

PR 2002/13WA1 - Addendum to Withdrawal - Income tax: Income tax: Palandri America Wine Business

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Addendum

Product Ruling

Income tax: Palandri America Wine Business

This Addendum amends the Notice of Withdrawal for Product Ruling PR 2002/13 which issued on 23 October 2002.

The withdrawal notice for PR 2002/13 is amended as follows:

1. Paragraph 1

Omit the paragraph, substitute:

1. Product Ruling PR 2002/13 set out the Commissioner's view on the tax consequences for entities participating in the Palandri America Wine Business (the Project) by entering into a Lease and Management Agreement for the purpose of carrying on a commercial viticulture and wine production business. The Ruling was withdrawn on 23 October 2002 as interests in the Project were no longer being sold under this offer.
2. Although withdrawn, the Ruling continues to apply to Members who were accepted to participate in the Project between 6 February 2002 and 22 October 2002. 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 2002/13 ruled that Members could claim deductions for rent, management fees and interest on loans from Palandri Finance Ltd, although 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 to be offset against other assessable income until the 2003-04 income year. Losses incurred in later years were required to be deferred unless certain conditions were met (see paragraphs 63 to 65 of PR 2002/13).
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 2002/13W

This Addendum applies on and from 19 March 2009.

Commissioner of Taxation

12 January 2011

ATO references

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