


PR 2005/37W - Income tax: Macquarie Forestry Investment 2005 (Post 30 June 2005 Growers)

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 This document has changed over time. This is a consolidated version of the ruling which was published on *31 July 2013*



Product Ruling

Income tax: Macquarie Forestry Investment 2005 (Post 30 June 2005 Growers)

Withdrawal

1. This Product Ruling is withdrawn and ceases to have effect after 30 June 2007.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 as set out in PR 2005/37. Thus, the Ruling continues to apply to those persons, even following its withdrawal, who entered into the specified arrangement between 23 March 2005 and 30 June 2005 inclusive.

Grant of Easements

2. As described in paragraphs 19 to 21 of PR 2005/37 Macquarie Alternative Assets Management Limited (MAAML) offered Interests in the Timber Product and Macquarie Financial Products Management Limited (MFPML) offered Units in the Land Product. Growers acquired Interests in the Timber Product and Land Investors and/or Growers acquired Units in the Land Product. MAAML is the Responsible Entity for the Timber product and MFPML is the Responsible Entity for the Land Product.

3. MFPML in its capacity as Responsible Entity of the Land Product, has resolved to consent to the grant of certain easements to a wind farm over land belonging to the Land Product. The easements will enable the wind farm to construct transmission lines on Project Land to enable the wind farm to be connected to the national electricity grid. On 10 July 2013 Growers in the Timber Project passed a special resolution to enable MAAML to consent to the grant of the easements.

4. Compensation will be paid to both the Land Product Responsible Entity and the Growers in the Timber Product for the granting of Easements. The construction of the transmission lines will result in the removal of Trees from the Project Land. However, this will not result in the removal of all Trees from any Plantation Lot and each Grower will retain the same Interest in their respective Plantation Lot.

5. The granting of the Easements is not an Event as defined under Clause 25(1) of the Macquarie Eucalypt Project 2005 Constitution (the Constitution).

6. All Growers will be subject to the pooling provisions and to the Payments – Distribution/Retention provisions as outlined in clause 6.2 and 7.2 in Schedule 1 of the Constitution.

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7. Compensation payments to Growers for the Easements will be assessable income pursuant to subsection 82KZMGB(2) of the ITAA 1936 or section 6-5 of the ITAA 1997. Due to the pooling arrangements all Growers will receive a share of the compensation based on their proportional Interest in the Timber Product.
8. Proceeds from the sale of standing or harvested timber that are not part of the granting of the Easements will be distributed to all Growers in accordance with the Constitution. The proceeds received by Growers will be assessable income under section 6-5 of the ITAA 1997.
9. Provided that, both before and after the granting of the Easements, the Timber Product is carried out as described above and in PR 2005/37 the events described above do not disturb the tax treatment of the Grower's previous and future outgoings, as set out in PR 2005/37.

Commissioner of Taxation

23 March 2005

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; TD 2003/12

Subject references:

- advance deductions and expenses for certain forestry expenditure
 - carrying on a business
 - commencement of business
 - fee expenses
 - forestry agreement
 - interest expenses
 - management fees
 - non-commercial losses
 - producing assessable income
 - product rulings
 - public rulings
 - seasonally dependent agronomic activity
 - tax avoidance
 - tax benefits under tax avoidance schemes
 - tax shelters
 - tax shelters project
 - taxation administration

Legislative references:

- ITAA 1936 82KL
 - ITAA 1936 Part 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 82KZMG
 - ITAA 1936 82KZMG(1)
 - ITAA 1936 82KZMG(2)
 - ITAA 1936 82KZMG(3)
 - ITAA 1936 82KZMG(4)
 - ITAA 1936 82KZMG(5)
 - 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 25-25
- 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 Pt 3-1
- ITAA 1997 108-5
- ITAA 1997 110-25(2)
- ITAA 1997 Div 328
- ITAA 1997 328-105

- ITAA 1997 328-105(1)(a)
- 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:

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