TD 2003/12 - Income tax: what activities are 'seasonally dependent agronomic activities' for the purposes of section 82KZMG of the Income Tax Assessment Act 1936?

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Taxation Determination

Income tax: what activities are 'seasonally dependent agronomic activities' for the purposes of section 82KZMG of the *Income Tax Assessment Act 1936*?

Preamble

The number, subject heading, date of effect and paragraphs 1 to 10 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.*

[Note: This is a consolidated version of this document. Refer to the Tax Office Legal Database (http://law.ato.gov.au) to check its currency and to view the details of all changes.]

1. Activities that are seasonally dependent agronomic activities in the planting and tending of trees for felling include:

- ploughing, ripping and other soil preparation works;
- tending seedlings prior to planting, and planting;
- applying fertiliser, herbicide or pesticide in conjunction with planting;
- vegetation, disease, vermin and other pest reduction and eradication activities (to the extent that they are part of the establishment of a plantation); and
- procurement and delivery of necessary supplies and materials for each eligible activity and supervision of that activity.

2. Activities that are not seasonally dependent agronomic activities in the planting and tending of trees for felling include:

- obtaining relevant consents;
- paying lease fees and stamp duty;
- mapping costs;
- insuring the allotments and trees;
- maintaining fences and roads;
- keeping established woodlots in good condition outside of the establishment period; and

- general administrative activities by the manager of the agreement.

3. An amount of expenditure that is prepaid under a plantation forestry managed agreement is immediately deductible to the extent that it is paid for seasonally dependent agronomic activities, satisfies the other requirements of section 82KZMG of the *Income Tax Assessment Act 1936* (ITAA 1936) and is deductible under subsection 8-1 of the *Income Tax Assessment Act 1997* (ITAA 1997). The remaining components of any prepaid expenditure are subject to the other prepayment rules contained in Subdivision H of Division 3 of Part III of the ITAA 1936. Typically, for a plantation forestry managed agreement, sections 82KZME and 82KZMF will be relevant.

4. Section 82KZMG of the ITAA 1936 provides a '12 month rule' that, in effect, facilitates an immediate deduction for certain prepaid expenditure incurred under a plantation forestry managed agreement. The 12 month rule applies to expenditure for 'seasonally dependent agronomic activities' that will be carried out during the establishment period of a particular planting of trees. Whilst the establishment period itself may exceed 12 months, each seasonally dependent agronomic activity must be completed within 12 months of commencement of its eligible service period, and by the end of the following income year. The 12 month rule does not extend to prepaid expenditure on seasonally dependent agronomic activities that take place outside the establishment period.

5. 'Seasonally dependent agronomic activities' is not a defined term. However, expenditure for a seasonally dependent agronomic activity must have both of the following characteristics.

(a) The expenditure must be on an agronomic activity. 'Agronomy' is defined in the *Macquarie Dictionary* to mean 'the applied aspects of both soil science and the several plant sciences, often limited to applied sciences dealing with crops'. The activity must therefore be in the management of land and crops and specifically, in this context, to the planting and tending of trees for felling; and

(b) The expenditure must also be on an activity that is seasonally dependent. This sort of activity is one that best silvicultural practice for a species dictates is to be undertaken in particular seasonal conditions to maximise the benefits to the planting and tending of trees for felling.

6. The 12 month rule applies therefore to expenditure on any forestry activity that is inherently a seasonally dependent agronomic activity. The 12 month rule does not apply to expenditure if the subject activity is merely related to seasonally dependent agronomic activities, even if the related activity is crucial to, or a pre-condition to, those activities. For example, the provision of a business or management plan may be a pre-condition to seasonally dependent agronomic activities but is not in itself a seasonally dependent agronomic activity.

Example

7. Note - the example below is included for illustrative purposes only. The figures shown should not be regarded as indicative of commercially realistic amounts. The example also assumes that expenditure is deductible under subsection 8-1 of the ITAA 1997.

8. Ian makes a prepayment of $10,000 in a plantation forestry managed agreement. This is a one-off fee to cover the provision of the following services by the manager of the arrangement over the 15-year life of the project:

(a) Preparation for planting - including ripping and mounding - and planting, fertilising and weed and pest control during the establishment period ($4,500);

(b) Administrative services, including preparation of plans and reports, mapping and surveying and general administrative services ($3,000); and

(c) Ongoing post-establishment maintenance including replanting, weed and pest control, tending, culling, pruning and fertilising ($2,500).

9. The activities in (a) are relevant 'seasonally dependent agronomic activities' because they occur in the establishment of the plantation and must be conducted under particular seasonal conditions. The administrative activities in (b) are not seasonally dependent agronomic activities because they are merely incidental to the overall agreement and are not required to be undertaken under particular seasonal conditions. The ongoing maintenance activities in (c) may be both agronomic and seasonally dependent, but as they are undertaken outside the establishment period of the plantation they do not satisfy section 82KZMG of the ITAA 1936.

10. Providing the other requirements of section 82KZMG of the ITAA 1936 are satisfied Ian would be allowed an immediate deduction of $4,500. The remaining $5,500 ($3,000 + $2,500) would be treated in accordance with the other prepayment rules contained in Subdivision H of Division 3 of Part III of the ITAA 1936, typically sections 82KZME and 82KZMF.

Date of effect

11. This Determination applies to arrangements to which section 82KZMG of the ITAA 1936 applies. That section applies generally to qualifying expenditure incurred on or after 2 October 2001 and on or before 30 June 2008.

Note: the Addendum to this Ruling that issued on 18 January 2006 applies on and from 19 December 2005.

Commissioner of Taxation
14 May 2003

Previous draft:

Previously released in draft form as TD 2002/D4.

Related Rulings/Determinations:

TR 92/1; TR 97/16

Subject references:

- advance payments and expenses
- forestry agreement
- seasonally dependent agronomic activity

Legislative references:

- ITAA 1997 8-1
- ITAA 1936 Subdiv H Div 3 Part III
- ITAA 1936 82KZME
- ITAA 1936 82KZMF
- ITAA 1936 82KZMG
- TAA 1953 Part IVAAA

ATO references:

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