

PR 2001/130WA1 - Addendum to Withdrawal - Income tax: Palandri 2000 Project - Second Offering

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Addendum

Product Ruling

Income tax: Palandri 2000 Project – Second Offering

This Addendum amends the Notice of Withdrawal for Product Ruling PR 2001/130 which issued on 1 July 2004.

The withdrawal notice for PR 2001/130 is amended as follows:

1. Paragraph 1

Omit the paragraph, substitute:

1. Product Ruling PR 2001/130 set out the Commissioner's view on the tax consequences for entities participating in the Palandri 2000 Project – Second Offering (the Project) by entering into a Lease Agreement and a Management Agreement for the purpose of carrying on a commercial viticulture and wine production business. The Ruling was withdrawn on 1 July 2004 as interests in the Project were no longer being sold.
2. Although withdrawn, the Ruling continues to apply to Members who were accepted to participate in the Project between 10 October 2001 and 31 October 2001. It may therefore be relied upon subject to there being no material difference in the arrangement, or in the Members' involvement in the arrangement.
3. PR 2001/130 ruled that Members could claim deductions for rent, management fees and interest on loans from Palandri Finance Ltd or United Pacific Finance Pty Ltd. However the deductibility of losses was subject to the non-commercial loss rules in Division 35 of the *Income Tax Assessment Act 1997* (Division 35). The Commissioner exercised his discretion to allow losses for the 2001-02 income year. Losses incurred in later years were required to be deferred unless certain conditions were met (see paragraphs 61 to 63 of PR 2001/130).
4. On 24 September 2008 the Supreme Court of Western Australia ordered that the scheme be wound up. The termination of the Project's Agreements on 19 March 2009 meant that Growers were no longer carrying on their own business and, although no further Project fees were incurred, losses after that date are not subject to Division 35.

PR 2001/130W

This Addendum applies on and from 19 March 2009.

Commissioner of Taxation

12 January 2011

ATO references

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