Manager over the term of the project are outlined in the Marketing and Management Agreement (cl 5).

37. The Manager will be responsible for the harvesting of the grapes, and/or purchase of grapes and delivery of these grapes to the Winery and for production of Wine from those grapes and storage of

the wine. The Harvest will take place each season (except for the initial growing seasons) as and when deemed appropriate by the Manager in keeping with sound viticultural practice, to produce the best results for the Grower.

38. The Receipts from the sale of wine will be paid into the Trust Account held by the Bare Trustee in the name of the Custodian. Receipts received by the Bare Trustee are to be distributed in the following order of priority:

- to the Responsible Entity for any outstanding fees and expenses payable by the Grower to the Responsible Entity under the Constitution;
- to the Manager for any outstanding fees, costs or interest owing by the Grower to the Manager under the Marketing and Management Agreement;
- to the Owner for any outstanding Rent or other Fees, costs, interest or expenses owing by the Grower to the Owner under the Lease; and then
- to the Grower provided that if the aggregate sum to be distributed is less than \$1,000, then at the discretion of the Responsible Entity, distribution to Growers may be postponed. (cl 12 of Constitution).

Finance

39. Growers can fund their investment in the Project themselves or borrow from an independent lender.

40. This Ruling does not apply if a Grower enters into a finance agreement that includes or has any of the following features:

- there are split loan features of a type referred to in Taxation Ruling TR 98/22;
- there are indemnity arrangements or other collateral agreements in relation to the loan designed to limit the borrower's risk;
- 'additional benefits' are or will be granted to the borrowers for the purpose of section 82KL or the funding arrangements transform the Project into a 'scheme' to which Part IVA may apply;
- the loan or rate of interest is non-arm's length;
- repayments of the principal and payments of interest are linked to the derivation of income from the Project;

- the funds borrowed, or any part of them, will not be available for the conduct of the Project but will be transferred (by any mechanism, directly or indirectly) back to the lender, or any associate of the lender;
- lenders do not have the capacity under the loan agreement, or a genuine intention, to take legal action against defaulting borrowers; or
- entities associated with the Project, are involved or become involved, in the provision of finance to Growers for the Project.

Ruling

Section 8-1

Deductions where a Grower is not registered or not required to be registered for GST

41. A Grower may claim the deductions in the following table, where the Grower:

- participates in the Project by 30 June 2001 to carry on a business of growing grapes and producing wine;
- is a small business taxpayer;
- incurs the fees shown in paragraphs 29 to 31; and
- is not registered, or is not required to be registered for GST:

PR 2000/94**Deductions available each year**

Fee Type	ITAA 1997 Section	Year 1 30/6/2001	Year 2 30/6/2002	Year 3 30/6/2003
Management Fee	8-1	\$8,943	\$4,840 See notes (v) and (vi) below.	\$4,576 See notes (v) and (vi) below.
Lease Fee	8-1	\$352	\$352 See note (vi) below.	\$352 (indexed) See note (vi) below.
Interest	8-1	See note (vii) below.	See note (vii) below.	See note (vii) below.
Rootlings	387-165	Nil, see note (i) below	Nil	Nil
Irrigation	387-125	\$110, see note (ii) below	\$110	\$110
Landcare	387-55	\$198, see note (iv) below	Nil	Nil
Trellising	42-15	see note (iii) below	see note (iii) below	see note (iii) below

- (i) A deduction is allowable under section 387-165 for capital expenditure incurred for the acquisition and establishment of the grapevines. The deduction is allowable when the grapevines, as horticultural plants, enter their first commercial season. Under section 387-175, grapevines have an 'effective life' for the purposes of section 387-185 of '13 but fewer than 30 years'. This provides a write-off rate of 13%. The project manager will inform investors of when the grapevines enter their first commercial season.
- (ii) A deduction under section 387-125 for capital expenditure incurred for the acquisition and installation of the irrigation system. 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.

- (iii) The tax deduction for depreciation of trellising will depend upon whether or not the Grower is a 'small business taxpayer' (see paragraphs 66 to 68 below).

For a Grower who is a 'small business taxpayer' and who complies with the conditions in section 42-345, the tax 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 tax deduction calculated under these formulae depends upon the number of 'days owned', being the number of days in the income year in which the Grower owned an interest in the trellising and the extent to which the trellising is installed ready for use during the year. The Project's manager is to advise Growers of relevant details to calculate their depreciation deductions for the year ended 30 June 2001. Depending upon the method the Grower elects to use, the rate for calculating the tax 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 operations. The deduction is allowed in the year that the expenditure is incurred.
- (v) Where Management fees are prepaid, the fees are **NOT** fully deductible in the year incurred. The income tax deduction for each year's fees **MUST** be determined using the formula shown in paragraph 45.
- (vi) Management or lease fees of less than \$1,000 will be 'excluded expenditure'. Excluded expenditure is an 'exception' to the prepayment rules and is deductible in full in the year in which it is incurred. Deductibility of lease fees that exceed \$1,000, such as may occur where a Grower acquires a number of interests in the Project, will be determined on the same basis as any prepaid Management fees, i.e., using the formula shown in paragraph 45).
- (vii) The deductibility or otherwise of interest arising from agreements that Growers enter into to finance their participation in the Project is outside the scope of this Ruling. However, Growers should read carefully the discussion of the prepayment rules in paragraphs 96 to 98 below as those rules may be applicable if interest is prepaid.

PR 2000/94

42. For a Grower who participates in the Project before 30 June 2001 who is **not a 'small business taxpayer'** and is carrying on a business, the deductions available in respect of capital expenditure are shown in the Table below, provided the Grower is not registered or required to be registered for GST:

Expenses	ITAA 1997 Section	Year 1	Year 2	Year 3
		30/6/2001	30/6/2002	30/6/2003
Trellising	42-15	See note (viii) below	See note (viii) below	See note (viii) below
Irrigation	387-125	\$110, see note (ii) above	\$110	\$110
Rootlings	387-165	Nil, see note (i) above	Nil	Nil
Landcare	387-55	\$198, see note (iv) above	Nil	Nil

Notes:

- (viii) For a Grower who is NOT a 'small business taxpayer' or who is a 'small business taxpayer' who does not satisfy the conditions in section 42-345, the tax deductions 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'. The tax deduction calculated under these formulae depends upon the number of 'days owned', being the number of days in the income year in which the Grower owned an interest in the trellising and the extent to which each is installed ready for use during the year. The Project's manager is to advise Growers of relevant details to calculate their depreciation deductions for the year ended 30 June 2001. The formulae use 'effective life' rather than specified rates to determine the deduction for depreciation.

A Grower who is NOT a 'small business taxpayer' has the alternative option of allocating the **trellising** to a 'low value pool' and calculating the depreciation deduction under section 42-470 using the diminishing value method (see paragraphs 71 to 74 below).

Deductions where a Grower is registered or required to be registered for GST

43. Where a Grower who is registered, or required to be registered for GST:

- participates in the Project by 30 June 2001 to carry on the business of growing grapes and producing wine;
- incurs the fees shown in paragraphs 29 to 31; and
- is entitled to an input tax credit for the fees

then the deductions shown in the Tables above will exclude any amounts of input tax credit (Division 27 of ITAA 1997). See Example 1 at paragraph 113.

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

44. For a Grower who invests in the Project and incurs expenditure in accordance with the Lease Agreement and the Management and Marketing Agreement, the following provisions of the ITAA 1936 have applications as indicated:

- (i) the expenditure by Growers does not fall within the scope of section 82KZM;
- (ii) the expenditure by growers does not fall within the scope of sections 82KZMB-82KZMD;
- (iii) section 82 KL does not apply to deny the deductions otherwise allowable; and
- (iv) 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.

Prepaid fees

45. In this Project the Lease Agreement and Management and Marketing Agreement that Growers enter into do not require fees to be paid by Growers prior to the commencement of each eligible service period. If however, a Grower chooses to incur expenditure in respect of services to be provided for a period that has not yet commenced then the prepayment will not be deductible in full in the year in which it is incurred. Rather, using the formula shown below, the prepayment provisions of the ITAA 1936 will operate to allow the income tax deduction in the period that the prepaid benefits are provided (see paragraphs 91 to 95).

$$\text{Expenditure} \times \frac{\text{Number of days of eligible service period in the year of income}}{\text{Total number of days of eligible service period}}$$

Section 35-55 – losses from non-commercial business activities

46. For a Grower who is an individual and who enters the Project during the year ended 30 June 2001 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 will decide for the income years ending 30 June 2001 to 30 June 2004 that the rule in section 35-10 does not apply to this activity provided that the Project is carried out in the manner described in this Ruling.

47. 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 (see paragraph 102 in the Explanations part of this ruling, below).

48. 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 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.

Section 6-5 - assessable income

49. A Grower's share of the gross sales proceeds from the Project, less any GST payable on these proceeds, will be assessable income under section 6-5 of ITAA 1997. Section 17-5 of the ITAA 1997 excludes from assessable income an amount relating to GST payable on a taxable supply.

Explanations

Section 8-1 - ITAA 1997

50. It is appropriate, as a starting point, to consider whether lease and management fees are deductible under paragraph 8-1(1)(a). This consideration proceeds on the following basis:

- the outgoing in question must have a sufficient connection with the operations or activities that directly gain or produce the taxpayer's assessable income;

- the outgoing is not deductible under paragraph 8-1(1)(b) if it is incurred when the business has not commenced; and
- where a taxpayer contractually commits themselves 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 paragraph 8-1(1)(b) applies. However, that does not preclude the application of paragraph 8-1(1)(a) in determining whether the outgoing in question would have a sufficient connection with activities to produce assessable income of the taxpayer.

51. A vineyard project can constitute the carrying on of a business. Where there is a business, or a future business, the gross sale proceeds from grapes from the scheme will constitute assessable income in their own right. 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, maintaining and harvesting of the vines.

52. Generally, a Grower will be carrying on a vineyard business where:

- the Grower has an identifiable interest in specific grape vines coupled with a right to harvest and sell the grapes produced;
- the vineyard activities are carried out on the Grower's behalf; and
- the weight and influence of the general indicators of a business, as used by the Courts, point to the carrying on of a business.

53. Under the Lease, Growers have rights in the form of a lease over an identifiable area of land consistent with the intention to carry on a business of a commercial vineyard. Under the Marketing and Management Agreement, Growers appoint Watershed Marketing and Management Pty Ltd, as Manager, to carry out viticulture farming in accordance with the agreement. The agreements give Growers full right, title and interest in the grapes produced and the right to have the wine sold for their benefit.

54. Under the Lease and the Marketing and Management Agreement, Growers appoint the Manager to provide services such as purchasing and planting Rootlings and Vines in a healthy condition on the Vinelots, installing trellising and irrigation, and tending to the

PR 2000/94

Rootlings and Vines according to the principles of good husbandry. The Manager is also responsible for harvesting and selling the grapes. The specific cost of these services provided in the initial period is \$10,063.

55. The Lease gives Growers an identifiable interest in specific vines and a legal interest in the land by virtue of a lease. Growers elect to use the Manager, Watershed Marketing and Management Pty Ltd, to market the produce for them.

56. Growers have the right to use the land in question for the cultivation of vines and harvesting of grapes and to have the Manager enter the land to carry out its obligations under the Marketing and Management Agreement. The Growers' degree of control over the Manager, as evidenced by the Agreement and supplemented by the Corporations Law, is sufficient. Under the Project, Growers are entitled to receive regular progress reports on the Manager's activities. Growers are able to terminate arrangements with the Manager in certain instances, such as cases of neglect, failure to satisfy any substantial duty or the Manager going into liquidation. The activities described in the Marketing and Management Agreement are carried out on the Growers' behalf.

57. The general indicators of a business, as used by the Courts, are described in Taxation Ruling TR 97/11. Growers to whom this Ruling applies intend to derive assessable income from the Project. This intention is related to projections in the Prospectus that suggest the Project should return a 'before-tax' profit to the Growers, i.e., a 'profit' in cash terms that does not depend in its calculation, on the fees in question being allowed as a deduction.

58. Growers will engage the professional services of a Manager with appropriate credentials. The services are based on accepted viticulture practices and are of the type ordinarily found in viticulture activities.

59. Growers have a continuing interest in the vines from the time they are acquired until they reach the end of the most productive period of their life. There is a means to identify which vines Growers have an interest in. The vineyard 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 Growers' vineyard activities will constitute the carrying on of a business.

60. The management fees and lease fees associated with the vineyard 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 grape produce) is to be gained from the business. They will, thus, be deductible under the first limb of section 8-1. Further, no 'non-income producing' purpose in

incurring the fee is identifiable from the arrangement. No capital component is identifiable. The tests of deductibility under paragraph 8-1(1)(a) are met. The exclusions of subsection 8-1(2) do not apply.

Expenditure of a capital nature

61. Any part of the expenditure of a Grower entering into a horticultural 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. In this Project, the costs of irrigation, trellising, rootlings and landcare operations are considered to be capital in nature. The fees for these expenditures are not deductible under section 8-1. However, expenditure of this nature can fall for consideration under specific capital write-off provisions of the ITAA 1997.

Section 42-15 - ITAA 1997: depreciation of trellising

62. Growers accepted into the Project incur expenditure on trellising upon which the vines are attached. The trellising is to be used on their behalf in the operation of the vineyard business. The trellising is attached to the land as a fixture. This expenditure is of a capital nature.

63. Under section 42-15, a taxpayer can deduct an amount for depreciation of a unit of plant used for the purpose or purposes of producing assessable income where they are the owner or quasi-owner of that plant. However, where an item is affixed to land so that it becomes a fixture, at common law it becomes part of the land and is legally, absolutely owned by the owner of the land.

64. It is, however, accepted in certain circumstances that a lessee is entitled to claim depreciation where they are considered to be the owner of those improvements. Income Tax Ruling IT 175 sets out the Australian Taxation Office's (ATO's) views on this issue. Where a lessee is considered to own the improvements under a state law, as detailed in the Ruling, or where they have a right to remove the fixture or are entitled to receive compensation for the value of the fixture, the ATO accepts the lessee is entitled to claim depreciation for the fixture.

65. Under section 42-15 Growers are entitled to depreciation deductions for capital expenditure relating to the acquisition and installation of trellises on the land. The deduction available, however, will depend on whether or not a Grower is a 'small business taxpayer' as defined in section 960-335 and, if so, whether the Grower complies with the conditions contained in section 42-345.

Small business taxpayers

66. Whether a Grower is a 'small business taxpayer' depends upon the individual circumstances of each Grower and is beyond the scope of this Product Ruling. It is the individual responsibility of each Grower to determine whether or not they are within the definition of a 'small business taxpayer'.

67. 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.

68. 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).

Depreciation deductions for Growers who are 'small business taxpayers'

69. The depreciation deduction for trellising available to a Grower who is a 'small business taxpayer' and who complies with the conditions contained in section 42-345 is calculated using the formula in either subsection 42-160(1) or subsection 42-165(1). These formulae use the cost of the trellising, the number of days the trellising was owned by the Grower during the income year, the extent to which the trellising is installed ready for use during the year, 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. The Project Manager will advise Growers of the date that the trellising is installed and begins to be used for the purpose of producing assessable income.

Depreciation deductions for Growers who are not 'small business taxpayers'

70. A Grower who is NOT 'small business taxpayer' or is a 'small business taxpayer' who does not satisfy the conditions in section 42-325 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 depreciation deduction for trellising for such a Grower is calculated using the formula in either subsection 42-160(3) or subsection 42-165(2A). These formulae use the cost of the plant, the number of days the trellising was owned by the Grower during the income year, the extent to which the plant is installed ready for use

during the year, and its 'effective life'. Subdivision 42-C provides the choice of methods available for determining the 'effective life' of plant. The Project Manager will advise Growers of the date that the trellising is installed and begins to be used for the purpose of producing assessable income.

'Low value pool' option for Growers who are not 'small business taxpayers'

71. From 1 July 2000 the immediate 100% depreciation deduction for plant costing \$300 or less was abolished for all taxpayers except 'small business taxpayers'. The immediate deduction has been replaced by a 'low value pool' arrangement.

72. Under subsection 42-455(1), a Grower who is not a 'small business taxpayer' can choose to allocate the cost of all newly acquired items of plant costing less than \$1,000 each to a 'low value pool' in the year of acquisition. Plant costing less than \$1,000 is called 'low cost plant'. Once the choice is made to allocate 'low cost plant' to the pool, all 'low cost plant' acquired in that income year and subsequent income years must be included in the pool (subsection 42-460(1)).

73. Under the Management agreement, for each interest acquired in the Project a Grower incurs expenditure of \$583 for trellising and will first be entitled to claim a deduction for depreciation in the year ended 30 June 2001. Therefore, a Grower who is not a 'small business taxpayer' will have the option of including trellising in a 'low value pool'. A low value pool is depreciated using the method shown in section 42-470. The value of plant included in or disposed of from such a pool will be added to or subtracted from the value of the pool.

74. Where a Grower acquires more than one interest in the Project the cost of the trellising will exceed \$1,000 and, therefore, the trellising will not qualify as 'low cost plant. However, provided the Grower uses the diminishing value method to depreciate the trellising, the plant can be allocated to a 'low value pool' after it has been depreciated below \$1,000 (paragraph 42-455(3)(b)).

Subdivision 387-B - ITAA 1997: irrigation expenditure

75. Subdivision 387-B allows a taxpayer, who is carrying on a business of primary production on land in Australia, to claim a deduction for capital expenditure on conserving or conveying water. The deduction is allowed over a three year period and applies to plant or a structural improvement primarily or principally used for the purpose of conserving or conveying water for use in a primary

production business. Irrigation systems of the kind proposed would be covered by this Subdivision.

76. As the taxpayer who can claim the deduction does not have to actually own the land but can be a tenant or lessee, a deduction would be available to the Growers in the Project at a rate of 33.3% per annum for the cost of the irrigation system.

Section 387-C - ITAA 1997: horticulture expenditure

77. Section 387-165 allows capital expenditure on establishing horticultural plants for use in a horticultural business to be written off for tax purposes. Costs of establishing horticultural plants may include the cost of acquiring the plants, the cost of establishing the plants, and the costs of ploughing, contouring, top dressing, fertilising and stone removal. Expressly excluded is expenditure incurred on draining swamps or clearing land. Under subsection 387-170(3), the definition of 'horticulture' includes the cultivation of grapevines. For the purpose of this Subdivision, a lessee or licensee of land carrying on a business of horticulture is treated as owning the plants growing on that land rather than the actual owner of the land.

78. The write-off commences from the time the vines are used or held ready for use for the purpose of producing assessable income in commercial horticulture. The write-off deductions will commence when the vines enter their first commercial season. Where the vines are planted in or about September 2001, it is projected that these vines will become commercially productive after a period of 2.5 years. The Manager will advise the Grower of this event.

79. Under this Subdivision, if the effective life of the plant is more than 3 years, an annual deduction is allowable on a prime cost basis during the plant's maximum write-off period.

80. The effective life of a plant is to be determined objectively and should take into account all relevant circumstances. It is estimated that the vines will have an effective life in excess of 13 years. The write-off rate for horticultural plants with an effective life of 13 to 30 years is 13%.

Section 387-55 - ITAA 1997: landcare expenses

81. Section 387-55 allows a deduction for capital expenditure that is incurred on a landcare operation for land in Australia that is being used for carrying on a business of primary production or rural land in Australia that is used for carrying on a business for the purpose of producing assessable income from the use of that land.

82. 'Landcare Operation' for land includes an operation primarily and principally for the purposes of eradicating or exterminating from the land animals that are pests or eradicating, exterminating or destroying plant growth detrimental to the land. It also includes constructing surface or subsurface drainage works on the land if the construction is primarily and principally for the purpose of controlling salinity or assisting in drainage control.

83. Under the Marketing and Management Agreement, the Grower incurs expenditure to eradicate, exterminate and keep the Vinelots and the land free from disease, vermin, noxious weeds, rabbits, kangaroos, insect pests and all other pests. The Grower is accepted as carrying on a business of primary production and these expenses will be deductible under section 387-55 of the ITAA 1997 in the year they are incurred.

Section 82KZM and 82KZMB-82KZMD - ITAA 1936

84. Section 82KZM operates to spread over more than one income year a deduction for prepaid expenditure that would otherwise be immediately deductible, in full under section 8-1 of the ITAA 1997. The section applies to certain expenditure incurred under an agreement in return for doing of a thing under the agreement that is not wholly done within the same year of income as the execution of the relevant agreement.

85. Under the Lease Agreement and the Management and Marketing Agreement, fees of \$3,762 per Vinelot will be incurred on the execution of those Agreements. The fees are charged for providing services to a Grower by 30 June of the year of execution of the Agreement. The fees are expressly stated to be for a number of specified services. 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.

86. There is also no evidence that might suggest the services covered by the fees could not be provided in the same year of income as the expenditure in question is incurred. Thus, for the purposes of this Ruling, it can be accepted that no part of the initial fee is for the Project Manager doing 'things' that are not to be wholly done within the year of income 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 incurred by the Grower.

87. New sections 82KZMB, 82KZMC and 82KZMD will also have no application to this Project, provided the Grower incurs the fees as they fall due under the Lease Agreement and Management and Marketing Agreement, since the services to be provided in respect of

the initial fee are completed in the same year of income as the expenditure is incurred.

Section 82KL - ITAA 1936

88. The operation of section 82KL depends, among other things, on the identification of a certain quantum of 'additional benefits'. In the project, 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 - ITAA 1936

89. 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 Project will be a 'scheme', commencing when the Prospectus is issued. The Growers will obtain an initial 'tax benefit' from entering into the scheme, in the form of the deduction for the initial fee, allowable under section 8-1, 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.

90. Growers to whom this Ruling applies intend to stay in the scheme for its full term and derive assessable income from the eventual harvesting of the vines. The Viticulturist Consultant's Report contained in the Prospectus states that with appropriate establishment procedures and sound management, this Project can achieve its aims and objectives as outlined in the Prospectus. There are no features of the Project that might suggest the Project was so 'tax driven', and so designed to produce a tax deduction of a certain magnitude that would attract the operation of Part IVA.

Prepaid fees

91. The amount and timing of deductions for any prepaid Management Fees, Lease Fees or interest otherwise deductible under section 8-1 will depend on when the respective amounts are incurred and what the 'eligible service period' is, as defined in subsection 82KZL(1), in relation to these amounts. The 'eligible service period' means generally, the period over which the services are to be provided.

92. Where a Grower participating in this Project incurs expenditure in respect of the doing of things (e.g., the performance of management services or the lending of money), prior to the

commencement of the eligible service period, the prepaid expenditure is not deductible in the year in which it is incurred. Rather, the prepayment provisions of the ITAA 1936 will operate to allow the income tax deduction in the period that the prepaid benefits are provided. The relevant provision of the ITAA will depend on a number of factors including the amount and timing of the prepayment and whether the Grower is a 'small business taxpayer'.

93. Where a Grower participating in this Project incurs expenditure in respect of an eligible service period that ends 13 months or less from the time the expenditure was incurred, but also in respect of the doing of a thing not to be wholly done within the income year in which that expenditure has been incurred, and the other tests in section 82KZME are met, then section 82KZMF will apply in the manner set out in the formula below.

$$\text{Expenditure} \times \frac{\text{Number of days of eligible service period in the year of income}}{\text{Total number of days of eligible service period}}$$

94. Where a Grower participating in this Project incurs expenditure in respect of a period that ends more than 13 months after that expenditure has been incurred, then section 82KZM will apply if the Grower is a small business taxpayer or section 82KZMD if the Grower is not a small business taxpayer. For small business taxpayers the amount and timing of the allowable deductions will then be calculated under the formula in subsection 82KZM(1) and for non-small business taxpayers under the formula in subsection 82KZMD(2). Both formulae are the same, or effectively the same as that shown in paragraph 93 above, concerning section 82KZMF.

95. Prepaid management and lease fees of less than \$1,000 in each expenditure year is 'excluded expenditure' as defined in subsection 82KZL(1). Subsections 82KZM(1), 82KZME(7) and 82KZMA(4) all provide that 'excluded expenditure' is an exception to the prepayment rules discussed above. Therefore, a prepaid fee of less than \$1,000 is deductible in full in the year in which it is incurred. However, where a Grower acquires more than one interest in the Project and the quantum of prepaid management fees or prepaid lease fees is \$1,000 or more, then the amount and timing of the deduction allowable must be determined using the formula shown above.

Interest deductibility

96. The deductibility of interest incurred by Growers who finance their participation in the Project through a loan facility with a bank or other financier is outside the scope of this Ruling. Product Rulings only deal with arrangements where all details and documentation have been provided to, and examined by the Tax Office.

97. While the terms of any finance agreement entered into between relevant Growers and such financiers are subject to commercial negotiation, those agreements may require interest to be prepaid. Under the prepayment rules contained in section 82KZME, 'agreement' (defined in subsection 82KZME(4)) is a broad concept and will encompass activities, such as a loan to finance participation in the Project that is not described in the Arrangement or otherwise dealt with in the Product Ruling.

98. Therefore, unless the prepaid interest is 'excluded expenditure', where such a loan facility requires interest to be prepaid and the requirements of section 82KZME are met, relevant Growers will be required to determine any tax deduction using the formula in subsection 82KZMF(1), as shown above at paragraph 93.

Division 35 - losses from non-commercial business activities

99. Under the rule in subsection 35-10(2) a deduction for a loss incurred by an individual (including an individual in a general law partnership) from certain business activities will not be allowable in an income year unless:

- the 'Exception' in subsection 35-10(4) applies;
- one of four objective tests in sections 35-30, 35-35, 35-40 or 35-45 is met; or
- if one of the objective tests is not satisfied, the Commissioner exercises the discretion in section 35-55.

100. Generally, a loss in this context is, for the income year in question, the excess of an individual taxpayer's allowable deductions attributable to the business activity over that taxpayer's assessable income from the business activity.

101. Losses that cannot be claimed as a tax deduction because of the rule in subsection 35-10(2) are able to be offset to the extent of future profits from the business activity, or are quarantined until one of the objective tests is passed.

102. For the purposes of applying the objective tests, subsection 35-10(3) allows taxpayers to group business activities 'of a similar kind'. Under subsection 35-10(4), there is an 'Exception' to the general rule in subsection 35-10(2) where the loss is from a primary production business activity and the individual taxpayer has other assessable income for the income year from sources not related to that activity, of less than \$40,000 (excluding any net capital gain). As both subsections relate to the individual circumstances of Growers who participate in the Project they are beyond the scope of this Product Ruling and are not considered further.

103. In broad terms, the objective tests require:

- (a) at least \$20,000 of assessable income in that year from the business activity (section 35-30);
- (b) the business activity results in a taxation profit in 3 of the past 5 income years (including the current year) (section 35-35);
- (c) at least \$500,000 of real property is used on a continuing basis in carrying on the business activity in that year (section 35-40); or
- (d) at least \$100,000 of certain other assets are used on a continuing basis in carrying on the business activity in that year (section 35-45).

104. A Grower who participates in the Project will be carrying on a business activity that is subject to these provisions. Information provided with the application for this Product Ruling indicates that a Grower who acquires the minimum investment of one interest in the Project is unlikely to pass one of the objective tests until the income year ended 30 June 2005. Growers who acquire more than one interest in the Project may however, pass one of the tests in an earlier income year.

105. Therefore, prior to this time, unless the Commissioner exercises an arm of the discretion under paragraphs 35-55(1)(a) or (b), the rule in subsection 35-10(2) will apply to defer to a future income year any loss that arises from the Grower's participation in the Project.

106. The first arm of the discretion in paragraph 35-55(1)(a) relates to 'special circumstances' applicable to the business activity, and has no relevance for the purposes of this Product Ruling. However, for an individual Grower who acquires an interest(s) in the Project, the Commissioner will decide that it would be unreasonable not to exercise the second arm of the discretion in paragraph 35-55(1)(b) for the 2001, 2002, 2003 and 2004 income years.

107. The second arm of the discretion in paragraph 35-55(1)(b) may be exercised by the Commissioner where:

- (i) the business activity has started to be carried on; and
- (ii) there is an objective expectation that the business activity of an individual taxpayer will either pass one of the objective tests or produce a taxation profit within a period that is commercially viable for the industry concerned.

108. This Product Ruling is issued on a prospective basis (i.e., before an individual Grower's business activity starts to be carried on). Therefore, if the Project fails to be carried on during the income

years specified above (see paragraph 46), in the manner described in the Arrangement (see paragraphs 15 to 40), the Commissioner's discretion will not have been exercised, because one of the key conditions in paragraph 35-55(1)(b) will not have been satisfied.

109. In deciding that the second arm of the discretion in paragraph 35-55(1)(b) will be exercised on this conditional basis, the Commissioner has relied upon:

- the report of the independent viticulturist and additional expert evidence provided with the application by the Responsible Entity.

Section 6-5 - ITAA 1997: assessable income

110. A Grower's share of the gross sales proceeds from the Project, less any GST payable on these proceeds, will be assessable income under section 6-5 of ITAA 1997. Section 17-5 of the ITAA 1997 excludes from assessable income an amount relating to GST payable on a taxable supply.

111. Once harvested, a Grower's grapes will be trading stock of the Grower, as will any bottled wine from those grapes. As a consequence, if grapes or grape juice or bottled wine are on hand at the end of the income year, the Grower will need to account for that trading stock in accordance with the trading stock provisions in Part 2-25 of ITAA 1997.

112. Each Grower will be notified by Watershed Marketing and Management Pty Ltd of the respective amounts to be brought to account in proportion to their total holding in the Project, in accordance with Part 2-25 and Taxation Ruling IT 2001.

Example

Example 1 – entitlement to 'input tax credit'

113. Margaret, who is registered for GST, invests in the Green Circle Bluegums Project. The management fees are payable on 1 July each year for management services to be provided over the following 12 months. On 1 July 2000 Margaret pays her first year's management fees of \$5,500 and is eligible to claim a tax deduction for the fees in the income year ended 30 June 2001. The extent of her deduction for the management fees however, is reduced by the amount of any 'input tax credit' to which she is entitled. The Project Manager provides Margaret with a 'tax invoice' showing its ABN and the 'value of the taxable supply' for management services as \$5,500.

Using the details shown on the valid tax invoice, Margaret calculates her input tax credit as:

$$1/11 \times \$5,500 = \$500$$

Therefore, the tax deduction for management fees that she can claim in her income tax return for the year ended 30 June 2001 is \$5,000 (\$5,500 *less* \$500).

Detailed contents list

114. Below is a detailed contents list for this Product Ruling:

	Paragraph
What this Ruling is about	1
Tax law(s)	2
Goods and Services Tax	3
Business Tax Reform	4
Note to promoters and advisers	6
Class of persons	7
Qualifications	9
Date of effect	11
Withdrawal	13
Previous Rulings	14
Arrangement	15
Overview	17
Constitution	23
Compliance Plan	24
Interest in land	25
Marketing and Management Agreement	26
Fees	29
Planting	36
Finance	39
Ruling	41
Section 8-1	41
Deductions where a Grower is not registered or not required to be registered for GST	41

Deductions where a Grower is registered or required to be registered for GST	43
Sections 82KZM, 82KZMB – 82KZMD, 82KL and Part IVA	44
Prepaid fees	45
Section 35-55 – losses from non-commercial business activities	46
Section 6-5 – assessable income	49
Explanations	50
Section 8-1 – ITAA 1997	50
Expenditure of a capital nature	61
Section 42-15 – ITAA 1997: depreciation of trellising	62
Small business taxpayers	66
Depreciation deductions for Growers who are ‘small business taxpayers’	69
Depreciation deductions for Growers who are not ‘small business taxpayers’	70
‘Low value pool’ option for Growers who are not ‘small business taxpayers’	71
Subdivision 387-B - ITAA 1997: irrigation expenditure	75
Section 387-C - ITAA 1997: horticulture expenditure	77
Section 387-55 - ITAA 1997: landcare expenses	81
Section 82KZM and 82KZMB-82KZMD - ITAA 1936	84
Section 82KL - ITAA 1936	88
Part IVA - ITAA 1936	89
Prepaid fees	91
Interest deductibility	96
Division 35 – losses from non-commercial business activities	99
Section 6-5 - ITAA 1997: assessable income	110
Example	113
Example 1 – entitlement to ‘input tax credit’	113
Detailed contents list	114

<i>Previous draft:</i>	
Not previously issued in draft form.	– ITAA 1997 35-40
	– ITAA 1997 35-45
	– ITAA 1997 35-55
<i>Related Rulings/Determinations:</i>	– ITAA 1997 42-15
PR 1999/95; TR 92/1; TR 97/11;	– ITAA 1997 42-118
TR 97/16; TD 93/34; IT 175;	– ITAA 1997 42-125
IT 2001; TR 92/20; TR 98/22;	– ITAA 1997 42-160
	– ITAA 1997 42-165
<i>Subject references:</i>	– ITAA 1997 42-345
– avoidance schemes	– ITAA 1997 42-455
– carrying on a business	– ITAA 1997 42-460
– commencement of business	– ITAA 1997 42-470
– management fee expenses	– ITAA 1997 387-55
– primary production	– ITAA 1997 Subdiv 387-B
– primary production expenses	– ITAA 1997 387-125
– producing assessable income	– ITAA 1997 Subdiv 387-C
– product rulings	– ITAA 1997 387-165
– public rulings	– ITAA 1997 387-175
– schemes and shams	– ITAA 1997 387-185
– tax avoidance	– ITAA 1936 82KL
– tax benefits under tax	– ITAA 1936 82KZM
– tax shelters	– ITAA 1936 82KZMB
– taxation administration	– ITAA 1936 82KZMC
	– ITAA 1936 82KZMD
<i>Legislative references:</i>	– ITAA 1936 Pt IVA
– ITAA 1997 8-1	– ITAA 1997 960-335
– ITAA 1997 17-5	– ITAA 1997 960-340
– ITAA 1997 Div 27	– ITAA 1997 960-345
– ITAA 1997 27-5	– ITAA 1997 960350
– ITAA 1997 Div 35	
– ITAA 1997 35-10	
– ITAA 1997 35-30	
– ITAA 1997 35-35	

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