

PR 2005/107WA1 - Addendum to Withdrawal - Income tax: Palandri Winegrape Project 2005 - Late Members

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Addendum

Product Ruling

Income tax: Palandri Winegrape Project 2005 – Late Members

This Addendum amends the Notice of Withdrawal for Product Ruling PR 2005/107 which issued on 1 July 2008.

The withdrawal notice for PR 2005/107 is amended as follows:

1. Paragraph 1

Omit the paragraph, substitute:

1. Product Ruling PR 2005/107 set out the Commissioner's view on the tax consequences for entities who participated in the Palandri Winegrape Project 2005 – Late Members (the Project) by entering into a Lease and Management Agreement for the purpose of carrying on a business of commercial viticulture. The Ruling was withdrawn on 1 July 2008 as interests in the Project were no longer being sold.
2. Although withdrawn, the Ruling continues to apply to Members who were accepted to participate in the Project between 31 August 2005 and 30 September 2005. It therefore could be relied upon subject to there being no material difference in the arrangement, or in the Members' involvement in the arrangement.
3. PR 2005/107 ruled that Members could claim deductions for specified Project expenses although the deductibility of losses was subject to the non-commercial loss rules in Division 35 of the *Income Tax Assessment Act 1997* (Division 35). The Commissioner exercised his discretion to allow losses to be offset against other assessable income until the 2008-09 income year.
4. On 24 September 2008 the Supreme Court of Western Australia ordered that the scheme be wound up. The termination of the Project's Agreements on 19 March 2009 constituted a material difference to the scheme described in PR 2005/107 and meant that Members were no longer carrying on their own business.

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5. For the 2009 year, Members may offset any losses incurred from the Project until 19 March 2009, the date the agreements were terminated. After that date, losses are no longer subject to Division 35, although no further Project fees were incurred from that date.

This Addendum applies on and from 19 March 2009.

Commissioner of Taxation

12 January 2011

ATO references

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