



# ***PR 2005/107W - Income tax: Palandri Winegrape Project 2005 - Late Growers***

 This cover sheet is provided for information only. It does not form part of *PR 2005/107W - Income tax: Palandri Winegrape Project 2005 - Late Growers*

 This document has changed over time. This is a consolidated version of the ruling which was published on *12 January 2011*



## Product Ruling

### Income tax: Palandri Winegrape Project 2005 – Late Growers

---

#### **Preamble**

*The number, subject heading, **What this Product Ruling is about** (including **Tax law(s)**, **Class of persons** and **Qualifications** sections), **Date of effect**, **Withdrawal**, **Arrangement** and **Ruling** parts of this document are a 'public ruling' in terms of Part IVA of the **Taxation Administration Act 1953**. Product Ruling PR 1999/95 explains Product Rulings and Taxation Rulings TR 92/1 and TR 97/16 together explain when a Ruling is a 'public ruling' and how it is binding on the Commissioner.*

**[Note:** This is a consolidated version of this document. Refer to the ATO Legal Database (<http://law.ato.gov.au>) to check its currency and to view the details of all changes.]

#### **Withdrawal**

---

1. Product Ruling PR 2005/107 set out the Commissioner's view on the tax consequences for entities who participated in the Palandri Winegrape Project 2005 – Late Members (the Project) by entering into a Lease and Management Agreement for the purpose of carrying on a business of commercial viticulture. The Ruling was withdrawn on 1 July 2008 as interests in the Project were no longer being sold.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 Although withdrawn, the Ruling continues to apply to Members who were accepted to participate in the Project between 31 August 2005 and 30 September 2005. It therefore could be relied upon subject to there being no material difference in the arrangement, or in the Members' involvement in the arrangement.
3. PR 2005/107 ruled that Members could claim deductions for specified Project expenses 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 2008-09 income year.
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 constituted a material difference to the scheme described in PR 2005/107 and meant that Members were no longer carrying on their own business.

5. For the 2009 year, Members may offset any losses incurred from the Project until 19 March 2009, the date the agreements were terminated. After that date, losses are no longer subject to Division 35, although no further Project fees were incurred from that date.

---

## Commissioner of Taxation

31 August 2005

---

### *Previous draft:*

Not previously issued as a draft

### *Related Rulings/Determinations:*

IT 360; PR 1999/95; PR 2005/83;  
TD 93/34; TR 92/1; TR 92/20;  
TR 97/11; TR 97/16; TR 98/22;  
TR 2000/8; TR 2001/14

### *Subject references:*

- borrowing expenses
- carrying on a business
- commencement of business
- fee expenses
- interest expenses
- management fees
- non-commercial losses
- producing assessable income
- product rulings
- public rulings
- tax avoidance
- taxation administration

### *Legislative references:*

- ITAA 1936 82KL
- ITAA 1936 Pt III Div 3 Subdiv H
- ITAA 1936 82KZL
- ITAA 1936 82KZL(1)
- ITAA 1936 82KZM
- ITAA 1936 82KZMA
- ITAA 1936 82KZMB
- ITAA 1936 82KZMC
- ITAA 1936 82KZMD
- ITAA 1936 82KZME
- ITAA 1936 82KZME(1)
- ITAA 1936 82KZME(2)
- ITAA 1936 82KZME(3)
- ITAA 1936 82KZME(4)
- ITAA 1936 82KZME(7)
- ITAA 1936 82KZMF
- ITAA 1936 82KZMF(1)
- ITAA 1936 Pt III Div 6
- ITAA 1936 Pt IVA

- ITAA 1936 177A
- ITAA 1936 177C
- ITAA 1936 177D
- ITAA 1936 177D(b)
- ITAA 1997 6-5
- ITAA 1997 8-1
- ITAA 1997 17-5
- ITAA 1997 Div 27
- ITAA 1997 Div 35
- ITAA 1997 35-10
- ITAA 1997 35-10(2)
- ITAA 1997 35-55
- ITAA 1997 35-55(1)(b)
- ITAA 1997 Div 40
- ITAA 1997 Subdiv 40-F
- ITAA 1997 40-515
- ITAA 1997 40-515(1)(a)
- ITAA 1997 40-515(1)(b)
- ITAA 1997 40-520(1)
- ITAA 1997 40-520(2)
- ITAA 1997 40-525(2)
- ITAA 1997 40-525(3)
- ITAA 1997 40-530
- ITAA 1997 40-535
- ITAA 1997 40-540
- ITAA 1997 40-545
- ITAA 1997 40-550
- ITAA 1997 Subdiv 61-J
- ITAA 1997 108-5
- ITAA 1997 110-24(2)
- ITAA 1997 Div 328
- ITAA 1997 328-105
- ITAA 1997 328-180
- ITAA 1997 Subdiv 328-F
- ITAA 1997 Subdiv 328-G
- TAA 1953 Pt IVAAA
- Copyright Act 1968
- Corporations Act 2001

### *Case references:*

- Commissioner of Taxation v.  
Lau (1984) 6 FCR 202; 84 ATC  
4929; (1984) 16 ATR 55

ATO references

NO: 2005/4045

ISSN: 1441-1172

ATOlaw topic: Income Tax ~~ Product Ruling ~~ vineyards & wineries