

PR 2005/37A1 - Addendum to Withdrawal - Income tax: Macquarie Forestry Investment 2005 (Post 30 June 2005 Growers)

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Addendum to Withdrawal

Product Ruling

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

This addendum amends Product Ruling PR 2005/37W to provide information about the consequences for Growers for the granting of easements over land in relation to the Timber Product.

PR 2005/37W is amended as follows:

1. Preamble

Omit the preamble.

2. Paragraph 1

Omit paragraph, substitute:

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 This Product Ruling is withdrawn and ceases to have effect after 30 June 2007.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.

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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.
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.

This Addendum applies from 10 July 2013.

Commissioner of Taxation

31 July 2013

ATO References

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