TD 94/D77 - Income tax: are the costs of establishing fruit and nut trees to be used in a business of primary production deductible, where the costs are incurred to plant initially or extend an orchard or plantation?

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Draft Taxation Determination

Income tax: are the costs of establishing fruit and nut trees to be used in a business of primary production deductible, where the costs are incurred to plant initially or extend an orchard or plantation?

1. No. Establishment costs of fruit and nut trees in the initial planting or extension of an orchard or plantation are non-deductible capital outgoings (see *FC of T v. Osborne* (1990) 21 ATR 888; 90 ATC 4889).

2. These costs include the following outlays:

- the cost of clearing, contouring, stone removal and draining of the land, etc.;
- the cost of preparing the land to plant the trees, such as, ploughing, top soil enhancement, etc.;
- the cost of buying the tree; and
- the cost of planting the tree in the land.

3. Further, the cost of establishing fruit and nut trees as replacements for existing trees in an orchard or plantation is only deductible where the expenditure can be properly described as maintenance of the orchard or plantation. Where, for example, a tree is replaced because of premature death or disease, the cost of replacement represents ordinary maintenance expenditure.

Example

Farmer Paula, a primary producer, purchases vacant land. Soon after purchase she plants orange trees on 75% of the land to establish an orchard. The cost of purchase of the orange trees and the cost of establishing them in the ground is non-deductible capital expenditure.

Several years later farmer Paula extends the orchard by planting orange trees to take up the remaining vacant land. Again, the cost of purchase of the orange trees and the cost of establishing them in the ground is non-deductible capital expenditure.

Commissioner of Taxation
07/07/94

Related Determinations:

Related Rulings:

Subject Ref: primary production; fruit and nut trees; initial plantings; extensions; replacements; expenses; allowable deductions

Legislative Ref: ITAA 51(1)

Case Ref: FC of T v. Osborne (1990) 21 ATR 888; 90 ATC 4889

ATO Ref: ALB DUNN

ISSN 1038 - 8982