



TR 92/9 - Income tax: income from sale of wheat

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Taxation Ruling

Income tax: income from sale of wheat

other Rulings on this topic

IT 2075

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This Ruling, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the Taxation Administration Act 1953, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Ruling is a public ruling and how it is binding on the Commissioner.

[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.]

What this Ruling is about

1. The Australian Wheat Board ("AWB") has its own unique terminology to describe its marketing arrangements and the payments it makes to wheat growers. This Ruling explains when a wheat grower is to return as income under subsection 25(1) of the *Income Tax Assessment Act 1936* (ITAA) any of the following payments received from the AWB:

A. Payments under the *Wheat Marketing Act 1989* ("the 1989 Act")

- (a) fixed or posted price payments;
- (b) payments under the wheat pooling scheme:
 - . harvest payments
 - . post harvest payments
 - . subsequent advance payments
 - . final payments;
- (c) optional payments under the wheat pooling scheme:
 - . optional subsequent advance payments and
 - . early final payments.

B. Payments under the *Wheat Marketing Act 1984* ("the 1984 Act")

- (a) advances on final payment
- (b) final payments.

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Ruling

A. Payments under the 1989 Act

(a) Fixed or posted price payments

2. A fixed or posted price payment is income derived in the year of income in which the grower accepts the terms contained in the grain receipt.

(b) Wheat pool payments

3. A harvest payment or a post harvest payment is income derived in the income year in which the payment is to be made to the grower as determined by the AWB, even if the grower decides to defer receipt of part of, or of the whole, payment.

4. A subsequent advance payment or a final payment is income derived in the income year in which the payment is to be made to the grower as determined by the AWB.

(c) Optional wheat pool payments

5. An optional subsequent advance payment or an early final payment is income derived in the income year in which the AWB accepts the grower's application for the payment.

B. Payments under the 1984 Act

(a) Advances on final payment

6. Advances on final payment made under subsection 27(7) of the 1984 Act are derived in the year in which they are received. A grower who is not granted a subsection 27(7) payment does not derive assessable income as a result of the AWB's decision to offer such advances.

(b) Final payments

7. A final payment is income derived in the income year in which the final payment is determined by the AWB under section 27 of the 1984 Act.

Date of effect

8. This Ruling applies to wheat payments received under the 1989 Act and under the 1984 Act. The 1989 Act applies to wheat seasons first occurring after **1 July 1989**. A previous Ruling, Taxation Ruling

IT 2075, deals with payments received under the *Wheat Marketing Act 1979* as amended by the *Wheat Marketing Amendment Act 1982*.

Explanations

A. Payments under the 1989 Act

9. The 1989 Act gives growers the choice to either place their wheat in a pool or to accept the fixed price per tonne posted by the AWB for different classes of wheat. If wheat is delivered to the AWB pool, the final price per tonne payable to the grower is determined when the pool is closed by the AWB. All payments made by the AWB to wheat growers who deliver to the pool, other than final payment on the closure of the pool, are payments made as an advance payment against the final payment. Placing wheat in a pool allows growers some choice as to when they will receive the proceeds of sale of the wheat.

10. The general principle is that income from the sale of trading stock is derived in the income year in which the trading stock is sold and a debt is created. This is so even if the debt is not payable in that year of income but at a future time. (*J. Rowe & Son Pty Ltd v. FC of T* (1971) 124 C.L.R. 421)

11. In applying this principle to growers who sell their produce through a marketing association, such as the AWB, assessable income arises as soon as a debt is created under the contract between the grower and the marketing association. (*Farnsworth v. FC of T* (1949) 78 C.L.R. 504; *Dawson v. Botten* (1952) 10 ATD 252). The fixing of the wheat price in advance of production and delivery of wheat by the grower, for example under a forward contract, does not affect when the debt is created under the contract.

(a) Fixed or posted price payment

12. Growers who decide not to pool their wheat can accept the AWB's posted price. They deliver their wheat to the AWB. By signing a grain receipt, a grower acknowledges both that the cash price is fixed and final and that he or she accepts the price. On acceptance of the terms in the grain receipt, the grower derives assessable income. The amount specified in the receipt should be included in the income tax return in the income year in which the grain receipt has been signed.

(b) Wheat pool payments

13. Growers who decide to pool their wheat receive certain payments from the AWB. The payments are harvest payments, post harvest payments, subsequent advance payments and final payments.

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14. The amount of each of these payments is determined by the AWB. Once a determination is made it applies to all growers participating in the particular pool. The payment is derived as income in the year in which the payment is to be made to the grower as determined by the AWB.

15. It is possible for a grower to defer the receipt of a harvest payment or a post harvest payment. The AWB in effect, credits the grower's account for the amount deferred and pays interest on the account. The deferral of receipt by the grower does not affect when the income is derived. A debt is created when the payment is to be made to the grower as determined by the AWB .

(c) Optional wheat pool payment

16. Growers who decide to pool their wheat also have the option to apply for early payments. The optional payments are optional subsequent advance payments and early final payments. The grower must specifically request that such a payment be made. Early final payments may be requested by the growers at any time. Optional subsequent advance payments may only be requested following an offer by the AWB to make them available.

17. The AWB has the discretion to accept or reject the grower's request. The optional payments are derived as income in the year in which the AWB accepts the request made by a particular grower. Therefore, no income is derived by a grower who does not request any optional subsequent advance payments and/or early final payments or whose request is rejected by the AWB.

Examples

(a) Posted price payment

18. Mr William Farmer delivers wheat to the AWB but does not want to be a part of a pooled wheat scheme. This grower accepts the posted price being offered by the AWB for the particular kind and quality of wheat being delivered. He signs the grain receipt after his grain has been sorted and graded by the AWB. Mr Farmer derives income from the sale of wheat at the date of signing the grain receipt.

(b) Wheat pool payments

19. Ms Jane Ceres delivers wheat to the AWB and elects to have the wheat treated as 'pool wheat'. Under the wheat pooling scheme she elects to receive:

- (a) 80% of the harvest payment when it is determined by the AWB; and

- (b) a small nominated amount of the post harvest payment paid in March; and
- (c) the balance of the harvest and post harvest payments at the same time as the final payment on 1 July.

20. The entire harvest payment (100%) is income derived at the time that the AWB determines that the amount of harvest payment is payable. Likewise, the full amount of the post harvest payment is income derived at the time the AWB determines the amount of the post harvest payment, usually in March. Ms Ceres cannot defer including the income in her tax return by electing to defer the actual dates of receipt of the harvest payment or the post harvest payment. Any final payment is income derived at the time that the AWB determines that the final payment is payable (i.e. 1 July).

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legislative references

- ITAA 25
- Wheat Marketing Act 1989 Part 4 Division 3
- Wheat Marketing Act 1984 27

case references

- Dawson v. Botten (1952) 10 ATD 252-
- Farnsworth v. FC of T (1949) 78 CLR 504-
- J. Rowe & Son Pty Ltd v. FC of T (1971) 124 CLR 421