


PR 2007/76W - Income tax: Palandri Global Supply Challenge 2007-2008 (2008 Growers)

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 This document has changed over time. This is a consolidated version of the ruling which was published on *15 December 2010*



Notice of Withdrawal

Product Ruling

Income tax: Palandri Global Supply Challenge 2007-2008 (2008 Growers)

Product Ruling PR 2007/76 is withdrawn with effect from today.

1. Product Ruling PR 2007/76 set out the Commissioner's view on the tax consequences for entities participating as 2008 Growers in the Palandri Global Supply Challenge 2007-2008 (the Project) by entering into a Lease and Management Agreement for the purpose of carrying on a commercial viticulture business.
2. PR 2007/76 ruled that Growers could claim deductions for specified Project expenses and interest on loans from:
 - Palandri Finance Ltd,
 - United Pacific Pty Ltd, or
 - Momentum Finance Pty Ltd

although the deductibility of losses was subject to the non-commercial loss rules in Division 35 of the *Income Tax Assessment Act 1997* (Division 35). The Commissioner exercised his discretion to allow losses to be offset against other assessable income until the 2010-11 income year.

3. Although withdrawn, the Ruling continues to apply to Growers who were accepted to participate in the Project between 5 September 2007 and 15 June 2008. It may therefore be relied upon subject to there being no material difference in the arrangement, or in the Growers' involvement in the arrangement.

4. On 24 September 2008 the Supreme Court of Western Australia ordered that the scheme be wound up. The termination of the Project's Agreements constituted a material difference to the scheme described in PR 2007/76 and meant that Growers were no longer carrying on their own business.

5. For the 2009 year, Growers may offset any losses incurred from the Project until 19 March 2009, the date the agreements were terminated. After that date, losses are no longer subject to Division 35, although no further Project fees were incurred from that date.

6. Whilst Growers will not be carrying on business after the termination of their agreements, those funding their participation in the Project with one of the lenders specified at paragraph 2 of this withdrawal notice, may have incurred interest expenses after 19 March 2009. Where a business activity has ceased, ongoing interest will continue to be deductible unless an event or circumstance occurs to break the connection between the loan and the business activity. Where a loan is refinanced, renegotiated or the purpose of the loan is otherwise altered, the connection to the income earning activity may be broken and the interest may no longer be deductible. For more information refer to paragraph 50 of Taxation Ruling TR 2004/4 which provides guidance on what needs to be considered to determine if the necessary connection still exists following the cessation of relevant income earning activities.

Commissioner of Taxation
15 December 2010

ATO references

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