



# ***PR 2005/32 - Income tax: Rewards Group Tropical Fruits Project 6***

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 This document has changed over time. This is a consolidated version of the ruling which was published on *16 March 2005*



## Product Ruling

### Income tax: Rewards Group Tropical Fruits Project 6

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Potential participants may wish to refer to the Tax Office website at [www.ato.gov.au](http://www.ato.gov.au) or contact the Tax Office directly to confirm the currency of this Product Ruling or any other Product Ruling that the Tax Office has issued.

#### **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.*

## No guarantee of commercial success

The Tax Office **does not** sanction or guarantee this product. Further, we give no assurance that the product is commercially viable, that charges are reasonable, appropriate or represent industry norms, or that projected returns will be achieved or are reasonably based.

Potential participants must form their own view about the commercial and financial viability of the product. This will involve a consideration of important issues such as whether projected returns are realistic, the 'track record' of the management, the level of fees in comparison to similar products and how the product fits an existing portfolio. We recommend a financial (or other) adviser be consulted for such information.

This Product Ruling provides certainty for potential participants by confirming that the tax benefits set out in the **Ruling** part of this document are available, **provided that** the arrangement is carried out in accordance with the information we have been given, and have described below in the **Arrangement** part of this document.

If the arrangement is not carried out as described, participants lose the protection of this Product Ruling. Potential participants may wish to seek assurances from the promoter that the arrangement will be carried out as described in this Product Ruling.

Potential participants should be aware that the Tax Office will be undertaking review activities to confirm the arrangement has been implemented as described below and to ensure that the participants in the arrangement include in their income tax returns income derived in those future years.

## Terms of use of this Product Ruling

This Product Ruling has been given on the basis that the person(s) who applied for the Ruling, and their associates, will abide by strict terms of use. Any failure to comply with the terms of use may lead to the withdrawal of this Ruling.

## What this Product Ruling is about

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1. This Ruling sets out the Commissioner's opinion on the way in which the 'tax laws' identified below apply to the defined class of persons who take part in the arrangement to which this Ruling refers. In this Ruling this arrangement is sometimes referred to as the 'Rewards Group Tropical Fruits Project 6' or simply as 'the Project'.

### Tax law(s)

2. The tax laws dealt with in this Ruling are:

- section 6-5 of the *Income Tax Assessment Act 1997* (ITAA 1997);
- section 8-1 of the ITAA 1997;
- section 17-5 of the ITAA 1997;
- Division 27 of the ITAA 1997;
- Division 35 of the ITAA 1997;
- Division 40 of the ITAA 1997;
- Division 328 of the ITAA 1997;
- section 82KL of the *Income Tax Assessment Act 1936* (ITAA 1936);
- section 82KZL of the ITAA 1936;
- section 82KZME and 82KZMF of the ITAA 1936; and
- Part IVA of the ITAA 1936.

### Goods and Services Tax

3. In this Ruling, all fees and expenditure referred to include Goods and Services Tax ('GST') where applicable. In order for an entity (referred to in this Ruling as a Grower) to be entitled to claim input tax credits for the GST included in its expenditure, it must be registered or required to be registered for GST and hold a valid tax invoice.

### Changes in the Law

4. Although this Ruling deals with the taxation legislation enacted at the time it was issued, later amendments may impact on this Ruling. Any such changes will take precedence over the application of this Ruling and, to that extent, this Ruling will be superseded.

5. Taxpayers who are considering participating in the Project are advised to confirm with their taxation adviser that changes in the law have not affected this Product Ruling since it was issued.

**Note to promoters and advisers**

6. Product Rulings were introduced for the purpose of providing certainty about tax consequences for participants in projects such as this. In keeping with that intention, the Tax Office suggests that promoters and advisers ensure that participants are fully informed of any legislative changes after the Ruling is issued.

**Class of persons**

7. The class of persons to whom this Ruling applies is the persons who are more specifically identified in the Ruling part of this Product Ruling, refer to paragraphs 49 to 51, and who enter into the arrangement specified below on or after the date this Ruling is made. They will have a purpose of staying in the arrangement until it is completed (that is, being a party to the relevant Agreements until their term expires) and deriving assessable income from this involvement. In this Ruling these persons are referred to as 'Growers'.

8. The class of persons to whom this Ruling applies does not include persons who intend to terminate their involvement in the arrangement prior to Project's completion or do not intend to derive assessable income from the Project.

**Qualifications**

9. The Commissioner rules on the precise arrangement identified in the Ruling. If the arrangement described in the Ruling is materially different from the arrangement that is actually carried out, the Ruling has no binding effect on the Commissioner. The Ruling will be withdrawn or modified.

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## Date of effect

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11. This Ruling applies prospectively from 16 March 2005, the date this Ruling is made. However, the Ruling does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Ruling (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

12. If a taxpayer has a more favourable private ruling (which is legally binding), the taxpayer can rely on that private ruling if the income year to which it relates has ended or has commenced but not yet ended. However if the arrangement covered by the private ruling has not commenced, and the income year to which it relates has not yet commenced, this Ruling applies to the taxpayer to the extent of the inconsistency only (see Taxation Determination TD 93/34).

## Withdrawal

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13. This Product Ruling is withdrawn and ceases to have effect after 30 June 2007. The Ruling continues to apply, in respect of the tax law(s) ruled upon, to all persons within the specified class who enter into the arrangement specified below. Thus, the Ruling continues to apply to those persons, even following its withdrawal, who entered into the specified arrangement prior to withdrawal of the Ruling. This is subject to there being no change in the arrangement or in the person's involvement in the arrangement.

## Arrangement

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14. The arrangement that is the subject of this Ruling is specified below. This arrangement incorporates the following documents:

- Application for Product Ruling as constituted by documents provided on 16 December 2004;
- Draft Product Disclosure Statement for the Rewards Group Tropical Fruits Project 2005 Offer to Retail Investors – Project 6, received 4 March 2005;
- Draft **Constitution** of the Rewards Group Tropical Fruits Project 2005 between Rewards Projects Limited (as the Responsible Entity) and the Grower, received 15 February 2005;
- Draft **Management Agreement** for the Rewards Group Tropical Fruits Project 2005 between Rewards Projects Ltd (as the Responsible Entity) and the Grower, received 15 February 2005;

- Two Lease agreements for the Rewards Group Tropical Fruits Project 2005 between the Land Owners and the Responsible Entity, received on 16 December 2004;
- Draft **Sub-lease** (Retail Groves) for the Rewards Group Tropical Fruits Project 2005 between the Responsible Entity and the Grower, received 15 February 2005;
- Draft Rewards Projects Tropical Fruits Project 2005 **Terms Agreement**, received 16 December 2004;
- Draft Compliance Plan for the Rewards Group Tropical Fruits Project 2005, received 16 December 2004;
- Tropical Fruits Management Plan, dated December 2004;
- Draft Operations Agreement for the Rewards Group Tropical Fruits Project 2005 between Rewards Projects Ltd (as the Responsible Entity) and Rewards Management Pty Ltd (as the Manager), received 16 December 2004; and
- Additional correspondence between the Tax Office and the Applicant dated 28 January 2005, 9 February 2005, 15 February 2005, 22 February 2005, 4 March 2005 and 8 March 2005.

**Note:** Certain information has been provided by the applicant on a commercial-in-confidence basis and will not be disclosed or released under the Freedom of Information legislation.

15. The documents highlighted are those that the Growers enter into or become a party to. There are no other agreements, whether formal or informal, and whether or not legally enforceable, which a Grower, or any associate of a Grower, will be a party to, which are part of the arrangements to which this Ruling applies. All Australian Securities and Investments Commission (ASIC) requirements are, or will be, complied with for the term of the agreements. The effect of these agreements is summarised as follows.

### **Overview**

16. This arrangement is called the Rewards Group Tropical Fruits Project 6.

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|   |  |
|---|--|
| Location  | Weero Road and Packsaddle Road, Kununurra, Western Australia   |
| Type of business each participant will be carrying on | Commercial growing and cultivation of fruit trees for producing mango and grapefruit   |
| Number of hectares offered for cultivation            | 200 hectares   |
| Size of each Grove                                    | 0.1 hectares   |
| Minimum allocation per Grower                         | 1 Grove  |
| Minimum subscription                                  | 350 Groves   |
| Number of fruit trees per Grove                       | 40 grapefruit trees and 30 mango trees   |
| The term of the Project                               | 20 years   |
| Initial minimum cost                                  | \$7,000  |
| Initial cost per hectare                              | \$70,000   |
| Ongoing costs   | Management Services Fees, Rent, Planting Fee, Irrigation Fee, Marketing Fee, Harvest Costs, Fruit Agent Costs, Selling Costs and Insurance |

17. The Project will be a registered Managed Investment Scheme under the *Corporations Act 2001* and has an Australian Financial Services Licence. Rewards Projects Ltd will act as the Responsible Entity for the Project. Under the Product Disclosure Statement, Rewards Projects Ltd will offer 2000 interests of 0.1 hectare in size.

18. The Project involves the planting and cultivating of new grapefruit and mango trees as well as the cultivating of established mango trees. Fruit from the trees will be harvested and sold by the Responsible Entity on behalf of the Growers in the Project.

19. When a Grower is accepted into the Project, Rewards Group Ltd will enter into a Sub-Lease Agreement and a Management Agreement on behalf of the Grower. Under the Sub-Lease, the Grower will lease an identifiable area of land called a 'Grove'. This will enable the Grower to carry on the business of a fruit orchard for the commercial production of grapefruit and mango. Each 0.1 hectare Grove will consist of:

- 0.0285 hectares of new red flesh grapefruit orchard;
- 0.0667 hectares of new mango orchard; and
- 0.0048 hectares of established mango orchard.

20. Under the Management Agreement, Growers will engage Rewards Projects Ltd to establish and manage their Grove. This includes supplying and planting the trees, installing the irrigation system and providing the ongoing maintenance of the trees.

21. Sufficient water for both the grapefruit and mango plantations will be sourced from the Ord River irrigation system.

22. The Project will not commence unless the minimum subscription of 350 Groves has been reached by 31 May 2005. Each Grower may subscribe for a minimum of one Grove at a cost of \$7,000 per Grove. The Responsible Entity may accept oversubscriptions to the extent that further land can be secured.

23. The Term of the Project is a minimum of 20 years.

24. Upon application, Growers will execute a Power of Attorney enabling Rewards Projects Limited to act on their behalf.

### **Constitution**

25. The Constitution for the Project sets out the terms and conditions under which the Responsible Entity agrees to act for the Growers in the Project. Growers are bound by the Constitution by virtue of their participation in the Project.

26. Under the terms of the Constitution, the Responsible Entity must deposit all application moneys received from Growers into a trust account established for this purpose. This account is referred to as a Subscription Fund. The application moneys will be released from this fund when the Responsible Entity is satisfied that certain specified criteria in the Constitution have been met (clauses 3.3 and 3.8).

27. The proceeds from the sale of the fruit will be paid into a Proceeds Fund established by the Responsible Entity. Each Grower is entitled to their share of this fund. The Responsible Entity will deal with the Proceeds Fund by paying the Grower's share of harvest and sale costs and any other outstanding Project fees and amounts owing by the Grower before distributing the balance to the Grower (clause 11).

28. In the event that a Grower's Grove is destroyed or partially destroyed, the Grower's proceeds of the sale from the fruit will need to be reduced in accordance with the terms of clause 18.

### **Compliance Plan**

29. As required by the Corporations Act, a Compliance Plan has been prepared by the Responsible Entity. Its purpose is to ensure that Rewards Projects Ltd meets its obligations as the Responsible Entity of the Project and that the rights of the Growers are protected.



## Lease and Sub-Lease

30. Rewards Projects Limited has leased Project land from the Land Owners under a Lease agreement. The land is located on two sites near the township of Kununurra. One site is on Weero Road and the other site is on Packsaddle Road. Growers will be granted an interest in the Project land by Rewards Projects Limited in the form of a Sub-Lease for the purpose of growing and harvesting their mango and grapefruit trees.

31. Under the terms of the Sub-Lease, the Lessor will give the Grower quiet possession of the Groves, use its best endeavours to secure rights to water for irrigation and pay all rates, taxes and other charges in respect of the land (clause 5).

32. Growers are entitled to the fruit derived from the trees on their Groves (clause 2.2).

## Management Agreement

33. Growers will enter into a Management Agreement (MA) with the Responsible Entity to plant, develop, manage and maintain their Groves and to harvest and market the fruit from their trees until completion of the Project. The Responsible Entity will enter into an Operations Agreement to appoint Rewards Management Pty Ltd (the Manager) to carry out its obligations to the Grower under the Management Agreement.

34. On application, Growers will pay a Management Services Fee for management services to be carried out in the initial period and a portion of the Planting Fee for each Grove. An annual Management Services Fee is payable each year thereafter. An Irrigation Fee is payable in 9 instalments commencing in the year ended 30 June 2006. The balance of the Planting Fee is payable in the year ended 30 June 2006.

35. The services that will be provided in the initial period, the date of the Management Agreement to 30 June 2005, include:

- supply suitable grafted grapefruit and mango trees;
- prepare the land for the planting of the trees;
- supply the irrigation system for the new grapefruit and mango Groves;
- negotiate marketing and sales agreements with Australian fruit agents and purchasers;
- prepare and execute marketing and sales agreements with Australian fruit agents and purchasers;
- provide fruit marketing services for the Project;
- tend to the established orchard according to the principles of good agriculture;

- ensure the new orchards are being developed in accordance with fruit agents and purchasers requirements and arrange for site inspections of the new and established orchards by fruit agents and purchasers; and
- administration in respect of the above services.

36. The services that will be provided after the initial period of the Project term include:

- plant the grapefruit and mango trees by 30 September 2005;
- install the irrigation system for the new grapefruit and mango plantations by 30 September 2005;
- provide an experienced and competent management team to perform the services under the Management Agreement;
- on the established orchards, undertake works such as, pruning, fertilising, pest control, nutrient analysis, repair roads and service machinery;
- undertake such operations as may be reasonably required to prevent or combat land degradation in relation to the Groves;
- in the five years following planting, conduct survival counts and where necessary replant trees;
- undertake periodic site inspections;
- provide periodic reports to the Growers; and
- administration in respect of the above services (annexure A).

### **Harvesting and Sale**

37. A Grower will appoint the Responsible Entity to arrange for each harvest to take place as and when deemed appropriate with the aim of producing the best overall result for the Grower (clause 6 of MA). The Grower will appoint the Responsible Entity to negotiate the sale of the harvested Fruit and the Responsible Entity will use its best endeavours to negotiate the sale of fruit for the highest price practicable (clause 7 of MA).

38. The Responsible Entity will be responsible for the cost of public risk insurance (annexure A(w) of MA). The Responsible Entity will also be responsible for the cost of crop insurance for the Groves from the date of the Management Agreement to 30 June 2005. After this date a Grower can request the Responsible Entity to arrange appropriate crop insurance. The Grower is responsible for the cost of this insurance.

## Fees

39. The subscription fee payable to Rewards Projects Ltd on application is \$7,000 per Grove. This fee consists of:

- **Management Services Fee** of \$6,488.50 for services to be performed from the Commencement Date to 30 June 2005;
- **Rent** of \$27.50 for the period from the Sub-Lease Commencement Date to 30 June 2005; and
- **Planting Fee** of \$484 to supply trees and prepare the land by 30 June 2005.

40. The ongoing fees per Grove are:

Annual **Management Services Fees** of:

- \$568.80 for services to be performed from 1 July 2005 to 30 June 2006, payable on or before 1 October 2005;
- \$762 for services to be performed from 1 July 2006 to 30 June 2007, payable on or before 1 October 2006;
- \$650 for each financial year from 1 July 2007 until 30 June 2014, payable on or before 1 October of the relevant year;
- \$850 for the financial year 1 July 2014 to 30 June 2015, payable on or before 1 October 2014; and
- \$850, indexed at 2.8% per annum, for each financial year commencing from 1 July 2015, payable on or before 1 October of the relevant year, until the end of the Project, (Item 2 of the Schedule to the Management Agreement).

Annual **Rent** of:

- \$165 for the each of the financial years 1 July 2005 to 30 June 2007, payable on 1 October of each year;
- \$180 for each of the financial years 1 July 2007 to 30 June 2014, payable on 1 October of each year;
- \$200 for the period 1 July 2014 to 30 June 2015, payable on or before 1 October 2014; and
- \$200, indexed at 2.8% per annum, for each financial year commencing from 1 July 2015, payable on or before 1 October of the relevant year, until the end of the Project, (Item 4 of the Schedule to the Sub-Lease).

**Planting Fee of:**

- \$145.20 payable on or before 1 October 2005 for services to be performed from 1 July 2005 to 30 September 2005 (Item 3 of the Schedule to the Management Agreement).

**Irrigation Fee of:**

- \$1,500, payable in instalments as follows:
  - \$500 payable on 1 October 2005;
  - \$300 payable on 1 October 2006; and
  - \$100 payable on or before 1 October in each financial year commencing 1 July 2007 until 30 June 2013 (Item 4 of the Schedule to the Management Agreement).

**Other Fees**

- **Harvest Costs**, being the Grower's share of all costs of and incidental to the harvest, payable out of the Grower's share of the proceeds of sale of the relevant harvest (clause 6.2 of MA);
- **Costs of Sale**, being the Grower's Share of all costs incidental to the sale of the fruit harvested, payable out of the Grower's share of the proceeds of sale of the relevant harvest (clause 7.4 of MA); and
- **Marketing Fee** equal to 16.5% of the Grower's share of the net sale proceeds of each harvest after deducting the harvest costs and the costs of sale (Item 5 of the Schedule to MA).

**Payment of Fees**

41. Under the Product Disclosure Statement, a Grower can pay the subscription fee of \$7,000 by cash on application or by one of the following Term Payment Options offered by the Responsible Entity as set out in the Table below:

| <b>Number of Years to pay Initial Fee</b> | <b>Deposit</b> | <b>Monthly Repayments</b>     |
|---|----------------|-------------------------------|
| One Year Interest Free                    | \$700          | \$529.17                      |
| Two Years                                 | \$700          | \$295.82                      |
| Five Years                                | \$700          | \$137.91                      |
| Seven Years                               | \$700          | \$108.56                      |
| Seven Years Part Interest Only            | \$700          | 36 @ \$57.94<br>48 @ \$163.97 |

42. The total amount payable under each of the Terms Payment Options includes a Term Application Fee of \$50 per Grove.

43. A Grower choosing to pay under one of the Terms Payment Options must complete a Terms Application and Direct Debit Request. A Terms Agreement will be executed by the Responsible Entity.

44. The monthly instalments are paid by direct debit commencing on the last business day of July following allotment. If a Grower does not pay the required instalments under the Terms Payment Option, then provided Rewards Projects Ltd has given the Grower 14 days written notice to remedy the default and payment has still not been made, the balance owing under the Terms Payment Option will become immediately due and payable. In addition, Rewards Projects Ltd may take legal proceedings to recover the amount, resume all rights and interest which the Grower has in their Grove(s), or do anything which an owner of the Grove(s) is entitled to do (clause 5.2 of the Terms Agreement).

45. The Responsible Entity will monitor the level of applications received under each of the Terms Payment Options and is not obliged to accept any applications for Terms Payment. A limit may be imposed on the number of applications that can be accepted under each instalment option.

46. Credit Card payments accepted by Rewards Projects Ltd will attract a credit card merchant fee.

## Finance

47. Growers can fund their investment in the Project themselves, enter into a Term Payment Option with Rewards Projects Limited or borrow from an independent lender.

48. The Ruling applies to a Grower who enters into a Term Payment Option with Rewards Projects Limited, however, it does not apply if the finance arrangement entered into by the Grower includes or has any of the following features:

- there are split loan features of a type referred to in Taxation Ruling TR 98/22;
- there are indemnity arrangements or other collateral agreements in relation to the loan designed to limit the borrower's risk;
- 'additional benefits' are or will be granted to the borrowers for the purpose of section 82KL or the funding arrangements transform the Project into a 'scheme' to which Part IVA may apply;
- the loan or rate of interest is non-arm's length;
- repayments of the principal and payments of interest are linked to the derivation of income from the Project;

- the funds borrowed, or any part of them, will not be available for the conduct of the Project but will be transferred (by any mechanism, directly or indirectly) back to the lender or any associate of the lender;
- lenders do not have the capacity under the loan agreement, or a genuine intention, to take legal action against defaulting borrowers; or
- entities associated with the Project are involved or become involved in the provision of finance to Growers for the Project, other than under the Terms Payment Options offered by Rewards Projects Ltd.

## **Ruling**

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### **Application of this Ruling**

49. This Ruling applies only to Growers who are accepted to participate in the Project on or before 31 May 2005 and who have executed a Management Agreement and a Sub-Lease Agreement on or before that date.

50. A Grower's participation in the Project must constitute the carrying on of a business of primary production. A Grower is not eligible to claim any tax deductions until the Grower's application to enter the Project is accepted and the Project has commenced.

51. This Ruling does not apply to Growers who:

- are accepted to participate in the Project before the date the Ruling is made;
- have their application conditionally accepted by the Responsible Entity subject to finance for the payment of the initial fee, where the finance has not been approved by the lender by 31 May 2005 and the funds have not been made available to the Responsible Entity by 30 June 2005;
- are accepted to participate in the Project after 31 May 2005;
- intend to terminate their involvement in the arrangement prior to Project's completion; and
- do not intend to derive assessable income from the Project.

## **The Simplified Tax System ('STS')**

### ***Division 328***

52. For a Grower participating in the Project, the recognition of income and the timing of tax deductions, is different depending on whether the Grower is an 'STS taxpayer'. To be an 'STS taxpayer' a Grower:

- must be eligible to be an 'STS taxpayer'; and
- must have elected to be an 'STS taxpayer'.

### ***Qualification***

53. This Product Ruling assumes that a Grower who is an 'STS taxpayer' is so for the income year in which their participation in the Project commences. A Grower may become an 'STS taxpayer' at a later point in time. Also, a Grower who is an 'STS taxpayer' may choose to stop being an 'STS taxpayer', or may cease to be eligible to be an 'STS taxpayer', during the term of the Project. These are contingencies relating to the circumstances of individual Growers that cannot be accommodated in this Ruling. Such Growers can ask for a private ruling on how the taxation legislation applies to them.

## **Assessable income**

### ***Section 6-5 and section 328-105***

54. That part of the gross sales proceeds from the Project attributable to the Grower's produce, less any GST payable on those proceeds (section 17-5), will be assessable income of the Grower under section 6-5.

55. A Grower who is not an 'STS taxpayer' recognises ordinary income from carrying on the business of horticulture at the time the income is derived.

56. A Grower who is an 'STS taxpayer' recognises ordinary income from carrying on the business of horticulture at the time the income is received (paragraph 328-105(1)(a)).

**Deductions for Management Services Fees, Rent and Interest****Section 8-1 and section 328-105**

57. A Grower may claim tax deductions for the following revenue expenses on a per Grove basis:

| <b>Fee Type</b>  | <b>Year 1<br/>Year Ending<br/>30 June 2005</b> | <b>Year 2<br/>Year Ending<br/>30 June 2006</b>   | <b>Year 3<br/>Year Ending<br/>30 June 2007</b>   |
|--|--|--|--|
| <b>Management Services Fee</b>   | See Notes<br>(i) & (ii)                        | 568.80<br>See Notes<br>(i), (ii) & (iii)   | \$762<br>See Notes<br>(i), (ii) & (iii)  |
| <b>Rent</b>  | See Notes<br>(i) & (ii)                        | \$165<br>See Notes<br>(i), (ii) & (iii)  | \$165<br>See Notes<br>(i), (ii) & (iii)  |
| <b>Interest payable to Rewards Projects Ltd under Term Payment Options</b> | nil  | As incurred<br>( <b>non-STS taxpayers</b> )<br>or as paid<br>( <b>STS taxpayers</b> )<br>See Notes<br>(iv) & (v) | As incurred<br>( <b>non-STS taxpayers</b> )<br>or as paid<br>( <b>STS taxpayers</b> )<br>See Notes<br>(iv) & (v) |

**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 (for example input tax credits): Division 27. See the Example at paragraph 105.
- (ii) The Management Services Fees and Rent shown in the Management Agreement and Sub-Lease are deductible in full in the year they are incurred (where the Grower is **not an 'STS taxpayer'**) or in the year which they are paid (where the Grower is an **'STS taxpayer'**).

For a Grower who is **not an STS taxpayer**, the Management Services Fee of \$6,488.50 and Rent of \$27.50 will be deductible in Year 1, as they will be incurred in this year.

If a Grower who is an **'STS taxpayer'** chooses to pay the Year 1 Management Services Fee and Rent by the cash option, then these amounts will be fully paid in the year in which they are incurred. Therefore, the Management Services Fee of \$6,488.50 and Rent of \$27.50 will be deductible in Year 1 as they are fully paid in the year in which they are incurred.



However, if a Grower who is an '**STS taxpayer**' chooses to pay the Year 1 Management Services Fee and Rent by any of the Terms Payment Options, then the amount described above will not be fully paid in the year in which it is incurred. For STS taxpayers the Management Services Fee and Rent are only deductible to the extent to which they have been paid, or have 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)).

- (iii) If a Grower **chooses** to prepay fees for the doing of a thing (for example the provision of management services or the leasing 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 (see paragraphs 83 to 88). In such cases, the tax deduction for the prepaid fee must be determined using the formula shown in paragraph 85 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 purpose of this Ruling 'excluded expenditure' refers to an amount of expenditure of less than \$1,000.
- (iv) Growers who enter into the Term Payment Options with Rewards Projects Ltd (Rewards) for payment of the initial fee over 2, 5 or either of the two 7 year terms will incur interest monthly. Such interest is deductible in the income year in which it is incurred (where the Grower is **not an 'STS taxpayer'**) or the income year in which it is paid (where the Grower is an '**STS taxpayer**') (paragraph 328-105(1)(b)).
- (v) The deductibility or otherwise of interest arising from loan agreements and other arrangements other than the Term Payment Options with Rewards, is outside the scope of this Ruling. Growers who borrow from lenders other than Rewards may request a private ruling on deductibility of interest incurred. However, all Growers, who finance their participation in the Project, whether with the Term Payment Options or otherwise should read the discussion of the prepayment rules in paragraphs 83 to 88 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 other arrangement or is at the Grower's choice.

**Deductions for capital expenditure*****Division 40***

58. Growers will also be entitled to tax deductions relating to the establishment of horticultural plants (for example fruit trees) and water facilities (for example irrigation). All deductions shown in the following Table are determined under section 40-515.

| <b>Fee type</b>  | <b>Year 1<br/>Year Ended<br/>30 June 2005</b> | <b>Year 2<br/>Year Ended<br/>30 June 2006</b> | <b>Year 3<br/>Year Ended<br/>30 June 2007</b>      |
|--|---|---|--|
| <b>Water facility<br/>(e.g. irrigation,<br/>dam, bore, etc)</b>        | \$500<br>See Notes<br>(vi), (vii) & (viii)    | \$500<br>See Notes<br>(vi), (vii) & (viii)    | \$500<br>See Notes<br>(vi), (vii) & (viii)         |
| <b>Establishment<br/>of horticultural<br/>plants (fruit<br/>trees)</b> |   |   | Must be<br>calculated.<br>See Notes<br>(vi) & (ix) |

**Notes:**

- (vi) If the Grower is registered or required to be registered for GST, amounts of capital expenditure would need to be adjusted as relevant for GST (for example input tax credits): Division 27. See example at paragraph 105.
- (vii) Any irrigation system, dam or bore is a 'water facility' as defined in subsection 40-520(1), being used primarily and principally for the purpose of conserving or conveying water. A deduction is available under Subdivision 40-F, paragraph 40-515(1)(a). This deduction is equal to one third of the capital expenditure incurred by each Grower on the installation of the 'water facility' in the year in which it is incurred and one third in each of the next 2 years of income (section 40-540).
- (viii) The deductions shown in the Table above assume, for representative purposes only, that a Grower has either chosen to or can only claim deductions for expenditure on water facilities under Subdivision 40-F and not under Division 328. If the expenditure has been incurred on 'depreciating assets' and is claimed under Division 328, the deduction must be calculated. Under Division 328, if the 'cost' of a 'depreciating asset' at the end of the income year is less than \$1,000 (a 'low cost asset'), it can be claimed as an immediate deduction when first used or 'installed ready for use'. This is so, provided the Grower is an '**STS taxpayer**' for the income year in which it starts to 'hold' the asset and the income year in which it first uses the asset or has it 'installed ready for use' to produce assessable income.

- (ix) Fruit trees are a 'horticultural plant' as defined in subsection 40-525(2). As Growers hold the land under a sub-lease, one of the conditions in subsection 40-525(2) is met and a deduction for 'horticultural plants' is available under paragraph 40-515(1)(b) for their decline in value.

The deduction for the fruit trees is determined using the formula in section 40-545. For the new trees planted on a Grower's Grove, the deduction is based on the capital expenditure incurred by the Grower that is attributable to their establishment.

If the fruit trees have an 'effective life' of greater than 13 but fewer than 30 years for the purposes of section 40-545, this results in a straight-line write-off at a rate of 13%. The deduction is allowable when the fruit trees enter their first commercial season (section 40-530, item 2). The Responsible Entity will inform Growers of when the fruit trees enter their first commercial season.

## **Terms Application Fee**

59. Growers who elect to pay the Initial fee under the Terms Options must pay a Terms Application fee of \$50.00. This amount is **not** deductible under section 8-1.

## **Credit Card Merchant Fee**

60. Growers who use their credit card to pay the fees for this Project will incur a Merchant Fee for the use of their credit card. This fee will be deductible under section 8-1.

## **Division 35 – deferral of losses from non-commercial business activities**

### ***Section 35-55 – exercise of Commissioner's discretion***

61. A Grower who is an individual and is accepted into the Project during the year ended 30 June 2005 may have losses arising from their participation in the Project that would be deferred to a later income year under section 35-10. Subject to the Project being carried out in the manner described above, the Commissioner will exercise the discretion in paragraph 35-55(1)(b) for these Growers for the income years 30 June 2005 to 30 June 2010. This conditional exercise of the discretion will allow those losses to be offset against the Grower's other assessable income in the income year in which the losses arise.

**Sections 82KZME, 82KZMF and 82KL and Part IVA**

62. For a Grower who participates in the Project and incurs expenditure as required by the Management Agreement and the Sub-Lease, the following provisions of the ITAA 1936 have application as indicated:

- expenditure by a Grower does not fall within the scope of sections 82KZME and 82KZMF (but see paragraphs 83 to 88);
- section 82KL does not apply to deny the deductions otherwise allowable; and
- the relevant provisions in Part IVA will not be applied to cancel a tax benefit obtained under a tax law dealt with in this Ruling.

## Explanation

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**Is the Grower carrying on a business?**

63. For the amounts set out in the Tables above to constitute allowable deductions, the Grower's horticultural activities as a participant in the Rewards Group Tropical Fruits Project 6 must amount to the carrying on of a business of primary production. These horticultural activities will fall within the definitions of 'horticulture' and 'commercial horticulture' in section 40-535 of the ITAA 1997.

64. For schemes such as that of the Rewards Group Tropical Fruits Project 6, Taxation Ruling TR 2000/8 sets out in paragraph 89 the circumstances in which the Grower's activities can constitute the carrying on of a business. As Taxation Ruling TR 2000/8 sets out, these circumstances have been established in court decisions such as *FCT v. Lau* (1984) 6 FCR 202; 84 ATC 4929, (1984) 16 ATR 932.

65. Generally, a Grower will be carrying on a business of horticulture, and hence primary production, if:

- the Grower has an identifiable interest in the land (by lease) or holds rights over the land (under a licence) on which the Grower's fruit trees are established;
- the Grower has a right to harvest and sell the fruit each year from those fruit trees;
- the horticulture activities are carried out on the Grower's behalf;
- the horticulture activities of the Grower are typical of those associated with a horticulture business; and
- the weight and influence of general indicators point to the carrying on of a business.

66. In this Project, each Grower enters into a Management Agreement and a Sub-Lease.

67. Under the Sub-Lease, each individual Grower will have rights over a specific and identifiable area of land (Groves). The Sub-Lease provides the Grower with an ongoing interest in the specific trees on the Groves for the term of the Project. Under the Sub-Lease the Grower must use the Groves in question for the purpose of carrying out horticultural activities and for no other purpose. The Sub-Lease allows the Responsible Entity to come onto the land to carry out its obligations under the Management Agreement.

68. Under the Management Agreement the Responsible Entity is engaged by the Grower to maintain the fruit trees on the Grower's Groves during the term of the Project. The Responsible Entity will subcontract the management services to the Manager, under the Operations Agreement. The Manager has provided evidence that it holds the appropriate professional skills and credentials to provide the management services to maintain the Grove on the Grower's behalf.

69. The Grower engages the Responsible Entity to maintain the fruit trees on the Groves according to the principles of sound horticulture practice which includes irrigation, fertilisation, weed control and pruning. The Responsible Entity is also engaged to harvest and sell, on the Grower's behalf, the fruit grown on the Grower's Grove.

70. The general indicators of a business, as used by the Courts, are described in Taxation Ruling TR 97/11. Positive findings can be made from the Project's description for all the indicators.

71. The activities that will be regularly carried out during the term of the Project demonstrate a significant commercial purpose. Based on reasonable forecasts, a Grower in the Project may derive assessable income from the sale of its fruit that may return a before-tax profit, that is, a profit in cash terms that does not depend in its calculation on the fees in question being allowed as a deduction.

72. The pooling of fruit grown on the Grower's Grove with the fruit of other Growers is consistent with general horticulture practices. Each Grower's proportionate share of the sale proceeds of the pooled fruit will reflect the proportion of the fruit contributed from their Grove.

73. The Responsible Entity's and Manager's services are consistent with general horticulture practices. While the size of a Grove is relatively small, it is of a size and scale to allow it to be commercially viable.

74. The Grower's degree of control over the Responsible Entity as evidenced by the Management Agreement, and supplemented by the *Corporations Act 2001*, is sufficient. During the term of the Project, the Responsible Entity will provide the Grower with regular progress reports on the Grower's Grove and the activities carried out on the Grower's behalf. Growers are able to terminate arrangements with the Responsible Entity in certain instances, such as cases of default or neglect.

75. The horticulture activities, and hence the fees associated with their procurement, are consistent with an intention to commence regular activities that have an 'air of permanence' about them. For the purposes of this Ruling, the Growers' horticulture activities in the Rewards Group Tropical Fruits Project 6 will constitute the carrying on of a business.

## **The Simplified Tax System**

### ***Division 328***

76. Subdivision 328-F sets out the eligibility requirements that a Grower must satisfy in order to enter the STS and Subdivision 328-G sets out the rules for entering and leaving the STS.

77. The question of whether a Grower is eligible to be an 'STS taxpayer' is outside the scope of this Product Ruling. Therefore, any Grower who relies on those parts of this Ruling that refer to the STS will be assumed to have correctly determined whether or not they are eligible to be an 'STS taxpayer'.

## **Deductibility of Management Services Fees and Rent**

### ***Section 8-1***

78. Consideration of whether the initial Management Services Fees and Rent are deductible under section 8-1 begins with the first limb of the section. This view proceeds on the following basis:

- the outgoing in question must have a sufficient connection with the operations or activities that directly gain or produce the taxpayer's assessable income;
- the outgoings are not deductible under the second limb if they are incurred when the business has not commenced; and
- where all that happens in a year of income is that a taxpayer is contractually committed to a venture that may not turn out to be a business, there can be doubt about whether the relevant business has commenced, and hence, whether the second limb applies. However, that does not preclude the application of the first limb in determining whether the outgoing in question has a sufficient connection with activities to produce assessable income.

79. The Management Services Fees and Rent associated with the horticulture activities will relate to the gaining of income from the Grower's business of horticulture, and hence have a sufficient connection to the operations by which income (from the regular sale of fruit) is to be gained from this business. They will thus be deductible under the first limb of section 8-1. Further, no 'non-income producing' purpose in incurring the fee is identifiable from the

arrangement. The fee appears to be reasonable. There is no capital component of the management fee. The tests of deductibility under the first limb of section 8-1 are met. The exclusions do not apply.

## **Interest deductibility**

### **Section 8-1**

#### *(i) Growers who pay fees under the Terms Payment Options with Rewards Projects Ltd*

80. Some Growers may finance their participation in the Project through a Terms Payment Option with Rewards Projects Limited. Whether the resulting interest costs are deductible under section 8-1 depends on the same reasoning as that applied to the deductibility of the fees under the Management Agreement.

81. The interest incurred will be in respect of financing the Grower's business operations – the commercial growing and cultivation of fruit trees – that will continue to be directly connected with the gaining of 'business income' from the Project. Such interest will, therefore, have a sufficient connection with the gaining of assessable income to be deductible under section 8-1 in the income year in which it is incurred (where the Grower is not an STS taxpayer) or the income year in which it is paid (where the Grower is an STS taxpayer) (paragraph 328-105(1)(b)).

#### *(ii) Growers who enter into finance arrangements with other finance providers*

82. The deductibility of interest incurred by Growers who finance their participation in the Project through a finance facility with a bank or financier other than Rewards Projects Limited is outside the scope of this Ruling. Product Rulings only deal with arrangements where all details and documentation have been provided to, and examined by the Tax Office.

## **Prepayment provisions**

### **Sections 82KZL to 82KZMF**

83. The prepayment provisions contained in Subdivision H of Division 3 of Part III of the ITAA 1936 affect the timing of deductions for certain prepaid expenditure. These provisions apply to certain expenditure incurred under an agreement in return for the doing of a thing under the agreement (for example the performance of management services or the leasing of land) that will not be wholly done within the same year of income as the year in which the expenditure is incurred. If expenditure is incurred to cover the provision of services to be provided within the same year, then it is not expenditure to which the prepayment rules apply.

84. There are a number of exceptions to these rules, but for Growers participating in this Project, only the 'excluded expenditure' exception in subsection 82KZME(7) is relevant. 'Excluded expenditure' is defined in subsection 82KZL(1). However, for the purposes of Growers in this Project, 'excluded expenditure' is prepaid expenditure incurred under the arrangement that is less than \$1,000. Such expenditure is immediately deductible.

85. Where the requirements of section 82KZME are met, section 82KZMF applies to apportion relevant prepaid expenditure. Section 82KZMF uses the formula below, to apportion prepaid expenditure and allow a deduction over the period that the benefits are provided.

$$\text{Expenditure} \times \frac{\text{Number of days of eligible service period in the year of income}}{\text{Total number of days of eligible service period}}$$

86. In the formula 'eligible service period' (defined in subsection 82KZL(1)) means, the period during which the thing under the agreement is to be done. The eligible service period begins on the day on which the thing under the agreement commences to be done or on the day on which the expenditure is incurred, whichever is the later, and ends on the last day on which the thing under the agreement ceases to be done, up to a maximum of 10 years.

#### *Application of the prepayment provisions to this Project*

87. Under the Arrangement to which this Product Ruling applies, Management and Sub-lease Fees are incurred annually and any interest payable to Rewards Projects Ltd is incurred monthly. Accordingly, the prepayment provisions in sections 82KZME and 82KZMF have no application to this Arrangement. A Grower who is an 'STS taxpayer' can, therefore, claim a deduction for each of the relevant amounts in the income year in which the amount is paid, or paid on their behalf. A Grower who is not an 'STS taxpayer' can claim a deduction for each of the relevant amounts in the income year in which the fee is incurred.

88. However, sections 82KZME and 82KZMF may have relevance if a Grower in this Project prepays all or some of the expenditure payable under the Management Agreement and/or the Sub-lease Agreement or prepays interest under a loan agreement (including loan agreements with lenders other than Rewards Projects Ltd). Where such a prepayment is made these prepayment provisions will also apply to 'STS taxpayers' because there is no specific exclusion contained in section 82KZME that excludes them from the operation of section 82KZMF.



***Growers who choose to pay fees for a period in excess of that required by the Project's agreements***

89. Although not required under either the Management Agreement or the Sub-lease, a Grower participating in the Project may **choose** to prepay fees for a period beyond the 'expenditure year'. Similarly, Growers who use financiers may either choose, or be required to prepay interest. Where this occurs, contrary to the conclusion reached in paragraph 87, section 82KZMF will apply to apportion the expenditure and allow a deduction over the period in which the prepaid benefits are provided.

90. For these Growers, the amount and timing of deductions for any relevant prepaid management fees, prepaid rent, or prepaid interest will depend upon when the respective amounts are incurred and what the 'eligible service period' is in relation to these amounts.

91. However, as noted above, prepaid fees of less than \$1,000 incurred in an expenditure year will be 'excluded expenditure' and will be not subject to apportionment under section 82KZMF.

**Expenditure of a capital nature**

92. Any part of the expenditure of a Grower that is attributable to acquiring an asset or advantage of an enduring kind is generally capital or capital in nature and will not be an allowable deduction under section 8-1. In this Project, expenditure attributable to water facilities and the establishment of the fruit trees is of a capital nature. This expenditure falls for consideration under Division 40 or Division 328 of the ITAA 1997.

93. The application and extent to which a Grower claims deductions under Division 40 and Division 328 depends on whether or not the Grower is an 'STS taxpayer'.

94. The tax treatment of capital expenditure has been dealt with in a representative way in paragraph 58 in the Table and accompanying notes.

**Terms Application Fee**

***Section 8-1***

95. Some Growers may finance their participation in the Project through a Terms Payment Option with Rewards Projects Ltd. In doing so, they will incur a Terms Application Fee. Whether the resulting fee is deductible under section 8-1 depends on the same reasoning as that applied to the deductibility of the initial fees.

96. One of the exclusions under section 8-1 relates to expenditure that is capital or capital in nature. Any part of the expenditure of a Grower that is attributable to acquiring an asset or advantage of an enduring kind is generally capital or capital in nature and will not be an allowable deduction under section 8-1. In this Project, the Terms Application Fee is capital in nature. It is not deductible under section 8-1 or any other section of the Act.

### **Credit Card Merchant Fee**

97. Some Growers in this Project may choose to pay all or part of their fees for the Project by credit card. In doing so, they will incur a Merchant Fee charge. Whether the resulting fee is deductible under section 8-1 depends on the same reasoning as that applied to the deductibility of the initial fees.

98. The Merchant Fee has been incurred in the gaining or producing of the Growers assessable income from the Project. It is not capital in nature and will be deductible on the same basis that the fees are deductible.

### **Division 35 – deferral of losses from non-commercial business activities**

#### ***Section 35-55 – exercise of Commissioner’s discretion***

99. In deciding to exercise the discretion in paragraph 35-55(1)(b) on a conditional basis for the income years **30 June 2005 to 30 June 2010** the Commissioner has applied the principles set out in Taxation Ruling TR 2001/14 Income tax: Division 35 – non-commercial business losses. Accordingly, based on the evidence supplied, the Commissioner has determined that for those income years ended 30 June 2005 up to and including 30 June 2010:

- it is because of its nature the business activity of a Grower that will not satisfy one of the four tests in Division 35;
- there is an objective expectation that within a period that is commercially viable for the horticultural industry, a Grower’s business activity will satisfy one of the four tests set out in Division 35 or produce a taxation profit; and
- a Grower who would otherwise be required to defer a loss arising from their participation in the Project under subsection 35-10(2) until a later income year is able to offset that loss against their other assessable income.

100. The exercise of the Commissioner's discretion under paragraph 35-55(1)(b) is conditional on the Project being carried on in the manner described in this Ruling during the income years specified. If the Project is carried out in a materially different way to that described in the Ruling a Grower will need to apply for a private ruling on the application of section 35-55 to those changed circumstances.

### ***Section 82KL – recouped expenditure***

101. The operation of section 82KL depends, among other things, on the identification of a certain quantum of 'additional benefit(s)'. Insufficient 'additional benefits' will be provided to trigger the application of section 82KL. It will not apply to deny the deduction otherwise allowable under section 8-1.

### ***Part IVA – general tax avoidance provisions***

102. For Part IVA to apply there must be a 'scheme' (section 177A); a 'tax benefit' (section 177C); and a dominant purpose of entering into the scheme to obtain a tax benefit (section 177D).

103. The Rewards Group Tropical Fruits Project 6 will be a 'scheme' commencing with the issue of the Product Disclosure Statement. A Grower will obtain a 'tax benefit' from entering into the scheme, in the form of tax deductions for the amounts detailed at paragraphs 57 and 58 that would not have been obtained but for the scheme. However, it is not possible to conclude that the scheme will be entered into or carried out with the dominant purpose of obtaining this tax benefit.

104. Growers to whom this Ruling applies intend to stay in the scheme for its full term and derive assessable income from the harvesting and sale of their fruit. There are no facts that would suggest that Growers have the opportunity of obtaining a tax advantage other than the tax advantages identified in this Ruling. There are no non-recourse financing or round robin characteristics, and no indication that the parties are not dealing with each other at arm's length, or, if any parties are not at arm's length, that any adverse tax consequences result. Further, having regard to the factors to be considered under paragraph 177D(b) it cannot be concluded, on the information available, that participants will enter into the scheme for the dominant purpose of obtaining a tax benefit.

## Example

### Example – entitlement to GST input tax credits

105. Susan, who is a sole trader and registered for GST, contracts with a manager to manage her horticulture business. Her manager is registered for GST and charges her a management fee payable every six months in advance. On 1 December 2003 Susan receives a valid tax invoice from her manager requesting payment of a management fee in advance, and also requesting payment for an improvement in the connection of electricity for her vineyard that she contracted him to carry out. The tax invoice includes the following details:

|  |                 |
|--|-----------------|
| Management fee for period 1/1/2004 to 30/6/2004                    | \$4,400*        |
| Carrying out of upgrade of power for your vineyard as quoted       | <u>\$2,200*</u> |
| Total due and payable by 1 January 2004<br>(includes GST of \$600) | <u>\$6,600</u>  |

\*Taxable supply

Susan pays the invoice by the due date and calculates her input tax credit on the management fee (to be claimed through her Business Activity Statement) as:

$$\frac{1}{11} \times \$4,400 = \$400.$$

Hence her outgoing for the management fee is effectively \$4,400 less \$400, or \$4,000.

Similarly, Susan calculates her input tax credit on the connection of electricity as:

$$\frac{1}{11} \times \$2,200 = \$200.$$

Hence her outgoing for the power upgrade is effectively \$2,200 less \$200, or \$2,000.

In preparing her income tax return for the year ended 30 June 2004, Susan is aware that the management fee is deductible in the year incurred. She calculates her management fee deduction as \$4,000 (not \$4,400).

Susan is aware that the electricity upgrade is deductible 10% per year over a 10 year period. She calculates her deduction for the power upgrade as \$200 (one tenth of \$2,000 only, not one tenth of \$2,200).

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## Commissioner of Taxation

16 March 2005

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*Previous draft:*

Not previously issued as a draft

*Related Rulings/Determinations:*

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

*Subject references:*

- carrying on a business
- commencement of business
- management fee expenses
- non-commercial loss
- primary production
- primary production expenses
- producing assessable income
- product rulings
- public rulings
- schemes and shams
- tax avoidance
- tax benefits under tax avoidance schemes
- tax shelters
- taxation administration

*Legislative references:*

- TAA 1953 Pt IVA
- 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 40-525(2)
- ITAA 1997 40-530
- ITAA 1997 40-535
- ITAA 1997 40-540
- ITAA 1997 40-545
- ITAA 1997 Div 328
- ITAA 1997 328-105
- ITAA 1997 328-105(1)(a)
- ITAA 1997 328-105(1)(b)
- ITAA 1997 Subdiv 328-F
- ITAA 1997 Subdiv 328-G
- 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(7)
- ITAA 1936 82KZMF
- ITAA 1936 Pt IVA
- ITAA 1936 177A
- ITAA 1936 177C
- ITAA 1936 177D
- ITAA 1936 177D(b)
- Copyright Act 1968
- Corporations Act 2001

*Case references:*

- FCT v. Lau (1984) 6 FCR 202;  
84 ATC 4929, (1984) 16 ATR 932

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ATO references:

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