


PR 2007/105 - Income tax: 2008 Timbercorp Olive Project

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Product Ruling

Income tax: 2008 Timbercorp Olive Project

Contents	Para
LEGALLY BINDING SECTION:	
What this Ruling is about	1
Date of effect	9
Ruling	18
Scheme	28
NOT LEGALLY BINDING SECTION:	
Appendix 1:	
Explanation	93
Appendix 2:	
Detailed contents list	115

ⓘ This publication provides you with the following level of protection:

This publication (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, we must apply the law to you in the way set out in the ruling (or in a way that is more favourable for you if we are satisfied that the ruling is incorrect and disadvantages you, and we are not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

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. 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 scheme is carried out in accordance with the information we have been given, and have described below in the **Scheme** part of this document. If the scheme is not carried out as described, participants lose the protection of this Product Ruling.

Terms of use of this Product Ruling

This Product Ruling has been given on the basis that the entity(s) who applied for the Product 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 Product Ruling.

What this Ruling is about

1. This Product Ruling sets out the Commissioner's opinion on the way in which the relevant provision(s) identified in the Ruling section (below) apply to the defined class of entities, who take part in the scheme to which this Ruling relates. All legislative references in this Ruling are to the *Income Tax Assessment Act 1997* (ITAA 1997) unless otherwise indicated. In this Product Ruling this scheme is referred to as the '2008 Timbercorp Olive Project' or simply as 'the Project'.

Class of entities

2. This part of the Product Ruling specifies which entities can rely on the tax benefits set out in the Ruling section of this Product Ruling and which entities cannot rely on those tax benefits. In this Product Ruling, those entities that can rely on the tax benefits set out in this Ruling are referred to as Growers.

3. The class of entities who can rely on those tax benefits consists of entities that are accepted to participate in the scheme specified below on or after the date this Product Ruling is made and which execute relevant Project Agreements mentioned in paragraph 28 of this Ruling on or before 15 June 2008. They must have a purpose of staying in the scheme until it is completed (that is, being a party to the relevant agreements until their term expires), and deriving assessable income from this involvement.

4. The class of entities who can rely on the tax benefits set out in the Ruling section of this Product Ruling does **not** include entities who:

- intend to terminate their involvement in the scheme prior to its completion, or who otherwise do not intend to derive assessable income from it;
- are accepted in this Project before the date of this Ruling or after 15 June 2008;
- participate in the scheme through offers made other than through the Product Disclosure Statement;
- enter into finance arrangements with Timbercorp Finance Pty Ltd other than those specified in paragraphs 83 to 91 of this Ruling; or
- are associates of Timbercorp Securities Limited (TSL) or TSL itself.

Qualifications

5. The class of entities defined in this Product Ruling may rely on its contents provided the scheme actually carried out is carried out in accordance with the scheme described in paragraphs 28 to 92 of this Ruling.

6. If the scheme actually carried out is materially different from the scheme that is described in this Product Ruling, then:

- this Product Ruling has no binding effect on the Commissioner because the scheme entered into is not the scheme on which the Commissioner has ruled; and
- this Product Ruling may be withdrawn or modified.

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Superannuation Industry (Supervision) Act 1993

8. This Product Ruling does not address the provisions of the *Superannuation Industry (Supervision) Act 1993* (SISA 1993). The Tax Office gives no assurance that the product is an appropriate investment for a superannuation fund. The trustees of superannuation funds are advised that no consideration has been given in this Product Ruling as to whether investment in this product may contravene the provisions of SISA 1993.

Date of effect

9. This Product Ruling applies prospectively from 19 December 2007, the date this Product Ruling is made. It therefore applies only to the specified class of entities that enter into the scheme from 19 December 2007 until 15 June 2008, being the closing date for entry into the scheme. This Product Ruling provides advice on the availability of tax benefits to the specified class of entities up to 30 June 2010. This Product Ruling will continue to apply to those entities even after its period of application for schemes entered into during the period of application.

10. However the Product Ruling only applies to the extent that:

- there is no change in the scheme or in the entity's involvement in the scheme;
- it is not later withdrawn by notice in the *Gazette*; or
- the relevant provisions are not amended.

11. If this Product Ruling is inconsistent with a later public or private ruling, the relevant class of entities may rely on either ruling which applies to them (item 1 of subsection 357-75(1) of Schedule 1 to the *Taxation Administration Act 1953* (TAA)).

12. If this Product Ruling is inconsistent with an earlier private ruling, the private ruling is taken not to have been made if, when the Product Ruling is made, the following two conditions are met:

- the income year or other period to which the rulings relate has not begun; and
- the scheme to which the rulings relate has not begun to be carried out.

13. If the above two conditions do not apply, the relevant class of entities may rely on either ruling which applies to them (item 3 of subsection 357-75(1) of Schedule 1 to the TAA).

Changes in the law

14. Although this Product Ruling deals with the laws enacted at the time it was issued, later amendments may impact on this Product Ruling. Any such changes will take precedence over the application of this Product Ruling and, to that extent, this Product Ruling will have no effect.

15. Entities who are considering participating in the scheme 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

16. Product Rulings were introduced for the purpose of providing certainty about tax consequences for entities in schemes 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 Product Ruling is issued.

Goods and Services Tax

17. All fees and expenditure referred to in this Product 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.

Ruling

Application of this Ruling

18. Subject to the stated qualifications, this part of the Product Ruling sets out in detail the taxation obligations and benefits for a Grower in the defined class of entities who enters into the scheme described at paragraphs 28 to 92 of this Ruling.

19. The Grower's participation in the Project must constitute the carrying on of a business of primary production. Provided the Project is carried out as described below, the Grower's business of primary production will commence at the time or execution of their Licence Agreement and Grovelot Management Agreement.

20. 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.

Small business concessions

21. From the 2007-08 income year, a range of concessions previously available under the Simplified Tax System (STS), will be available to an entity if it carries on a business and satisfies the \$2 million aggregated turnover test (a 'small business entity').

22. A small business entity can choose the concessions that best suit its needs. Eligibility for some small business concessions is also dependent on satisfying some additional conditions. Because of these choices and the eligibility conditions the application of the small business concessions to Growers who qualify as a 'small business entity' is not able to be dealt with in this Ruling.

Assessable income

Sections 6-5 and 17-5

23. 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.

Deductions for management fees, licence fees, marketing and sales costs, interest on loan, borrowing costs and capital expenditure

Sections 8-1, 25-25 and 40-515 and Division 27 of the ITAA 1997 and sections 82KZME and 82KZMF of the Income Tax Assessment Act 1936

24. A Grower may claim tax deductions for the following fees and expenses on a per Grovelot basis, as set out in the table below.

Fee Type	Year ended 30 June 2008	Year ended 30 June 2009	Year ended 30 June 2010
Management fee	\$5,700 See Notes (i), (ii) & (iii)	\$1,100 plus other amounts incurred See Notes (i), (ii), (iii) & (iv)	\$1,100 plus other amounts incurred See Notes (i), (ii), (iii) & (iv)
Licence fee	Nil	\$550 See Notes (i), (ii) & (iii)	\$550 See Notes (i), (ii) & (iii)
Marketing and Sales costs	Nil	As incurred See Note (v)	As incurred See Note (v)
Interest on loan with the Financier	As incurred See Notes (iii) & (vi)	As incurred See Notes (iii) & (vi)	As incurred See Notes (iii) & (vi)
Loan Application Fee for loans with the Financier	Must be calculated See Note (vii)	Must be calculated See Note (vii)	Must be calculated See Note (vii)
Establishment of Olive Trees	nil	See Note (viii)	See Note (viii)

Notes:

- (i) If the Grower is registered or required to be registered for GST, amount of outgoings would need to be adjusted as relevant for GST (for example, input tax credits): Division 27.
- (ii) The management fees and the licence fees payable under the Grovelot Management Agreement and the Licence Agreement respectively are deductible in full in the year that they are incurred.

- (iii) This Ruling does not apply to a Grower who chooses to prepay the management fees, licence fees, or who is required to prepay interest under a loan agreement (see paragraphs 104 to 107 of this Ruling). Amounts that are prepaid for a period that extends beyond the income year in which the expenditure is incurred may be subject to the prepayment provisions in sections 82KZME and 82KZMF of the *Income Tax Assessment Act 1936* (ITAA 1936). Any Grower who prepays such amounts may request a private ruling on the taxation consequences of their participation in the Project.
- (iv) TSL will inform Growers of the amount and composition of the cost payable for the 2009 and 2010 Financial Years. It will consist of a management fee of \$1,100 and a deferred fee calculated as 1.65% of Net Sales Proceeds. See paragraph 77 of this Ruling.
- (v) Marketing and Sales costs are deductible in the year in which they are incurred. TSL will inform Growers of the amounts of Marketing and Sales costs in each financial year in which Proceeds of Sale from Produce or Crop is derived.
- (vi) Interest on loans with Timbercorp Finance Pty Ltd is deductible in the year in which it is incurred. However, the deductibility or otherwise of interest arising from loan agreements entered into with financiers other than Timbercorp Finance Pty Ltd, is outside the scope of this Ruling. Prepayments of interest to any lender, including Timbercorp Finance Pty Ltd, are not covered by this Product Ruling. Growers who enter into agreements with other financiers and/or prepay interest may request a private ruling on the deductibility of the interest incurred.
- (vii) The Loan Application Fee payable to Timbercorp Finance Pty Ltd is a borrowing expense and is deductible under section 25-25. It is incurred for borrowing moneys that are used or are to be used during that income year solely for income producing purposes. The deduction is spread over the period of the loan or 5 years, whichever is the shorter. The deductibility or otherwise of borrowing costs arising from loan agreements entered into with financiers other than Timbercorp Finance Pty Ltd is outside the scope of this Ruling.

- (viii) Olive trees are a 'horticultural plant' as defined in subsection 40-520(2). As a Grower holds the Grovelot under a licence, the condition in item 2 of 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 Olive Trees is determined using the formula in section 40-545 and is based on the capital expenditure incurred that is attributable to their establishment. As the Olive Trees have an 'effective life' of greater than 30 years, for the purposes of section 40-545, a straight-line write-off at a rate of 7% will be applied. The deduction is allowable in the income year that the Olive Trees enter their first commercial season (section 40-530, item 2). TSL will notify the Grower when their Olive Trees enter their first commercial season and the amount that may be claimed.

25. A Joint Venture Grower may claim deductions, on a **per Grovelot** basis, for the following expenditure set out in the table and Notes in paragraph 24 of this Ruling.

First Joint Venturer:

- in the year ending 30 June 2008, \$5,700 for management fees as set out in subparagraph 81(i) of this Ruling;
- interest and the Loan Application Fee incurred on and payable in respect of funds borrowed from the Financier; and
- 74% of the horticultural plant write-off during the 2009 and 2010 Financial Years.

Second Joint Venturer:

- 100% of the management fees and deferred management fees and marketing and sales costs and any incentive (performance) fee as set out in subparagraphs 82(i) and (vi) of this Ruling during the 2009 and 2010 Financial Years;
- 100% of all of licence fee as set out in subparagraphs 82(ii) of this Ruling during the 2009 and 2010 Financial Years;
- interest and the Loan Application Fee incurred on and payable in respect of funds borrowed from the Financier; and
- 26% of the horticultural plant write-off during the 2009 and 2010 Financial Years.

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

26. A Grower who is an individual accepted into the Project by 15 June 2008 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 a Grower for the income years ending **30 June 2008 to 30 June 2013**. 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.

Prepayment provisions and anti-avoidance provisions***Sections 82KZME, 82KZMF and 82KL and Part IVA***

27. For a Grower who commences participation in the Project and incurs expenditure as required by the Grovelot Management Agreement and the Licence Agreement, 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 paragraph 105 of this Ruling);
- 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.

Scheme

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

- Application for a Product Ruling received on 22 August 2007 and additional correspondence and emails dated 27 September 2007, 4, 17 and 18 October 2007 and 16 and 22 November 2007 and 4, 10, and 12 December 2007;
- Draft **Product Disclosure Statement** for the 2008 Timbercorp Olive Project (PDS), received on 4 December 2007, prepared for Timbercorp Securities Limited (TSL), (the Responsible Entity);
- The **Constitution** of the 2008 Timbercorp Olive Project, received on 4 December 2007;

- Draft Compliance Plan of the 2008 Timbercorp Olive Project, received on 4 December 2007;
- Draft Lease between the Boundary Bend Estate Management Pty Ltd and TSL in relation to that part of the Project land known as Grove 520, on which 520 hectares have been established between 1999-2001 available for the Project, received on 12 December 2007;
- Draft Lease between B.B. Olives Pty Ltd (the Land Owner) and TSL in relation to that part of the Project land known as Andersons TOP 8, received on 22 August 2007;
- Draft Lease between the Land Owner and TSL in relation to that part of the Project land known as Ryans TOP 8, received on 22 August 2007;
- Draft Lease between the Land Owner and TSL in relation to that part of the Project land known as Westmores TOP 8, received on 22 August 2007;
- Draft Lease between the Land Owner and TSL in relation to that part of the Project land known as Suttons TOP 8, received on 22 August 2007;
- Draft **Licence Agreement** between each Grower, the Land Owner and TSL, entering into each Grovelot identified as Boundary Bend, Andersons, Suttons, Westmores and Ryans, received on 4 and 12 December 2007;
- Draft **Grovelot Management Agreement** between each Grower and TSL, received on 4 December 2007;
- Draft Management Agreement between TSL and Olivecorp Management Ltd (OML), received on 4 December 2007;
- Timbercorp Boundary Bend 2008 Olive Project Grove Management Plan for the year ended 30 June 2008, received on 22 August 2007;
- Draft Olive Grove Management Agreement for the 2008 Timbercorp Olive Project between OML, Boundary Bend Estate Management Pty Ltd (BBEM), TSL, and B.B. Olives Pty Ltd (Land Owner), received on 22 August 2007;
- Capital Works Agreement for the 2008 Timbercorp Olive Project between the Land Owner, BBEM and Boundary Bend Ltd (BBL), received on 22 August 2007;
- 2008 Timbercorp Projects Finance Package, which includes the **Loan Application Form** and Loan Explanation and Loan Terms, received on 22 August 2007;

- Draft Custody Agreement for the 2008 Timbercorp Olive Project between TSL and the Custodian, received on 22 August 2007; and
- Distribution Agreement between Boundary Bend Marketing Pty Ltd (BBM), BBEM, BBL, OML, Timbercorp Ltd and TSL, dated 20 May 2006 received on 22 August 2007.

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

29. The documents highlighted are those that a Grower may enter into. For the purposes of describing the scheme 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 scheme. The effect of these agreements is summarised as follows.

30. All Australian Securities and Investment 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

31. The main features for the 2008 Timbercorp Olive Project are as follows:

Location	North-west Victoria.
Type of business to be carried on by each Participant Grower	Commercial growing and cultivation of Olive Trees for the purpose of harvesting Olives for processing into Olive Oil and selling the Olive Oil
Number of hectares offered for cultivation	2,300
Size of each Grovelot	Each 0.25 hectare Grovelot will comprise of a portion of Project Land from Grove 520 (approximately 22%), Andersons TOP 8 (6%) and one or more of Suttons TOP 8, Ryans TOP 8 and Westmores TOP 8 (approximately 72%)
Minimum allocation	2 Grovelots (TSL may allocate 1 Grovelot at its absolute discretion.)
Minimum subscription	None
Number of trees per hectare	Approximately 373
Term of the Project	23 years with provision for extension by 2 years if certain cashflow benchmarks are not achieved

PR 2007/105

Initial cost per Grovelot	\$5,700
Initial cost per hectare	\$22,800
Ongoing costs	<ul style="list-style-type: none"> • Annual licence fee • Fixed management fees for years ending 30 June 2009 and 2010 then operating costs for the remainder of the Term of the Project.
Other fees and costs	<ul style="list-style-type: none"> • Deferred management fees • Incentive (performance) fees • Marketing and sales costs

32. The Project will be registered as a managed investment scheme under the *Corporations Act 2001*. TSL is the holder of an Australian Financial Services Licence Number 235653 and will be the Responsible Entity for the Project.

33. The Project will involve cultivating and maintaining Olive Trees for the purpose of harvesting Olives for processing into Olive Oil for sale.

34. An offer to participate in the Project will be made through the 2008 Timbercorp Olive Project Product Disclosure Statement (PDS). The offer under the PDS is for 2,300 hectares which corresponds to 9,200 interests in the Project called 'Grovelots'. Applicants will be invited to subscribe for at least two Grovelots comprising of 0.25 hectares per Grovelot. There is no minimum amount that must be raised under the PDS and TSL will not be accepting oversubscriptions.

35. To participate in the Project, Applicants must complete the Application and Power of Attorney Form Booklet attached to the PDS and lodge the completed Booklet together with the relevant Application Money on or before 15 June 2008. The Custodian will be appointed under the Custody Agreement to protect the interests of a Grower in their dealings with TSL, the Responsible Entity for the Project.

36. Under the Power of Attorney, TSL will execute the Grower Agreements on behalf of Applicants who are accepted to participate in the Project as Growers. TSL will also allocate Grovelots to the Grower and place the Grower's details in a Register.

37. TSL has reserved five properties located near the township of Boundary Bend in the Sunraysia region of northern Victoria for use in the Project, although not all of the properties will necessarily be utilised unless the Project is fully subscribed. Those properties which are utilised for the Project are referred to as the Project Land.

38. The five properties available for use in the Project are referred to for identification purposes as Grove 520, Andersons TOP 8, Suttons TOP 8, Westmores TOP 8 and Ryans TOP 8.

39. Grove 520 consists of approximately 520 hectares of trees planted in or around September - October 1999, 2000 and 2001 (1999-2001 Plantings). Grove 520 is a fully developed and commercially productive olive grove.

40. Andersons TOP 8 consists of 140 hectares of olive trees that were planted in or around September – October 2006 (2006 Plantings). Andersons TOP 8 is expected to enter commercial production in the 2010 financial year.

41. Suttons TOP 8, Westmores TOP 8 and Ryans TOP 8, together, comprise approximately 1,640 hectares of olive trees planted in or around September – October 2007 (2007 Plantings). Each of Suttons TOP 8, Westmores TOP 8 and Ryans TOP 8 are expected to enter commercial production in the 2011 financial year.

42. Those parts of the Project Land on which olive trees are planted are divided into identifiable areas of 0.25 hectares. Each Grovelot will be a homogenous mix of the trees of various ages that comprise the Grove, in approximately the following proportions:

- 22% of the Grovelot will be 1999-2001 Plantings on Grove 520;
- 6% of the Grovelot will be 2006 Plantings on Anderson TOP 8; and
- 72% of the Grovelot will be 2007 Plantings, at TSL's discretion and depending on the number of applications for Grovelots received, on one or more of Suttons TOP 8, Westmores TOP 8 and Ryans TOP 8.

43. A Grower will enter into a number of Licence Agreements with TSL pursuant to which TSL will grant the Grower the right to use the Grower's Grovelots, including the olive trees, irrigation infrastructure and improvements thereon, and an allocation of the Water Licences for the purpose of olive cultivation during the Term of the Project.

44. A Grower will also enter into a Grovelot Management Agreement with TSL to engage TSL to cultivate and maintain the Olive Trees on the Grower's Grovelots, and be responsible for harvesting the Olive Trees, procuring the processing of the Grower's Crop into Product, and selling the Grower's Product.

45. As an alternative to participation by a Grower as a single entity, the terms of the Constitution, the Grovelot Management Agreement, and the Licence Agreement provide that two entities may participate in the Project as Joint Venture Growers on the terms specified in the Constitution.

Constitution

46. The Constitution establishes the Project and operates as a deed binding all of the Growers and TSL, as Responsible Entity (clause 8.6). The Constitution sets out the terms and conditions under which the Responsible Entity agrees to act and thereby manage the Project.

47. The Responsible Entity must hold the Application Money as a bare trustee for the Applicant. The Application Money paid by any Applicant must be accounted for by the Responsible Entity in a special trust account and such amounts must be placed in one or more bank accounts solely for the purpose of depositing the Application Money for this Project (clause 4). Once the Responsible Entity is satisfied that all documents have been executed and the required finance has been approved for an Applicant, the Application Money is released and applied against the fees payable by the Applicant (clause 9.3).

48. Among other things, the Constitution also sets out provisions relating to:

- invitations and offers under the PDS (clause 2);
- the irrevocable appointment of the Responsible Entity as the Grower's agent, representative and attorney (clause 3);
- how the Responsible Entity is to hold property of the Grower (clause 5);
- procedures relating to applications (clause 6);
- the absolute discretion of the Responsible Entity to refuse applications (clause 7);
- the effect of an Applicant's application being accepted by the Responsible Entity (clause 8);
- the preparation and execution of the Licence Agreement and Grovelot Management Agreement by the Responsible Entity (clause 9);
- preparation and issuing of Grovelot Statements to a Grower and the setting up and maintenance of a Register of Growers (clause 10);
- the Responsible Entity's powers (clause 11);
- the keeping of a separate Agency Account for the holding of Proceeds and any other money, apart from Application Money and interest thereon, that the Responsible Entity may hold for the Grower (clause 12);
- procedures relating to processing and the sale of Crop, distributions from the Agency Account of Proceeds and pooling of amounts (clause 13);

- the right of the Responsible Entity to be paid fees and other expenses (clause 14);
- the Responsible Entity's authority to use money in the Agency Account and powers of investment of the money standing in the Agency Account (clauses 15 and 16);
- the status and the retention by the Responsible Entity of the Grovelot Management Agreement and Licence Agreement. This includes the right of a Grower to obtain a copy of the above agreements by written request to the Responsible Entity (clauses 18.1 and 18.2);
- the termination of the Grovelot Management Agreement and Licence Agreement, consequences of termination in the event of default, and procedures relating to the sale of a Defaulting Grower's Grovelots (clauses 18.3 and 18.4);
- the right of a Grower to inspect certain documents related to their participation in the Project and to give opinions to the Responsible Entity (clause 19.1);
- the assignment and transmission of Grovelots (clause 20) and restrictions on such assignments and transmissions (clause 21);
- procedures for calling a meeting of Growers (clause 22);
- the resolution of complaints made by the Grower in relation to the Project or the Responsible Entity (clause 25); and
- the termination of the Project (clause 26).

49. Clause 6.4 of the Constitution provides that, in certain circumstances, Application Moneys may be paid by instalments. This Product Ruling will **not apply** to any Applicant who enters into an arrangement with TSL to pay their Application Moneys by instalments.

Joint Venture

50. The Constitution also provides for two entities to participate in the Project as Joint Venturers in an unincorporated joint venture (clause 29). Each of the Joint Venturers will be entitled to a Prescribed Proportion of the Joint Venture Assets and any losses realised will be as tenants in common in their Prescribed Proportions. The First Joint Venturer Prescribed Portion is 74% and the Second Joint Venturer Prescribed Proportion is 26%.

51. A default on the part of one Joint Venturer will constitute a default of both Joint Venturers that comprise the Participant Grower in respect of the Joint Venturer Grovelots. However, the Responsible Entity acknowledges that a Joint Venturer is not liable for any amount or liability exceeding the Joint Venturer's respective Prescribed Portion by reason of any joint liability incurred or joint loss sustained in connection with any contract or arrangement entered into by the Joint Venturer (clause 18.3A).

52. This Ruling will not apply if a Joint Venture is comprised of more than two entities.

Compliance Plan

53. As required by the *Corporations Act 2001*, the Responsible Entity has prepared a Compliance Plan. The purpose of the Compliance Plan is to ensure that TSL, as the Responsible Entity, manages the Project in accordance with its obligations and responsibilities contained in the Constitution and that the interests of the Growers are protected.

Head Leases and Sub-Leases

54. The Project will be conducted on at least three and up to five properties (Project Land) in north-west Victoria (see paragraph 38 of this Ruling).

55. The Project Land and Water Licences for the Project are owned or will be owned by the Land Owner. The properties will be leased by the Land Owner to TSL (the Lessee) under separate Head Leases. Each Head Lease sets out the terms and conditions under which the Land Owner will lease the Project Land to TSL to use and exploit during the Term of the Project.

56. TSL must only use the Project Land in accordance with the Constitution, the Grovelot Management Agreement and the Licence Agreement (clause 5.1). The Land Owner consents and authorises TSL to enter into Licence Agreement with the Growers (clause 9.2).

Licence Agreements

57. The Grower will enter into a number of contemporaneous Licence Agreements with TSL and the Land Owner, effective from the Commencement Date, to use and occupy their Grovelots for growing and cultivating the Olive Trees for the production of Crop or Product for commercial gain. The Licence Agreement will have a Term of approximately 23 years, but may be extended by TSL for a further two years on the same terms and conditions if certain threshold conditions are not met over the period from the Commencement Date until 29 June 2030 and TSL is reasonably satisfied that it is in the best interests of the Grower to extend the Term (clauses 4.1 and 4.2).

58. A Grovelot is a stapled lot consisting of separately identifiable parts of the Grove located on two separate properties. The Grower's interest in the Project includes their interests in, and rights in relation to, each stapled and separately identifiable area in the Project Land. Each 0.25 hectare Grovelot is comprised of a portion of Project Land from Grove 520 (approximately 22%), Andersons TOP 8 (6%) and one or more of Suttons TOP 8, Ryans TOP 8 and Westmores TOP 8 (approximately 72%). Each Grower's Grovelot also includes their interest in and rights over the Olive Trees, the Capital Works and the Water Licences attributed to the Project.

59. The Land Owner warrants to the Grower that Suttons TOP 8, Ryans TOP 8 and/or Westmores TOP 8 (as the case may be) has been established and that the necessary infrastructure and other capital works have been or will be constructed and carried out by 15 December 2007.

60. In accordance with the provisions of the Grovelot Management Agreement, the Land Owner must also fully exploit its Water Licences to enable water to be supplied to the Grovelots by TSL for the benefit of all the Growers during the Term of the Project (clause 3.2).

61. The Grower acknowledges that the Capital Works, Olive Trees and the Water Licences on and attaching to the Grower's Grovelot(s) will at all times remain the property of Land Owner (clause 2.3).

62. The Licence Agreement also set out provisions relating to:

- the obligations and rights of TSL (clause 5), the obligations of the Grower (clause 8), and the obligations and rights of the Land Owner (clause 9);
- the requirement that the Grower enters into the Grovelot Management Agreement (clause 6.1);
- the licence payable by a Grower (clause 7);
- events which may trigger early termination of the Licence Agreement by the Grower or TSL (clauses 10.1 and 10.2); and
- the damage to or reduction of the viability of the Grower's Grovelots (clauses 10.3 and 10.4).

Grovelot Management Agreement

63. Each Grower separately engages TSL as an independent contractor for the Term of the Project to manage their Grovelots, conduct the Project Operations on their behalf and perform the Grove Services in accordance with the Management Plan and Best Horticultural Practices (clauses 5 and 6).

64. TSL will carry out the following Grove Services in the period from the Commencement Date until 30 June 2008:

- Infrastructure Management Services (clauses 5.2(a) to (f));
- Administrative and other Management Services (clauses 5.2(g) to (m)); and
- Olive Tree Management Services (clauses 5.2 (n) to (y)).

65. During each subsequent year of the Project TSL will provide Grovelot Services (clause 5.2A), test the maturity of the Olives and where they are ready for harvesting, harvest the mature Olives (clause 6) and deliver the harvested Olives to delivery point(s) for processing into Product and sale (clause 7).

66. TSL will procure the processing of the Grower's Participating Interest in the Crop and will enter into a Project Document as agent and attorney for the Grower. TSL will market and sell the Grower's Participating Interest in the Product using its reasonable endeavours to seek to maximise returns (clauses 7.1 and 7.2).

67. The Grower agrees that the Crop or Product and the proceeds of sale of the Crop or Product will be divided pro rata according to the Participating Interest of each of the Growers in the Project in the Crop or Product (clause 7.3(a)).

68. TSL will be responsible for obtaining and keeping policies of insurance on behalf of the Growers in the Project with a reputable insurer against damage to the Grove, provided that the cost of any such insurance is economically justified. Insurance over the Grove does not include crop insurance unless specifically agreed between TSL and the Grower from year to year (clause 12).

69. Among other things, the Agreement also sets out details of the following:

- the Term (clause 2);
- certain administrative services to be provided to the Growers during the Term of the Project (clause 8);
- the fees and charges payable by a Grower (clause 11);
- the provision of a report to Growers each Financial Year which sets out the results of the harvest, the condition of the Grove and the Grower's Grovelots and Olive Trees (clause 13.5);
- the provision of an annual statement of income and expenses relating to the Grower's Grovelots and the sale of the Product or Crop (clause 13.6); and
- the events that may trigger early termination of this Agreement (clause 15).

Capital Works Agreement

70. The Land Owner engages Boundary Bend Estate Management Pty Ltd (BBEM) as an independent contractor to provide Development Services, to establish the Land having regard to the Establishment Plan, and Best Horticultural Practice. The Development Services include the preparation of the Land, the installation of irrigation facilities, advising the Land Owner on the purchase of Water Licences adequate to meet the requirements of the Grove, erect single wire trellis guards and tree ties and planting of the Olive Trees at an average density of approximately 373 trees per hectare across the whole of the Growers Grovelots (clauses 4.1 and 4.2).

71. The Development Services referred to in clauses 4.1(a) to (f) and 4.2(a) to (c) will have been performed by BBEM by 15 December 2007 in relation to Suttons TOP 8, Ryans TOP 8 and/or Westmores TOP 8 (as the case may be).

72. BBEM will replace and replant, at its cost, any Olive Tree that fails within 6 months where the failure is caused by BBEM (clause 4.2(d)).

Management Agreement

73. TSL engages OML as an independent contractor to manage and administer the Project, manage, direct and conduct the Project Operations on behalf of the Growers and perform the Grove Services.

Olive Grove Management Agreement

74. OML engages BBEM as an independent contractor to provide Grove Management Services (clause 4), Harvesting Services (clause 5), Olive Oil Processing Services (clause 6) and Technical Services (clause 7). BBEM must carry out the provision of these services in accordance with the Management Plan. An Olive Grove Management Plan prepared by BBEM for the Financial Year ending 30 June 2008 forms part of the application for this Product Ruling.

Distribution Agreement

75. OML engages Boundary Bend Marketing Pty Ltd (BBM) as distributor to purchase the entire Product produced from the Project. The Agreement provides for BBM to sell the produce on a back-to-back basis, that is, BBM will source and enter agreements with purchasers for the sale of the Product and will complete its obligations under its agreements by purchasing the Product produced by the Project.

Pooling of Crops and Grower's entitlement to Net Proceeds

76. Both the Constitution (clause 13) and the Grovelot Management Agreement (clauses 7.3 and 14.1) set out provisions relating to the Grower's entitlement to Proceeds. Grower's entitlement to Proceeds will commence from the Entitlement Date being from 1 July 2008. This Product Ruling only applies where the following principles apply to the pooling and distribution arrangements:

- only Growers who have contributed Crop or Product are entitled to benefit from distributions of Proceeds from the pool; and
- any pool of Crop or Product must consist only of Crop or Product contributed by Growers in the 2008 Timbercorp Olive Project.

Fees

77. Under the terms of the Grovelot Management Agreement and the Licence Agreement, a Grower will make payments as described below on a **per Grovelot** basis. These are as follows.

Fees payable under the Grovelot Management Agreement:

- for Grove Services and all other services to be provided in the period from the Commencement Date to 30 June 2008 a fee of **\$5,700** is payable upon Application;
- for services to be provided in the period from 1 July 2008 to 30 June 2009, a fee comprised of two components is payable. The first component of **\$1,100** is payable on 31 October 2008. The second component is a deferred fee calculated as **1.65% of the Net Sales Proceeds** of the sale of Crop and Product. The deferred component is payable in each Financial Year of the Project out of and at the time that Proceeds are received by TSL;
- for services to be provided in the period from 1 July 2009 to 30 June 2010, a fee comprised of two components is payable. The first component of **\$1,100** is payable on 31 October 2009. The second component is a deferred fee calculated as **1.65% of the Net Sales Proceeds** of the sale of Crop and Product. The deferred component is payable in each Financial Year of the Project commencing on and from the 2010 Financial Year out of and at the time that Proceeds are received by TSL;

- for services to be provided in each subsequent Financial Year after 30 June 2010 a fee based on the **estimated costs** of operating the relevant Grovelot is payable on 31 October 2010 and 31 October each year thereafter (see paragraph 78 of this Ruling for further explanation). The estimated costs of operating the relevant Grovelot will include an allocation of **overhead costs** incurred by TSL that will not exceed **\$50** per Grovelot, indexed; and
- an **incentive (performance) fee**, calculated as **27.5% of the** annual **Net Proceeds** received by the Grower in excess of the Incentive Fee Threshold, is payable prior to any distribution of Net Proceeds received by a Grower in each Financial Year.

Fees payable under the Licence Agreement:

- for the period from the Commencement Date until 30 June 2008, **nil**;
- for the Financial Years ending 30 June 2009 and 2010, **\$550** licence fee is payable on 31 October 2008 and 2009 respectively;
- for the Financial Years ending 30 June 2011 and 2012, **\$600** licence fee is payable on 31 October 2010 and 2011 respectively;
- for the Financial Years ending 30 June 2013, **\$1,147** licence fee is payable on 31 October 2012;
- for the Financial Years ending 30 June 2014, **\$1,177** licence fee is payable on 31 October 2013; and
- for each subsequent Financial Year during the Term, an amount equal to the licence fee payable on the immediately preceding 31 October, Indexed, is payable on 31 October of the relevant Financial Year.

78. As noted above, from the 2011 Financial Year the annual fee payable by a Grower will consist of an amount for the estimated costs of operating the Grovelot. The estimated costs of operating the Grovelot for a Financial Year will include an adjustment for the difference between the actual costs and the estimated costs of managing the Grovelot during the preceding Financial Year (clause 11.3(b)).

79. The PDS provides that the ultimate cost to the Grower will depend on the fees the Grower negotiates with TSL or a financial planner. This Product Ruling does not apply to any Grower who does not pay the fees set out in paragraph 77 of this Ruling. Growers who negotiate fees that are different to those set out in paragraph 74 of this Ruling may request a private ruling on the tax consequences of their participation in the Project.

Fees payable under the Constitution by Growers as Joint Venturers

80. The fees payable per Grovelot by a Grower who is in Joint Venture with another entity are stipulated in clause 29.5 of the Constitution. Under this clause, the fees for which a Joint Venture Grower will be solely responsible are expressed as percentages of the fees outlined in paragraph 74 of this Ruling.

81. The First Joint Venturer will be solely responsible for paying the following fees and other amounts:

- (i) 100% of the management fees payable under the Grovelot Management Agreement for the year ended 30 June 2008;
- (ii) 74% of the management fees and operating costs payable under the Grovelot Management Agreement in respect of management services provided in all Financial Years commencing on and from the 2013 Financial Year;
- (iii) 74% of the licence fee payable under the Lease Agreement in respect of rights granted in all Financial Years commencing on and from the 2013 Financial Year;
- (iv) 74% of all of the deferred management fees and marketing and sales costs payable under the Grovelot Management Agreement commencing on and from 2013 Financial Year; and
- (v) 74% of any incentive (performance) fee payable under the Grovelot Management Agreement commencing on and from 2013 Financial Year.

82. The Second Joint Venturer will be solely responsible for paying the following fees and other amounts:

- (i) 100% of the management fees, deferred management fees and the marketing and sales costs payable under the Grovelot Management Agreement in respect of management services provided in the Financial Years from 2009 to 2012;
- (ii) 100% of the licence fee payable under the Licence Agreement in respect of rights granted in the Financial Years from 2009 to 2012;
- (iii) 26% of the management fees and operating costs payable under the Grovelot Management Agreement in respect of management services provided in all Financial Years commencing on and from the 2013 Financial Year;

- (iv) 26% of the licence fee payable under the Licence Agreement in respect of rights granted in all Financial Years commencing on and from the 2013 Financial Year;
- (v) 26% of all of the deferred management fees and marketing and sales costs payable under the Grovelot Management Agreement commencing on and from 2013 Financial Year; and
- (vi) 100% of any incentive (performance) fee, if any, payable between 2009 and 2012 and thereafter commencing on and from 2013 Financial Year, 26% of any incentive (performance) fee payable under the Grovelot Management Agreement.

Finance

83. A Grower who does not pay the Application Monies in full upon application can fund their involvement in the Project by borrowing from Timbercorp Finance Pty Ltd (the Financier), a lender associated with TSL or from an independent lender external to the Project.

84. Only the finance arrangements set out below are covered by this Product Ruling. A Grower cannot rely on this Product Ruling if they enter into a finance arrangement with the Financier that materially differs from that set out in the documentation provided to the Tax Office with the application for this Product Ruling. A Grower who enters into a finance arrangement with an independent lender external to the Project other than the Financier may request a private ruling on the deductibility or otherwise of interest incurred under finance arrangements not covered by this Product Ruling.

85. Growers cannot rely on any part of this Ruling if the Application Monies are not paid in full on or before 15 June 2008 by the Grower or, on the Grower's behalf, by a lending institution. Where an application is accepted subject to finance approval by any lending institution other than the Financier, Growers cannot rely on this Ruling if written evidence of that approval has not been given to the Responsible Entity by the lending institution on or before 15 June 2008.

Finance offered by Timbercorp Finance Pty Ltd

86. Subject to the terms and conditions of the Loan Application Form and Loan Explanation and Loan Terms a Grower can finance the cost of their Application Monies by borrowing that amount from the Financier.

87. Subject to the Financier accepting the Grower's application, the Grower will be bound by the terms and conditions of the Loan Application Form and Loan Explanation and Loan Terms.

88. The Financier will offer Loan Terms on a commercial basis and approve Loan Amounts up to 90% of the Application Money.

89. A Grower is required to complete a Loan Application Form and if the loan is approved, the Financier will provide a Grower with the loan on a full recourse basis and will pursue legal action against any defaulting borrowers.

90. Common features contained in the Loan Terms are:

- all loans include monthly principal and interest instalments;
- the Financier will lend to the Grower the Loan Amount by paying it to TSL as payment of the Grower's balance of the Application Money for Grovelots;
- a Loan Application Fee of \$250 will comprise part of the Loan Amount;
- the Grower is entitled to repay the whole or part of the Total Amount Owing without penalty for early repayment;
- in the event that any amount is overdue, the Financier may charge interest at the Higher Interest Rate; and
- for the purpose of securing payment of the Total Amount Owing, the Grower will assign to the Financier all its rights, title, and interest in any debt or other monetary obligations owed to the Grower by TSL under or in relation to the Grower's Grovelot(s).

91. The terms specific to the Loan Terms offered by the Financier are summarised below. Rates shown are indicative.

Term	Interest Rate (per annum)
1 year	Nil
3 years	9.00%
4 years	9.95%
5 years	10.50%
7 years	10.50%
8 years	10.50%
9 years	10.50%
10 years	10.50%
12 years	11.95%

92. 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 of the ITAA 1936 or the funding arrangements transform the Project into a 'scheme' to which Part IVA of the ITAA 1936 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 Financier, are involved or become involved in the provision of finance to a Grower for the Project.

Commissioner of Taxation

19 December 2007

Appendix 1 – Explanation

❶ *This Appendix is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.*

Is the Grower carrying on a business?

93. For the amounts set out in paragraphs 24 and 25 of this Ruling to constitute allowable deductions, the Grower's horticultural activities as a participant in the 2008 Timbercorp Olive Project must amount to the carrying on of a business of primary production.

94. Two Taxation Rulings are relevant in determining whether a Grower will be carrying on of a business of primary production.

95. The general indicators used by the Courts are set out in Taxation Ruling TR 97/11 Income tax: am I carrying on a business of primary production?

96. Taxation Ruling TR 2000/8 Income tax: investment schemes, particularly paragraph 89, is more specific to arrangements such as the 2008 Timbercorp Olive Project. As TR 2000/8 sets out, the relevant principles have been established in court decisions such as *Commissioner of Taxation v. Lau* (1984) 6 FCR 202; 84 ATC 4929; (1984) 16 ATR 55. Having applied these principles to the arrangement set out above, a Grower in the 2008 Timbercorp Olive Project is accepted to be carrying on a business of growing and harvesting Olives for processing into Olive Oil for sale.

Expenditure of a capital nature

Divisions 40 and 328

97. Any part of the expenditure if 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 the establishment of the olive trees is of a capital nature. This expenditure falls for consideration under Division 40 or Division 328.

98. The application and extent to which a Grower claims deductions under Division 40 and Division 328 depends on whether or not the Grower is a 'small business entity'.

99. The tax treatment of capital expenditure has been dealt with in a representative way in paragraphs 24 of this Ruling in the table and accompanying notes.

Deductibility of management fees, licence fees and interest on loans with Timbercorp Finance Pty Ltd**Section 8-1**

100. The management fees and licence fees are deductible under section 8-1 (see paragraphs 43 and 44 of TR 2000/8). A 'non-income producing' purpose (see paragraphs 47 and 48 of TR 2000/8) is not identifiable in the arrangement and there is no capital component evident in the management fees or licence fee (see paragraphs 49 to 51 of TR 2000/8).

101. The tests of deductibility under the first limb of section 8-1 are met. The exclusions do not apply. Provided that the prepayment provisions do not apply (see paragraphs 104 to 107 of this Ruling) a deduction for these amounts can be claimed in the year in which they are incurred. (Note: the meaning of incurred is explained in Taxation Ruling TR 97/7.)

102. Some Growers may finance their participation in the Project through a Loan Agreement with Timbercorp Finance Pty Ltd. Applying the same principles as that used for the management fee and licence fee, interest incurred under such a loan has sufficient connection with the gaining of assessable income to be deductible under section 8-1.

103. Other than where the prepayment provisions apply (see paragraphs 104 to 107 of this Ruling), a Grower can claim a deduction for such interest in the year in which it is incurred.

Prepayment provisions**Sections 82KZL to 82KZMF**

104. 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. For this Project, the only prepayment provisions that are relevant are section 82KZL of the ITAA 1936 (an interpretive provision) and sections 82KZME and 82KZMF of the ITAA 1936 (operative provisions).

Application of the prepayment provisions to this Project

105. Under the Scheme to which this Product Ruling applies management fees and licence fee are incurred annually and interest payable to Timbercorp Finance Pty Ltd is incurred monthly in arrears. Accordingly, the prepayment provisions in sections 82KZME and 82KZMF of the ITAA 1936 have no application to this Scheme.

106. However, sections 82KZME and 82KZMF of the ITAA 1936 may have relevance if a Grower in this Project prepays all or some of the expenditure payable under the Grovelot Management Agreement and/or the Licence Agreement, or prepays interest under a loan agreement (including loan agreements with lenders other than Timbercorp Finance Pty Ltd).

107. As noted in the Ruling section above, a Grower who prepays fees or interest is not covered by this Product Ruling and may instead request a private ruling on the tax consequences of their participation in this Project.

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

Section 35-55 – exercise of Commissioner’s discretion

108. In deciding to exercise the discretion in paragraph 35-55(1)(b) on a conditional basis for the income years **30 June 2008 to 30 June 2013** 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 2008 up to and including 30 June 2013:

- it is because of its nature the business activity of a Grower will not satisfy one of the four tests in Division 35; and
- there is an objective expectation that within a period that is commercially viable for the olive industry, a Grower’s business activity will satisfy one of the four tests set out in Division 35 or produce a taxation profit.

109. 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.

110. 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

111. The operation of section 82KL of the ITAA 1936 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 of the ITAA 1936. It will not apply to deny the deduction otherwise allowable under section 8-1 of the ITAA 1997.

Part IVA – general tax avoidance provisions

112. For Part IVA of the ITAA 1936 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).

113. The 2008 Timbercorp Olive Project 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 paragraphs 24 and 25 of this Ruling 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.

114. Grower to whom this Ruling applies intends to stay in the scheme for its full term and derive assessable income from the harvesting and sale of the Crop or Product. There are no facts that would suggest that a Grower has 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) of the ITAA 1936 it cannot be concluded, on the information available, that Growers will enter into the scheme for the dominant purpose of obtaining a tax benefit.

Appendix 2 – Detailed contents list

115. The following is a detailed contents list for this Ruling:

	Paragraph
What this Ruling is about	1
Class of entities	2
Qualifications	5
Superannuation Industry (Supervision) Act 1993	8
Date of effect	9
Changes in the law	14
Note to promoters and advisers	16
Goods and Services Tax	15
Ruling	18
Application of this Ruling	18
Small business concessions	21
Assessable income	23
<i>Sections 6-5 and 17-5</i>	23
Deductions for management fees, licence fees, marketing and sales costs, interest on loan, borrowing costs and capital expenditure	24
<i>Sections 8-1, 25-25 and 40-515 and Division 27 of the ITAA 1997 and sections 82KZME and 82KZMF of the Income Tax Assessment Act 1936</i>	24
Division 35 – deferral of losses from non-commercial business activities	26
<i>Section 35-55 – exercise of Commissioner’s discretion</i>	26
Prepayment provisions and anti-avoidance provisions	27
<i>Sections 82KZME, 82KZMF and 82KL and Part IVA</i>	27
Scheme	28
Overview	31
Constitution	46
<i>Joint Venture</i>	50
Compliance Plan	53
Head Leases	54
Licence Agreement	57
Grovelot Management Agreement	63
Capital Works Agreement	70

Management Agreement	73
Olive Grove Management Agreement	74
Distribution Agreement	75
Pooling of Crops and Grower's entitlement to Net Proceeds	76
Fees	77
Finance	83
<i>Finance offered by Timbercorp Finance Pty Ltd</i>	86
Appendix 1 – Explanation	93
Is the Grower carrying on a business?	93
Expenditure of a capital nature	97
<i>Divisions 40 and 328</i>	97
Deductibility of management fees, licence fee and interest on loans with Timbercorp Finance Pty Ltd	100
<i>Section 8-1</i>	100
Prepayment provisions	104
<i>Sections 82KZL to 82KZMF</i>	104
<i>Application of the prepayment provisions to this Project</i>	105
Division 35 – deferral of losses from non-commercial business activities	108
<i>Section 35-55 – exercise of Commissioner's discretion</i>	108
Section 82KL – recouped expenditure	111
Part IVA – general tax avoidance provisions	112
Appendix 2 – Detailed contents list	115

References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

TR 97/7; TR 97/11; TR 98/22;
TR 2000/8; TR 2001/14

Subject references:

- carrying on a business
- commencement of business
- fee expenses
- interest expenses
- management fees
- non-commercial losses
- producing assessable income
- product rulings
- public rulings
- tax avoidance
- tax benefits under tax avoidance schemes
- tax shelters
- tax shelters project
- taxation administration

Legislative references:

- ITAA 1936 82KL
- ITAA 1936 Pt III Div 3 Subdiv H
- ITAA 1936 82KZL
- ITAA 1936 82KZLA
- ITAA 1936 82KZM
- ITAA 1936 82KZMA
- ITAA 1936 82KZMB
- ITAA 1936 82KZMC
- ITAA 1936 82KZMD
- ITAA 1936 82KZME

- ITAA 1936 82KZMF
- 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)
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- ITAA 1997 Div 328
- TAA 1953
- TAA 1953 Sch 1 357-75(1)
- Copyright Act 1968
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Case references:

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