



PR 2001/130W - Income tax: Palandri 2000 Project - Second Offering

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 This document has changed over time. This is a consolidated version of the ruling which was published on *12 January 2011*



Product Ruling

Income tax: Palandri 2000 Project – Second Offering

Preamble

*The number, subject heading, and the **What this Product Ruling is about** (including **Tax law(s)**, **Class of persons** and **Qualifications** sections), **Date of effect**, **Withdrawal**, **Previous Ruling**, **Arrangement** and **Ruling** parts of this document are a ‘public ruling’ in terms of Part IVAAA of the **Taxation Administration Act 1953**. Product Ruling PR 1999/95 explains Product Rulings and Taxation Rulings TR 92/1 and TR 97/16 together explain when a Ruling is a public ruling and how it is binding on the Commissioner.*

[Note: This is a consolidated version of this document. Refer to the ATO Legal Database (<http://law.ato.gov.au>) to check its currency and to view the details of all changes.]

Withdrawal

1. Product Ruling PR 2001/130 set out the Commissioner’s view on the tax consequences for entities participating in the Palandri 2000 Project – Second Offering (the Project) by entering into a Lease Agreement and a Management Agreement for the purpose of carrying on a commercial viticulture and wine production business. The Ruling was withdrawn on 1 July 2004 as interests in the Project were no longer being sold.

2. Although withdrawn, the Ruling continues to apply to Members who were accepted to participate in the Project between 10 October 2001 and 31 October 2001. It may therefore be relied upon subject to there being no material difference in the arrangement, or in the Members’ involvement in the arrangement.

3. PR 2001/130 ruled that Members could claim deductions for rent, management fees and interest on loans from Palandri Finance Ltd or United Pacific Finance Pty Ltd. However the deductibility of losses was subject to the non-commercial loss rules in Division 35 of the Income Tax Assessment Act 1997 (Division 35). The Commissioner exercised his discretion to allow losses for the 2001-02 income year. Losses incurred in later years were required to be deferred unless certain conditions were met (see paragraphs 61 to 63 of PR 2001/130).

4. On 24 September 2008 the Supreme Court of Western Australia ordered that the scheme be wound up. The termination of the Project's Agreements on 19 March 2009 meant that Growers were no longer carrying on their own business and, although no further Project fees were incurred, losses after that date are not subject to Division 35.

Commissioner of Taxation

10 October 2001

Previous draft:

Not previously issued in draft form

- ITAA 1997 35-40

- ITAA 1997 35-45

- ITAA 1997 35-55

Related Rulings/Determinations:

TR 2000/8; PR 2000/93; PR 1999/95;

- ITAA 1997 35-55(1)

PR 2000/114; TR 92/1; TR 92/20;

- ITAA 1997 35-55(1)(a)

TR 97/11; TR 97/16; TD 93/34;

- ITAA 1997 35-55(1)(b)

TR 98/22; IT 360; IT 175; IT 2001

- ITAA 1997 35-55(2)

- ITAA 1997 Div 70

- ITAA 1997 70-35

Subject references:

- ITAA 1997 Div 328

- carrying on a business

- ITAA 1997 Subdiv 328-F

- commencement of business

- ITAA 1997 Subdiv 328-G

- primary production

- ITAA 1997 328-105

- primary production expenses

- ITAA 1997 328-105(1)(b)

- management fee expenses

- ITAA 1997 328-285

- producing assessable income

- ITAA 1997 328-285(1)

- product rulings

- ITAA 1997 328-285(2)

- public rulings

- ITAA 1936 82KL

- schemes and shams

- ITAA 1936 82KZL

- taxation administration

- ITAA 1936 82KZL(1)

- tax avoidance

- ITAA 1936 82KZME

- tax benefits under tax avoidance

- ITAA 1936 82KZME(1)

- schemes

- ITAA 1936 82KZME(2)

- tax shelters

- ITAA 1936 82KZME(3)

- ITAA 1936 82KZME(4)

Legislative references:

- ITAA 1936 82KZME(7)

- ITAA 1997 6-5

- ITAA 1936 82KZMF

- ITAA 1997 8-1

- ITAA 1936 82KZMF(1)

- ITAA 1997 8-1(1)(a)

- ITAA 1936 Pt IVA

- ITAA 1997 8-1(1)(b)

- ITAA 1936 177A

- ITAA 1997 17-5

- ITAA 1936 177C

- ITAA 1997 Division 27

- ITAA 1936 177D

- ITAA 1997 Division 35

- ITAA 1936 177D(b)

- ITAA 1997 35-10

- ITAA 1997 35-10(2)

Case references:

- ITAA 1997 35-10(3)

- FCT v. Lau 84 ATC 4929

- ITAA 1997 35-10(4)

- ITAA 1997 35-30

- ITAA 1997 35-35

ATO references:

NO T2001/16377

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