

PR 2004/63A - Addendum - Income tax: National Viticultural Fund of Australia Project No. 3

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Addendum

Product Ruling

Income tax: National Viticultural Fund of Australia Project No. 3

This Addendum amends Product Ruling PR 2004/63 to reflect changes to the simplified tax system legislation from the 2005-06 income year onwards.

PR 2004/63 is amended as follows:

1. Paragraph 2

Insert dot point:

- Division 328 of the *Income Tax (Transitional Provisions) Act 1997*;

2. Paragraph 55

After the paragraph insert:

55A. Changes to the STS rules apply from 1 July 2005. From that date, 'STS taxpayers' may use the accruals accounting method. For a Grower participating in the Project, the recognition of income and the timing of tax deductions is different depending on whether the Grower who was an 'STS taxpayer' prior to 1 July 2005 continues to use the cash accounting method (called the 'STS accounting method') – see section 328-120 and 328-125 of the *Income Tax (Transitional Provisions) Act 1997*.

3. Paragraph 62

Omit the paragraph; substitute:

62. A Grower who is not an 'STS taxpayer' for the 2005 and prior income years or is an 'STS taxpayer' using the accruals method of accounting for the 2006 and later income years, recognises ordinary income from carrying on the business of viticulture at the time that income is derived.

4. Paragraph 63

Omit the paragraph; substitute:

63. A Grower who is an 'STS taxpayer' for the 2005 and prior income years or is an 'STS taxpayer' using the cash method of accounting for the 2006 and later income years, recognises ordinary income from carrying on the business of viticulture at the time that income is received.

5. Paragraph 68

Omit Note (iii); substitute:

(iii) The Management fees and the licence fees shown in the Table above, excluding prepaid Management Fees and prepaid Land Licence Fees, are deductible in the year that they are incurred (where the Grower is not an 'STS taxpayer' for the 2005 and prior income years or is an 'STS taxpayer' using the accruals accounting method for the 2006 and later income years) or, in the year in which they are paid (where the Grower is an 'STS taxpayer' for the 2005 and prior income years or is an 'STS taxpayer' using the cash accounting method for the 2006 and later income years). However, although not required under the Management Agreement or Licence, if a Grower chooses to prepay these fees for the doing of a thing (for example, the provision of management services or the licensing of land) that will not be wholly done in the income year the fees are incurred, the prepayment rules of the ITAA 1936 may apply to apportion those fees. In such cases, the tax deduction for the prepaid fee must be determined using the formulae shown in paragraph 59 unless the expenditure is 'excluded expenditure'. 'Excluded expenditure' is an 'exception' to the prepayment rules and is deductible in full in the year in which it is incurred. For the purposes of this Ruling 'excluded expenditure' refers to an amount of expenditure of less than \$1,000.

6. Paragraph 74

Omit the paragraph; substitute:

74. A Grower in this Project may be required to pay additional funds to meet Project costs at the request of the Responsible Entity. This call for funds is in addition to all other fees described in this ruling and cannot exceed \$4,217 in any year of the Project. Any such amounts incurred (where the Grower is not an 'STS Taxpayer' for the 2005 and prior income years or is an 'STS taxpayer using the accruals accounting method for the 2006 and later years) or paid

(where the Grower is an 'STS Taxpayer' for the 2005 and prior income years or is an 'STS taxpayer using the cash accounting method for the 2006 and later income years) are capital in nature and will not be deductible under section 8-1 of the ITAA 1997.

7. Paragraph 109

Omit the paragraph; substitute:

109. Where a Grower acquires only one Allotment, the prepaid amounts set out in paragraph 107 are less than \$1,000 and constitute 'excluded expenditure' as defined in subsection 82KZL(1). Under Exception 3 (subsection 82KZME(7)), 'excluded expenditure' is specifically excluded from the operation of section 82KZMF. A Grower who is an 'STS taxpayer' for the 2005 and prior income years or is an 'STS taxpayer' using the cash accounting method for the 2006 and later income years, can claim an immediate deduction for the prepaid management fees and licence fee in the income year in which they are paid. A Grower who is not an 'STS taxpayer' for the 2005 and prior income years or is an 'STS taxpayer' using the accruals accounting method for the 2006 and later income years, can claim an immediate deduction for the prepaid management fees and licence fee in the income year in which they are incurred.

This Addendum applies on and from 1 July 2005.

Commissioner of Taxation

28 June 2006

ATO references

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