

PR 2002/22A - Addendum - Income tax: Gunns Plantation Woodlot Project 2002

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Addendum

Income tax: Gunns Plantation Woodlot Project 2002

Legislative amendments were recently passed that allow certain prepaid forestry expenditure to be deductible in the year incurred (section 82KZMG). In addition, subsection 35-55(2) has been repealed. This Addendum is to address the taxation consequences of those amendments. Growers in the Project will sign amended Management Agreements either directly or under power of attorney.

Delete paragraphs 19 and 20 of the Arrangement part of the Product Ruling and replace with the following new paragraphs:

19. Under the Management Agreement, the Responsible Entity undertakes to use its best endeavours to ensure that all Establishment Services are provided in relation to each Woodlot before the earlier of 12 months following the date on which the Establishment Fee is paid, or the Manager is first permitted under the Forestry Right Deed to access the land for the purpose of commencing the Establishment Services, whichever is the later. However, if that period extends beyond 30 June of the financial year immediately following the year in which the Establishment Fee is paid, the Responsible Entity undertakes to use its best endeavours to ensure that the services will be provided by that 30 June (cl. 4.1(b)).

20. Approximately 1,100 trees per hectare for both Options 1 and 2 will be planted in the Spring of 2002 and the Autumn of 2003 for applications accepted on or before 30 June 2002. Approximately 1,100 trees per hectare for both Options 1 and 2 will be planted in the Autumn or Spring of 2003 for applications accepted on or after 1 July 2002.

Delete paragraphs 37 to 39, (including the Heading), of the Ruling part of the Product Ruling. These paragraphs are no longer necessary.

Delete paragraphs 42 and 43 (including the Headings, the Tables and the Notes) from the Ruling part of the Product Ruling and replace with the following:

Deductions for the Establishment Fee and Interest for Growers accepted into the Project on or before 30 June 2002

Section 8-1

42. A Grower who is not an 'STS taxpayer' may claim tax deductions for the following revenue expenses:

Fee Type	ITAA 1997 Section	Year ended 30 June 2002	Year ended 30 June 2003	Year ended 30 June 2004
Establishment Fee	8-1	\$4,345 See Notes (i) & (ii) (below)		
Interest on loans with Gunns Finance P/L	8-1	As incurred See Note (iii) (below)	As incurred See Note (iii) (below)	As incurred See Note (ii) (below)

Notes:

- (i) If the Grower is registered or required to be registered for GST, amounts of outgoing would need to be adjusted as relevant for GST (e.g., input tax credits): Division 27. See Example at paragraph 105;
- (ii) Expenditure for 'seasonally dependent agronomic activities' is deductible in the income year in which it is incurred. For expenditure to be for 'seasonally dependent agronomic activities', it must meet the requirements of section 82KZMG of the ITAA 1936;
- (iii) The deductibility or otherwise of interest arising from loan agreements entered into with financiers other than Gunns Finance Pty Ltd, the internal financier, is outside the scope of this Ruling. However all Growers, including those who finance their participation in the Project other than with Gunns Finance Pty Ltd, should read the discussion of the prepayment rules in paragraphs 72 to 79 in the Explanations as those rules may be applicable if interest is prepaid. Subject to the 'excluded expenditure' exception, the prepayment rules apply whether the prepayment is required under the relevant loan agreement or is at the Grower's choice.

Deductions for the Establishment Fee and Interest for Growers accepted into the Project on or after 1 July 2002 and on or before 31 March 2003

Section 8-1

43. A Grower who is not an 'STS taxpayer' may claim tax deductions for the following revenue expenses:

Fee Type	ITAA 1997 Section	Year ended 30 June 2003	Year ended 30 June 2004
Establishment Fee	8-1	\$4,345 See Notes (i) & (ii) (above)	
Interest on loans with Gunns Finance P/L	8-1	As incurred See Note (iii) (above)	As incurred See Note (iii) (above)

Delete paragraphs 46 and 47 (including the Headings, the Tables and the Notes) from the Ruling part of the Product Ruling and replace with the following:

Deductions for the Establishment Fee and Interest for Growers accepted into the Project on or before 30 June 2002

Section 8-1 and section 328-105

46 A Grower who is an 'STS taxpayer' may claim tax deductions for the following revenue expenses. If an amount expenditure is not fully paid in the year shown in the table below, it is only deductible to the extent that it is paid:

Fee Type	ITAA 1997 Sections	Year ended 30 June 2002	Year ended 30 June 2003	Year ended 30 June 2004
Establishment Fee	8-1	\$4,345 See Notes (iv) & (v) (below)		
Interest on loans with Gunns Plantations Finance P/L	8-1	As incurred See Note (vi) (below)	As incurred See Note (vi) (below)	As incurred See Note (vi) (below)

Notes:

- (iv) If the Grower is registered or required to be registered for GST, amounts of outgoing would need to be adjusted as relevant for GST (e.g., input tax credits). See Example at paragraph 105;
- (v) Expenditure for 'seasonally dependent agronomic activities' is deductible in the income year in which it is incurred. For expenditure to be for 'seasonally dependent agronomic activities', it must met the requirements of section 82KZMG of the ITAA 1936;
- (vi) The deductibility or otherwise of interest arising from loan agreements entered into with financiers other than Gunns Finance Pty Ltd, the internal financier, is outside the scope of this Ruling. However all Growers, including those who finance their participation in the Project other than with Gunns Finance Pty Ltd, should read the discussion of the prepayment rules in paragraphs 70 to 77 (below) as those rules may be applicable if interest is prepaid. Subject to the 'excluded expenditure' exception, the prepayment rules apply whether the prepayment is required under the relevant loan agreement or is at the Grower's choice.

Deductions for the Establishment Fee and Interest for Growers accepted into the Project on or after 1 July 2002 and on or before 31 March 2003

Section 8-1 and section 328-105

47 A Grower who is an 'STS taxpayer' may claim tax deductions for the following revenue expenses. If an amount of expenditure is not fully paid in the year shown in the table below, it is only deductible to the extent that it is paid:

Fee Type	ITAA 1997 Sections	Year ended 30 June 2003	Year ended 30 June 2004
Establishment Fee	8-1	\$4345 - See Notes (iv) & (v) (above)	
Interest on loans with Gunns Plantations Finance P/L	8-1	As incurred See Note (vi) (above)	As incurred See Note (vi) (above)

Delete from the second sentence of paragraph 48 of the Ruling part of the Product Ruling:

‘...the years ended 30 June 2002 to 2010...’

and replace with:

‘...the years ending 30 June 2002 to 30 June 2021...’

Delete from the second sentence of paragraph 49 of the Ruling part of the Product Ruling:

‘...the years ended 30 June 2002 to 2011...’

and replace with:

‘...the years ending 30 June 2002 to 30 June 2022...’

Delete paragraphs 80 and 81 from the Explanations part of the Product Ruling and replace with the following paragraphs:

80 Under the Management Agreement, a Grower incurs an Establishment Fee in the Application Year consisting of expenditure of \$4,354 for ‘seasonally dependent agronomic activities’. The Management Agreement also requires that a Grower incurs Pruning Fees (Option 2) and 12% will be deducted from the Grower’s entitlement to Wood Sale Proceeds for sales commission and the performance of maintenance services, planting and lease fee during the term of the Project.

81 The Management Agreement requires that the Manager provide the Establishment Services in accordance with good silvicultural practice. The Establishment Services include all ploughing and cultivation required for the purpose of planting the seedlings, including the procuring of those seedlings. These activities are to be completed before 12 months from the date the Establishment Fee is paid or the Manager is first permitted under the Forestry Right Deed to access the land for the purposes of commencing the Establishment Services, which ever is the later. However, if that period would extend beyond 30 June of the financial year immediately following the year in which the Establishment Fee is paid, the Establishment Services are to be completed by that 30 June. As the requirements of section 82KZMG have been met, a deduction is allowable in the income year ended 30 June 2002 (for Growers accepted into the Project on or before 30 June 2002) or 2003, (for Growers accepted on or after 1 July 2002 and on or before 31 March 2003), for the expenditure incurred under the Management

Agreement for 'seasonally dependent agronomic activities'. Other fees payable by the Grower are outside the period for which this Product Ruling rules for and are, therefore, outside of the scope of the Ruling.

Delete paragraphs 97 and 98 from the Explanations part of the Product Ruling and replace with the following paragraphs:

97 Information provided with this Product Ruling indicates that a Grower who acquires the minimum investment of one Woodlot in the Project on or before 30 June 2002 is expected to be carrying on a business activity that will either pass one of the tests, or produce a taxation profit, for the year ended 30 June 2015 (option 1) or 2022 (option 2). The Commissioner will decide for such a Grower that it would be reasonable to exercise the second arm of the discretion until the year ended 30 June 2014 (option 1) or 2021 (option 2).

98 Information provided with this Product Ruling indicates that a Grower who acquires the minimum investment of one Woodlot in the Project on or after 1 July 2002 and on or before 31 March 2003 (i.e., during the income year ended 30 June 2003) is expected to be carrying on a business activity that will either pass one of the tests, or produce a taxation profit, for the year ended 30 June 2016 (option 1) or 2023 (option 2). The Commissioner will decide for such a Grower that it would be reasonable to exercise the second arm of the discretion until the year ended 30 June 2015(option 1) or 2022 (option 2).

Commissioner of Taxation

1 May 2002

ATO references:

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