

TD 2002/D4 - 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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This document has been finalised by TD 2003/12.

Draft 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

Draft Taxation Determinations (DTDs) present the preliminary, though considered, views of the Australian Taxation Office. DTDs should not be relied on; only final Taxation Determinations represent authoritative statements by the Australian Taxation Office.

1. Section 82KZMG of the *Income Tax Assessment Act 1936* (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. The activities must be completed within 12 months of commencement of the 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.
2. ‘Seasonally dependent agronomic activities’ is not a defined term. 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.
 - (b) The expenditure must also be on an activity that is seasonally dependent. This is where, using best silvicultural practices, the activity must be undertaken in particular seasonal conditions. Expenditure on agronomic activity will not fall within section 82KZMG if the activity can be performed equally effectively during any season.
3. The 12 month rule applies 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 or a pre-condition to those activities.

4. 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; and
- vegetation, disease, vermin and other pest reduction and eradication activities (to the extent that they are part of the establishment of a plantation).

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

- obtaining relevant consents;
- providing a business or management plan;
- 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.

6. 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 and satisfies the other requirements of section 82KZMG. 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.

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 *Income Tax Assessment Act 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).
- (c) Ongoing post-establishment maintenance including replanting, weed and pest control, tending, culling, pruning and fertilising (\$2,500).

9. The activities in (a) are 'seasonally dependent agronomic activities' because they are directly 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.

10. Providing the other requirements of section 82KZMG 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.

Your comments

11. We invite you to comment on this Draft Taxation Determination. We are allowing 2 weeks for comments before we finalise the Determination. If you want your comments considered, please provide them to us within this period.

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Commissioner of Taxation
22 May 2002

Previous draft:

Not previously issued in draft form

Subject references:

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

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FOI status: **draft only – for comment**

Legislative references:

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

ATO references:

NO 20002/007130

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ISSN: 1038-8982