

PR 2004/45A - Addendum to Withdrawal - Income tax: TFS Premium Sandalwood Project 2004

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Addendum

Product Ruling

Income tax: TFS Premium Sandalwood Project 2004

This Addendum amends Product Ruling PR 2004/45 to reflect a change to the arrangement whereby Growers may elect to pay the Establishment Fee by instalments.

PR 2004/45 is amended as follows:

1. Paragraph 14

Insert the following dot points:

- Additional correspondence, received 21 May 2004;
- Supplementary Product Disclosure Document, received 21 May 2004; and
- TFS Sandalwood Project 2004 Terms Agreement, received 21 May 2004.

2. Insert new Heading after paragraph 33

'Payment of Fees'

3. Insert new paragraphs 33A to 33D under new Heading

33A. The full amount of the Establishment Fee, as set out in the Table in paragraph 33, is payable on Application. However, under the Supplementary Product Disclosure Statement, the Responsible Entity is offering an Instalment Option in respect of the Establishment Fee whereby a Grower can:

- pay the full amount of the Establishment Fee on application; or
- choose to pay under the Instalment Option and pay 20% of the Establishment Fee on application and the remainder of the Fee by 8 equal monthly instalments.

33B. A Grower who chooses to pay by the Instalment Option must complete an Instalment Option Application and a Direct Debit Request for the Instalment payments. A Terms Agreement will be executed by the Manager.

33C. The monthly instalments are paid by direct debit commencing on the 14th day of the month after application. If a Grower does not pay the required instalments under the Terms Agreement, then provided T.F.S. Properties Ltd has given the Grower 14 days written notice to remedy the situation and payment has still not been made, the balance owing under the Terms Agreement will become immediately due and payable. In addition T.F.S. Properties Ltd may take legal action to recover the amount, take possession of the secured property whereupon the Grower ceases to be a Grower in the Project or do anything an owner of the secured property is entitled to do.

33D. The Responsible Entity will monitor the level of applications received under the Instalment Option and is not obliged to accept all Instalment Option Applications. A limit may be imposed on the number of applications that can be accepted under the Instalment Option. Applications for the Instalment Option will be reviewed on an Application by Application basis.

4. Paragraph 75

Omit Note (ii) and substitute with:

- (ii) The Establishment Fee is payable on application for services to be provided in the Establishment Period and is deductible in the year in which it is incurred (where the Grower is **not an 'STS taxpayer'**) or the year in which it is paid (where the Grower is an **'STS taxpayer'**). For Prepaid 2004 Growers, the Establishment Fee is expenditure for 'seasonally dependent agronomic activities' (see paragraphs 107 to 111) and is deductible in the same manner. The amount that is incurred will depend upon the number of Sandalwood Lots held by the Grower. These amounts are set out in the Table in paragraph 33 of this Product Ruling.

If a Grower who is an **'STS taxpayer'** chooses to pay the Establishment Fee in full on application, then the amount will be fully paid in the year in which it is incurred. Therefore the Fee, as set out in paragraph 33, will be deductible in the year in which it is paid as it is fully paid in the year in which it is incurred.

However, if a Grower who is an **'STS taxpayer'** chooses to pay the Establishment Fee under the Instalment Option, then the amount as set out in paragraph 33 will not be fully paid in the year in which it is incurred. For STS taxpayers the Establishment Fee is only deductible to the extent to which it has been paid, or has been paid for the Grower. Any amount or part of an amount which is not paid in the year in which it is incurred will be deductible in the year in which it is actually paid (paragraph 328-105(1)(b)).

5. Paragraph 76

Omit first dot point and substitute with:

- for the first Joint Venture Grower, fees in relation to the Establishment Services are set out in the Table at paragraph 33 and the deductions available for the fees and interest (if applicable) are set out in Notes (ii) and (iv).

6. Paragraph 78

Omit first dot point and substitute with:

- for the first Joint Venture Grower, fees in relation to the Establishment Services are set out in the Table at paragraph 33 and the deductions available for the fees and interest (if applicable) are set out in Notes (ii) and (iv).

This Addendum applies on and from 9 June 2004.

Commissioner of Taxation

9 June 2004

ATO references

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