PR 2001/176 - Income tax: Queensland Paulownia Forests Project No 6

Product Ruling
Income tax: Queensland Paulownia Forests Project No 6

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Potential participants may wish to refer to the ATO's Internet site at **http://www.ato.gov.au** or contact the ATO directly to confirm the currency of this Product Ruling or any other Product Ruling that the ATO has issued.

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**, **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.*

No guarantee of commercial success

The Australian Taxation Office (ATO) **does not** sanction or guarantee this product. Further, we give no assurance that the product is commercially viable, that charges are reasonable, appropriate or represent industry norms, or that projected returns will be achieved or are reasonably based.

Potential participants must form their own view about the commercial and financial viability of the product. This will involve a consideration of important issues such as whether projected returns are realistic, the 'track record' of the management, the level of fees in comparison to similar products, how this product fits an existing portfolio, etc. We recommend a financial (or other) adviser be consulted for such information.

This Product Ruling provides certainty for potential participants by confirming that the tax benefits set out below in the **Ruling** part of this document are available **provided that** the arrangement is carried out in accordance with the information we have been given and have described below in the **Arrangement** part of this document.

If the arrangement is not carried out as described below, participants lose the protection of this Product Ruling. Potential participants may wish to seek assurances from the promoter that the arrangement will be carried out as described in this Product Ruling.

Potential participants should be aware that the ATO will be undertaking review activities to confirm the arrangement has been implemented as described below and to ensure that the participants in the arrangement include in their income tax returns income derived in those future years.

Terms of Use of this Product Ruling

This Product Ruling has been given on the basis that the person(s) who applied for the Ruling, and their associates, will abide by strict terms of use. Any failure to comply with the terms of use may lead to the withdrawal of this Ruling.

What this Product Ruling is about

1. This Ruling sets out the Commissioner's opinion on the way in which the 'tax laws' identified below apply to the defined class of persons who take part in the arrangement to which this Ruling refers. In this Ruling this arrangement is sometimes referred to as the Queensland Paulownia Forests Project No 6, or simply as 'the Project'.

Tax laws

2. The tax laws dealt with in this Ruling are:

- Section 6-5 of the *Income Tax Assessment Act 1997* ('ITAA 1997');
- Section 8-1 (ITAA 1997);
- Section 17-5 (ITAA 1997);
- Division 27 (ITAA 1997);
- Division 35 (ITAA 1997);
- Division 328 (ITAA 1997);
- Section 82KL of the *Income Tax Assessment Act 1936* ('ITAA 1936');
- Section 82KZL (ITAA 1936);
- Section 82KZME (ITAA 1936);
- Section 82KZMF (ITAA 1936); and
- Part IVA (ITAA 1936).

Goods and Services Tax

3. In this Ruling all fees and expenditure referred to include Goods and Services Tax ('GST') where applicable. In order for an entity (referred to in this Ruling as a Grower) to be entitled to claim input tax credits for the GST included in its expenditure, it must be registered or required to be registered for GST and hold a valid tax invoice.

Changes in the Law

4. The Government is currently evaluating further changes to the tax system in response to the Ralph *Review of Business Taxation* and continuing business tax reform is expected to be implemented over a

number of years. Although this Ruling deals with the taxation legislation enacted at the time it was issued, later amendments may impact on this Ruling. Any such changes will take precedence over the application of this Ruling and, to that extent, this Ruling will be superseded.

5. Taxpayers who are considering participating in the Project are advised to confirm with their taxation adviser that changes in the law have not affected this Product Ruling since it was issued.

Note to promoters and advisers

6. Product Rulings were introduced for the purpose of providing certainty about tax consequences for participants in projects such as this. In keeping with that intention, the Tax Office suggests that promoters and advisers ensure that participants are fully informed of any legislative changes after the Ruling is issued.

Class of persons

7. The class of persons to whom this Ruling applies is the persons who are more specifically identified in the Ruling part of this Product Ruling and who enter into the arrangement specified below on or after the date this Ruling is made. They will have a purpose of staying in the arrangement until it is completed (i.e., being a party to the relevant Agreements until their term expires) and deriving assessable income from this involvement. In this Ruling these persons are referred to as 'Growers'.

8. The class of persons to whom this Ruling applies does not include persons who intend to terminate their involvement in the arrangement prior to its completion or who otherwise do not intend to derive assessable income from it.

Qualifications

9. The Commissioner rules on the precise arrangement identified in the Ruling. If the arrangement described in the Ruling is materially different from the arrangement that is actually carried out, the Ruling has no binding effect on the Commissioner. The Ruling will be withdrawn or modified.

10. A Product Ruling may only be reproduced in its entirety. Extracts may not be reproduced. As each Product Ruling is copyright, apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning

Date of effect

11. This Ruling applies prospectively from19 December 2001, the date this Ruling is made. However, the Ruling does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Ruling (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

12. If a taxpayer has a more favourable private ruling (which is legally binding), the taxpayer can rely on that private ruling if the income year to which it relates has ended or has commenced but not yet ended. However if the arrangement covered by the private ruling has not commenced, and the income year to which it relates has not yet commenced, this Ruling applies to the taxpayer to the extent of the inconsistency only (see Taxation Determination TD 93/34).

Withdrawal

13. This Product Ruling is withdrawn and ceases to have effect after 30 June 2004. The Ruling continues to apply, in respect of the tax laws ruled upon, to all persons within the specified class who enter into the arrangement specified below. Thus, the Ruling continues to apply to those persons, even following its withdrawal, who entered into the specified arrangement prior to withdrawal of the Ruling. This is subject to there being no change in the arrangement or in the person's involvement in the arrangement.

Arrangement

14. The arrangement that is the subject of this Ruling is specified below. This arrangement incorporates the following documents:

- Application for a Product Ruling from Queensland Paulownia Forests Ltd (QPFL) dated 7 June 2001 in respect of Queensland Paulownia Forests Project No 6;
- Prospectus issued by QPFL and dated 1 November 2001;
- Draft Supplementary Prospectus of 11 December 2001;

- Constitution of QPFL Project No. 6 dated 1 October 2001, ('the Constitution');
- Supplemental Constitution of 26 October 2001;
- Draft Second Supplemental Constitution of 11 December 2001;
- Compliance Plan for the Queensland Paulownia Forests Project No. 6 ('the Compliance Plan');
- **Farming Agreement** between QPFL and the Grower;
- **Finance Agreement** between QPFL and the Grower;
- **Plantation and Maintenance Agreement** between QPFL and the Grower;
- Discussions between the Australian Taxation Office and the Applicant dated 14 August 2001, 24 September 2001, 9 November 2001, 30 November 2001 and 11 December 2001 and the Applicant's e-mail of 6 December 2001; and
- Additional written correspondence dated 6 December 2001.

NOTE: certain information received from QPFL has been provided on a commercial-in-confidence basis and will not be disclosed or released under Freedom of Information legislation.

15. The documents highlighted are those that Growers enter into. There are no other agreements, whether formal or informal, and whether or not legally enforceable, which a Grower, or any associate of a Grower, will be a party to, which are part of the arrangement to which this Ruling applies. All Australian Securities and Investments Commission (ASIC) requirements are, or will be, complied with for the term of the agreements. The effect of the agreements may be summarised as follows.

Overview

16. This arrangement is called the Queensland Paulownia Forests Project No 6.

Location	'Austin Downs' Surat
Type of business each participant is carrying on	Commercial growing and cultivation of Paulownia trees for the purpose of harvesting and selling timber.
Number of Woodlots on offer	2,000

Minimum number of Woodlots per application	2
Number of hectares available	428 hectares
Size of each Woodlot	0.2 hectares
Number of trees per Woodlot	52
Incentive fee	Responsible Entity will be entitled to 1/3 of the Gross Sale proceeds of the timber over and above the financial forecasts in the Prospectus
The term of the investment	Until 30 June 2013 unless the trees are harvested and milled earlier.
Initial cost	$5,494 per Woodlot
Initial cost per hectare	$27,470
Ongoing costs	Maintenance fees, licence fees, harvesting and milling fees, marketing and selling fees and insurance (where applicable)

17. Under the Prospectus, applicants are invited to participate in the Queensland Paulownia Forests Project No 6. Growers entering into the Project will enter into a Farming Agreement that gives them a licence over an area of land called a 'woodlot'. The Land Owner (Queensland Forestry Holdings Pty Ltd) leases the land, at 'Austin Downs', Surat, to QPFL who grants a licence to the Growers The Growers will also enter into a Plantation and Maintenance Agreement with QPFL to have certain paulownia trees (*paulownia fortunei*) planted on the woodlot for the purpose of eventual felling and sale in approximately eight years.

18. There are 2,000 woodlots on offer of 0.2 hectares each at a cost of $5,494 per woodlot. A Grower must apply for a minimum of 2 woodlots. The total land area for the Project will be 428 hectares. A minimum of 52 trees per woodlot (260 per hectare) will be planted prior to the next 30 June following execution of the Plantation and Maintenance Agreement. Growers execute a Power of Attorney enabling QPFL to act on their behalf as required when they make an application for woodlots.

19. No Interests in the Project will be issued by QPFL between 1 June 2002 and 30 June 2002. For applicants who are accepted into the Project and whose Agreements are executed up to, and including the 31 May 2002, QPFL has guaranteed to fully supply by 30 June 2002, all services relating to the Year 1 planting and maintenance fee. For applicants who are accepted into the Project on or after 1 July 2002, the services relating to the Year 1 planting and maintenance fee will be supplied by 30 June 2003.

Farming Agreement

20. The Farming Agreement is entered into between QPFL and the Grower for each woodlot by the Grower signing the Application and Limited Power of Attorney Form in the Prospectus. Growers are granted a licence to use their woodlot for the purpose of conducting their afforestation business (cl 2.1). The Growers must pay QPFL a licence fee of $165 per woodlot per annum (cl 6). This fee is indexed annually. The Manager must apply the licence fee to payment of rent under the lease. The term of the Agreement is either until 30 June 2013 or until harvesting and milling of all trees has been completed, whichever is the earlier (cl 3.1). The Agreement is subject to the terms of the Constitution.

Plantation and Maintenance Agreement

21. A Plantation and Maintenance Agreement for each woodlot is entered into by the Grower signing the Application and Limited Power of Attorney Form in the Prospectus. The term of the Agreement is either until 30 June 2013 or until harvesting and milling of all trees has been completed, whichever is the earlier (cl 3(a)).

22. The services to be provided by QPFL for an annual fee over the term of the Project are outlined in clause 4 of the Plantation and Maintenance Agreement. QPFL will be responsible for planting *paulownia fortunei* on the woodlot and will then maintain the trees in accordance with good silvicultural practice until maturity. Sufficient water is available for this Project from the property's 800 megalitre capacity dam and the creek running through the property. Prior to 30 June 2009, Growers may elect to collect the timber attributable to their woodlots (cl 9.1) instead of having it milled and marketed on their behalf by QPFL. If no such election is made, QPFL will sell the timber attributable to the woodlots on the Grower's behalf, for the best possible commercial price (cl 6.2). QPFL will then be entitled to a marketing fee of 5% of the proceeds from the sale of the timber. Harvesting and milling of trees will take place between 30 June 2010 and 31 December 2010 or at another time as determined by QPFL (cl 5).

23. Growers who do not elect to collect their own timber will have the gross proceeds of sale of the timber attributable to their woodlots paid to the Responsible Entity in its capacity as Custodian of the Project. The Responsible Entity will retain from the payment the Grower's proportional interest of the harvesting and milling costs, other costs of sale, any outstanding fees owing by the Grower and the marketing and incentive fees. After payment of these expenses, the

Responsible Entity will account to the Grower and pay the Grower his/her share of the gross proceeds of sale.

Constitution

24. The Constitution is between QPFL (in its capacity as the Responsible Entity) and Growers. The Constitution sets out the terms and conditions under which QPFL agrees to act for the Growers and under which QPFL agrees to manage the Project. QPFL keeps a register of Growers. Growers are only entitled to assign the Grower's Interest in certain circumstances (cl 18). Growers are bound by the Constitution by virtue of their participation in the Project.

Fees

25. The fees payable under clause 10 of the Plantation and Maintenance Agreement are:

(i) $5,329 per woodlot for the services provided from the date the application is accepted to the next 30 June;

(ii) $231 per Woodlot per annum commencing on the next 1 July after allocation of the Grower's woodlot and indexed annually thereafter;

(iii) an incentive fee calculated to be 1/3 of the gross sale proceeds of the timber over and above the financial forecasts in the Prospectus for the Project;

(iv) a marketing fee of not more than 5% of the gross proceeds generated from the sale of timber attributable to the Grower's woodlot where QPFL sells on the Growers behalf.

26. The fee payable under clause 6 of the Farming Agreement is a licence fee of $165 per woodlot per annum (indexed) up to 30 June each year, commencing and payable on allocation of the Grower's woodlots.

27. The Responsible Entity will hold the application moneys in an application account to be released when certain specified criteria in the Constitution have been met (cl 15).

Finance

28. Growers can fund their investment in the Project themselves, borrow from QPFL or borrow from an independent lender.

29. Where a Grower borrows from QPFL, the company will have full recourse to the Borrower's assets should the Borrower (Grower) default, and it will pursue appropriate legal action against defaulting Growers. Funds borrowed from QPFL, or received directly from Growers, are paid direct to the Application Account prior to a Grower being accepted into the Project. No round robin arrangements are involved and QPFL will use these funds after the Grower is accepted into the Project, subject to authorisation by the Custodial Committee, in carrying out its obligations under the Constitution.

30. Where a Grower borrows from QPFL, two finance options are offered:

(a)

(i) At least the first month's payment is required in advance;

(ii) Straight principal and interest payments over a 1 to 5 year term;

(iii) The Grower may pay out the loan at any time during the term; and

(iv) The interest rate will be not greater than 7% over the average 1 to 5 year SWAP rate for the month end preceding the signing of the Finance Agreement as posted in the Financial Review, but in any event not less than 4% above the SWAP rate;

(b)

(i) At least 20% deposit required;

(ii) Repayments over a 1 to 5 year term;

(iii) No repayments until the next 1 July after the date of allocation of the Woodlots;

(iv) Interest charged from drawdown of loan;

(v) The Grower may pay out the loan at any time during the term; and

(vi) The interest rate will be not greater than 8% over the average 1 to 5 year SWAP rate for the month end preceding the signing of the Finance Agreement as posted in the Financial Review, but in any event not less than 4% above the SWAP rate.

31. Clause 9 of the Finance Agreement sets out the Lender's rights on default.

32. This Ruling does not apply if a Grower enters into a finance agreement that includes or has any of the following features:

- there are split loan features of a type referred to in Taxation Ruling TR 98/22;
- there are indemnity arrangements or other collateral agreements in relation to the loan designed to limit the borrower's risk;
- 'additional benefits' are or will be granted to the borrowers for the purpose of section 82KL or the funding arrangements transform the Project into a 'scheme' to which Part IVA may apply;
- the loan or rate of interest is non-arm's length;
- repayments of the principal and payments of interest are linked to the derivation of income from the Project;
- the funds borrowed, or any part of them, will not be available for the conduct of the Project but will be transferred (by any mechanism, directly or indirectly) back to the lender, or any associate of the lender; or
- lenders do not have the capacity under the loan agreement, or a genuine intention, to take legal action against defaulting borrowers;
- entities associated with the Project, other than QPFL, are involved or become involved, in the provision of finance to Growers for the Project.

Ruling

Application of this Ruling

33. This Ruling applies only to Growers who are accepted to participate in the Project on or before 30 June 2003 and who have executed a Plantation and Maintenance Agreement and a Farming Agreement before that date. The Grower's participation in the Project must constitute the carrying on of a business of primary production.

34. A Grower is not eligible to claim any tax deductions until the Grower's application to enter the Project is accepted and the Project has commenced.

The Simplified Tax System ('STS')

Division 328

35. For a Grower participating in the Project, the recognition of income and the timing of tax deductions is different depending on whether the Grower is an 'STS taxpayer'. To be an 'STS taxpayer' a Grower:

- must be eligible to be an 'STS taxpayer'; and
- must have elected to be an 'STS taxpayer'.

Qualification

36. This Product Ruling assumes that a Grower who is an 'STS taxpayer' is so for the income year in which their participation in the Project commences. A Grower may become an 'STS taxpayer' at a later point in time. Also, a Grower who is an 'STS taxpayer' may choose to stop being an 'STS taxpayer', or may cease to be eligible to be an 'STS taxpayer', during the term of the Project. These are contingencies relating to the circumstances of individual Growers that cannot be accommodated in this Ruling. Such Growers can ask for a private ruling on how the taxation legislation applies to them.

Tax outcomes for Growers who are not 'STS taxpayers'

Assessable Income

Section 6-5

37. That part of the gross sales proceeds from the Project attributable to the Grower's produce, less any GST payable on those proceeds (section 17-5), will be assessable income of the Grower under section 6-5.

38. The Grower recognises ordinary income from carrying on the business of afforestation at the time that income is derived.

Deductions for planting and maintenance fees, licence fees, and interest

Section 8-1

39. A Grower who is not an 'STS taxpayer', and who is accepted into the Project by 31 May 2002 (no interests in Woodlots will be issued from 1 June 2002 to 30 June 2002), may claim tax deductions for the following revenue expenses:

Fee Type	ITAA 1997 Section	Year ended 30 June 2002	Year ended 30 June 2003	Year ended 30 June 2004
Planting and Maintenance Fee	8-1	$5,329 – See Notes (i) & (ii) (below)	$231 – See Notes (i) & (ii) (below)	$231 (indexed)– See Note (i) & (ii) (below)
Licence Fee (Rent)	8-1	$165 – See Notes (i) & (ii) (below)	$165 (indexed)– See Notes (i) & (ii) (below)	Previous year's fee (indexed)– See Notes (i) & (ii) (below)
Interest	8-1	As incurred See Note (iii) (below)	As incurred See Note (iii) (below)	As incurred See Note (iii) (below)

Notes:

(i) If the Grower is registered or required to be registered for GST, amounts of outgoing would need to be adjusted as relevant for GST (e.g. input tax credits): Division 27. See example at paragraph 110.

(ii) The planting and maintenance fees and the licence fees shown in the Plantation and Maintenance Agreement and the Farming Agreement are deductible in full in the year that they are incurred. However, if a Grower **chooses** to prepay fees for the doing of a thing (e.g., the provision of management services or the licensing of land) that will not be wholly done in the income year the fees are incurred, the prepayment rules of the ITAA 1936 may apply to apportion those fees. In such cases, the tax deduction for the prepaid fee must be determined using the formula shown in paragraph 86 unless the expenditure is 'excluded expenditure'. 'Excluded expenditure' is an 'exception' to the prepayment rules and is deductible in full in the year in which it is incurred. For the purpose of this Ruling 'excluded expenditure' refers to an amount of expenditure of less than $1,000.

(iii) The deductibility or otherwise of interest arising from loan agreements entered into with financiers other than QPFL, the internal financier, is outside the scope of this Ruling. However all Growers, including those who finance their participation in the Project other than with

QPFL, should read the discussion of the prepayment rules in paragraphs 80 to 94 (below) as those rules may be applicable if interest is prepaid. Subject to the 'excluded expenditure' exception, the prepayment rules apply whether the prepayment is required under the relevant loan agreement or is at the Grower's choice.

40. A Grower who is not an 'STS taxpayer', and who is accepted into the Project between 1 July 2002 and 30 June 2003, may claim tax deductions for the following revenue expenses:

Fee Type	**ITAA 1997 Section**	**Year ended 30 June 2003**	**Year ended 30 June 2004**
Planting and MaintenanceFee	8-1	$5,329 – See Notes (i) & (ii) (above)	$231 – See Notes (i) & (ii) (above)
Licence Fee (Rent)	8-1	$165 – See Notes (i) & (ii) (above)	$165 (indexed)– See Notes (i) & (ii) (above)
Interest	8-1	As incurred See Note (iii) (above)	As incurred See Note (iii) (above)

Tax outcomes for Growers who are 'STS taxpayers'

Assessable Income

Section 6-5

41. That part of the gross sales proceeds from the Project attributable to the Grower's produce, less any GST payable on those proceeds (section 17-5), will be assessable income of the Grower under section 6-5.

42. The Grower recognises ordinary income from carrying on the business of afforestation at the time the income is received (paragraph 328-105(1)(a)).

Deductions for planting and maintenance fees, licence fees, and interest

Section 8-1 and section 328-105

43. A Grower who is an 'STS taxpayer', and who is accepted into the Project by 31 May 2002 (no interests in Woodlots will be issued from 1 June 2002 to 30 June 2002), may claim tax deductions for the following revenue expenses:

Fee Type	ITAA 1997 Sections	Year ended 30 June 2002	Year ended 30 June 2003	Year ended 30 June 2004
Planting and Maintenance Fee	8-1 & 328-105	$5,329 – See Notes (iv), (v) & (vi) (below)	$231 – See Notes (iv), (v) & (vi) (below)	$231 (indexed)– See Notes (iv), (v) & (vi) (below)
Licence Fee (Rent)	8-1 & 328-105	$165 – See Notes (iv), (v) & (vi) (below)	$165 (indexed)– See Notes (iv), (v) & (vi) (below)	Previous year's fee (indexed)– See Notes (iv), (v) & (vi) (below)
Interest	8-1 & 328-105	When paid - See Notes (v) & (vii) (below)	When paid - See Notes (v) & (vii) (below)	When paid - See Notes (v) & (vii) (below)

Notes:

(iv) If the Grower is registered or required to be registered for GST, amounts of outgoing would need to be adjusted as relevant for GST (e.g. input tax credits): Division 27. See example at paragraph 110.

(v) If, for any reason, an amount shown in the Table above is not fully paid in the year in which it is incurred by a Grower who is an 'STS taxpayer' then the amount is only deductible to the extent to which it has been paid, or has been paid for the Grower. Any amount or part of an amount shown in the Table above which is not paid in the year in which it is incurred will be deductible in the year in which it is actually paid.

(vi) Where a Grower who is an 'STS taxpayer', pays the management fees and the rent in the relevant income years shown in the Plantation and Maintenance Agreement and the Farming Agreement, those fees are deductible in full in the year that they are paid. However, if a Grower **chooses** to prepay fees for the doing of a thing (e.g. the provision of management services or the licensing of land) that will not be wholly done in the income year the fees are incurred, the prepayment rules of the ITAA may apply to apportion those fees. In such cases, the tax deduction for the prepaid fee must be determined using the formula shown in paragraph 86, unless the expenditure is 'excluded expenditure'. 'Excluded expenditure' is an

'exception' to the prepayment rules, and is deductible in full in the year in which it is incurred. For the purpose of this Ruling 'excluded expenditure' refers to an amount of expenditure of less than $1,000.

(vii) The deductibility or otherwise of interest arising from loan agreements entered into with financiers other than QPFL, the internal financier, is outside the scope of this Ruling. However all Growers, including those who finance their participation in the Project other than with QPFL, should read the discussion of the prepayment rules in paragraph 80 to 94 (below) as those rules may be applicable if interest is prepaid. Subject to the 'excluded expenditure' exception, the prepayment rules apply whether the prepayment is required under the relevant loan agreement or is at the Grower's choice.

44. A Grower who is an 'STS taxpayer', and who is accepted into the Project between 1 July 2002 and 30 June 2003, may claim tax deductions for the following revenue expenses:

Fee Type	**ITAA 1997 Sections**	**Year ended 30 June 2003**	**Year ended 30 June 3004**
Planting and MaintenanceFee	8-1 & 328-105	$5,329 – See Notes (iv), (v) & (vi) (above)	$231 – See Notes (iv), (v) & (vi) (above)
Licence Fee (Rent)	8-1 & 328-105	$165 – See Notes (iv), (v) & (vi) (above)	$165 (indexed)– See Notes (iv), (v) & (vi) (above)
Interest	8-1 & 328-105	When paid - See Notes (v) & (vii) (above)	When paid - See Notes (v) & (vii) (above)

Tax outcomes that apply to all Growers

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

Section 35-55 – Commissioner's discretion

45. For a Grower who is an individual and who enters the Project during the year ended 30 June 2002 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 will decide for the income years ending 30 June 2002 to 30 June 2010 that the rule in section 35-10 does not apply to this activity provided that the Project is carried out in the manner described in this Ruling.

Similarly, for a Grower who enters the Project during the year ended 30 June 2003, the Commissioner will decide for the income years ending 30 June 2003 to 30 June 2011 that the rule in section 35-10 does not apply to this activity provided that the Project is carried out in the manner described in this Ruling.

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

- the 'exception' in subsection 35-10(4) applies (see paragraph 99 in the Explanations part of this ruling, below); or
- a Grower's business activity satisfies one of the objective tests in sections 35-30, 35-35, 35-40 or 35-45; or
- the Grower's business activity produces assessable income for an income year greater than the deductions attributable to it for that year (apart from the operation of subsection 35-10(2)); or
- the Commissioner is precluded from exercising the discretion under paragraph 35-55(1)(b) because of subsection 35-55(2).

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

48. Growers are reminded of the important statement made on Page 1 of this Product Ruling. Therefore, Growers 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 commercially viable. An assessment of the Project or the product from this perspective has not been made.

Sections 82KZME – 82KZMF, 82KL, and Part IVA

49. For a Grower who participates in the Project and incurs expenditure as required by the Plantation and Maintenance Agreement and the Farming Agreement the following provisions of the ITAA 1936 have application as indicated:

- expenditure by a Grower does not fall within the scope of sections 82KZME-82KZMF (but see paragraphs 80 to 94);
- section 82KL does not apply to deny the deductions otherwise allowable; and
- the relevant provisions in Part IVA will not be applied to cancel a tax benefit obtained under a tax law dealt with in this Ruling.

Explanations

Is the Grower carrying on a business?

50. For the amounts set out in the Tables above to constitute allowable deductions the Grower's afforestation activities as a participant in the Queensland Paulownia Forests Project No 6 must amount to the carrying on of a business of primary production.

51. Where there is a business, or a future business, the gross proceeds from the sale of the timber will constitute gross assessable income in their own right. The generation of 'business income' from such a business, or future business, provides the backdrop against which to judge whether the outgoings in question have the requisite connection with the operations that more directly gain or produce this income.

52. For schemes such as that of the Queensland Paulownia Forests Project No 6, Taxation Ruling TR 2000/8 sets out in paragraph 91 the circumstances in which the Grower's activities can constitute the carrying on of a business. As Taxation Ruling TR 2000/8 sets out, these circumstances have been established in court decisions such as *FCT v Lau* 84 ATC 4929, (1984) 16 ATR 55.

53. Generally, a Grower will be carrying on a business of afforestation, and hence primary production, if:

- the Grower has an identifiable interest (by licence) in the land on which the Grower's trees are established;
- the Grower has a right to harvest and sell the timber from those trees;
- the afforestation activities are carried out on the Grower's behalf;
- the afforestation activities of the Grower are typical of those associated with an afforestation business; and
- the weight and influence of general indicators point to the carrying on of a business.

54. In this Project, each Grower enters into a Plantation and Maintenance Agreement and a Farming Agreement.

55. Under the Farming Agreement each individual Grower will have rights over a specific and identifiable area of land. The Farming Agreement provides the Grower with an ongoing interest in the specific trees on the licensed area for the term of the Project. Under the licence the Grower must use the land in question for the purpose of carrying out afforestation activities, and for no other purpose. The licence allows the Responsible Entity to come onto the land to carry out its obligations under the Plantation and Maintenance Agreement.

56. Under the Plantation and Maintenance Agreement the Responsible Entity is engaged by the Grower to establish and maintain a woodlot on the Grower's identifiable area of land during the term of the Project. The Responsible Entity has provided evidence that it holds the appropriate professional skills and credentials to provide the management services to establish and maintain the woodlot on the Grower's behalf.

57. The Responsible Entity is also engaged to harvest and sell, on the Grower's behalf, the timber grown on the Grower's woodlot.

58. The general indicators of a business, as used by the Courts, are described in Taxation Ruling TR 97/11. Positive findings can be made from the Project's description for all the indicators.

59. The activities that will be regularly carried out during the term of the Project demonstrate a significant commercial purpose. Based on reasonable projections, a Grower in the Project will derive assessable income from the sale of the timber that will return a before-tax profit, i.e., a profit in cash terms that does not depend in its calculation on the fees in question being allowed as a deduction.

60. The pooling of timber grown on the Grower's woodlot with the timber of other Growers is consistent with general afforestation practices. Each Grower's proportionate share of the sale proceeds of the pooled timber will reflect the proportion of the trees contributed from their woodlot.

61. The Responsible Entity's services are also consistent with general silvicultural practices. They are of the type ordinarily found in afforestation ventures that would commonly be said to be businesses. While the size of a woodlot is relatively small, it is of a size and scale to allow it to be commercially viable (see Taxation Ruling IT 360).

62. The Grower's degree of control over the Responsible Entity as evidenced by the Plantation and Maintenance Agreement, and supplemented by the Corporations Act, is sufficient. During the term of the Project, the Manager will provide the Grower with regular progress reports on the Grower's woodlot and the activities carried out

on the Grower's behalf. Growers are able to terminate arrangements with the Responsible Entity in certain instances, such as cases of default or neglect.

63. The afforestation activities, and hence the fees associated with their procurement, are consistent with an intention to commence regular activities that have an 'air of permanence' about them. For the purposes of this Ruling, the Growers' afforestation activities in the Queensland Paulownia Forests Project No 6 will constitute the carrying on of a business.

The Simplified Tax System

Division 328

64. Subdivision 328-F sets out the eligibility requirements that a Grower must satisfy in order to enter the STS and Subdivision 328-G sets out the rules for entering and leaving the STS.

65. The question of whether a Grower is eligible to be an 'STS taxpayer' is outside the scope of this Product Ruling. Therefore, any Grower who relies on those parts of this Ruling that refer to the STS will be assumed to have correctly determined whether or not they are eligible to be an 'STS taxpayer'.

Deductibility of planting and maintenance fees and licence fees

Section 8-1

66. Consideration of whether the initial planting and maintenance fees and licence fees are deductible under section 8-1 begins with the first limb of the section. This view proceeds on the following basis:

- the outgoing in question must have a sufficient connection with the operations or activities that directly gain or produce the taxpayer's assessable income;
- the outgoings are not deductible under the second limb if they are incurred when the business has not commenced; and
- where all that happens in a year of income is that a taxpayer is contractually committed to a venture that may not turn out to be a business, there can be doubt about whether the relevant business has commenced, and hence, whether the second limb applies. However, that does not preclude the application of the first limb in determining whether the outgoing in question has a sufficient connection with activities to produce assessable income.

67. The planting and maintenance fees and licence fees associated with the afforestation activities will relate to the gaining of income from the Grower's business of afforestation (see above), and hence have a sufficient connection to the operations by which income (from the harvesting and sale of timber) is to be gained from this business. They will thus be deductible under the first limb of section 8-1. Further, no 'non-income producing' purpose in incurring the fee is identifiable from the arrangement. The fee appears to be reasonable. There is no capital component of the planting and maintenance fee. The tests of deductibility under the first limb of section 8-1 are met. The exclusions do not apply.

Possible application of prepayment provisions

68. Under the Plantation and Maintenance Agreement and the Farming Agreement neither the planting and maintenance fees nor the licence fees are for things to be done beyond 30 June in the year in which the relevant amounts are incurred. In these circumstances, the prepayment provisions in sections 82KZME and 82KZMF have no application to these fees.

69. However, where a Grower **chooses** to prepay these fees for a period beyond the income year in which the expenditure is incurred, the prepayment provisions (see paragraphs 80 to 94) will apply to determine the amount and timing of the deductions regardless of whether the Grower is an 'STS taxpayer' or not. These provisions apply to 'STS taxpayers' because there is no specific exclusion contained in section 82KZME that excludes 'STS taxpayers' from the operation of section 82KZMF. This is subject to the 'excluded expenditure' exception. For the purpose of this Ruling 'excluded expenditure' refers to an amount of expenditure of less than $1,000.

Timing of *deductions*

70. In the absence of any application of the prepayment provisions, the timing of deductions for the planting and maintenance fees or the licence fees will depend upon whether a Grower is an 'STS taxpayer' or is not an 'STS taxpayer'.

71. If the Grower is not an 'STS taxpayer', the planting and maintenance fees and the licence fees are deductible in the year in which they are incurred.

72. If the Grower is an 'STS taxpayer' the planting and maintenance fees and the licence fees are deductible in the income year in which they are paid, or are paid for the Grower (paragraph 328-105(1)(b)). If any amount that is properly incurred in an income year remains unpaid at the end of that income year, the unpaid amount

is deductible in the income year in which it is actually paid or is paid for the Grower.

Interest deductibility

Section 8-1

(i) Growers who use QPFL as the finance provider

73. Some Growers may finance their participation in the Project through a loan facility with QPFL. Whether the resulting interest costs are deductible under section 8-1 depends on the same reasoning as that applied to the deductibility of licence fees and planting and maintenance fees.

74. The interest incurred for the year ended 30 June 2002 and in subsequent years of income will be in respect of a loan to finance the Grower's business operations - the cultivation and growing of trees and the licensing of the land on which the trees will have been planted - that will continue to be directly connected with the gaining of 'business income' from the Project. Such interest will, therefore, have a sufficient connection with the gaining of assessable income to be deductible under section 8-1.

75. As with the planting and maintenance fees and the licence fees, in the absence of any application of the prepayment provisions (see paragraphs 80 to 94), the timing of deductions for interest will again depend upon whether a Grower is an 'STS taxpayer' or is not an 'STS taxpayer'.

76. If the Grower is not an 'STS taxpayer', interest is deductible in the year in which it is incurred.

77. If the Grower is an 'STS taxpayer' interest is not deductible until it has been both incurred and paid, or is paid for the Grower. If interest that is properly incurred in an income year remains unpaid at the end of that income year, the unpaid amount is deductible in the income year in which it is actually paid, or is paid for the Grower.

(ii) Growers who DO NOT use QPFL as the finance provider

78. The deductibility of interest incurred by Growers who finance their participation in the Project through a loan facility with a bank or financier other than QPFL is outside the scope of this Ruling. Product Rulings only deal with arrangements where all details and documentation have been provided to, and examined by the Tax Office.

79. While the terms of any finance agreement entered into between relevant Growers and such financiers are subject to commercial negotiation, those agreements may require interest to be

prepaid. Alternatively, a Grower may choose to prepay such interest. Unless such prepaid interest is 'excluded expenditure' any tax deduction that is allowable will be subject to the prepayment provisions of the ITAA 1936 (see paragraphs 80 to 94).

Prepayment provisions

Sections 82KZL to 82KZMF

80. The prepayment provisions contained in Subdivision H of Division 3 of Part III of the ITAA 1936 affect the timing of deductions for certain prepaid expenditure. These provisions apply to certain expenditure incurred under an agreement in return for the doing of a thing under the agreement (eg. the performance of management services or the licensing of land) that will not be wholly done within the same year of income as the year in which the expenditure is incurred. If expenditure is incurred to cover the provision of services to be provided within the same year, then it is not expenditure to which the prepayment rules apply.

81. For this Project only section 82KZL (an interpretative provision) and sections 82KZME and 82KZMF are relevant. Where the requirements of sections 82KZME and 82KZMF are met, taxpayers determine deductions for prepaid expenditure under section 82KZMF using the formula in subsection 82KZMF(1). These provisions also apply to 'STS taxpayers' because there is no specific exclusion contained in section 82KZME that excludes 'STS taxpayers' from the operation of section 82KZMF.

Sections 82KZME and 82KZMF

82. Where the requirements of subsections 82KZME(2) and (3) are met, the formula in subsection 82KZMF(1) (see below) will apply to apportion expenditure that is otherwise deductible under section 8-1. The requirements of subsection 82KZME(2) will be met if expenditure is incurred by a taxpayer in return for the doing of a thing that is not to be wholly done within the year the expenditure is made. The year in which such expenditure is incurred is called the 'expenditure year' (subsection 82KZME(1)).

83. The requirements of subsection 82KZME(3) will be met where the agreement (or arrangement) has the following characteristics:

- the taxpayer's allowable deductions under the agreement for the 'expenditure year' exceed any assessable income attributable to the agreement for that year; and

- the taxpayer does not have effective day to day control over the operation of the agreement. That is, the significant aspects of the arrangement are managed by someone other than the taxpayer; and
- either:
  - (a) there is more than one participant in the agreement in the same capacity as the taxpayer; or
  - (b) the person who promotes, arranges or manages the agreement (or an associate of that person) promotes similar agreements for other taxpayers.

84. For the purpose of these provisions, the agreement includes all activities that relate to the agreement (subsection 82KZME(4)). This has particular relevance for a Grower in this Project who, in order to participate in the Project may borrow funds from a financier other than QPFL. Although undertaken with an unrelated party, that financing would be an element of the arrangement. The funds borrowed and the interest deduction are directly related to the activities under the arrangement. If a Grower prepays interest under such financing arrangements, the deductions allowable will be subject to apportionment under section 82KZMF.

85. There are a number of exceptions to these rules, but for Growers participating in this Project, only the 'excluded expenditure' exception in subsection 82KZME(7) is relevant. 'Excluded expenditure' is defined in subsection 82KZL(1). However, for the purposes of Growers in this Project, 'excluded expenditure' is prepaid expenditure incurred under the arrangement that is less than $1,000. Such expenditure is immediately deductible.

86. Where the requirements of section 82KZME are met, section 82KZMF applies to apportion relevant prepaid expenditure. Section 82KZMF uses the formula below, to apportion prepaid expenditure and allow a deduction over the period that the benefits are provided.

$$\text{Expenditure} \times \frac{\text{Number of days of eligible service period in the year of income}}{\text{Total number of days of eligible service period}}$$

87. In the formula 'eligible service period' (defined in subsection 82KZL(1)) means, the period during which the thing under the agreement is to be done. The eligible service period begins on the day on which the thing under the agreement commences to be done or on the day on which the expenditure is incurred, whichever is the later, and ends on the last day on which the thing under the agreement ceases to be done, up to a maximum of 10 years.

Application of the prepayment provisions to this Project

88. In this Project, an initial planting and maintenance fee of $5,329 and an initial licence fee of $165 per woodlot will be incurred on execution of the Plantation and Maintenance Agreement and the Farming Agreement. The planting and maintenance fee and the licence fee are charged for providing management services or licensing land to a Grower by 30 June of the year of execution of the Agreements. Under the Agreements, further annual expenditure is required each year during the term of the Project for the provision of management services and land until 30 June in those years.

89. In particular, the planting and maintenance fee is expressly stated to be for a number of specified services. No explicit conclusion can be drawn from the description of the arrangement that the initial planting and maintenance fee has been inflated to result in reduced fees being payable for maintenance in subsequent years.

90. There is also no evidence that might suggest the management services covered by the fee could not be provided within the relevant expenditure year. Thus, for the purposes of this Ruling, it can be accepted that no part of the initial planting and maintenance fee, and the fees for subsequent years, is for the Responsible Entity doing 'things' that are not to be wholly done within the expenditure year. Under the Farming Agreement, licence fees are payable annually in advance for the licensing of the land during the expenditure year.

91. On this basis, provided a Grower incurs expenditure as required under the Project agreements, as set out in paragraphs 25 and 26, then the basic precondition in subsection 82KZME(2) is not satisfied and, in these circumstances, section 82KZMF will have no application.

*Growers who **choose** to pay fees for a period in excess of that required by the Project's agreements*

92. Although not required under either the Plantation and Maintenance Agreement, the Farming Agreement, or the Loan Agreement with QPFL, a Grower participating in the Project may **choose** to prepay fees/interest for a period beyond the 'expenditure year'. Similarly, Growers who use financiers other than QPFL may either choose, or be required to prepay interest. Where this occurs, contrary to the conclusion reached in paragraph 91 above, section 82KZMF will apply to apportion the expenditure and allow a deduction over the period in which the prepaid benefits are provided.

93. For these Growers, the amount and timing of deductions for any relevant prepaid planting and maintenance fees, prepaid licence

fees, or prepaid interest will depend upon when the respective amounts are incurred and what the 'eligible service period' is in relation to these amounts.

94. However, as noted above, prepaid fees of less than $1,000 incurred in an expenditure year will be 'excluded expenditure' and will be not subject to apportionment under section 82KZMF.

Deferral of losses from non-commercial business activities

Division 35

95. Under the rule in subsection 35-10(2) a deduction for a loss incurred by an individual from certain business activities will not be allowable in an income year unless:

- the 'Exception' in subsection 35-10(4) applies;
- one of four objective tests in sections 35-30, 35-35, 35-40 or 35-45 is met; or
- if one of the objective tests is not satisfied, the Commissioner exercises the discretion in section 35-55.

96. Generally, a loss in this context is, for the income year in question, the excess of an individual taxpayer's allowable deductions attributable to the business activity over that taxpayer's assessable income from the business activity.

97. Losses that cannot be taken into account in a particular year of income, because of subsection 35-10(2), can be applied to the extent of future profits from the business activity, or are deferred until one of the tests is passed, the discretion is exercised, or the exception applies.

98. For the purposes of applying Division 35, subsection 35-10(3) allows taxpayers to group business activities 'of a similar kind'. Under subsection 35-10(4), there is an 'exception' to the general rule in subsection 35-10(2) where the loss is from a primary production business activity and the individual taxpayer has other assessable income for the income year from sources not related to that activity, of less than $40,000 (excluding any net capital gain). As both subsections relate to the individual circumstances of Growers who participate in the Project they are beyond the scope of this Product Ruling and are not considered further.

99. In broad terms, the tests require:

(a) at least $20,000 of assessable income in that year from the business activity (section 35-30);

(b) the business activity results in a taxation profit in 3 of the past 5 income years (including the current year)(section 35-35);

(c) at least $500,000 of real property, or an interest in real property, (excluding any private dwelling) is used on a continuing basis in carrying on the business activity in that year (section 35-40); or

(d) at least $100,000 of certain other assets (excluding cars, motor cycles and similar vehicles) are used on a continuing basis in carrying on the business activity in that year (section 35-45).

100. A Grower who participates in the Project will be carrying on a business activity that is subject to these provisions. Information provided with the application for this Product Ruling indicates that a Grower who acquires the minimum allocation of 2 woodlots in the Project in the year ended 30 June 2002 is unlikely to have their activity pass one of the objective tests until the income year ended 30 June 2011. Similarly, a Grower who acquires the minimum allocation of 2 woodlots in the Project in the year ended 30 June 2003 is unlikely to have their activity pass one of the objective tests until the income year ended 30 June 2012. Growers who acquire more than one interest in the Project may however, find that their activity meets one of the tests in an earlier income year.

101. Therefore, prior to this time, unless the Commissioner exercises an arm of the discretion under paragraphs 35-55(1)(a) or (b), the rule in subsection 35-10(2) will apply to defer to a future income year any loss that arises from the Grower's participation in the Project.

102. The first arm of the discretion in paragraph 35-55(1)(a) relates to 'special circumstances' applicable to the business activity, and has no relevance for the purposes of this Product Ruling. However, the second arm of the discretion in paragraph 35-55(1)(b) may be exercised by the Commissioner where:

(i) the business activity has started to be carried on;

(ii) because of its nature, it has not satisfied one of the objective tests; and

(iii) there is an objective expectation that the business activity of an individual taxpayer will either pass one of the objective tests or produce a taxation profit within a period that is commercially viable for the industry concerned.

103. Information provided with this Product Ruling indicates that a Grower who acquires the minimum investment of 2 woodlots in the Project is expected to be carrying on a business activity that will either pass one of the objective tests, or produce a taxation profit, for the year ended 30 June 2011. The Commissioner will decide for such a Grower that it would be reasonable to exercise the second arm of the discretion until the year ended 30 June 2010. Similarly, a Grower

who acquires the minimum allocation of 2 woodlots in the Project in the year ended 30 June 2003 is expected to be carrying on a business activity that will either pass one of the objective tests, or produce a taxation profit, for the year ended 30 June 2012. The Commissioner will decide for such a Grower that it would be reasonable to exercise the second arm of the discretion until the year ended 30 June 2011. Subsection 35-55(2) prevents the Commissioner exercising the discretion beyond this year.

104. This Product Ruling is issued on a prospective basis (ie, before an individual Grower's business activity starts to be carried on). The Project, however, may fail to be carried on during the income years specified above (see paragraph 45), in the manner described in the Arrangement (see paragraphs 14 to 32). If so, this Ruling, and specifically the decision in relation to paragraph 35-55(1)(b), that it would be unreasonable that the loss deferral rule in subsection 35-10(2) not apply, may be affected, because the Ruling no longer applies (see paragraph 9). Growers may need to apply for private rulings on how paragraph 35-55(1)(b) will apply in such changed circumstances.

105. In deciding that the second arm of the discretion in paragraph 35-55(1)(b) will be exercised on this conditional basis, the Commissioner has relied upon:

- the report of the independent forester, the independent marketing consultant and additional expert evidence provided with the application by QPFL;
- independent, objective, and generally available information relating to the afforestation industry which substantially supports cash flow projections and other claims, including prices and costs, in the Product Ruling application submitted by QPFL.

Section 82KL - recouped expenditure

106. The operation of section 82KL depends, among other things, on the identification of a certain quantum of 'additional benefits(s)'. Insufficient 'additional benefits' will be provided to trigger the application of section 82KL. It will not apply to deny the deduction otherwise allowable under section 8-1.

Part IVA - general tax avoidance provisions

107. For Part IVA to apply there must be a 'scheme' (section 177A), a 'tax benefit' (section 177C) and a dominant purpose of entering into the scheme to obtain a tax benefit (section 177D).

108. The Queensland Paulownia Forests Project No 6 will be a 'scheme'. A Grower will obtain a 'tax benefit' from entering into the scheme, in the form of tax deductions for the amounts detailed at paragraphs 39, 40 43 and 44 that would not have been obtained but for the scheme. However, it is not possible to conclude the scheme will be entered into or carried out with the dominant purpose of obtaining this tax benefit.

109. Growers to whom this Ruling applies intend to stay in the scheme for its full term and derive assessable income from the harvesting and sale of the timber. There are no facts that would suggest that Growers have the opportunity of obtaining a tax advantage other than the tax advantages identified in this Ruling. There is no non-recourse financing or round robin characteristics, and no indication that the parties are not dealing at arm's length or, if any parties are not dealing at arm's length, that any adverse tax consequences result. Further, having regard to the factors to be considered under paragraph 177D(b) it cannot be concluded, on the information available, that participants will enter into the scheme for the dominant purpose of obtaining a tax benefit.

Example

Entitlement to GST input tax credits

110. Susan, who is a sole trader and registered for GST, contracts with a manager to manage her viticulture business. Her manager is registered for GST and charges her a management fee payable every six months in advance. On 1 December 2001 Susan receives a valid tax invoice from her manager requesting payment of a management fee in advance, and also requesting payment for an improvement in the connection of electricity for her vineyard that she contracted him to carry out. The tax invoice includes the following details:

Management fee for period 1/1/2002 to 30/6/2002	$4 400*
Carrying out of upgrade of power for your vineyard as quoted	$2 200*
Total due and payable by 1 January 2002 (includes GST of $600)	$6 600

*Taxable supply

Susan pays the invoice by the due date and calculates her input tax credit on the management fee (to be claimed through her Business Activity Statement) as:

1/11 x $4400 = $400.

Hence her outgoing for the management fee is effectively $4400 *less* $400, or $4000.

Similarly, Susan calculates her input tax credit on the connection of electricity as:

1/11 x $2200 = $200.

Hence her outgoing for the power upgrade is effectively $2200 *less* $200, or $2000.

In preparing her income tax return for the year ended 30 June 2002, Susan is aware that the management fee is deductible in the year incurred. She calculates her management fee deduction as $4000 (not $4400).

Susan is aware that the electricity upgrade is deductible 10% per year over a 10 year period. She calculates her deduction for the power upgrade as $200 (one tenth of $2000 only, not one tenth of $2200).

Detailed contents list

111. Below is a detailed table of contents list for this Ruling:

Commissioner of Taxation
19 December 2001

Previous draft:
Not previously issued in draft form

Related Rulings/Determinations:
PR 1999/95; TR 92/1; TR 92/20; TR 97/11; TR 97/16; TR 98/22; TR 2000/8; TD 93/34; IT 360

Subject references:
- afforestation expenses
- carrying on a business
- commencement of business
- management fees expenses
- product rulings
- public rulings
- producing assessable income
- schemes and shams
- tax avoidance
- tax benefits under tax avoidance schemes
- tax shelters
- tax shelters project
- taxation administration

Legislative references:
- ITAA 1936 82KL
- ITAA 1936 82KZL
- ITAA 1936 82KZL(1)
- ITAA 1936 82KZME
- ITAA 1936 82KZME(1)
- ITAA 1936 82KZME(2)
- ITAA 1936 82KZME(3)
- ITAA 1936 82KZME(4)
- ITAA 1936 82KZME(7)
- ITAA 1936 82KZMF
- ITAA 1936 82KZMF(1)
- ITAA 1936 177A
- ITAA 1936 177C
- ITAA 1936 177D
- ITAA 1936 Pt IVA
- ITAA 1936 Pt III, Div 3, SubDiv H
- ITAA 1997 6-5
- ITAA 1997 8-1
- ITAA 1997 17-5
- ITAA 1997 Div 27
- ITAA 1997 Div 35
- ITAA 1997 35-10
- ITAA 1997 35-10(2)
- ITAA 1997 35-10(3)
- ITAA 1997 35-10(4)
- ITAA 1997 35-30
- ITAA 1997 35-35
- ITAA 1997 35-40
- ITAA 1997 35-45
- ITAA 1997 35-55
- ITAA 1997 35-55(1)
- ITAA 1997 35-55(1)(a)
- ITAA 1997 35-55(1)(b)
- ITAA 1997 35-55(2)
- ITAA 1997 Div 328
- ITAA 1997 328-105
- ITAA 1997 328-105(1)(a)
- ITAA 1997 328-105(1)(b)

Case references:
- FCT v. Lau 84 ATC 4929; (1984) 16 ATR 55

ATO references:
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