PR 2008/29W - Income tax: ITC Hardwood Project 2008 (Pulpwood Option)

Notice of Withdrawal

Product Ruling

Income tax: ITC Hardwood Project 2008 (Pulpwood Option)

Product Ruling PR 2008/29 is withdrawn with effect from today.

1. Product Ruling PR 2008/29 sets out the Commissioner's opinion on the tax consequences for persons participating in the ITC Hardwood Project 2008 (Pulpwood Option) ('the Project'), a forestry managed investment scheme, entered into for the purpose of producing pulpwood.

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 This Product Ruling has been withdrawn in accordance with subsection 358-20(1) of Schedule 1 to the *Taxation Administration Act 1953*, which states the Commissioner may withdraw a public ruling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

3. On 2 September 2013, Growers voted in favour of a transaction for the termination or surrender of their interests in the Project ('the transaction') resulting in the Project being carried out in a materially different way from how it was described in the Ruling.

4. This withdrawal notice sets out the taxation treatment of amounts received by Growers under the transaction.

Taxation implications for Growers

5. The transaction resulted 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 are required to include the market value of their interests in the Project in their assessable income in the income year in which the CGT event happened (paragraph 82KZMGB(2)(a) of the ITAA 1936).

6. The Responsible Entity provided information to Growers to determine the market value of their interests for the purpose of section 82KZMGB of the ITAA 1936.

7. Having regard to the information provided by the Responsible Entity, the Commissioner considers that the transactions occurred due to circumstances outside the control of individual Grower's that could not have been reasonably foreseen at the time Growers acquired their interests in the Project. Therefore, the transaction does not disturb the tax treatment of Growers' previous outgoings as set out in PR 2008/29 provided that the Project was carried out in the manner described in the Ruling up until the date the transaction was implemented.

8. 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.

9. Paragraph 28 of PR 2008/29 ruled that Growers can claim deductions for interest incurred under a loan agreement with ITC Finance Pty Ltd or the Nominated Financier as described at paragraphs 84 to 89 of PR 2008/29. 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

11 June 2014

ATO references

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