

PR 2001/66 - Income tax: Australian Olives Project No 4

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Product Ruling

Income tax: Australian Olives Project No 4

Contents	Para
What this Product Ruling is about	1
Date of effect	11
Withdrawal	13
Arrangement	14
Ruling	38
Explanations	49
Detailed contents list	105

Potential investors 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 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 Australian Olives Project No 4, or 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 387-55 (ITAA 1997);
 - Section 387-125 (ITAA 1997);
 - Section 387-165 (ITAA 1997);
 - Section 388-55 (ITAA 1997);
 - Section 82KL of the *Income Tax Assessment Act 1936* ('ITAA 1936');
 - Section 82KZL (ITAA 1936);
 - Section 82KZM (ITAA 1936);
 - Section 82KZMB-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 Member) 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 'Members'.

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 this 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, as the arrangement entered into is not the arrangement ruled upon; and
- the Ruling will be withdrawn or modified.

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Date of effect

11. This Ruling applies prospectively from 16 May 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 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, 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 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 material difference in the arrangement or in the persons' involvement in the arrangement.

Arrangement

14. The arrangement that is the subject of this Ruling is described below. The relevant documents, or parts of documents, incorporated into this description of the arrangement include:

- Application for a Product Ruling from Australian Olives Limited (AOL) dated 20 December 2000 in respect of the Australian Olives Groves Project No 4;
- Australian Olives Project No 4 Prospectus (Australian Registered Scheme Number 096 215 342, a managed investment scheme under Corporations Law) and Supplementary Prospectus dated 9 May 2001;
- Constitution for Australian Olives Project No 4 ('the Constitution') and Supplementary Constitution dated 3 May 2001;
- **Grove Licence Agreement** between Collective Olive Groves Limited (COGL) ('the Landowner'), Australian Olives Limited (AOL) ('the Responsible Entity') and the Member;
- **Grove Agreement** between AOL and the Member;
- **Finance Agreement** between Australian Agricultural Finance Pty Ltd (AAF) ('the Lender') and the Borrower (the Member);
- Compliance Plan for the Project;
- Water Supply Agreement between AOL and Australian Olives Holdings Ltd (AOHL) ('the Water Owner');
- Variation Water Supply Agreement between AOL and AOHL;
- Lease and Sublease for Lot 17 on RP35138, Merivale, Tummaville between COGL and ARG Custodians Limited (ARGL);
- Lease and Sublease for Lot 16 on SP113870, Merivale, Tummaville between COGL and ARGL;
- Lease and Sublease for Lots 12, 79 and 310 on CP ML2152, Merivale, Tummaville between COGL and AOL;
- Deeds of Assignment of Lease and Sublease for Lot 16 on SP113870 and for Lot 17 on RP35138, Merivale, Tummaville between ARGL and AOL;

PR 2001/66

- Correspondence received from the Applicant dated 20 February 2001, 10 April 2001, 3 May 2001 and 9 May 2001.

Note: certain information received from AOL regarding the Project has been provided with an understanding that it is on a-commercial-in-confidence basis and will not be disclosed or released under the Freedom of Information legislation.

15. The documents highlighted in paragraph 14 in bold are those that are entered into by the Member. For the purposes of describing the arrangements to which this Ruling applies, there are no other agreements, whether formal or informal, and whether or not legally enforceable, to which the Member, or an associate of the Member will be a party.

Overview

16. The salient features and effect of these arrangements are summarised below:

Location	'Yallamundi', 86 kms south west of Toowoomba.
Type of business each participant is carrying on	Commercial growing of a number of varieties of olives.
Number of Groves on offer	4,800.
Size of each Grove	0.2 hectares.
Number of trees per hectare	355.
The term of the investment	Until 30 June 2023.
Initial cost	\$9,465 per Grove.
Initial cost per hectare	\$47,325.
Ongoing costs	<ul style="list-style-type: none"> • Management and Licence Fees and Harvesting, Marketing and associated costs. However Members can undertake their own maintenance and harvest and market their olives if they elect to do so. • Insurance in relation to fires and other natural disasters.

17. The Prospectus invites applicants to participate in two specific interests. The first is a right to participate in a project called 'Australian Olives Project No 4' ('the Project'), which is a managed investment scheme under Corporations Law. Once the application is accepted the applicant becomes a Member. The second is an option for the Member or an associate of the Member to acquire shares in COGL, the Project's landowning company. AOHL will only sell the ordinary shares in the landholding company to Members or their associates in minimum parcels of 187 at \$200 per parcel.

18. During the term of the project each Member will have the right to use and occupy a separate and independently identifiable area of project land, known as a Grove, upon which the olive trees (71 per Grove) will be grown. There is no variation between individual Members' Groves within the Project or between rights attached thereto, except that the Manager may plant different varieties of Olive trees on individual Groves based on overall Project objectives.

19. Olive growing projects will be conducted on a series of properties collectively called 'Yallamundi', which is 86 km south west of Toowoomba. This particular Project will involve Lot 16 on SP113870 and Lot 17 on RP 35138 as well as Lots 12, 79 and 310 on CP ML2152, Parish of Tummaville, and County of Merivale, which will be owned by COGL. The offer contained under this prospectus is for four thousand eight hundred (4,800) Groves. There is no minimum subscription.

20. Once an application is accepted the Member is bound by the terms of the Constitution. At the same time the Member enters into a Grove Agreement and a Grove Licence Agreement by virtue of a Limited power of Attorney granted to the Responsible Entity who will sign those agreements on behalf of Members. The Grove Agreement provides that the Member may make a number of elections including an election under clause 5.4(a) to manage and maintain his/her own Grove and personally carry out all of the duties of the Responsible Entity other the initial duties set out in clause 4.1. In this event, the Responsible Entity may still be required to supply water to the Members Grove for a fee. The elections a Member can make under the Grove Agreement are further discussed in paragraph 28 of this Ruling.

21. Members' applications received on or before 15 June 2001 will, pending AOL's discretion, be accepted by 15 June 2001. Members' applications received from 16 June 2001 to 30 June 2001 will be accepted by AOL, at its discretion, on or after 1 July 2001.

22. A Member entering into the Grove Licence Agreement and the Grove Agreement will be liable to pay the following amounts

On application:

- \$220 for the purchase of olive seedlings;
- \$9,218 in respect of Grove Establishment and Management expenses payable for the services of the Manager from the date of acceptance to the next 30 June;
- \$27 in respect of a Grove Licence fee payable to the Landowner for the period from the date of acceptance to the next 30 June. Thereafter, the fee will be payable annually and increased by the proportional increase in the CPI.

Subsequent Payments:

- \$1,617 is payable in respect of an annual Grove Agreement fee commencing from the 1 July in the year following acceptance where the Member does not elect to undertake his/her own maintenance of the Grove. This amount will be indexed in subsequent years in accordance with increases in the All Groups Consumer Price Index for Brisbane ('the CPI').
- An amount will also be payable as a harvesting fee (unless the Member elects to harvest his/her olives). This fee will be adjusted to reflect the actual cost of the harvest, and will be due upon presentation of an invoice to the Member, though the Responsible Entity will be able to accept payment from sale proceeds. Fees may be higher where the Member elects to have the trees on his/her Grove harvested separately.

23. The projected returns from the Grove are outlined in the Prospectus. There is no assurance or guarantee in respect of the future success of, or financial returns associated with, the Project by the promoter apart from a guarantee that the Manager will replace any trees that fail (for whatever reason) until the first harvest, predicted to be Year 4 of the Project.

Grove Licence Agreement

24. The Grove Licence Agreement is executed between Collective Olive Groves Limited (the land owner), the Responsible entity and each Member. By the commencement of the Grove Licence Agreement the land owner will have totally cleared the Grove of trees, undergrowth, weeds, sticks and stones to a state which enables the Grove to be cultivated for the purposes of the Project (clause 8(a)). Members entering the Grove Licence Agreement will pay occupancy fees outlined in paragraph 22 above (clause 6.1) for a licence to use and occupy the Grove for the limited purposes of planting, growing,

harvesting and marketing olives for a period ending on the 30 June 2023. A licence will relate to an identifiable area of land. The Member may appoint an agent under a Grove Agreement to perform the licensed activities (clause 7.2).

Grove Agreement

25. Members will enter into an Agreement appointing AOL, as Responsible Entity, to manage the Member's interest in the Project on the terms and conditions set out in the Grove Agreement. Members enter into the Agreement until the year ended 30 June 2023 unless the Agreement is terminated earlier (clause 3). The Agreement may be terminated by either the Responsible Entity or the Member under specific conditions (clause 12).

26. The Grove Agreement provides that the Responsible Entity must perform the following duties by the 30 June after the applications have been accepted:

- acquire for the Member at least 71 olive seedlings ;
- carry out necessary irrigation works;
- undertake drainage and soil loss prevention works;
- preplanting and preparation;
- if necessary, tend the olive seedlings and the Member's Grove ;
- plant the olive seedlings at the proper time having regard to sound agricultural practices;
- supply adequate water;
- eradicate weeds and repair any damage caused by AOL; and
- undertake certain preventive measures concerning land degradation.

27. After these initial duties have been performed, AOL must provide continuing maintenance of the Groves under cl 4.3 of the Grove Agreement unless the Member has elected to undertake the ongoing maintenance of the Grove.

28. A Member has a right to elect to undertake the ongoing maintenance of the Grove and only pay for the services (including water) supplied by the Manager (clause 5.4). Members can also elect to have their olives harvested separately and/or to receive any olives harvested from their Grove to sell, market or deal with as they determine (clause 5.3). Members electing to conduct their own harvest and/or maintenance must ensure the work is of a similar

standard to that of the work conducted by the Manager of the other Groves (page 9 of the Prospectus). Members who either elect to maintain or harvest their Grove or who enter into other subcontracting arrangements will be outside the arrangements to which this Ruling relates and will be unable to rely on this Ruling.

29. The Responsible Entity may employ agents, contractors, professional advisers and other consultants to perform its obligations under the Agreement (clause 10.1).

Constitution

30. The Project is governed by the Project's Constitution. The Constitution includes provisions about the legal obligations, rights and limits to the liability of the Members and details the powers of the parties to the Constitution. This document details a number of procedures, including:

- the payment of application fees;
- the disbursement of proceeds from the Project;
- complaints handling;
- the payment of fees and expenses;
- transmission of Members' interests;
- meetings; and
- register of Members.

31. For those Members who elect AOL to manage their Groves, AOL will pool the olives attributable to the Members' Groves and then store, market and sell the produce without having regard to the quantity or quality of the particular produce from the particular Groves (clause 25.1(b)). AOL will then pay to the 'Proceeds Fund' the proceeds of the olive sales. Amounts for the Grove Agreement, Grove Licence Agreement and other limited outgoings will then be deducted (including taxes) and the result will be distributed proportionately between Members (clause 25.3(a)).

32. Members will not be entitled to any part of the Proceeds Fund in respect of a Production Period where they have elected to sell their own olives or if the Member's Grove failed to produce any olives for sale (clause 25.3(g)).

33. AOL will bear all costs of carrying out its duties under the Grove Agreement (clause 6.5).

Compliance plan

34. The Compliance Plan describes how the Responsible Entity will ensure its compliance with the Corporations Law and the Project's Constitution. A Compliance Plan is designed to ensure that the interests of the Members are protected. The Compliance Plan in this arrangement sets out both details of the compliance procedure and the position within the Responsible Entity, who will be held responsible for the compliance procedures in areas including:

- naming the Compliance Officer within the Responsible Entity;
- the appointment and monitoring of the Custodian;
- holding Project property;
- marketing the Project;
- conduct of the business, such as the use of qualified contractors;
- application money and commissions payment details;
- compliance committee appointment and function;
- audit functions;
- keeping of records and accounts;
- related party issues;
- fees and expenses;
- complaints handling procedures;
- training and supervision of personnel; and
- review of the compliance level.

Harvesting and Marketing

35. The Responsible Entity has negotiated an agreement with Inglewood Olive Processors Limited ("the Processor"). The Processor has agreed to purchase all the available Products in accordance with a Pricing Schedule that has an inbuilt minimum price mechanism. The Responsible Entity has the right to seek a better price than the Processor's nominated price if a better alternative price is available.

Finance

36. Members can fund their investment in the Project themselves, borrow from AAF (a lender associated with AOL) or borrow from an independent lender.

37. This Ruling does not apply if a Member 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 AAF, are involved or become involved, in the provision of finance to Members for the Project.

Ruling

Assessable Income

38. A Member'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 ITAA 1997. Section 17-5 excludes from assessable income an amount relating to GST payable on a taxable supply. Any dividends received will be assessable under sub-section 44(1) ITAA 1936.

Deductions where a Member is not registered nor required to be registered for GST

39. A Member may claim tax deductions in the Table below where the Member:

- participates in the Project by 15 June 2001 to carry on the business of growing olives;
- incurs the fees shown in paragraph 22; and is not registered nor required to be registered for GST

Type	ITAA 1997 Section	Year ended 30/6/2001	Year ended 30/6/2002	Year ended 30/6/2003	Year ended 30/6/2004
Management Fee	8-1	\$3,335 – See Note (i) (below)	\$1,617 – See Note (i) (below)	\$1,617 (indexed) – See Note (i) (below)	\$1,617 (indexed) – See Note (i) (below)
Licence Fee (Rent)	8-1	\$27 – See Note (i) (below)	\$27 (indexed)– See Note (i) (below)	\$27 (indexed) – See Note (i) (below)	\$27 (indexed) – See Note (i) (below)
Interest	8-1	As incurred - See Note (ii) (below)	As incurred - See Note (ii) (below)	As incurred - See Note (ii) (below)	As incurred - See Note (ii) (below)

Notes:

- (i) Where a Member incurs the management fees and the licence fees as required by the Grove Agreement and the Grove Licence Agreement those fees are deductible in full in the year incurred. However, if a Member **chooses** to prepay fees for the doing of things (e.g., the provision of management services or the licensing of land) 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 **MUST** be determined using the formula shown in paragraph 89 unless the expenditure is ‘excluded expenditure’. ‘Excluded expenditure’, being expenditure of less than \$1,000, is an ‘exception’ to any prepayment rules that apply and is deductible in full in the year in which it is incurred. However, where a Member acquires more than one interest in the Project and the quantum of a prepaid management fee or a prepaid licence fee is \$1,000 or more, then the amount and timing of the deduction allowable must be determined using the formula shown in paragraph 89.

PR 2001/66

- (ii) The deductibility or otherwise of interest arising from agreements entered into with financiers other than AAF is outside the scope of this Ruling. However, all Members who finance their participation in the Project other than with AAF should read carefully the discussion of the prepayment rules in paragraphs 60 to 62 below as those rules may be applicable if interest is prepaid.

40. A Member may claim tax deductions in the Table below where the Member:

- is accepted into, and participates in, the Project on or after 1 July 2001 to carry on the business of growing olives;
- incurs the fees shown in paragraph 22; and
- is not registered nor required to be registered for GST.

Fee Type	ITAA 1997 Section	Year ended 30/6/2002	Year ended 30/6/2003	Year ended 30/6/2004
Management Fee	8-1	\$3,335 – See Note (i) (above)	\$1,617 – See Note (i) (above)	\$1,617 (indexed) – See Note (i) (above)
Licence Fee (Rent)	8-1	\$27 – See Note (i) (above)	\$27 (indexed) – See Note (i) (above)	\$27 (indexed) – See Note (i) (above)
Interest	8-1	As incurred - See Note (ii) (above)	As incurred - See Note (ii) (above)	As incurred - See Note (ii) (above)

Tax deductions for capital expenses

41. A Member who is accepted into, and participates in the Project by 15 June 2001 will also be entitled to the following tax deductions:

Fee type	ITAA 1997 section	Year ended 30/6/2001	Year ended 30/6/2002	Year ended 30/6/2003	Year ended 30/6/2004
Landcare operations	387-55	\$1,343 - see note (iii) and (vi) below	Nil	Nil	Nil
Irrigation costs	387-125	\$1,326 - see note (iv) and (v) below	\$1,326 - see note (iv) and (v) below	\$1,326 - see note (iv) and (v) below	Nil
Establishment of horticultural plants	387-165	Nil - see note (vi) below	Nil	Nil	Nil

Notes:

- (iii) A deduction is allowable under section 387-55 for capital expenditure incurred for landcare operations. The deduction is allowed in the year that the expenditure is incurred.
- (iv) A deduction is allowable under section 387-125 for capital expenditure incurred for acquisition and installation of the irrigation system. The deduction 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.
- (v) A tax offset is available to certain low income primary producers under section 388-55 in respect of expenditure incurred on landcare operations and/or facilities to conserve or convey water. This is an alternative to claiming deductions under sections 387-55 and 387-125.
- (vi) A deduction is allowable under section 387-165 for capital expenditure incurred for the acquisition and establishment of the olive trees for use in a horticultural business. The deduction is allowable when the olive trees, as horticultural plants, enter their first commercial season. If the olive trees have an 'effective life' for the purposes of section 387-185 of greater than '30 years', this results in a write-off rate of rate of 7% prime cost. The Project's manager will inform

PR 2001/66

Members of when the olive trees enter their first commercial season.

42. A Member who is accepted into, and participates in, the Project after 1 July 2001 will also be entitled to the following tax deductions:

Fee type	ITAA 1997 section	Year ended 30/6/2002	Year ended 30/6/2003	Year ended 30/6/2004
Landcare operations	387-55	\$1,343 - see note (iii) and (vi) above	Nil	Nil
Irrigation costs	387-125	\$1,326 - see note (iv) and (v) above	\$1,326 - see note (iv) and (v) above	\$1,326 - see note (iv) and (v) above
Establishment of horticultural plants	387-165	Nil - see note (vi) above	Nil	Nil

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

43. Where a Member who is registered or is required to be registered for GST:

- participates in the Project to carry on the business of growing olives;
- incurs the fees shown in paragraph 22; 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 104.

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

Section 35-55 – Commissioner’s discretion

44. For a Member 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 2005 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 Member who enters the Project during the year ended 30 June 2002, the Commissioner will decide for the income years ending 30 June 2002 to 30 June 2006 that the rule in section 35-10 does not apply to this activity, provided that the Project is carried out in the manner prescribed in this Ruling.

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

- a Member'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 76 in the Explanations part of this ruling, below).

46. Where either the Member'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 Member 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.

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

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

48. For a Member who participates in the Project and incurs expenditure as required by the Grove Agreement and the Grove Licence Agreement the following provisions of the ITAA 1936 have application as indicated:

- expenditure by the Member does not fall within the scope of section 82KZM (but see paragraphs 84 to 91);

- expenditure by the Member does not fall within the scope of sections 82KZMB-82KZMD (but see paragraphs 84 to 91);
- expenditure by the Member does not fall within the scope of sections 82KZME-82KZMF (but see paragraphs 84 to 91);
- 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

Section 8-1

49. Consideration of whether the management fees and the 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 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 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.

Is the Member carrying on a business?

50. A commercial olive growing scheme can constitute the carrying on of a business. Where there is a business, or a future business, the gross harvest proceeds each year from olives from the groves comprising the Project 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. These operations will be the planting, tending, maintaining and harvesting of the olives each year from the groves. Generally, a Member will be carrying on a business of olive growing where:

- the Member has an identifiable interest in specific growing trees coupled with a right to harvest and sell the olives each year from the trees;
- the olive growing activities are carried out on the Member'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.

51. For this Project Members have rights under the Grove Licence Agreement, in the form of a licence over an identifiable area of land consistent with the intention to carry on a business of growing olive trees. Under the Grove Agreement Members engage the Project Managers to acquire olive seedlings and plant out the seedlings on the licensed land and to provide ongoing services to care and maintain the olive trees. Members are considered to have control of their operations.

52. The Grove Licence Agreement provides Members with more than a chattel interest in the olive trees. The Project documentation contemplates Members will have an ongoing interest in the olive trees.

53. Members have the right to use the land in question for olive growing purposes and to have the Project Manager come onto the land to carry out its obligations under the Grove Agreement. The Members' degree of control over the Project Manager as evidenced by the Grove Agreement, and supplemented by the Corporations Law, is sufficient. Under the Project, Members are entitled to receive regular progress reports on the Project Manager's activities. Members are able to terminate arrangements with the Project Manager in certain instances, such as cases of default or neglect. The olive growing activities described in the Grove Agreement are carried out on the Members' behalf.

54. 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 arrangement's description for all the indicators. Members to whom this Ruling applies intend to derive assessable income from the Project. This intention is related to projections contained in the Prospectus that suggest the Project should return a 'before-tax' profit to the Members, i.e., a 'profit' in cash terms that does not depend in its calculation, on the fees in question being allowed as a deduction.

55. Members will engage the professional services of a manager with appropriate credentials. There is a means to identify which trees Members have an interest in. These services are based on accepted olive growing practices and are of the type ordinarily found in olive growing ventures that would commonly be said to be businesses.

56. Members have a continuing interest in the trees from the time they are acquired until the cessation of the Project. The olive growing 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 Members' olive growing activities will constitute the carrying on of a business.

57. The licence fees and management fees associated with the olive growing activities will relate to the gaining of income from this business, and hence have a sufficient connection to the operations by which income (from the regular sale of olives) 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 management fee. The tests of deductibility under the first limb of section 8-1 are met. The exclusions do not apply.

Interest deductibility

(i) Members who use AAF as the finance provider

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

59. The interest incurred for the year ended 30 June 2001 and in subsequent years of income will be in respect of a loan to finance the Project business operations of growing olives and is therefore 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.

(ii) Members who DO NOT use AAF as the finance provider

60. The deductibility of interest incurred by Members who finance their participation in the Project through a loan facility with a bank or financier other than AAF 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.

61. While the terms of any finance agreement entered into between relevant Members and such financiers are subject to commercial negotiation, those agreements may require interest to be prepaid for a period that is wholly or partly outside the income year in which the interest is incurred. Unless such prepaid interest is 'excluded expenditure' any tax deduction that may be allowable will be subject to the relevant prepayments provisions of the ITAA. 'Excluded expenditure' is an amount of expenditure of less than \$1,000.

62. The prepayments provisions are discussed in detail at paragraphs 84 to 91 of this Ruling. However, in broad terms, where interest is prepaid and the period to which the interest relates is wholly or partly outside the income year in which it is incurred, then any tax deduction that is allowable must be determined using the following formula;

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

In the formula, the 'eligible service period' means, generally, the period to which the interest relates.

Expenditure of a capital nature

63. Any part of the expenditure of a Member entering into an olive growing 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 landcare, irrigation, and the establishment of horticultural plants are considered to be capital in nature. The fees for these expenditures are not deductible under section 8-1. However, this expenditure falls for consideration under specific write-off provisions of the ITAA 1997.

Subdivision 387-A - Expenditure for landcare operations

64. Section 387-55 allows a taxpayer a deduction for capital expenditure incurred on a landcare operation for land used to carry on a primary production business. Members need not own the land to qualify for the deduction, so long as it is used by them to carry on a primary production business.

65. 'Landcare operation for land' includes carrying out drainage work and work to help prevent soil erosion.

66. Under the Grove Agreement a Member incurs expenditure for work to help prevent soil erosion on the Groves. In this Project there

will be no delay between the execution of the relevant agreements and the commencement of ‘business operations’ on the Members behalf. Accordingly, a Member’s primary production business will have commenced at the time the expenditure in question has been incurred, and the requirements of section 387-55 will have been satisfied.

67. However, a deduction under section 387-55 is denied where the Member is entitled to claim a landcare tax offset under section 388-55 and chooses to do so. A Member can only choose a landcare tax offset where:

- had the Member chosen a deduction instead of the tax offset, the Member’s taxable income for the income year would have been \$20,000 or less; and
- the expenditure is incurred before the end of the 2000-01 income year.

Subdivision 387-B – Irrigation expenditure

68. Section 387-125 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.

69. As the taxpayer who can claim the deduction does not have to actually own the land but can be a tenant, a lessee or licensee who is conducting a primary production business on land in Australia, a deduction would be available to a Member in the Project at a rate of 33.3 per cent per annum for the cost of the irrigation system.

70. However, a deduction under section 387-125 is denied where the Member is entitled to claim a water facility tax offset under section 388-55 and chooses to do so. A Member can only choose a water facility tax offset where:

- had the Member chosen a deduction instead of the tax offset, the Member’s taxable income for the income year would have been \$20,000 or less; and
- the expenditure is incurred before the end of the 2000-01 income year.

Subdivision 387-C - Olive trees and horticultural provisions

71. Section 387-165 allows capital expenditure on establishing horticultural plants owned and used, or held ready for use, in Australia in a business of horticulture to be written off for tax purposes. A lessee or licensee of land carrying on a business of horticulture is taken to own the plants growing on that land rather than the actual owner of the land (section 387-210).

72. Under this Subdivision, if the effective life of the plant is less than three years, the expenditure can be written off in full. If the effective life of the plant is more than three years, an annual deduction is allowable on a prime cost basis during the plant's maximum write-off period. The period starts from the time the plant enters its first commercial season. The write-off rate is detailed in section 387-185. For plants, such as the olive trees in this Project, with an effective life of 30 years or more, that rate is 7%.

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

73. 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.

74. 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.

75. Under the loss deferral rule in subsection 35-10(2) the relevant loss is not able to be taken into account in the calculation of taxable income in the year that loss arose. Instead, in a later year it may be offset against any income from the same or similar business activity, or, if one of the objective tests is passed, or the Commissioner's discretion exercised, against other income.

76. 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 Members who participate in the Project they are beyond the scope of this Product Ruling and are not considered further.

77. 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).

78. A Member 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 Member who acquires the minimum investment of one interest in the Project in the year ended 30 June 2001 is unlikely to pass one of the objective tests until the income year ended 30 June 2008. Similarly, a Member who acquires the minimum investment in the year ended 30 June 2002 is unlikely to pass one of the objective tests until the year ended 30 June 2009. Members who acquire more than one interest in the Project may however, pass one of the tests in an earlier income year.

79. 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 Member's participation in the Project.

80. 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 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 and including the year ended 30 June 2005 for an individual Member who acquires an interest(s) in the Project in the year ended 30 June 2001 and

- up to and including the year ended 30 June 2006 for an individual Member who acquires an interest(s) in the Project in the year ended 30 June 2002.

81. 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.

82. This Product Ruling is issued on a prospective basis (ie, before an individual Member's business activity starts to be carried on). Therefore, if the Project fails to be carried on during the income years specified above (see paragraph 44), in the manner described in the Arrangement (see paragraphs 14 to 37), 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.

83. 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 agricultural expert provided with the application by the Responsible Entity;
- the report of a market study of the olive industry provided with the application by the Responsible Entity;
- independent, objective, and generally available information relating to the olive industry which substantially supports cash flow projections and other claims, including prices and costs, in the Product Ruling application submitted by the Responsible Entity.

Prepayments provisions – sections 82KZM, 82KZMA – 82KZMD, and 82KZME – 82KZMF

84. The prepayments 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. 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 licensing of land) that

is not wholly done within the same year of income as the year in which the expenditure is incurred.

85. In this Project, the Management Fee of \$9,438 and a Licence Fee of \$27 per Grove will be incurred on execution of the Grove Agreement and the Grove Licence Agreement. The Management Fee and the Licence Fee are charged for providing management services or licensing land to a Member by 30 June of the year of execution of the Agreements. In particular, the Management 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 Management Fee has been inflated to result in reduced fees being payable for subsequent years.

86. There is also no evidence that might suggest the management services covered by the fee could not be provided within the same year of income as the expenditure in question is incurred. Thus, for the purposes of this Ruling, it can be accepted that no part of the initial fee is for the Manager doing 'things' that are not to be wholly done within the year of income of the fee being incurred. On this basis, provided a Member incurs expenditure as required by the agreements as set out in paragraph 22 then the basic precondition for the operation of the prepayment provisions is not satisfied and fees will be deductible in the year in which they are incurred.

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

87. Although not required under either the Management Agreement or the Licence Agreement, a Member participating in the Project may choose to prepay fees for a number of years. Where this occurs, contrary to the conclusion reached in paragraph 86 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.

88. The amount and timing of tax deductions for any prepaid Management Fees or prepaid Licence 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 Member is a 'small business taxpayer'.

89. Where a Member 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.

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

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

90. Where a Member 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 Member is a ‘small business taxpayer’ or section 82KZMD if the Member is not a ‘small business taxpayer’. For a ‘small business taxpayer’ (see paragraphs 92 to 94) 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 89 above, concerning section 82KZMF.

91. A prepaid management fee and/or a prepaid licence fee of less than \$1,000 incurred in an expenditure year is ‘excluded expenditure’ as defined in subsection 82KZL(1). Subsections 82KZM(1), 82KZME(7) and 82KZMA(4) all provide that ‘excluded expenditure’ is an exception to the prepayment rules discussed above. Therefore, a prepaid fee of less than \$1,000 is deductible in full in the year in which it is incurred. However, where a Member acquires more than one interest in the Project and the quantum of a prepaid management fee or a prepaid licence fee is \$1,000 or more, then the amount and timing of the deduction allowable must be determined using the formula shown above.

Small business taxpayers

92. 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.

93. ‘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).

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

Interest deductibility

95. The deductibility of interest incurred by Members who finance their participation in the Project through a loan facility with a bank or other financier 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.

96. While the terms of any finance agreement entered into between relevant Members and such financiers are subject to commercial negotiation, those agreements may require interest to be prepaid. Under the prepayment rules contained in sections 82KZME, 'agreement' (defined in subsection 82KZME(4)) is a broad concept and will encompass activities such as a loan to finance participation in the Project and that loan is not described in the Arrangement or otherwise dealt with in the Product Ruling.

97. Therefore, unless the prepaid interest is 'excluded expenditure', where such a loan facility requires interest to be prepaid and the requirements of section 82KZME are met, relevant Members will be required to determine any tax deduction using the formula in subsection 82KZMF(1). Where a prepayment is for a more than 13 months, any tax deduction must be determined under section 82KZM (for a 'small business taxpayer') or section 82KZMD (for a taxpayer who is not a 'small business taxpayer'). The relevant formula is the same, or effectively the same as that shown above in paragraph 89 above.

Section 82KL - recouped expenditure

98. Section 82KL is a specific anti-avoidance provision that operates to deny an otherwise allowable deduction for certain expenditure incurred, but effectively recouped, by the taxpayer. Under subsection 82KL(1), a deduction for certain expenditure is disallowed where the sum of the 'additional benefit' plus the 'expected tax saving' in relation to that expenditure equals or exceeds the 'eligible relevant expenditure'.

99. 'Additional benefit' (see the definition of 'additional benefit' at subsection 82KH(1) and paragraph 82KH(1F)(b)) is, broadly speaking, a benefit that is additional to the benefit for which the

expenditure is ostensibly incurred. The 'expected tax saving' is essentially the tax saved if a deduction is allowed for the relevant expenditure.

100. Section 82KL's operation depends, among other things, on the identification of a certain quantum of 'additional benefits'. Here, there may be a loan provided to the Member. The loan will be provided on a full recourse basis, and on commercial terms. Insufficient 'additional benefits' will be provided in respect of this Project, to trigger the application of section 82KL. It will not apply to deny the deductions otherwise allowable under section 8-1.

Part IVA - general tax avoidance provisions

101. 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).

102. The Australian Olives Project No 4 will be a 'scheme'. A Member will obtain a 'tax benefit' from entering into the scheme, in the form of tax deductions for the amounts detailed at paragraph 22 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.

103. Members 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 olives. There are no facts that would suggest that Members 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 with each other at arm's length, or, if any parties are not 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.

Examples

Example 1 – Entitlement to 'input tax credit'

104. 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:

$$1/11 \times \$5,500 = \$500$$

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).

Detailed contents list

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

	Paragraph
What this Product Ruling is about	1
Tax law(s)	2
Goods and Services Tax	3
Business Tax Reform	4
Note to promoters and advisers	6
Class of persons	7
Qualifications	9
Date of effect	11
Withdrawal	13
Arrangement	14
Overview	16
Grove Licence Agreement	24
Grove Agreement	25
Constitution	30
Compliance plan	34
Harvesting and Marketing	35
Finance	36
Ruling	38
Assessable Income	38

Deductions where a Member is <u>not</u> registered nor required to be registered for GST	39
<i>Tax deductions for capital expenses</i>	41
Deductions where a Member is registered or is required to be registered for GST	43
Division 35 – Deferral of losses from non-commercial business activities	44
<i>Section 35-55 – Commissioner’s discretion</i>	44
Sections 82KZM, 82KZMB – 82KZMD, 82KZME, 82KZMF, 82KL and Part IVA	48
Explanations	49
Section 8-1	49
Is the Member carrying on a business?	50
Interest deductibility	58
(i) <i>Members who use AAF as the finance provider</i>	58
(ii) <i>Members who DO NOT use AAF as the finance provider</i>	60
Expenditure of a capital nature	63
Subdivision 387-A - Expenditure for landcare operations	64
Subdivision 387-B – Irrigation expenditure	68
Subdivision 387-C - Olive trees and horticultural provisions	71
Division 35 – Deferral of losses from non-commercial business activities	73
Prepayments provisions – sections 82KZM, 82KZMA – 82KZMD, and 82KZME – 82KZMF	84
<i>Members who choose to pay fees for a period in excess of that required by the Project’s agreements</i>	87
Small business taxpayers	92
Interest deductibility	95
Section 82KL - recouped expenditure	98
Part IVA - general tax avoidance provisions	101
Examples	104
Example 1 – Entitlement to ‘input tax credit’	104
Detailed contents list	105

Commissioner of Taxation

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- Previous draft:*
- ITAA 1997 35-55(1)
- Not previously issued in draft form
- ITAA 1997 35-55(1)(a)
 - ITAA 1997 35-55(1)(b)
- Related Rulings/Determinations:*
- ITAA 1936 97
 - ITAA 1997 Subdiv 387-A
 - ITAA 1997 Subdiv 387-B
 - ITAA 1997 Subdiv 387-C
 - ITAA 1997 387-125
 - ITAA 1997 387-165
 - ITAA 1997 387-185
 - ITAA 1997 387-210
 - ITAA 1997 388-55
 - ITAA 1997 960-335
 - ITAA 1997 960-340
 - ITAA 1997 960-345
 - ITAA 1997 960-350
 - ITAA 1936 44(1)
 - ITAA 1936 82KH(1)
 - ITAA 1936 82KH(1F)(b)
 - 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 82KZMB
 - ITAA 1936 82KZMC
 - ITAA 1936 82KZMD
 - ITAA 1936 82KZMD(2)
 - ITAA 1936 82KZME
 - ITAA 1936 82KZME(4)
 - ITAA 1936 82KZME(7)
 - ITAA 1936 82KZMF
 - ITAA 1936 82KZMF(1)
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 - ITAA 1936 177A
 - ITAA 1936 177C
 - ITAA 1936 177D
 - ITAA 1936 177D(b)
- Subject references:*
- capital 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 1997 6-5
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