

PR 2005/48 - Income tax: Premium Plantations Project 2005 (1 July 2005 to 30 September 2005 Growers)

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 This document has changed over time. This is a consolidated version of the ruling which was published on *6 April 2005*



Product Ruling

Income tax: Premium Plantations Project 2005 (1 July 2005 to 30 September 2005 Growers)

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Potential participants may wish to refer to the Tax Office website at 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 IVAAA 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

1. This Ruling sets out the Commissioner's opinion on the way in which the 'tax law(s)' identified below apply to the defined class of persons, who take part in the arrangement to which this Ruling relates. In this Ruling this arrangement is sometimes referred to as the 'Premium Plantations Project 2005' 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 328 of the ITAA 1997;
 - section 82KL of the *Income Tax Assessment Act 1936* (ITAA 1936);
 - sections 82KZME to 82KZMF of the ITAA 1936; and
 - Part IVA of the ITAA 1936.

Goods and Services Tax

3. All fees and expenditure referred to in this Ruling include the 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 laws 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 more specifically identified in the Ruling part of this Product Ruling 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 as set out in the description of the arrangement. 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:

- are accepted to participate in the Project before the date the Ruling is made;
- are accepted to participate in the Project before 1 July 2005 and after 30 September 2005;
- have their application conditionally accepted by Premium Plantations Limited subject to finance for the payment of the application fee, where the finance has not been approved by the lender or the funds have not been made available to Premium Plantations Ltd by 30 September 2005;
- elect to harvest and take their own produce (Electing Growers); and
- intend to terminate their involvement in the arrangement prior to its completion, or who otherwise do not intend to derive assessable income from it.

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

11. This Ruling applies prospectively from 6 April 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 the private ruling if the income year to which the private ruling 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

13. This Product Ruling is withdrawn and ceases to have effect after 30 June 2008. 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 persons' involvement in the arrangement.

Arrangement

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

- Application for a Product Ruling dated 23 December 2004 as constituted by documents provided on 16 and 23 December 2004, 4 January 2005, 16, 22 and 28 February 2005 and 9, 21 and 23 March 2005 and additional correspondence dated 16, 18 and 28 February 2005 and 9, 10, 15, 16, 18, 21 and 23 March 2005;
- Draft Information Memorandum for the Premium Plantations Project 2005 received on 9 March 2005 and updated on 23 March 2005;
- Draft Tree Project Constitution of the Premium Plantations Project 2005 received on 21 March 2005;
- Draft **Grower Management Agreement – globulus** between Premium Plantations Limited (as Manager and Grantor) and the Grower received on 21 March 2005;
- Draft **Grower Management Agreement – saligna** between Premium Plantations Limited (as Manager and Grantor) and the Grower received on 21 March 2005;
- Draft **Grower Lease Agreement – globulus** between Premium Plantations Limited (as Grantor) and the Grower received on 28 February 2005;
- Draft **Grower Lease Agreement – saligna** between Premium Plantations Limited (as Grantor) and the Grower received on 28 February 2005;
- Draft Head Lease – globulus between the custodian (as Lessor) and Premium Plantations Ltd (as Lessee) received on 16 February 2005;
- Draft Head Lease – saligna between the custodian (as Lessor) and Premium Plantations Ltd (as Lessee) received on 16 February 2005;
- Draft Land Trust Constitution received on 22 February 2005;
- Draft Sub-Contracting agreement between Premium Plantations Limited and Premium Plantations Services Proprietary Limited received on 16 February 2005; and
- Draft Intermediary Authorisation between Premium Plantations Limited and Commonwealth Securities Limited received 16 February 2005.

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

15. The documents highlighted are those that Growers may enter into. For the purposes of describing the arrangement to which this Ruling applies, 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 a part of the arrangement to which this Ruling applies.

16. In accordance with the above documents, a Grower who participates in the arrangement must be a wholesale client or have accepted an offer that is a small scale offering. **This Ruling does not apply unless:**

- (a) the Grower is a wholesale client as defined in section 761G of the *Corporations Act 2001*; or
- (b) not being a retail client, the Grower has accepted a 'personal offer' of a small scale offering for the purpose of the *Corporations Act 2001*.

17. Each of these categories is explained in paragraphs 71 to 78 in the Explanation area of this Product Ruling.

18. As the Project's Growers are wholesale clients or have accepted an offer that is a small scale offering, the Project will not be a registered managed investment scheme under the *Corporations Act 2001*.

Overview

19. The salient features of the Premium Plantations Project 2005 are as follows:

Location	South West region of Western Australia.
Type of business each participant is carrying on	Commercial growing, cultivation and then sale of <i>Eucalyptus globulus</i> (Tasmanian Blue Gum) and <i>Eucalyptus saligna</i> (Sydney Blue Gum) trees.
Number of hectares offered for cultivation	4,000 hectares.
Size of each Timberlot	0.5 hectares.
Minimum allocation per Grower	2 Timberlots.
Number of Trees per Timberlot	200-312 <i>E. globulus</i> and 250 <i>E. saligna</i> .
The term of the Project	Approximately 21 years.
Initial minimum cost	\$12,500 for 2 Timberlots.
Ongoing and other costs	Planting Fee, Annual Services, Rent, Tree Insurance, Costs of Harvesting, Costs of Felling, Costs of Sale, Costs of Rehabilitation, Additional Payment and the Marketing Performance Bonus.

20. The Project will be conducted on farm land in the South West regions of Western Australia within economic haulage distances of established local processing facilities and the ports in Bunbury and Albany. The Project will be managed by Premium Plantations Limited (Premium Plantations), which is a wholly owned subsidiary of the Commonwealth Bank of Australia.

21. The Project will be offered under an Information Memorandum. As Premium Plantations does not hold an Australian Financial Services Licence, they will authorise Commonwealth Securities Limited a holder of such a licence to make offers of interests to potential participants in the Project through the Information Memorandum.

22. The Project consists of both a Tree Project and a Land Project. Investors may choose to invest in the Tree Project, the Land Project or both.

23. The Tree Project involves Growers each conducting a business of primary production though the commercial growing and cultivation of *Eucalyptus globulus* (*E. globulus*) and *Eucalyptus saligna* (*E. saligna*) trees and then the sale of their produce.

24. The Land Project gives an opportunity to the Growers participating in the Project and others to acquire Units in the Land Trust that will own the Project land. Growers participating as Unit Holders may receive distributions of rental after the timber of each plantation species is harvested and sold and when the Project ends they may receive distributions from land sale proceeds. The tax treatment of costs associated with the Land Trust, apart from the interest costs of a Commonwealth Bank of Australia loan used to acquire the Unit(s) in the Land Trust is outside the scope of this Ruling.

25. By completing the Application in the Information Memorandum, an applicant can apply for two or more Timberlots and participate in the Tree Project and/or can apply for two or more Units in the Land Project. A Timberlot is 0.5 hectares in size and consists of a quarter of a hectare of *E. globulus* and a quarter of a hectare of *E. saligna*.

26. A Grower who is accepted into the Tree Project will enter into two Management Agreements one for the *E. globulus* and one for the *E. saligna* trees. Under these Agreements, Premium Plantations (the Manager), agrees to lease Timberlots to the Grower.

27. The Management Agreements also provide that Premium Plantations will be responsible for establishing and cultivating the Trees. Premium Plantations will also arrange for the harvest and sale of the timber on the Grower's behalf unless the Grower elects otherwise (see paragraph 44 for Electing Growers).

28. On application for a Timberlot and/or Unit, Growers will execute a Power of Attorney enabling Premium Plantations to act on their behalf as required. This will include the execution of the Lease and Management Agreements.

29. Growers 'Applications' accepted after 30 June 2005 and on or before 30 September 2005 will commence participation as 'round two Growers' (1 July 2005 to 30 September 2005 Growers). The Ruling only applies in respect of 'round two Growers'. **Note that a separate Product Ruling will issue for Growers who will enter into the Project before 1 July 2005.**

Tree Project Constitution

30. The Tree Project Constitution (the Constitution) sets out the terms and conditions under which Premium Plantations agrees to act for the Growers of the Tree Project. Growers are bound by the Constitution by virtue of their participation in the Tree Project.

31. Under the terms of the Constitution, Premium Plantations must deposit all Application Moneys received from Growers into a trust bank account they have established for this purpose. This account is referred to as an Application Fund. The application moneys will be released from this fund when the Premium Plantations is satisfied that certain specified criteria in the Constitution have been met (clauses 2.3, 4 and 6 of the Constitution).

32. The proceeds from the sale of the forest produce will be paid into a Proceeds Fund to be established by Premium Plantations. A Grower's 'Proportional Interest' in these proceeds will be distributed to the Grower after deducting amounts, listed in clause 29 of the Constitution. In the event of a partial or total destruction of the Trees on a Grower's Timberlots, the Grower's Proportional Interest in the distribution will be reduced to reflect the destruction (clause 1 definition of 'Proportional Interest' in the Constitution). If the Manager determines that amounts in the Proceeds Fund are too small to be distributed, the Manager may postpone distribution of those amounts until it determines that a reasonable amount is available for distribution (clause 28.5 of the Constitution).

Head Lease and Lease Agreements

33. The Project custodian will acquire the Project land and transfer the land to the Land Trust subject to the Head Lease agreements. Premium Plantations will lease the land from the custodian by entering into the Head Lease agreements. The Head Lease agreements will be for the land on which the *E. globulus* will be located and for the land on which the *E. saligna* will be located.

34. Under the Grower Management Agreement – globulus and Grower Management Agreement – saligna (the Management Agreements), Premium Plantations agrees to lease Timberlots specified in these Agreements within 9 months of the Commencement Date. For round two Growers the Commencement Date is the date the Management Agreements are entered into.

35. When the Project land is acquired, Premium Plantations will sub-lease the land to the Growers by entering into the Grower Lease Agreement – globulus and the Grower Lease Agreement – saligna (the Lease Agreements) with each Grower. The Lease Agreements will enable Growers to use their Timberlots for the purpose of conducting their afforestation business upon terms and conditions as set out in the leases.

36. The leases will continue until the completion of the final harvest in approximately 11 years for the *E. globulus* Trees and 21 years for the *E. saligna* trees (Clause 2.1 of the Lease Agreements).

37. As specified in the 'Fees' section below, Rent is deferred and is payable at the rate of 11% from the Net Proceeds of Sale.

38. Premiums Plantations will arrange Tree Insurance for the Timberlots annually to cover for the destruction of the Growers' trees by fire. The Tree Insurance will be paid for by the Grower. However, if in the opinion of Premium Plantations, the cost of the Tree Insurance is not reasonable, Premium Plantations is not obliged to procure the Tree Insurance and the Growers will be at liberty to take out their own Tree Insurance cover (clauses 5.4 and 12 of the Lease Agreements).

Management Agreements

39. The Grower Management Agreement – globulus and Grower Management Agreement – saligna (the Management Agreements) are entered into between Premium Plantations and each Grower. Each Grower agrees to engage Premium Plantations to perform the Services listed in the Agreements in respect of each Grower's Timberlots. However, Premium Plantations may employ an agent or contractor to carry out some or all of these Services and will do so by engaging Premium Plantations Services Proprietary Limited.

40. The 'Initial Services' provided for under the Management Agreements must be completed during the period from the Commencement Date to 30 June 2006. However, these services will only be conducted after the Timberlots are leased to the Grower. The Initial Services include:

- ripping and mounding the Timberlots as necessary from the Commencement Date;
- otherwise preparing the Timberlots for planting as necessary from the Commencement Date; and
- procurement of sufficient *E. globulus* and *E. saligna* seedlings or trees of appropriate size as is reasonably required to complete the Planting Services [clause 1 (definition of 'Initial Services') and clause 3 of the Management Agreements].

41. 'Planting Services' will also be performed in the period from 1 April 2006 to 31 December 2006. However, these services will only commence after the Timberlot has been leased to the Grower. The Planting Services require that 200-312 *E. globulus* seedlings or Trees and 250 *E. saligna* seedlings or Trees are planted on a Timberlot [clause 1 (definition of 'Planting Services') and clause 3 of the Management Agreements].

42. Services that will be provided throughout the Project Term are the 'Annual Services', which include:

- cultivating, tending, culling, fertilising, replanting, spraying and otherwise caring for the Trees as and when required;
- keeping in good repair and condition any access roads and firebreaks, as required;
- undertaking pest control measures;
- obtaining a Report within 4 months after the completion of planting of all plantations and then yearly, to be furnished to the Grower; and
- organising and arranging for the Trees to be fertilised.

43. In consideration of the Manager agreeing to carry out the Initial Services an Establishment Fee is payable on or before 30 September 2005. For the Planting Services a Planting Fee is payable on or before 30 September 2006 and for the Annual Services the fee is a percentage payable from the Net Proceeds of Sale.

Thinning, Harvesting and Sale

44. Growers may elect, by a date notified by Premium Plantations, to become an 'Electing Grower' and take their own produce by giving written notice to Premium Plantations (clause 7 of the Management Agreements). This Ruling does not apply to Electing Growers.

45. The 'Non-Electing Growers' will appoint Premium Plantations to arrange for the harvesting and sale of the Forest Produce grown on the Growers' Timberlots. Thinning will also be conducted on the *E. saligna* lots (clauses 8 and 9 of the Management Agreements).

46. Premium Plantations expects to conduct a final harvest of the *E. globulus* trees at age 11 years and a final harvest of the *E. saligna* trees at age 21 years.

47. After the final harvest, the produce from each Grower's Timberlot will be pooled with other Growers' produce from the Project and sold by the Manager on behalf of the Growers. The Manager will use its best endeavours to negotiate the sale of the produce to achieve the greatest net proceeds of sale for each Grower having regard to the circumstances at the time.

The Land Project (optional)

48. A Grower **may** purchase Units in the Land Trust that owns the land leased to Growers in the Tree Project.

49. The Land Trust Constitution establishes the Trust and operates as a deed under which Premium Plantations holds assets on trust for the Unitholders. It sets out the terms and conditions under which Premium Plantations agrees to act as the Trustee for the trust.

50. The beneficial interest in the Trust is divided into Units and each Unit confers an equal undivided interest in the assets of the Trust.

51. The subscription price for the Land Trust is \$925 per Unit and is payable by 30 September 2005 (item 2.2 of the Information Memorandum).

52. The subscription price represents the value of a quarter of a hectare of *E. globulus* land and a quarter of a hectare of *E. saligna* land encumbered by the Tree Project Grower's Leases.

Fees

53. The Grower must pay the following amount to Premium Plantations Limited for each Timberlot:

- **Establishment Fee** of \$6,250 payable on or before 30 September 2005, for Initial Services to be performed from the Commencement Date to 30 June 2006 (item 3 of the Schedule to the Management Agreements).
- **Planting Fee** of \$500 payable on or before 30 September 2006, for Planting Services to be performed from 1 April 2006 to 31 December 2006 (item 3 of the Schedule to the Management Agreements).
- **Annual Services fee**, being 11% of the Net Proceeds of Sale. This fee is for Annual Services and is deducted from the Net Proceeds of Sale (item 3 of the Schedule to Management Agreements).
- **Rent** being 11% of the Net Proceeds of Sale. This fee is for the Grower's leases and is deducted from the Net Proceeds of Sale (item 6 of the Schedule to the Lease Agreements).
- **Tree Insurance** payable annually in advance beginning on 30 June 2006. The amounts payable will be advised by Premium Plantations. (clauses 5.4 and 12 of the Lease Agreements and item 8.2 of the Information Memorandum).

- **Costs of Harvesting, Costs of Felling, Costs of Sale and Costs of Rehabilitation** to be deducted from the Gross Proceeds of Sale (clause 11 of the Management Agreements).
- **Additional Payment** as advised by Premium Plantations for costs incurred by Premium Plantations for additional Services to those listed in the Management Agreements, where the services are required by reason of an unforeseen event or a change of a law or a significant change to silvicultural practices (clause 15 of the Management Agreements).
- **Marketing Performance Bonus**, equal to 11% of the excess of the *E. globulus* Net Proceeds of Sale for the entire Project over the number of Timberlots in the Project multiplied by \$2,200.

In addition, a Marketing Performance Bonus, equal to 11% of the excess of the *E. saligna* Net Proceeds of Sale for the entire Project over the number of Timberlots in the Project multiplied by \$12,500 (item 3(c)(1)(B) of the Schedule to the Management Agreements).

Finance

54. Growers can fund their investment in the Project themselves, borrow from Commonwealth Bank of Australia (a lender associated with Premium Plantations) or borrow from an independent lender.

55. The Commonwealth Bank of Australia will offer three finance arrangements, described as 'Commonwealth Forestry Loans' (section 10 of the Information Memorandum):

Option 1: Reducing loan over two years interest free

- No deposit required;
- No interest is applicable; and
- Repayable in equal Monthly payments over 2 years, with the first repayment due on 31 October 2005.

Option 2: Seven year fixed rate loan (three years interest-only, four years fully amortising)

- No deposit required;
- Fixed interest rate of 8.5% per annum (an indicative rate only); and
- Repayable in 36 monthly interest-only payments, followed by 48 equal monthly payments amortising the loan balance to nil. The first payment due on 31 October 2005.

Option 3: Ten year fixed rate loan (three years interest-only, seven years fully amortising)

- No deposit required;
- Fixed interest rate of 9% per annum (an indicative rate only); and
- Repayable in 36 monthly interest-only payments, followed by 84 equal monthly payments amortising the loan balance to nil. The first payment due on 31 October 2005.

56. The interest rates are only indicative. Actual interest rates for these loans will be set by the Commonwealth Bank of Australia on the loan draw down date.

57. The loans are made on a full recourse basis and normal debt recovery procedures, including legal action, will be taken in the case of defaulting borrowers.

58. This Ruling 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 other than the Commonwealth Bank of Australia are involved or become involved in the provision of finance to Growers for the Project.

Ruling

Application of this Ruling

59. Subject to paragraph 8, this Ruling applies only to Growers who are accepted to participate in the Project after 30 June 2005 and on or before 30 September 2005 as a 'round two Grower' (1 July 2005 to 30 September 2005 Grower) and who have executed the Grower Management Agreement – globulus and Grower Management Agreement – saligna on or before 30 September 2005.

60. The Grower's participation in the Project must constitute the carrying on of a business of primary production.

61. 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.

The Simplified Tax System (STS)

Division 328

62. 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

63. 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

64. 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.

65. The Grower who is not an 'STS taxpayer' recognises ordinary income from carrying on the business of afforestation at the time that income is derived.

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

Deductions for the Establishment Fee, Planting Fee, Tree Insurance and interest

Section 8-1 and section 328-105

67. A Grower may claim tax deductions under section 8-1 of the ITAA 1997, for the revenue expenses set out in the Table below.

68. However, if for any reason, an amount shown or referred to in the Table below is not fully paid in the year in which it is incurred by a Grower who is an 'STS taxpayer' then the amount is only deductible to the extent to which it has been paid, or has been paid for the Grower. For Growers who are 'STS Taxpayers', any amount or part of an amount shown in the Table below which is not paid in the year in which it is incurred will be deductible in the year in which it is actually paid.

Tree Project

Fee Type	Year ended 30 June 2006	Year ended 30 June 2007	Year ended 30 June 2008
Establishment Fee	\$6,250 See Note (i)		
Planting Fee		\$500 See Note (i)	
Tree Insurance	See Notes (i) & (ii)	See Notes (i) & (ii)	See Notes (i) & (ii)
Interest on loans with Commonwealth Bank of Australia	As incurred (Non-STS taxpayers) Or as paid (STS taxpayers) See Note (iii)	As incurred (Non-STS taxpayers) Or as paid (STS taxpayers) See Note (iii)	As incurred (Non-STS taxpayers) Or as paid (STS taxpayers) See Note (iii)

Land Project

Fee Type	Year ended 30 June 2006	Year ended 30 June 2007	Year ended 30 June 2008
Interest on Commonwealth Bank of Australia loans to acquire Units in the Land Trust	As incurred (Non-STS taxpayers) Or as paid (STS taxpayers) See Note (iii)	As incurred (Non-STS taxpayers) Or as paid (STS taxpayers) See Note (iii)	As incurred (Non-STS taxpayers) Or as paid (STS taxpayers) See Note (iii)

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 Example 1 at paragraph 121.
- (ii) As the Tree Insurance premiums are payable each 30 June in advance to insure property for the following year, the prepayment rules of the ITAA 1936 will apply to apportion those premiums unless the premiums are 'excluded expenditure'. For the purpose of this Ruling 'excluded expenditure' refers to an amount of expenditure of less than \$1,000.

If the Tree Insurance premiums are excluded expenditure, the prepayment rules will not apply and the expenditure will be deductible in full in the year that it is incurred (where the Grower is **not an 'STS taxpayer'**) or the year in which it is paid (where the Grower is an **'STS taxpayer'**).

If the Tree Insurance premiums are not excluded expenditure, the prepayment rules will apply and the tax deduction for the Tree Insurance premiums must be determined using the formula shown in paragraph 106.

- (iii) Interest is deductible under a loan agreement with the Commonwealth Bank of Australia as described at paragraphs 55 to 57. The deductibility or otherwise of interest arising from loan agreements entered into with financiers other than the Commonwealth Bank of Australia, the internal financier, is outside the scope of this Ruling. However all Growers who finance their participation in the Project should read the discussion of the prepayment rules in paragraphs 100 to 107 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 is at the Grower's choice.

Division 35 – deferral of losses from non-commercial business activities***Section 35-55 – exercise of Commissioner’s discretion***

69. A Grower who is an individual accepted into the Project after 30 June 2005 and or before 30 September 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 ending **30 June 2005 to 30 June 2026**. 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

70. For a Grower who participates in the Project and incurs expenditure as required by the Management Agreements and the Lease Agreements the following provisions of the ITAA 1936 have application as indicated:

- expenditure by a Grower who participates in the Project does not fall within the scope of sections 82KZME and 82KZMF;
- 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

Corporations Act 2001

71. For this Ruling to apply, an offer for an interest in the Project must:

- have been made to, and accepted by a Grower, who qualifies as a wholesale client as defined in section 761G of the *Corporations Act 2001*; or
- be an offer which qualifies as a small scale offering as defined in section 1012E of the *Corporations Act 2001*.

72. Small scale offers and offers to wholesale clients do not require a prospectus or product disclosure statement.

73. A Grower in the Project may be a person who is a wholesale client within the definition in section 761G. A person will be a wholesale client where the persons satisfies one of the following tests:

- the 'product value test' (paragraph 761G(7)(a));
- the 'individual wealth test' (paragraph 761G(7)(c)); and
- the 'professional investor test' (paragraph 761G(7)(d)).

74. A participant in a managed investment scheme, referred to below as 'the person' or 'the person to whom the offer is made', will satisfy the 'product value test' where:

- the minimum amount payable for the interests in the project on acceptance of the offer by the person to whom the offer is made is at least \$500,000; or
- the amount payable for the interests in the project on acceptance by the person to whom the offer is made and the amounts previously paid by the person for interests in the project of the same class that are held by the person add up to at least \$500,000.

75. A participant in a managed investment scheme, referred to below as 'the person' or 'the person to whom the offer is made', will satisfy the 'individual wealth test' where, it appears from a certificate given by a qualified accountant no more than 6 months before the offer is made, that the person to whom the offer is made:

- has net assets of at least \$2.5 million; or
- has a gross income for each of the last 2 financial years of at least \$250,000 a year.

76. A participant in a managed investment scheme, referred to below as 'the person' or 'the person to whom the offer is made', will satisfy the 'professional investor test' where:

- the person is a financial services licensee; or
- the person controls at least \$10 million for the purposes of investment in securities.

77. Alternatively, under section 1012E, a Grower may participate in the project by accepting a 'personal offer' for an interest in the project. Offers made under section 1012E cannot be accepted by more than 20 investors in any 12 month period and these investors, in aggregate, must not invest more than \$2 million dollars (subsection 1012E(2)).

78. An offer will be a 'personal offer' where it can only be accepted by the person to whom it is made, and it is made to a person who is likely to be interested in the offer because of previous contact, or professional or other connection with the person making the offer, or because they have indicated that they are interested in offers of that kind (subsection 1012E(5)).

Is the Grower carrying on a business?

79. For the amounts set out in the Table above to constitute allowable deductions the Grower's afforestation activities as a participant in the Premium Plantations Project 2005 must amount to the carrying on of a business of primary production.

80. Where there is a business, or a future business, the gross proceeds from the sale of the wood produce will constitute gross assessable income in their own right. The generation of 'business income' from such a business, or future business, provides the backdrop against which to judge whether the outgoings in question have the requisite connection with the operations that more directly gain or produce this income.

81. For schemes such as that of the Premium Plantations Project 2005, 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 *Commissioner of Taxation v. Lau* (1984) 6 FCR 202; 84 ATC 4929; (1984) 16 ATR 55.

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

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

83. In this Project, each Grower enters into Management Agreements and Lease Agreements.

84. Under the Lease Agreements each individual Grower will have rights over a specific and identifiable area of approximately 1 hectare of land. The leases provide the Grower with an ongoing interest in the specific trees on the leased area for the 'Term' of the Project. Under the leases the Grower must use the land in question for the purpose of carrying out afforestation activities, and for no other purpose. The leases allow the Manager to come onto the land to carry out its obligations under the Management Agreements.

85. Under the Management Agreements the Manager is engaged by the Grower to establish and maintain a 'Timberlot' on the Grower's identifiable area of land during the Term of the Project. The Manager has provided evidence that it holds the appropriate professional skills and credentials to provide the services to establish and maintain the Timberlot on the Grower's behalf.

86. The Manager is also engaged to harvest and sell, on the Grower's behalf, the wood produce grown on the Grower's Timberlot.

87. 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.

88. The activities that will be regularly carried out during the Term of the Project demonstrate a significant commercial purpose. Based on reasonable projections, a Grower in the Project will derive assessable income from the sale of the wood produce that will 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.

89. The pooling of wood produce from trees grown on the Grower's Timberlot with the wood produce of other Growers is consistent with general afforestation practices. Each Grower's proportionate share of the sale proceeds of the pooled wood produce will reflect the proportion of the trees contributed from their Timberlot.

90. The Manager's services are also consistent with general silvicultural practices. They are of the type ordinarily found in afforestation ventures that would commonly be said to be businesses. While the size of a Timberlot is relatively small, it is of a size and scale to allow it to be commercially viable.

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

92. The afforestation 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' afforestation activities in the Project will constitute the carrying on of a business.

The Simplified Tax System***Division 328***

93. 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.

94. The question of whether a Grower is eligible to be an 'STS taxpayer' is outside the scope of this Product Ruling (but refer to Taxation Ruling TR 2002/6 and Taxation Ruling TR 2002/11). 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 Establishment Fee, Planting Fee and Tree Insurance***Section 8-1***

95. Consideration of whether the Establishment Fee, Planting Fee and Tree Insurance 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.

96. The Establishment Fee, Planting Fee and Tree Insurance associated with the afforestation activities will relate to the gaining of income from the Grower's business of afforestation (see above), and hence have a sufficient connection to the operations by which income (from the harvesting and sale of wood produce) 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 Establishment Fee, Planting Fee and Tree Insurance. 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 use the Commonwealth Bank of Australia as the finance provider

97. Some Growers may finance their participation in the Project through a loan facility with the Commonwealth Bank of Australia. Whether the resulting interest costs are deductible under section 8-1 depends on the same reasoning as that applied to the deductibility of the Establishment Fee, Planting Fee and Tree Insurance under the Management Agreements.

98. The interest incurred for the year ended 30 June 2006 and in subsequent years of income will be in respect of a loan to finance the Grower's business operations 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.

(ii) Growers who DO NOT use the Commonwealth Bank of Australia as the finance provider

99. The deductibility of interest incurred by Growers who finance their participation in the Project through a loan facility with a bank or financier other than the Commonwealth Bank of Australia 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

100. 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.

101. For this Project, only section 82KZL (an interpretive provision) and sections 82KZME and 82KZMF are relevant. If the requirements of sections 82KZME and 82KZMF are met, taxpayers determine deductions for prepaid expenditure under section 82KZMF using the formula in subsection 82KZMF(1). These provisions also apply to 'STS taxpayers' because there is no specific exclusion contained in section 82KZME that excludes them from the operation of section 82KZMF.

Sections 82KZME and 82KZMF

102. Other than expenditure deductible under section 82KZMG, if the requirements of subsections 82KZME(2) and (3) are met, the formula in subsection 82KZMF(1) (see below) will apply to apportion expenditure that is otherwise deductible under section 8-1 of the ITAA 1997. The requirements of subsection 82KZME(2) will be met if expenditure is incurred by a taxpayer in return for the doing of a thing that is not to be wholly done within the year the expenditure is made. The year in which such expenditure is incurred is called the 'expenditure year' (subsection 82KZME(1)).

103. The requirements of subsection 82KZME(3) will be met where the agreement (or arrangement) has the following characteristics:

- the taxpayer's allowable deductions under the agreement for the 'expenditure year' exceed any assessable income attributable to the agreement for that year;
- the taxpayer does not have effective day to day control over the operation of the agreement. That is, the significant aspects of the arrangement are managed by someone other than the taxpayer; and
- either:
 - a) there is more than one participant in the agreement in the same capacity as the taxpayer; or
 - b) the person who promotes, arranges or manages the agreement (or an associate of that person) promotes similar agreements for other taxpayers.

104. For the purpose of these provisions, the agreement includes all activities that relate to the agreement (subsection 82KZME(4)). This has particular relevance for a Grower in this Project who, in order to participate in the Project may borrow funds from a financier not associated with the Project. Although undertaken with an unrelated party, that financing would be an element of the arrangement. The funds borrowed and the resulting interest deduction are directly related to the activities under the arrangement. If a Grower prepays interest under such financing arrangements, the deductions allowable will be subject to apportionment under section 82KZMF.

105. 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.

106. 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.

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

107. 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

108. Under the Lease Agreements a Grower incurs annual fees for Tree Insurance. As these fees are payable each 30 June to insure property for the following year, it is expenditure incurred for the doing of a thing that is not wholly done within the year the expenditure is made and therefore the prepayment provisions apply to the fees. As the prepayment provisions apply, the tax deductions for the Tree Insurance must be determined using the formula in paragraph 106.

109. However, the Tree Insurance will not be subject to the prepayment provisions if it is 'excluded expenditure'. For the purposes of this Ruling, excluded expenditure refers to an amount of expenditure of less than \$1,000.

Growers who choose or are required to prepay interest

110. Growers who borrow funds in order to participate in the Project may either choose, or be required to prepay interest. Where this occurs, section 82KZMF will apply to apportion the expenditure and allow a deduction over the period in which the prepaid benefits are provided.

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

Units in the Land Trust

112. The Units in the Premium Plantations Project 2005 Land Trust are CGT Assets (section 108-5 of the ITAA 1997) and the amounts payable by the investor are outgoings of a capital nature and not allowable deductions.

113. The amounts paid for each unit will represent the first element of the cost base of the unit (subsection 110-25(2) of the ITAA 1997). Any disposal of the units by a unitholder will be a CGT event and may give rise to a capital gain or loss.

114. Distributions from the Premium Plantations Project 2005 Land Trust are included in the assessable income of a unitholder, in accordance with Division 6 of Part III of the ITAA 1936.

Division 35 – deferral of losses from non-commercial business activities***Section 35-55 – exercise of Commissioner's discretion***

115. In deciding to exercise the discretion in paragraph 35-55(1)(b) on a conditional basis for the income years discussed in paragraph 69 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:

- it is because of its nature the business activity of a Grower 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 afforestation 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.

116. 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

117. The operation of section 82KL depends, among other things, on the identification of a certain quantum of ‘additional benefits(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

118. 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).

119. The Premium Plantations Project 2005 will be a ‘scheme’. A Grower will obtain a ‘tax benefit’ from entering into the scheme, in the form of tax deductions for the amounts detailed at paragraph 68 that would not have been obtained but for the scheme. However, it is not possible to conclude the scheme will be entered into or carried out with the dominant purpose of obtaining this tax benefit.

120. 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 the wood produce. 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 is no non-recourse financing or round robin characteristics, and no indication that the parties are not dealing at arm’s length or, if any parties are not dealing 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

Entitlement to GST input tax credits

121. Susan, who is a sole trader and registered for GST, contracts with a manager to manage her viticulture 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 (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).

Detailed contents list

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Commissioner of Taxation

6 April 2005

Previous draft:

Not previously issued as a draft

- tax benefits under tax avoidance schemes

- tax shelters

Related Rulings/Determinations:

PR 1999/95; PR 2005/47;
 TR 92/1; TR 92/20; TR 97/11;
 TR 97/16; TR 98/22; TR 2000/8;
 TR 2001/14; TR 2002/6;
 TR 2002/11; TD 93/34;
 TD 2003/12

- tax shelters project
- 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 82KZMG
- ITAA 1936 Pt III Div 6
- ITAA 1936 Pt IVA
- ITAA 1936 177A
- ITAA 1936 177C

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

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- 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 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
- Corporations Act 2001 761G
- Corporations Act 2001 761G(7)(a)
- Corporations Act 2001 761G(7)(c)
- Corporations Act 2001 761G(7)(d)
- Corporations Act 2001 1012E
- Corporations Act 2001 1012E(2)
- Corporations Act 2001 1012E(5)

Case references:

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

ATO references:

NO: 2005/1671
ISSN: 1441-1172