PR 2007/72W - Income tax: ITC Diversified Forestry Project 2007 (Stage 2)

Notice of Withdrawal

Product Ruling

Income tax: ITC Diversified Forestry Project 2007 (Stage 2)

Product Ruling PR 2007/72 is withdrawn with effect from today.

1. This Product Ruling has been withdrawn in accordance with subsection 358-20(1) of Schedule 1 to the *Taxation Administration Act 1953*, which states the Commissioner may withdraw a public ruling either wholly or to an extent.

2. Product Ruling PR 2007/72 set out the Commissioner's opinion on the tax consequences for persons participating in the ITC Diversified Forestry Project 2007 (Stage 2) ('the Project'), a forestry managed investment scheme, entered into for the purpose of establishing and harvesting Pulpwood, Indian Sandalwood, Teak and Red Mahogany trees in Australia.

3. Elders Forestry Management Limited ('EFML', the Responsible Entity) advised that Elders Limited entered into transactions which resulted in the Project being carried out in a materially different way from how it was described in Product Ruling PR 2007/72.

4. EFML advised that the Red Mahogany plantations were destroyed as a result of natural disaster. Additionally, Growers voted in favour of a series of transactions resulting in the termination of the other interests in the Project.

5. In March 2013, Growers voted to receive payments from EFML for their Teak and Indian Sandalwood interests. On 3 September 2013, Growers voted to receive a payment from EFML for their remaining Pulpwood interests.

6. These transactions constitute a material difference in the way that the Project has been implemented. This withdrawal notice sets out the taxation treatment of amounts received by Growers under the transactions.

Taxation implications for Growers

7. Each transaction results in a capital gains tax (CGT) event for the purpose of section 82KZMGB of the *Income Tax Assessment Act 1936* (ITAA 1936). As a result, Growers will be required to include the market value or decrease in market value of their interests in the Project in their assessable income in the income year in which the CGT event happens (subsection 82KZMGB(2) of the ITAA 1936).

8. The Responsible Entity will provide information to Growers to assist them determine the market value or decrease in market value of their interests for the purpose of section 82KZMGB of the ITAA 1936.

9. The transactions do not disturb the tax treatment of Growers' previous outgoings as set out in PR 2007/72 provided that the Project was carried out in the manner described in the Ruling up until the date the transaction for the sale of the Pulpwood component of the Project was implemented.

10. Growers ceased to carry on a business of primary production from the 2013-14 income year. Therefore, the non-commercial loss rules contained in Division 35 of the *Income Tax Assessment Act 1997* (ITAA 1997) have no application for the 2013-14 and later income years.

11. Paragraph 23 of PR 2007/72 ruled that Growers can claim deductions for interest incurred under a loan agreement with Elders Forestry Finance Pty Ltd or the Preferred Financier as described at paragraphs 68 to 73 of PR 2007/72. Interest expenses will continue to be deductible provided Growers meet certain requirements outlined in TR 2004/4 *Income tax: deductions for interest incurred prior to the commencement of, or following the cessation of, relevant income earning activities.*

Commissioner of Taxation
6 November 2013

ATO references

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