

# ***TR 93/9A - Addendum - Income tax: deferral of deductions for trading stock purchases involving prepayments***

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## Addendum

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### Taxation Ruling

### Income tax: deferral of deductions for trading stock purchases involving prepayments

This Addendum amends Taxation Ruling TR 93/9 to reflect changes to the law resulting from the repeal of inoperative provisions by the *Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006*.

**TR 93/9 is amended as follows:**

**1. Paragraph 1**

Omit the paragraph; substitute:

1. This Ruling contains general guidance on the operation of section 70-15 of the *Income Tax Assessment Act 1997* (ITAA 1997)<sup>1</sup> and explains how the provision applies to certain expenditure by primary producers and to expenditure incurred under certain livestock breeding arrangements. Section 70-15 defers deductions in respect of certain expenditure incurred in a year of income in acquiring stock which will become trading stock of a taxpayer but has not become trading stock on hand at the end of the year of income.

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<sup>1</sup> All subsequent legislative references are to the ITAA 1997 unless indicated otherwise.

## 2. Paragraph 2

Omit the paragraph; substitute:

2. Subsection 70-15(1) describes the type of expenditure which is subject to the operation of section 70-15 as 'an outgoing incurred in connection with acquiring an item of trading stock'. In our view, these words, read in the context of section 70-15 and the rest of the ITAA 1997, have the effect that section 70-15 cannot apply to expenditure incurred in bringing trading stock into existence through manufacturing or production processes of the taxpayer, except to the extent that the expenditure relates to the acquisition of inputs to the manufacturing or production process which are themselves trading stock (and then only where the rest of section 70-15 is satisfied in relation to the last-mentioned trading stock). A corollary of this is that the section can only apply to expenditure that is incurred in the acquisition of stock which is expected to come on hand as trading stock of the taxpayer.

## 3. Paragraph 3

- (a) Omit 'This Office has received enquiries about whether subsection 51(2A)'; substitute 'We have considered whether section 70-15'.
- (b) Omit 'subsection 51(2A)'; substitute 'section 70-15'.

## 4. Paragraph 4

- (a) Omit the first sentence; substitute:

We have also considered whether the section applies to expenditure by taxpayers under what might be termed livestock breeding arrangements.
- (b) Omit 'Subsection 51(2A)'; substitute 'Section 70-15'.

## 5. Paragraph 5

Omit the first sentence; substitute:

This Ruling explains the operation of section 70-15 of the ITAA 1997 and the provision it replaced, subsection 51(2A) of the *Income Tax Assessment Act 1936* (ITAA 1936). Subsection 51(2A) of the ITAA 1936 applied to expenditure incurred from 19 December 1991 to the 1998 year of income. Section 70-15 of the ITAA 1997 applies to expenditure incurred in the 1998 and later years of income.

## 6. Paragraph 6

- (a) Omit 'subsection 51(2A)'; substitute 'section 70-15'.

- (b) Omit 'the Act'; substitute 'the legislation'.

### **7. Paragraphs 7 and 8**

Omit the paragraphs; substitute:

7. The words 'acquired', 'manufactured' and 'produced' are all used separately in the definition of trading stock in section 70-10. In the related context of section 70-15, it would seem to follow that the ordinary meaning of 'acquired' cannot be taken to include 'produced' or 'manufactured'. The word 'becomes' in paragraph 70-15(3)(a) merely ensures that the provision can apply to forward purchase contracts where payment precedes the coming on hand of the stock purchased and under which the particular stock itself is trading stock of a taxpayer when it comes on hand. The word does not describe a process by which stock 'becomes' trading stock by changing its nature in some way. It does not, for example, describe the process by which seed acquired for planting grows into a crop ready for harvesting, a growing crop turns into a harvested crop, an embryo grows into a live animal, or raw materials are made into a manufactured article.

8. If 'acquired' included manufacture and production then section 70-15 could apply to defer deductions for the cost of inputs to those processes that are themselves 'stock' that has not attracted section 70-15 in its own right. If 'becomes' included the processes by which the metamorphoses referred to above occurred, section 70-15 could apply to expenditure on, say, crop seed or raw materials but not on fertiliser or fuel. Interpreting the section in this way would be inconsistent with the intention of the legislation.

### **8. Paragraph 9**

- (a) Omit 'paragraph 51(2A)(a) in paragraph two'; substitute 'subsection 70-15(1) of the ITAA 1997 in paragraph 2'.
- (b) Omit 'the provision'; substitute 'subsection 51(2A) of the ITAA 1936 (the replaced provision)'.

### **9. Paragraphs 10, 11 and 12**

Omit all occurrences of 'subsection 51(2A)'; substitute 'section 70-15'.

### **10. Example One**

- (a) Omit all occurrences of 'paragraph 51(2A)(a)'; substitute 'subsection 70-15(1)'.
- (b) Omit 'subsection 51(2A)'; substitute 'section 70-15'.

(c) Omit '(see paragraph four of Income Tax Ruling No. IT 147)';  
Substitute:

as it is not 'produced manufactured or acquired...for purposes  
of manufacture, sale or exchange' as required by  
paragraph 70-10(a)

(d) Omit 'subsection'; substitute 'section'.

## 11. Examples Two and Three

Omit all occurrences of 'paragraph 51(2A)(a)'; substitute  
'subsection 70-15(1)'.

## 12. Example Four

(a) Omit 'subsection 51(2A)'; substitute 'section 70-15'.

(b) Omit all occurrences of 'paragraph 51(2A)(a)'; substitute  
'subsection 70-15(1)'.

## 13. Legislative References

Omit the references; substitute:

- ITAA 1936 51(2A)
- ITAA 1997
- ITAA 1997 70-10
- ITAA 1997 70-15
- ITAA 1997 70-15(1)
- ITAA 1997 70-15(3)(a)

This Addendum applies on and from 14 September 2006.

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**Commissioner of Taxation**

17 February 2010

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ATO references

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