PR 2001/27 - Income tax: Settlement 22 Managed Investment Scheme

Product Ruling
Income tax: Settlement 22 Managed Investment Scheme

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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 Rulings**, **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 as an investment. 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 investors 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 the investment fits an existing portfolio, etc. We recommend a financial (or other) adviser be consulted for such information.

This Product Ruling provides certainty for potential investors 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, investors lose the protection of this Product Ruling. Potential investors may wish to seek assurances from the promoter that the arrangement will be carried out as described in this Product Ruling.

Potential investors 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 law(s)' identified below apply to the defined class of persons who take part in the arrangement to which this Ruling relates. In this Ruling this arrangement is sometimes referred to as the Settlement 22 Managed Investment Scheme, or just simply as 'the Project'.

Tax law(s)

2. The tax law(s) 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);
- section 42-15 (ITAA 1997);
- section 42-125 (ITAA 1997);
- section 387-125 (ITAA 1997);
- section 387-165 (ITAA 1997);
- Part 2-25 (ITAA 1997);
- section 82KL of the *Income Tax Assessment Act 1936* ('ITAA 1936');
- section 82KZL (ITAA 1936);
- section 82KZM (ITAA 1936);
- sections 82KZMA - 82KZMD (ITAA 1936);
- section 82KZME – 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.

Business Tax Reform

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 laws enacted at the time it was issued, future tax changes may affect the operation of those laws and, in particular, the tax deductions that are allowable. Where tax laws change, those changes will take precedence over the application of this Ruling, and to that extent, this Ruling will be superseded.

5. Taxpayers who are considering investing 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 investors in projects such as this. In keeping with that intention, the Tax Office suggests that promoters and advisers ensure that potential investors are fully informed of any changes in tax laws that take place after the Ruling is issued. Such action should minimise suggestions that potential investors have been negligently or otherwise misled

Class of persons

7. The class of persons to whom this Ruling applies is those who enter into the arrangement described 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 as set out in the description of the arrangement. 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 arrangements identified in this Ruling. If the arrangements described in the Ruling are materially different from the arrangements that are actually carried out:

- the Ruling has no binding effect on the Commissioner, as the arrangements entered into are not the arrangements ruled upon; and
- the Ruling will be withdrawn or modified.

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Date of effect

11. This Ruling applies prospectively from 28 March 2001, the date the 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 the private ruling if the income year to which the private ruling relates has ended, or has commenced but not yet ended. However, if the arrangement covered by the private ruling has not begun to be carried out, and the income year to which it relates has not yet commenced, the Product 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 2003. The Ruling continues to apply, in respect of the tax law(s) ruled upon, to all persons within the specified class who enter into the specified arrangement during the term of the Ruling. 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 persons' involvement in the arrangement.

Previous Ruling

14. This Ruling applies to the Project that was ruled on in Product Ruling PR 2001/8. PR 2001/8 is withdrawn on and from the date this Ruling is made.

Arrangement

15. The arrangement that is the subject of this Ruling is described below. This description incorporates the following documents:

- Application for Product Ruling dated 14 January 2000;
- The Settlement 22 Managed Investment Scheme Prospectus, dated 12 July 2000;
- First Supplementary Prospectus dated 1 November 2000;
- Second Supplementary Prospectus dated 31 January 2001;
- Third Supplementary Prospectus 21 February 2001;
- Draft Lease and Licence Agreement between Settlement 22 Estate Ltd (the Lessor) and Settlement 22 Management Ltd (the Lessee), undated;
- **Draft Constitution for the Settlement 22 Managed Investment Scheme between Settlement 22 Management Ltd (the 'Responsible Entity') and the members of the Managed Investment Scheme (the 'Members'), undated**;
- **Draft Lease and Management Agreement between Settlement 22 Management Ltd (the 'Manager'), Settlement 22 Estate Ltd (the 'Lessor') and the Member (the 'Grower'), undated;**
- Draft Compliance Plan for the Settlement 22 Managed Investment Scheme, undated and;
- Additional correspondence dated 17 March 2000, 15 May 2000, 26 May 2000, 12 June 2000, 16 June 2000, 22 June 2000, 30 June 2000, 3 July 2000, 11 December 2000, 3 January 2001 and 23 February 2001.

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

16. The documents highlighted are those the 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 the Grower, will be a party to, with the exception of finance agreements to which paragraphs 39 and 40 apply. The effect of these agreements is summarised as follows.

Overview

17. These arrangements are called the Settlement 22 Managed Investment Scheme Project.

Location	Rosa Brook region, about 15km east of Margaret River in Western Australia.
Type of business each participant is carrying on	A commercial viticulture, wine production and marketing business
Number of hectares to be cultivated	113 hectares
Name used to describe the product	Settlement 22 Managed Investment Scheme
Size of each Vineyard Allotment	0.05 hectares
Expected production	9-10 tonnes of grapes per hectare by the year 2006
The term of the investment in years	Approx 16 years
Initial cost	$13,915 over 3 years, of which $6,084.10 payable in the first year
Initial cost per hectare	$121,682 in the 1st year
Ongoing costs	Annual Fees and Rent

18. The Project allows members to participate in the ownership and/or operation of a fully integrated wine production and marketing business. This will comprise a vineyard and winery located in the Rosa Brook region in the South West of Western Australia. Settlement 22 Estate Ltd will be the land owning company which will

also own the winery complex and the brandnames and trademarks. Settlement 22 Management Ltd will manage the operations of the Managed Investment Scheme.

19. Investors applying under the Prospectus have a choice of investing in the Managed Investment Scheme so as to become Growers, and/or buying shares in the land owning company, Settlement 22 Estate Ltd. An investor can choose to invest in either or both. The minimum holding is one Vineyard Allotment or a parcel of 2,035 shares in Settlement 22 Estate Ltd. The cost of participation is $13,915 over the first 3 years per Vineyard Allotment and/or $3,663 per parcel of 2,035 shares.

20. Investors who invest in the Managed Investment Scheme enter into a Lease and Management Agreement with the Manager, Settlement 22 Management Ltd, and the Lessor, Settlement 22 Estate Ltd. Under this Agreement, the Lessor agrees to lease to a Grower an identifiable area of land called a 'Vineyard Allotment' on which the Grower will grow grapes by engaging the Manager to undertake a range of services. Each Vineyard Allotment is 0.05 hectares in size. The Grower will also undertake wine production and marketing activities through the Manager.

21. The Prospectus seeks a minimum subscription of 384 Vineyard Allotments and 781,440 shares in the property owning company. If the minimum subscription is not attained by 30 March 2001 there will not be any allotments of Vineyard Allotments or shares and all application monies will be refunded. A total of 2,260 Vineyard Allotments and 4,600,000 shares are offered for subscription. However, oversubscriptions of up to 2 million shares may be accepted by the property owning company.

22. For applications received up to 30 March 2001, the Responsible Entity will execute Agreements and perform all services as required on or before 30 June 2001.

Constitution

23. The Constitution for the project establishes a managed investment scheme to be administered by Settlement 22 Management Ltd for the benefit of the members. It sets out the terms and conditions under which the Responsible Entity agrees to act for the Growers and to manage the Project. The Lease and Management Agreement will be executed on behalf of a Grower following signing of the Application and the Power of Attorney Form in the Prospectus. Growers are bound by the Constitution and the Lease and Management Agreement by virtue of their participation in the Project.

Compliance plan

24. The Responsible Entity has prepared a Compliance Plan in accordance with the Corporations Law. Its purpose is to ensure that the Responsible Entity meets its obligations as the Responsible Entity of the Project and that the rights of the Growers are protected.

Lease and Management Agreement

25. Each Grower enters into a Lease and Management Agreement with the Manager and the Lessor. The term of the agreement is to 30 June 2016, or the later completion of the final harvest of the Grape Produce.

26. A lease is granted by Settlement 22 Estate Ltd to the Grower to use the Vineyard Allotment for the purpose of carrying on a long term viticulture project. The Grower must pay rent to the Lessor. The rent payable in the first three years is fixed, and in the fourth and following years will be an indexed amount, calculated by reference to the previous year's rent and adjusted by an inflation factor, as provided in the Agreement.

27. Under the terms of the Lease and Management Agreement each Grower also engages the Manager to undertake a number of services on behalf of the Grower in relation to the growing of grapes, producing wines and marketing activities. These include:

- Administration and management, including supervising activities, maintaining records, preparing plans, budgets and reports;
- Viticultural services, including preparing, establishing and cultivating the Vineyard Allotments, caring for the vines, harvesting and delivering the grape produce, constructing trellising and an irrigation system, keeping the Vineyard Allotments free from weeds, vermin, and pests, fire prevention and control, and so on;
- Purchasing grapes to supplement the grape produce from the Vineyard Allotments in order to meet expected wine sales targets;
- Processing the Grape Produce into wine in accordance with good commercial and wine-making practice;
- Bottling, packaging and storage;
- Marketing in accordance with the marketing strategy referred to in the Prospectus;
- Distribution and sale of the wine in accordance with strategies referred to in the Prospectus. The Manager

will endeavour to sell any Grape Produce and wine on hand at the termination date up to 36 months after that date and then distribute it in specie to Growers; and

- Arranging for insurance of the Grape Produce and wine.

28. In consideration for those services the Grower pays an Annual Fee. This fee is fixed in the first three years and in the fourth and following years will be calculated by reference to the Grower's proportion of the Manager's actual costs of performing the services.

29. Other than in the first year when fees are payable on application, the annual fees will be payable on the beginning of the financial year to which the services relate, i.e., on 1 July. From the fourth year and onwards, an Estimated Annual Fee will be payable on 1 July of the relevant financial year, calculated as provided in the Agreement. The Manager will calculate the actual Annual Fee after the end of that financial year and there will be a balancing amount credited to or payable by the Grower.

30. The Manager may at its discretion apply against any payments due from the Grower the whole or any part of the Grower's Proportional Interest in any Gross Proceeds from the previous year.

Fees

31. The Growers will make the following payments per Vineyard Allotment for the first three years, commencing during the year ended 30 June 2001:

	Year ended 30 June 2001	**Year ended 30 June 2002**	**Year ended 30 June 2003**
Annual Fee	5,903.18	5,168.45	2,284.16
Rent	180.92	186.35	191.94
Total	**6,084.10**	**5,354.80**	**2,476.10**

32. Growers will also be on-charged for some insurance premiums from the second year onwards, in respect of cover for vineyard infrastructure, vines and growing crops.

33. The first year's fees, comprising the annual fees and the rent, are payable on application. The second and third years' fees are payable on 1 July 2002 and 1 July 2003, respectively.

34. The Annual Fees payable in the first two years include some capital costs as follows:

Expenditure	Year 1	Year 2
Trellising	82.50	550.00
Water – dams, irrigation and roaded catchments	842.60	207.90
Vines and planting	-	154.00
Pre-planting, fertilising and soil amelioration	52.80	-
Soil and site preparation including ripping	51.70	-
Initial establishment costs	75.90	48.40
Totals	**1105.50**	**960.30**

35. For the years ending 30 June 2004 to 30 June 2016, Annual Fees are payable by the Grower each year for the Grower's proportion of the actual cost to the Manager of performing the services under the Lease and Management Agreement for the relevant financial year, adjusted for the inflation as provided in the Agreement.

36. Rent payments payable in the years ending 30 June 2004 to 30 June 2016 will be calculated by reference to the previous year's rent and adjusted for inflation. The inflation adjustment is undertaken by multiplying the rent by the Inflation Adjustment Factor for that year, which is calculated by dividing the CPI [Consumer Price Index Perth (All Groups)] last published before the date at which the adjustment factor is to be ascertained, by the CPI last published as close as possible to one year prior to that date.

37. The Manager will take out public risk insurance at its own cost and will use its best endeavours to obtain insurance on behalf of the Grower, and at the Grower's expense, in relation to the vineyard infrastructure, vines and growing crops.

38. Where, after 30 June 2004, the Responsible Entity sells at least 90,000 cases of wine per year, an incentive fee per case of wine sold by the Responsible Entity will be payable by the Growers.

Finance

39. All Growers are required to fund their investment in the Project themselves or borrow from an independent lender.

40. 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.

Ruling

Assessable income

41. A Grower's share of the gross sales proceeds from the Project, less any GST payable on these proceeds, will be assessable income under section 6-5. Section 17-5 excludes from assessable income an amount relating to GST payable on a taxable supply.

42. Once harvested, a Grower's grapes will be trading stock of the Grower, as will any purchased grapes, grape juice or bottled wine. As a consequence, if grapes, grape juice or bottled wine are on hand at the end of the income year, the Grower will need to account for that trading stock in accordance with the trading stock provisions in Part 2-25 of ITAA 1997.

43. Each Grower will be notified by the Manager of the respective amounts to be brought to account in proportion to their total holding in the Project, in accordance with Part 2-25 and Taxation Ruling IT 2001.

44. Any wine distributed to the Grower in specie after the end of the Project will also be assessable income.

Minimum subscription

45. A Grower will not incur the fees shown in the Tables below before the minimum subscription for the Project is reached and the Grower's application to enter the Project is accepted. Under the prospectus, a Grower's application will not be accepted and the Project will not proceed until the minimum subscription of 384 vineyard allotments and 781,440 shares is achieved. Tax deductions are not allowable until these requirements are met.

Deductions where a Grower is <u>not</u> registered nor required to be registered for GST

46. A Grower may claim tax deductions in the Table below where the Grower:

- Participates in the Project by 30 March 2001 to carry on the business of growing grapes and winemaking;
- Incurs the fees shown in paragraphs 31 to 33; and
- Is not registered nor required to be registered for GST.

Expenses	ITAA 1997 Section	Refer Note	Year 1 30/6/2001	Year 2 30/6/2002	Year 3 30/6/2003
Annual Fee	8-1	(i)	4797.68	4208.15	2284.16
Rent	8-1		180.92	186.35	191.94
Vines and planting	387-165	(ii)	nil	see note	see note
Pre-planting and soil/site preparation	387-165	(ii)	nil	see note	see note
Irrigation	387-125	(iii)	280.86	350.16	350.16
Trellising	42-15	(iv)	must be calculated	must be calculated	must be calculated

(i) Where a Grower incurs the management fees as required by the Lease and Management Agreement those fees are deductible in full in the year incurred. However, if a Grower **chooses** to prepay fees for the doing of things (e.g., the provision of management services) that will not be wholly done in the same income year as the fees are incurred, then the prepayments rules of the ITAA may apply to apportion those fees. In such cases, the tax deduction for the prepaid fee **<u>MUST</u>** be determined using the formula shown in paragraphs 113 to 116 unless the expenditure is 'excluded expenditure'. Amounts of less than $1,000 will be 'excluded expenditure'.

(ii) A deduction under section 387-165 for expenditure on the soil preparation, etc., and the acquisition and planting of the vines is calculated on the basis of the grapevines, as horticultural plants, entering their first commercial season in the year ended 30 June 2002, and a Grower determining, under section 387-175, that they have an 'effective life' for the purposes of section

387-185 of greater than 30 years. This results in a write-off rate of 7%. The Manager will advise Growers of the date that the write-off can commence.

(iii) A deduction under section 387-125 for capital expenditure for the irrigation system is calculated on the basis of one third of the capital expenditure in the year in which the expenditure is incurred, and one third in each of the next 2 years of income. A further deduction of $69.30 will available in the fourth year.

(iv) The tax deduction for depreciation of trellising will depend upon whether or not the Grower is a 'small business taxpayer' (see paragraphs 78 to 80 below). A Grower who is a 'small business taxpayer' and who complies with the conditions in section 42-345, can claim an immediate deduction under section 42-167 for 100% of the cost of **trellising** the cost of which is $300 or less. Alternatively, the tax deduction for depreciation is determined using the rates in section 42-125 and the formula in either subsection 42-160(1) ('diminishing value method') or subsection 42-165(1) ('prime cost method'). The tax deduction calculated under these formulae depends upon the number of 'days owned', being the number of days in the income year in which the Grower owned an interest in the trellising and the extent to which the trellising is installed ready for use during the year. The Project's manager is to advise Growers of relevant details to calculate their depreciation deductions for the year ended 30 June 2001. Depending upon the method the Grower elects to use, the rate for calculating the tax deduction will be 13% prime cost method or 20% diminishing value method. Note: the depreciation deductions for 'small business taxpayers' discussed above apply until the introduction of the Simplified Tax System on 1 July 2001 (see paragraphs 75 to 77). For a Grower who is NOT a 'small business taxpayer' or who is a 'small business taxpayer' who does not satisfy the conditions in section 42-345, the tax deductions for depreciation of trellising is determined using the formula in either subsection 42-160(3) ('diminishing value method') or subsection 42-165(2A) ('prime cost method'). The tax deduction calculated under these formulae depends upon the number of 'days owned', being the number of days in the income year in which the Grower owned an interest in the trellising and the extent to which each is installed ready for use during

the year. The formulae use 'effective life' rather than rate to determine the deduction for depreciation. The Project's manager is to advise Growers of relevant details to calculate their depreciation deductions for the year ended 30 June 2001. A Grower who is NOT a 'small business taxpayer' has the option of allocating the trellising to a 'low value pool' and calculating the depreciation deduction under section 42-470 using the diminishing value method (see paragraphs 88 to 91 below).

47. Insurance premiums paid by a Grower in respect of insurance cover for the vineyard infrastructure, vines and growing crops for that year of income will also be deductible under section 8-1.

Deductions where a Grower is registered or is required to be registered for GST

48. Where a Grower who is registered or is required to be registered for GST:

- participates in the Project by 30 March 2001 to carry on the business of growing grapes and winemaking;
- incurs the fees shown in paragraphs 31 to 33; and
- is entitled to an input tax credit for the fees

then the tax deductions shown in the Tables above will exclude any amounts of input tax credit (Division 27 of the ITAA). See Example 1 at paragraph 122.

Non deductible expenses

49. The 'initial establishment costs' relate to activities that are capital in nature and are not deductible to the Grower.

Section 35-55 – losses from non-commercial business activities

50. For a Grower who is an individual and who enters the Project during the year ended 30 June 2001, 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 2001 to 30 June 2004 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.

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

- a Grower'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 (see paragraph 100 in the Explanations part of this ruling, below).

52. Where either the Grower'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 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.

53. Growers are reminded of the important statement made on Page 1 of the Product Ruling. 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 a commercially viable investment. An assessment of the Project or product from such a perspective has not been made.

Sections 82KZM, 82KZMB - 82KZMD, 82KZME – 82KZMF, 82KL and Part IVA

54. For a Grower who participates in the Project and incurs expenditure as required by the Lease and Management Agreement the following provisions of the ITAA 1936 have application as indicated:

- expenditure by the Grower does not fall within the scope of section 82KZM (but see paragraphs 110 to 117);
- expenditure by the Grower does not fall within the scope of sections 82KZMB – 82KZMD (but see paragraphs 110 to 117);
- expenditure by the Grower does not fall within the scope of sections 82KZME – 82KZMF (but see paragraphs 110 to 117);
- 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 by any Grower under a tax law dealt with in this Ruling.

Cost of shares

55. Under section 8-1 of the ITAA 1997 no deduction is allowable to a Grower for the acquisition cost of the shares in Settlement 22 Estate Limited. The cost is a capital outgoing and is excluded from deductibility by subsection 8-1(2).

Explanations

Assessable income

56. All sales made from the Grape produce and wine produced will be ordinary income of the Grower under the general provisions of section 6-5 of ITAA 1997.

57. Once harvested, a Grower's grapes will be trading stock of the Grower. Products from those grapes such as grape juice or bottled wine will also constitute trading stock. As a consequence, any grapes, grape juice or bottled wine on hand at the end of the income year will need to be accounted for in accordance with the trading stock provisions in Part 2-25 of ITAA 1997, and included in assessable income. Where items such as grapes or grape juice are purchased during the year and held for use in wine-making, these will also constitute trading stock.

58. Each Grower will be notified by the Manager of the respective amounts to be brought to account in proportion to their total holding in the Project, in accordance with Part 2-25 and Taxation Ruling IT 2001.

Section 8-1 - ITAA 1997

59. It is appropriate, as a starting point, to consider whether the rent and annual fees are deductible under paragraph 8-1(1)(a). This consideration 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 outgoing is not deductible under paragraph 8-1(1)(b) if it is incurred when the business has not commenced; and
- where a taxpayer contractually commits themselves 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 paragraph 8-1(1)(b) applies. However, that does not preclude the

application of paragraph 8-1(1)(a) in determining whether the outgoing in question would have a sufficient connection with activities to produce assessable income of the taxpayer.

60. A vineyard and winery project can constitute the carrying on of a business. Where there is a business, or a future business, the gross sale proceeds from grape produce and wine from the scheme will constitute gross assessable income under section 6-5 of the ITAA 1997. 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. These operations will be the planting, tending, maintaining and harvesting of the vines, and the production and marketing of grape produce and wines.

61. Generally, a Grower will be carrying on a vineyard business where:

- the Grower has an identifiable interest in specific grape vines coupled with a right to harvest and sell the grapes produced;
- the vineyard activities are carried out on the Grower's behalf; and
- the weight and influence of the general indicators of a business, as used by the Courts, point to the carrying on of a business.

62. Under the Lease, Growers have rights in the form of a lease over an identifiable area of land consistent with the intention to carry on a business of a commercial vineyard. Under the Lease and Management Agreement, Growers appoint Settlement 22 Management Ltd, as Manager, to carry out viticulture farming in accordance with the Agreement. The Agreement gives the Grower full right, title and interest in the grapes and wine produced and the right to have the wine sold for their benefit.

63. Under the Lease and Management Agreement, Growers appoint the Manager to provide services such as purchasing and planting rootlings and vines in a healthy condition on the Vineyard Allotments, installing trellising and irrigation, and tending to the rootlings and vines according to the principles of good husbandry. The Manager is also responsible for harvesting the grapes and producing wine from them. The Manager will market the wine as outlined in the Prospectus, and sell it on behalf of the Growers, including to itself, or to its special-purpose subsidiary, for re-sale in its hospitality activities.

64. The Lease gives Growers an identifiable interest in specific vines and a legal interest in the land by virtue of a lease over the Vineyard Allotment. Growers use the Manager to harvest the produce for them, unless they make an election, within 6 months of entering into the Agreement, that they wish to harvest and take delivery of the grapes grown on their Vineyard Allotment.

65. Growers have the right to use the land in question for the cultivation of vines and harvesting of grapes and to have the Manager enter the land to carry out its obligations under the Lease and Management Agreement. The Growers' degree of control over the Manager, as evidenced by the Agreement and supplemented by the Corporations Law, is sufficient. Under the Project, Growers are entitled to receive regular progress reports on the Manager's activities. Growers are able to terminate arrangements with the Manager in certain instances, such as cases of neglect, failure to satisfy any substantial duty or the Manager going into liquidation. The activities described in the Lease and Management Agreement are carried out on the Growers' behalf.

66. The general indicators of a business, as used by the Courts, are described in Taxation Ruling TR 97/11. Growers to whom this Ruling applies intend to derive assessable income from the Project. This intention is related to projections in the Prospectus that suggest the Project should return a 'before-tax' profit to the Growers, i.e., a 'profit' in cash terms that does not depend in its calculation on the fees in question being allowed as a deduction.

67. Growers will engage the professional services of a Manager with appropriate credentials. The services are based on accepted viticulture and wine-making practices and are of the type ordinarily found in these activities.

68. Growers have a continuing interest in the vines from the time they are acquired until the end of the Project in 2016. There is a means to identify which vines Growers have an interest in. The vineyard 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. The Growers' vineyard activities will constitute the carrying on of a business.

69. The annual fees, rent and insurance premiums associated with the vineyard and wine-making activities will relate to the gaining of income from this business and, hence, have a sufficient connection to the operations by which this income (from the sale of wine) is to be gained from the business. They will, thus, be deductible under the first limb of section 8-1 to the extent that they are not of a capital nature. Any fees that relate to services performed prior to the execution of the Agreement will be capital in nature, but this will not apply to Agreements entered into prior to 30 March 2001. Also

included in the annual fees in the first two years are certain specified capital expenses which are discussed below.

Expenditure of a capital nature

70. Any part of the expenditure of a Grower entering into a horticultural business that is attributable to acquiring an asset or advantage of an enduring kind is generally capital or capital in nature and will not be an allowable deduction under section 8-1. In this Project, the costs of irrigation, trellising, pre-planting expenses, acquisition and planting of vine rootlings, and the initial establishment costs are considered to be capital in nature. The fees for these expenditures are not deductible under section 8-1. However, some of this expenditure falls for consideration under specific capital write-off provisions of the ITAA 1997.

Section 42-15 - ITAA 1997: trellising expenditure

71. Growers accepted into the Project incur expenditure on trellising upon which the vines are attached and are to be used on their behalf in the operation of the vineyard business. The trellising is attached to the land as a fixture. This expenditure is of a capital nature.

72. Under section 42-15, a taxpayer can deduct an amount for depreciation of a unit of plant used for the purpose or purposes of producing assessable income where they are the owner of that plant. However, where an item is affixed to land so that it becomes a fixture, at common law it becomes part of the land and is legally, absolutely owned by the owner of the land.

73. It is, however, accepted in certain circumstances that a lessee is entitled to claim depreciation where they are considered to be the owner of those improvements. Income Tax Ruling IT 175 sets out the Australian Taxation Office's (ATO's) views on this issue. Where a lessee is considered to own the improvements under a state law, as detailed in the Ruling, or where they have a right to remove the fixture or are entitled to receive compensation for the value of the fixture, the ATO accepts the lessee is entitled to claim depreciation for the fixture.

74. Under section 42-15 Growers are entitled to depreciation deductions for expenditure of $632.50, relating to the acquisition and installation of trellises on the land. The deduction available, however, will depend on the date the investment is made, when the plant is installed ready for use and whether or not a Grower is a 'small business taxpayer' (see below).

75. For plant acquired or constructed after 11:45 a.m. by legal time in the Australian Capital Territory on 21 September 1999, accelerated

rates of depreciation are no longer available except to some 'small business taxpayers'. The Government has announced that 'small business taxpayers' who meet the conditions in section 42-345 will have access to accelerated rates of depreciation until the introduction of the proposed Simplified Tax System on 1 July 2001.

76. The immediate deduction for items of plant costing $300 or less has been removed from 1 July 2000, except for 'small business taxpayers'. The Government has announced that 'small business taxpayers' will be able to claim the immediate deduction until the introduction of the proposed Simplified Tax System.

77. The depreciation of trellising as explained in this Product Ruling is based on existing legislation and may be subject to change.

Small business taxpayers

78. A 'small business taxpayer' is defined in section 960-335 of the ITAA 1997 as a taxpayer who is carrying on a business and either their 'average turnover' for the year is less than $1,000,000 or their turnover recalculated under section 960-350 is less than $1,000,000.

79. 'Average turnover' is determined under section 960-340 by reference to the average of the taxpayer's 'group turnover'. The group turnover is the sum of the 'value of business supplies' made by the taxpayer and entities connected with the taxpayer during the year (section 960-345).

80. Whether a Grower is a 'small business taxpayer' depends upon the individual circumstances of each Grower and is beyond the scope of this Product Ruling. It is the individual responsibility of each Grower to determine whether or not they are within the definition of a 'small business taxpayer'.

Depreciation deductions for Growers who are 'small business taxpayers'

81. The depreciation deduction available to a Grower who is a 'small business taxpayer' (see paragraphs 78 to 80) and who complies with the conditions contained in section 42-345 is calculated using the formula in either subsection 42-160(1) or subsection 42-165(1). The depreciation deduction depends on the cost of the trellising and the number of days the trellising was owned by the Grower during the income year. It also depends on the extent to which the trellising is installed ready for use during the year.

82. The deduction is calculated using a rate of 13% prime cost or 20% diminishing value. These accelerated rates of depreciation are shown in section 42-125 and apply to plant with an effective life of

between 13 and 30 years. The Project Manager will advise Growers of the date that the trellising is installed and begins to be used for the purpose of producing assessable income.

83. Alternatively, under section 42-167, a Grower who is a 'small business taxpayer' can choose to claim a 100% depreciation deduction for expenditure on depreciable items of plant with a cost of $300 or less.

Depreciation deductions for Growers who are not 'small business taxpayers'

84. A Grower who is NOT a 'small business taxpayer' or is a 'small business taxpayer' who does not satisfy the conditions in section 42-345 will not be able to claim accelerated depreciation on plant used in the Project because of section 42-118. The depreciation deduction for trellising for such a Grower is calculated using the formula in either subsection 42-160(3) or subsection 42-165(2A).

85. The deduction depends on the cost of the plant, the number of days the plant was owned by the Grower during the income year and the 'effective life' of the plant. It also depends upon the extent to which the plant is installed ready for use during the year. The Project Manager will advise Growers of the date that the trellising is installed and begins to be used for the purpose of producing assessable income.

86. Subdivision 42-C provides the choice of methods for determining the 'effective life' of plant. Growers can either self-assess the effective life of plant or use the effective life specified by the Commissioner. In the schedule, the Commissioner has determined that the effective life of trellising is 20 years.

87. The Responsible Entity will advise Growers of the date the trellising is installed and ready to be used for the purpose of producing assessable income. Costs of acquisition and installation of trellises on the land will be eligible for depreciation deduction by the Growers, from that date.

Low value pool option

88. From 1 July 2000 the immediate 100% depreciation deduction for plant costing $300 or less has been replaced by a 'low value pool' arrangement for all taxpayers except 'small business taxpayers'.

89. Under subsection 42-455(1), a Grower who is not a 'small business taxpayer' can choose to allocate 'low cost plant' to a 'low value pool' in the year of acquisition. 'Low cost plant' is plant costing less than $1,000. Once the choice is made to allocate 'low cost plant' to the pool, all 'low cost plant' acquired in that income

year and subsequent income years must be included in the pool (subsection 42-460(1)).

90. A 'low value pool' is depreciated using a diminishing value rate of 37.5%. However, low cost plant is depreciated at 18.75% in the year it is allocated to the pool, irrespective of the date it is allocated. The value of plant included in or disposed of from such a pool will be added to or subtracted from the value of the pool.

91. Under the Lease and Management Agreement, for each interest acquired in the Project a Grower incurs expenditure for trellising and will first be entitled to claim a deduction for depreciation in the year ended 30 June 2001. Therefore, a Grower who is not a 'small business taxpayer' will have the option of including trellising in a 'low value pool'.

92. Where a Grower acquires more than one interest in the Project the cost of the trellising could exceed $1,000 and, therefore, the trellising may not qualify as 'low cost plant. However, provided the Grower uses the diminishing value method to depreciate the trellising, the plant can be allocated to a 'low value pool' after it has been depreciated below $1,000 (paragraph 42-455(3)(b)).

Subdivision 387-B - ITAA 1997: irrigation expenditure

93. Subdivision 387-B allows a taxpayer, who is carrying on a business of primary production on land in Australia, to claim a deduction for capital expenditure on conserving or conveying water. The deduction is allowed over a three year period and applies to plant or a structural improvement primarily or principally used for the purpose of conserving or conveying water for use in a primary production business. Irrigation systems of the kind proposed would be covered by this Subdivision.

94. As the taxpayer who can claim the deduction does not have to actually own the land but can be a tenant or lessee, a deduction would be available to the Growers in the Project for the cost of the irrigation system, in the amount of one third in the year that the expenditure is incurred and one third in each of the next two years of income.

Section 387-165 - ITAA 1997: horticulture expenditure

95. Section 387-165 allows capital expenditure on establishing horticultural plants for use in a horticultural business to be written off for tax purposes. Costs of establishing horticultural plants may include the cost of acquiring the plants, the cost of establishing the plants, and the costs of ploughing, contouring, top dressing, fertilising and stone removal. Expressly excluded is expenditure incurred on draining swamps or clearing land. Under subsection 387-170(3), the

definition of 'horticulture' includes the cultivation of grapevines. For the purpose of this Subdivision, a lessee or licensee of land carrying on a business of horticulture is treated as owning the plants growing on that land rather than the actual owner of the land.

96. The write-off commences from the time the vines are used or held ready for use for the purpose of producing assessable income in commercial horticulture. The write-off deductions will commence when the vines enter their first commercial season. It is projected that these vines will become commercially productive in the second year. The Manager will advise the Grower of this event.

97. Under this Subdivision, if the effective life of the plant is more than 3 years, an annual deduction is allowable on a prime cost basis during the plant's maximum write-off period.

98. The effective life of a plant is to be determined objectively and should take into account all relevant circumstances. It is estimated that the vines will have an effective life in excess of 30 years. The write-off rate for horticultural plants with an effective life of 30 years or more is 7%.

Division 35 – losses from non-commercial business activities

99. Under the rule in subsection 35-10(2) a deduction for a loss incurred by an individual (including an individual in a general law partnership) 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.

100. 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.

101. Losses that cannot be claimed as a tax deduction because of the rule in subsection 35-10(2) are able to be offset to the extent of future profits from the business activity, or are quarantined until one of the objective tests is passed.

102. For the purposes of applying the objective tests, 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.

103. In broad terms, the objective 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 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 are used on a continuing basis in carrying on the business activity in that year (section 35-45).

104. 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 investment of one interest in the Project is unlikely to pass one of the objective tests until the income year ended 30 June 2006. Growers who acquire more than one interest in the Project may, however, pass one of the tests in an earlier income year.

105. 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.

106. 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, for an individual Grower who acquires an interest in the Project, the Commissioner will decide that it would be unreasonable not to exercise the second arm of the discretion in paragraph 35-55(1)(b) up to 30 June 2004.

107. 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; and

(ii) 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.

108. This Product Ruling is issued on a prospective basis (i.e., before an individual Grower's business activity starts to be carried on). Therefore, if the Project fails to be carried on during the income years specified above, in the manner described in the Arrangement (see paragraphs 15 to 40), the Commissioner's discretion will not have been exercised, because one of the key conditions in paragraph 35-55(1)(b) will not have been satisfied.

109. In deciding to exercise his discretion the Commissioner has relied upon the independent viticultural report included in the Prospectus provided with the application by the Responsible Entity.

Prepayment provisions: sections 82KZM, 82KZMA – 82KZMD, and 82KZME – 82KZMF

110. The prepayment provisions of the ITAA operate to spread over more than one income year a deduction for prepaid expenditure that would otherwise be immediately deductible, in full, under section 8-1 of the ITAA 1997. These provisions apply to certain expenditure incurred under an agreement in return for the doing of a thing under the agreement (e.g., the performance of management services or the leasing of land) that is not wholly done within the same year of income as the year in which the expenditure is incurred.

111. Under the Lease and Management Agreement the first year's management fee will be incurred on execution of the Agreement. This fee is charged for providing establishment services and management services to a Grower only for the period up to 30 June 2001 for Growers who subscribe up to 30 March 2001. Similarly, management fees for subsequent years are incurred by the Growers in the same year in which the respective services are to be provided.

112. For the purposes of this Ruling, no explicit conclusion can be drawn from the description of the arrangement, that the fee had been inflated to result in reduced fees being payable for subsequent years. The fee is expressly stated to be for a number of specified services. There is no evidence to suggest that the services covered by the fee could not be provided within the specified period.

113. Although not required under the Lease and Management Agreement, a Grower participating in the Project may choose to prepay fees for a number of years. Where this occurs, contrary to the conclusion reached in paragraph 54 above, the prepayments provisions of the ITAA will operate to apportion the expenditure and allow an income tax deduction over the period that the prepaid benefits are provided.

114. The amount and timing of tax deductions for any prepaid Management Fees or prepaid Lease Fees otherwise deductible under section 8-1 will depend upon when the respective amounts are incurred and what the 'eligible service period' is, as defined in subsection 82KZL(1), in relation to these amounts. The 'eligible service period' means generally, the period over which the services are to be provided. The relevant provision of the ITAA will depend on a number of factors including the amount and timing of the prepayment and, where the 'eligible service period' exceeds 13 months, whether the Grower is a 'small business taxpayer'.

115. Where a Grower participating in this Project incurs expenditure in respect of an eligible service period that ends 13 months or less from the time the expenditure was incurred, but also in respect of the doing of a thing not to be wholly done within the income year in which that expenditure has been incurred, and the other tests in section 82KZME are met, then section 82KZMF will apply in the manner set out in the formula below.

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

116. In the formula, the 'eligible service period' means, generally, the period to which the services are to be provided.

117. Where a Grower participating in this Project incurs expenditure in respect of a period that ends more than 13 months after that expenditure has been incurred, then section 82KZM will apply if the Grower is a 'small business taxpayer' or section 82KZMD if the Grower is not a 'small business taxpayer'. For a 'small business taxpayer' (see paragraphs 78 to 80) the amount and timing of the allowable deductions will then be calculated using the formula in subsection 82KZM(1) and for non-small business taxpayers using the formula in subsection 82KZMD(2). Both formulae are the same, or effectively the same as that shown in paragraph 115 above, concerning section 82KZMF.

118. A prepaid fee of less than $1,000 incurred in an expenditure year is 'excluded expenditure' as defined in subsection 82KZL(1). Subsections 82KZM(1), 82KZME(4) and 82KZMA(4) all provide that 'excluded expenditure' is an exception to the prepayment rules discussed above. Therefore, a prepaid rent of less than $1,000 is deductible in full in the year in which it is incurred. However, where a Grower acquires more than one interest in the Project and the quantum of a prepaid rent is $1,000 or more, then the amount and timing of the deduction allowable must be determined using the formula shown above.

Section 82KL - ITAA 1936

119. The operation of section 82KZL depends, among other things, on the identification of a certain quantum of 'additional benefits'. In the project, insufficient 'additional benefits' will be provided to trigger the application of section 82KZL. It will not apply to deny the deductions otherwise allowable under section 8-1.

Part IVA - ITAA 1936: general anti avoidance provisions

120. 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). The Project will be a 'scheme', commencing when the Prospectus is issued. The Growers will obtain an initial 'tax benefit' from entering into the scheme, in the form of the deduction for the initial fee, allowable under section 8-1, that would not have been obtained but for the scheme. However, it is not possible to conclude that the scheme will be entered into or carried out with the dominant purpose of obtaining this tax benefit.

121. Growers to whom this Ruling applies intend to stay in the scheme for its full term and derive assessable income from the Project. The Independent Viticultural Report contained in the Prospectus states that the Project should achieve its production targets provided that all stages of the development are completed in a timely manner and that current best practice is employed in the management of the vines. There are no features of the Project that might suggest the Project was so 'tax driven', and so designed to produce a tax deduction of a certain magnitude that it would attract the operation of Part IVA.

Examples

Example 1 – entitlement to 'input tax credit'

122. Margaret, who is registered for GST, invests in the Green Circle Bluegums Project. The management fees are payable on 1 July each year for management services to be provided over the following 12 months. On 1 July 2000 Margaret pays her first year's management fees of $5,500 and is eligible to claim a tax deduction for the fees in the income year ended 30 June 2001. The extent of her deduction for the management fees however, is reduced by the amount of any 'input tax credit' to which she is entitled. The Project Manager provides Margaret with a 'tax invoice' showing its ABN and the 'price of the taxable supply' for management services as $5,500. Using the details shown on the valid tax invoice, Margaret calculates her input tax credit as:

1/11 x $5,500 = $500

Therefore, the tax deduction for management fees that she can claim in her income tax return for the year ended 30 June 2001 is $5,000 ($5,500 *less* $500).

Example 2 – prepayment of fees

123. George and Rebecca are accepted into the Purple Ridge Blue Gum Project, a prospectus based afforestation project of 13 years. Neither Rebecca nor George is registered or required to be registered for GST. Under the Management Agreement, George and Rebecca are required to pay the first year's management fee of $10,500 for a three hectare Forestlot on or before 30 March 2001 for management services (including the planting of the trees) to be provided by 30 June 2001. Thereafter, management fees of $1,500 per Forestlot are payable within 14 days of the 1 July of each year for services to be provided from 1 July that year to 30 June the following year.

Rebecca pays her management fees each year at the time required by the Management Agreement she has signed. As the expenditure is incurred in the same year that she is provided with the relevant management services, she is able to claim a deduction in the same year in which she incurs the expenditure. For example, she can claim the full $10,500 as a tax deduction in the 2000-01 income year, $1,500 in the 2001-02 income year and so on during the term of the project.

George, however, decides that he will prepay Management Fees for the first three years on 30 March 2001. Although this prepayment is not required under the Management Agreement the Project Manager is happy to accept the payment of $13,500 for the Management Fees. Because of the prepayment rules George cannot, however, claim an immediate tax deduction for the full $13,500 he has paid in the 2000-01 income year. He must apportion the amount using the following formula:

$$\$13{,}500 \times \frac{\text{Number of days of eligible service period in the year of income}}{\text{Total number of days of eligible service period}}$$

His tax deductions are therefore as follows:

2000-01 income year:

$$\$13{,}500 \times \frac{91}{821} = \$1{,}496$$

2001-02 income year:

$$\$13{,}500 \times \frac{365}{821} = \$6002$$

2002-03 income year:

$13,500 x $\frac{365}{821}$

= $6002

Despite paying 3 years of his fees in advance, the operation of the prepayments provisions of the ITAA means that in comparison to Rebecca, George has actually placed himself at a disadvantage in relation to ***when*** he is able to claim his tax deductions.

Detailed contents list

124. Below is a detailed contents list for this Product Ruling:

Commissioner of Taxation
28 March 2001

Previous draft:

Previously released as PR 2001/8.

Related Rulings/Determinations:

PR 1999/95; TR 92/1; TR 92/20; TR 97/11; TR 97/16; TR 98/22; TD 93/34; IT 175; IT 2001

Subject references:

- carrying on a business
- commencement of business
- primary production
- primary production expenses
- management fee expenses
- producing assessable income
- product rulings
- public rulings
- schemes and shams
- taxation administration
- tax avoidance
- tax benefits under tax
- avoidance schemes
- tax shelters

Legislative references:

- ITAA 1997 Part 2-25
- ITAA 1997 6-5
- ITAA 1997 8-1
- ITAA 1997 8-1(2)
- ITAA 1997 8-1(1)(a)
- ITAA 1997 8-1(1)(b)
- ITAA 1997 17-5
- ITAA 1997 Div. 25
- 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 Subdiv. 42-C
- ITAA 1997 42-15
- ITAA 1997 42-118
- ITAA 1997 42-125
- ITAA 1997 42-160(1)
- ITAA 1997 42-160(3)
- ITAA 1997 42-165(1)
- ITAA 1997 42-165(2A)
- ITAA 1997 42-167
- ITAA 1997 42-345
- ITAA 1997 42-455(1)
- ITAA 1997 42-455(3)(b)
- ITAA 1997 42-460(1)
- ITAA 1997 42-470
- ITAA 1997 387-125
- ITAA 1997 387-165
- ITAA 1997 387-170(3)
- ITAA 1997 387-185
- ITAA 1997 960-335
- ITAA 1997 960-340
- ITAA 1997 960-345
- ITAA 1997 960-350
- ITAA 1936 82KL
- ITAA 1936 82KZL
- ITAA 1936 82KZL(1)
- ITAA 1936 82KZM
- ITAA 1936 82KZM(1)
- ITAA 1936 82KZMA
- ITAA 1936 82KZMA(4)
- ITAA 1936 82KZMC
- ITAA 1936 82KZMB
- ITAA 1936 82KZMD
- ITAA 1936 82KZMD(2)
- ITAA 1936 82KZME
- ITAA 1936 82KZME(4)
- ITAA 1936 82KZMF
- ITAA 1936 177A
- ITAA 1936 177C
- ITAA 1936 177D
- ITAA 1936 Part IVA

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