IT 2296 - Income tax: business of primary production - blueberry growing

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TAXATION RULING NO. IT 2296

INCOME TAX : BUSINESS OF PRIMARY PRODUCTION - BLUEBERRY GROWING

F.O.I. EMBARGO: May be released

REF H.O. REF: 84/16318-0 DATE OF EFFECT: Immediate

B.O. REF: DATE ORIG. MEMO ISSUED: 27 May 1986

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1137279	CARRYING ON A BUSINESS PRIMARY PRODUCTION - BLUEBERRY GROWING	51(1) 75A

PREAMBLE It has been decided that no appeal will be lodged against a decision of Taxation Board of Review No.2 dated 31 March 1986 that a taxpayer was carrying on a business of growing blueberries in partnership with his mother and brother. The decision was reported as Case T12 86 ATC 178 and 29 CTBR (NS) Case 16.

FACTS 2. Briefly, the partnership came into existence when the taxpayer together with his mother and brother purchased 41 hectares of partly-developed grazing property in November 1980. The intention in acquiring this property was to grow blueberries. It was a term of the partnership agreement that all profits and losses were to be shared equally.

3. Having purchased this property the partnership carried out various activities. In the 1981 income year these activities comprised the purchase and propagation of blueberry stock, erection or replacement of fencing and eradication of noxious weeds. During 1982 the activities comprised the continued purchase and propagation of blueberry stock, completion of fencing and noxious weed eradication, construction of a catchment dam and levelling of ground to be used for growing the blueberries. No income was derived by the partnership during the 1981 income year and in the 1982 income year the only income received was in respect of cattle agistment and the sale of ferns which occurred naturally on the property. The blueberry stock were not held on the partnership's farm but were sited at a nursery on a neighbouring property; the partners having decided that the plants should be kept in a protected environment for at least four years before planting out.

4. The Board held that the partnership was carrying on a business of primary production. In the course of its decision the Board accepted that the activities undertaken in the relevant income years may be seen as preparatory in nature but then went on to state that this factor was not necessarily fatal to the taxpayer's claim. It was held that in commencing the

propagation of plant stock the partnership had embarked upon a commercial undertaking the ultimate aim of which was the derivation of assessable income.

5. It should be noted that although the Board decided that the partnership was carrying on a business of primary production it went on to hold that this activity was not being carried out on the land actually owned by the partnership. This was so as the blueberry plant stock was being propagated on a neighbouring property. Accordingly, in the Board's view no deductions were allowable pursuant to sub-section 75A(4) for expenses incurred in the preparation for agriculture of the partnership property.

RULING

6. The decision reached by the Board was open to it on the evidence adduced at the hearing and applies existing law to the facts established before the Board and no change to assessing policy is necessary. The decision should be applied in comparable fact situations where taxpayers have undertaken substantial preparatory work which may include the propagation of plant stock from which assessable income is ultimately to be generated.

COMMISSIONER OF TAXATION
28 May 1986

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