




TD 2002/18 - Income tax: is a deduction under section 8-1 of the Income Tax Assessment Act 1997 allowable for underwriting fees paid as part of a harvest payment agreement with either AWB (International) Limited or AWB (Australia) Limited or a payment agreement with ABB Grain Export Limited?

 This cover sheet is provided for information only. It does not form part of *TD 2002/18 - Income tax: is a deduction under section 8-1 of the Income Tax Assessment Act 1997 allowable for underwriting fees paid as part of a harvest payment agreement with either AWB (International) Limited or AWB (Australia) Limited or a payment agreement with ABB Grain Export Limited?*

 This Ruling has been reviewed as part of a project to review public rulings. The ATO view expressed in this Ruling is current as of 8 January 2018.

Taxation Determination

Income tax: is a deduction under section 8-1 of the *Income Tax Assessment Act 1997* allowable for underwriting fees paid as part of a harvest payment agreement with either AWB (International) Limited or AWB (Australia) Limited or a payment agreement with ABB Grain Export Limited?

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Preamble

The number, subject heading, date of effect and paragraphs 1 to 4 of this Taxation Determination are a 'public ruling' for the purposes of Part IVAAA of the Taxation Administration Act 1953 and are legally binding on the Commissioner. The remainder of the Determination is administratively binding on the Commissioner. Taxation Rulings TR 92/1 and TR 97/16 together explain how a Determination is legally or administratively binding.

Date of effect

This Ruling applies to income years commencing on and after 1 July 1999. However, the Ruling does not apply to taxpayers to the extent that it conflicts with the terms of a 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).

1. Yes.
2. When a grower enters into a harvest payment agreement or payment agreement, the grower can elect to receive harvest advance drawing amounts or drawing amounts as a loan prior to receiving any distributions from a pool and have future pool distributions applied against the outstanding loan balance. However, pool distributions may not entirely repay amounts owing in respect of a grower's harvest advance drawing amounts or drawing amounts. For the payment of a commercial underwriting fee, AWB Finance Limited, AWB (Australia) Limited ('AWBA') or ABB Grain Limited accepts this risk and undertakes that it will not recover from the grower the difference between the drawing amount and the pool distributions. A grower who has underwriting protection and who is discharged from any obligation to pay any amounts owing includes in assessable income the difference between the drawing amounts and the pool distributions (Taxation Rulings TR 2001/1 and TR 2001/5).
3. The payment of the underwriting fee by the grower as part of a harvest payment agreement or payment agreement is an integral part of the pooling arrangements for the sale

of wheat or barley to AWB (International) Limited, AWBA or ABB Grain Export Limited. The underwriting fee is calculated at a rate per tonne delivered.

4. In these circumstances there is sufficient nexus between the underwriting fee and the derivation of assessable income for the purposes of section 8-1 of the *Income Tax Assessment Act 1997*.

Commissioner of Taxation

17 July 2002

Previous draft:

Previously released as TD 2002/D2

Related Rulings/Determinations:

TR 2001/1, TR 2001/5, TR 92/1, TR 97/16

Subject references:

- crops as trading stock
- deductions & expenses
- incurred
- wheat growing

Legislative references:

- ITAA 1997 8-1
- TAA 1953 Part IVAAA

ATO references:

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