



PR 2007/14W - Income tax: ITC Teak Project 2007

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



Notice of Withdrawal

Product Ruling

Income tax: ITC Teak Project 2007

Product Ruling PR 2007/14 is withdrawn with effect from today.

1. This Product Ruling has been withdrawn in accordance with subsection 358-20(1) of Schedule 1 to the *Taxation Administration Act 1953*, which states the Commissioner may withdraw a public ruling either wholly or to an extent.
2. Product Ruling PR 2007/14 set out the Commissioner's opinion on the tax consequences for persons participating in the ITC Teak Project 2007 ('the Project'), a forestry managed investment scheme, entered into for the purpose of establishing and tending Teak to produce teak sawlogs for commercial sale.
3. On 7 March 2013, Growers voted in favour of a transaction which will result in the Project being carried out in a materially different way from how it was described in the Ruling. Further, Growers will no longer hold an interest in the Project following the transaction and the Project will be brought to an end in accordance with the *Corporations Act 2001*.
4. Elders Forestry Management Limited (EFML), the Responsible Entity for the Project, advised that Growers voted in favour of a transaction under which EFML will make a payment to Growers in consideration for the surrender or termination of their interests in the Project ('Plantation Units').
5. This withdrawal notice sets out the taxation treatment of amounts received by Growers under the transaction.

Taxation implications for Growers

6. The termination or surrender of Growers' Lease and Management Agreements under the transaction will result in a capital gains tax (CGT) event for the purpose of section 82KZMGB of the *Income Tax Assessment Act 1936* (ITAA 1936) and Growers will cease to hold an interest in the Project. As a result, Growers will be required to include the market value of their interest in the Project in their assessable income in the income year in which the CGT event occurs (paragraph 82KZMGB(2)(a) of the ITAA 1936).
7. The Responsible Entity will provide information to Growers to assist them determine the market value of their interest for the purpose of section 82KZMGB of the ITAA 1936.

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8. The disposal of Growers' interests in the Project does not disturb the tax treatment of Grower's previous outgoings as set out in PR 2007/14 provided that the Project was carried out in the manner described in the Ruling up until the date Growers' interests are surrendered or terminated.

9. As a result of the transaction, Growers will cease to carry on a business of primary production from the 2012-13 income year. As a consequence, the non-commercial loss rules contained in Division 35 of the *Income Tax Assessment Act 1997* (ITAA 1997) have no application for the 2012-13 and later income years.

10. Paragraph 23 of PR 2007/14 ruled that Growers can claim deductions for interest incurred under a loan agreement with ITC Finance Pty Ltd or the Nominated Financier as described at paragraphs 61 to 67 of PR 2007/14. Interest expenses will continue to be deductible provided Growers meet certain requirements outlined in TR 2004/4 Income tax: *deductions for interest incurred prior to the commencement of, or following the cessation of, relevant income earning activities*.

Commissioner of Taxation

31 July 2013

ATO references

NO:	1-4TC0AGK
ISSN:	1441-1172
ATOlaw topic:	Income Tax ~~ Product ~~ timber