PR 2005/7A - Addendum - Income tax: Barossa Vines Project 2004/2005 - Applicant Group 1

Addendum

Product Ruling

Income tax: Barossa Vines Project 2004/2005 – Applicant Group 1

This Addendum amends Product Ruling PR 2005/7 to reflect changes to the simplified tax system legislation from 2005-06 onwards.

PR 2005/7 is amended as follows:

1. Paragraph 2

Insert dot point:

- Division 328 of the Income Tax (*Transitional Provisions) Act 1997*;

2. Paragraph 73

After the paragraph insert:

> 73A. Changes to the STS rules apply from 1 July 2005. From that date, 'STS taxpayers' may use the accruals accounting method. For a Grower participating in the Project, the recognition of income and the timing of tax deductions is different depending on whether the Grower who was an 'STS taxpayer' prior to 1 July 2005 continues to use the cash accounting method (called the 'STS accounting method') – see sections 328-120 and 328-125 of the *Income Tax (Transitional Provisions) Act 1997*.

3. Paragraph 76

Omit the paragraph; substitute:

> 76. A Grower will recognise ordinary income from carrying on their business of viticulture at the time that income is derived when they are:
>
> - not an 'STS taxpayer'; or
> - an 'STS taxpayer' using the accruals accounting method for the 2005-06 and later income years.

4. Paragraph 77

Omit the paragraph; substitute:

> 77. A Grower who is an 'STS taxpayer' (for the 2004-05 income year) or an 'STS taxpayer' using the cash accounting method (for the 2005-06 and later income years) will recognise ordinary income from carrying on their business of viticulture in the income year in which that income is received.

5. Paragraph 79

Omit the paragraph; substitute:

> 79. 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' (for the 2004-05 income year) or an 'STS taxpayer' using the cash accounting method (for the 2005-06 income year and later years), then the amount is only deductible to the extent to which it has been paid. Any amount or part of an amount shown in the Table which is not paid in the year in which it is incurred will be deductible in the year in which it is actually paid.

6. Paragraph 82

Omit the Tables and Notes; substitute:

Fee Type	ITAA 1997 section	Year ended 30 June 2005	Year ended 30 June 2006	Year ended 30 June 2007
Management Fees	8-1	$3,509 See Notes (i) & (ii)	Nil	Nil
Licence Fees	8-1	See Notes (i) & (iii)	$165 See Notes (i), (iii) & (iv)	$165 (Indexed) See Notes (i), (iii) & (iv)
Prepaid Vineyard Operating Costs	8-1	$660 Must be calculated if Grower holds more **than one interest**. See Notes (i), (ii) & (v)		

Interest	8-1	As incurred **(Non-STS taxpayers)** or as paid **(STS taxpayers)**. See Note (vi)	As incurred **(Non-STS taxpayers & STS taxpayers using accruals accounting)** or as paid **(STS taxpayers using cash accounting)**. See Note (vi)	As incurred **(Non-STS taxpayers & STS taxpayers using accruals accounting)** or as paid **(STS taxpayers using cash accounting)**. See Note (vi)

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 at paragraph 137 of this Ruling).

(ii) The Initial Management Fee and prepaid Vineyard Operating Costs are deductible under section 8-1 in full in the year that they are incurred (where the Grower is not an 'STS taxpayer') or, in the year in which they are paid (where the Grower is an 'STS taxpayer'). If an amount shown 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.

(iii) The Licence Fee included in the initial fees on application is $13.75 per month or part thereof, for the period from the Commencement Date to 30 June 2005 for Applicant Group 1. For the 2004-05 income year the Licence fee 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').

For the 2005-06 income year and later years the Licence Fee is deductible in full in the year that it is incurred (where the Grower is not an 'STS taxpayer' or an 'STS taxpayer' using the accruals method of accounting) or in the year in which it is paid (where the Grower is an 'STS taxpayer' using the cash accounting method).

(iv) 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. In such cases, the tax deduction for the prepaid fee must be determined using the formula shown in paragraph 119 of this Ruling unless the expenditure is 'excluded expenditure'.

(v) The deduction for the prepaid Vineyard Operating Costs is determined by the application of sections 82KZME and 82KZMF of the ITAA 1936. Where the Grower holds **one interest** the prepayment meets the definition of 'excluded expenditure' and section 82KZMF does not operate to apportion deductibility of the payment. Where the Grower holds **more than one interest**, the formula in subsection 82KZMF(1) must be used to determine the apportionment of the prepaid fee (see paragraph 119 of this Ruling).

(vi) The deductibility or otherwise of interest arising from loan agreements entered into with financiers <u>other</u> than The Aussie Loan Company Pty Ltd, is outside the scope of this Ruling. However all Growers, including those who finance their participation in the Project other than with The Aussie Loan Company Pty Ltd, should read the discussion of the prepayment rules in paragraphs 113 to 126 of this Ruling 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.

7. Paragraph 111

Omit the paragraph; substitute:

111. If the Grower is not an 'STS taxpayer' or is an 'STS taxpayer' using the accruals accounting method (for the 2005-06 income and later years), Project fees are deductible in the year in which they are incurred.

8. Paragraph 112

Omit the paragraph; substitute:

> 112. If the Grower is an 'STS taxpayer' (for the 2004-05 income year) or an 'STS taxpayer' using the cash accounting method (for the 2005-06 income and later years) the Project fees are deductible in the income year in which they are paid. If any amount that is properly incurred in an income year remains unpaid at the end of that income year, the unpaid amount is deductible in the income year in which it is actually paid.

This Addendum applies on and from 1 July 2005.

Commissioner of Taxation
5 July 2006

ATO references 2004/12741
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