



***TD 98/3W - Income tax: where a horticulture business buys plants from a nursery and has the nursery maintain them prior to delivery are the costs of buying and maintaining the plants deductible under either:(a) section 8-1 of the Income Tax Assessment Act 1997 ; or (b) Division 10F of Part III of the Income Tax Assessment Act 1936 ('the 1936 Act)?***

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 This document has changed over time. This is a consolidated version of the ruling which was published on 12 July 2006



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## Notice of Withdrawal

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### Taxation Determination

Income tax: where a horticulture business buys plants from a nursery and has the nursery maintain them prior to delivery are the costs of buying and maintaining the plants deductible under either:

- (a) section 8-1 of the *Income Tax Assessment Act 1997*; or
- (b) Division 10F of Part III of the *Income Tax Assessment Act 1936* ('the 1936 Act')?

Taxation Determination TD 98/3 is withdrawn with effect from today.

1. Taxation Determination TD 98/3 provides that the costs of buying horticultural plants and having a nursery maintain the plants prior to delivery are capital costs which would form part of 'establishment expenditure' for the purposes of Division 10F of Part III of the *Income Tax Assessment Act 1936* (ITAA 1936).
2. The deduction for capital expenditure incurred in establishing horticultural plants was not available under Division 10F of Part III of the ITAA 1936 after the 1997-98 year of income. Subdivision 387-C of the *Income Tax Assessment Act 1997* (ITAA 1997) provided an equivalent deduction for the 1998-99 year of income and later years.
3. Subdivision 387-C of the ITAA 1997 was repealed with effect from 1 July 2001. The rules in the former Subdivision 387-C were effectively replaced with the uniform capital allowance regime in Division 40 of the ITAA 1997. Deductions for the decline in value of horticultural plants are dealt with in Subdivision 40-F of the ITAA 1997.
4. As Taxation Determination TD 98/3 is no longer current, it is accordingly withdrawn. The issues dealt with in the Determination are now covered in Taxation Determination TD 2006/46.

# TD 98/3

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## Commissioner of Taxation

12 July 2006

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### ATO references

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ATOlaw topic: Income Tax ~~ Deductions ~~ primary production expenses