

PR 2000/59A - Addendum - Income tax: Beechworth Winegrape Project

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Addendum

Income tax: Beechworth Winegrape Project

At paragraph 15:

Delete:

- Facsimile transmission dated 13 April 2000 from Lear & Co to the Australian Taxation Office.

and replace with:

- Facsimile transmission dated 13 April 2000 from Lear & Co to the Australian Taxation Office and letters and attachments from BVLM dated 7 December 2000 and 19 April 2001.

Add to the **Ruling** part of the Product Ruling:

Division 35 – deferral of losses from non-commercial business activities

Section 35-55 – Commissioner’s discretion

40.1. For a Farmer who is an individual and who entered the Project on or after 17 May 2000 and prior to any withdrawal of this Product Ruling, the rule in section 35-10 may apply to the business activity comprised by their involvement in this Project. Under paragraph 35-55(1)(b) the Commissioner has decided for the income years ended 30 June 2001 to 30 June 2005 that the rule in section 35-10 does not apply to this business activity provided that the Project has been, and continues to be, carried on in a manner that is not materially different to the arrangement described in this Ruling.

40.2. This exercise of the discretion in subsection 35-55(1) will not be required where for any year in question:

- a Farmer’s business activity satisfies one of the objective tests in sections 35-30, 35-35, 35-40 or 35-45; or
- the ‘Exception’ in subsection 35-10(4) applies.

40.3. Where either the Farmer’s business activity satisfies one of the objective tests, the discretion in subsection 35-55(1) is exercised, or the Exception in subsection 35-10(4) applies, section 35-10 will not apply. This means that a Farmer will not be required to defer any excess of deductions attributable to their business activity in excess of

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any assessable income from that activity, i.e., any 'loss' from that activity, to a later year. Instead, this 'loss' can be offset against other assessable income for the year in which it arises.

40.4. Farmers are reminded of the important statement made on Page 1 of this Product Ruling. Therefore, Farmers should not see the Commissioner's decision to exercise the discretion in paragraph 35-55(1)(b) as an indication that the Tax Office sanctions or guarantees the Project or the product to be a commercially viable investment. An assessment of the Project or the product from such a perspective has not been made.

Commissioner of Taxation

13 June 2001

ATO references:

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