

PR 2008/60W - Income tax: 2009 Willmott Forests Premium Forestry Blend Project

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 This document has changed over time. This is a consolidated version of the ruling which was published on *25 May 2011*



Notice of Withdrawal

Product Ruling

Income tax: 2009 Willmott Forests Premium Forestry Blend Project

Product Ruling PR 2008/60 is withdrawn with effect from today.

1. Product Ruling PR 2008/60 sets out the Commissioner's view on the tax consequences for entities participating as Growers in the 2009 Willmott Forests Premium Forestry Blend Project (the Project) which is a forestry managed investment scheme with the purpose of establishing and tending Radiata Pine, She-oak and Silky Oak Trees for felling in Australia.
2. This Product Ruling has been withdrawn in accordance with subsection 358-20(1) of Schedule 1 of the *Taxation Administration Act 1953*, which states the Commissioner may withdraw a public ruling either wholly or to an extent. The Project was carried out in a materially different way from how it was described in the Product Ruling PR 2008/60, due to the fact that all trees were not planted. Where the scheme described in the ruling is materially different from the scheme actually carried out, the ruling does not have, and never had any binding effect on the Commissioner, as the scheme entered into is not the scheme ruled upon.
3. Paragraph 26 of the Product Ruling required that all of the trees be established within 18 months of the end of the income year in which the first participant is accepted in the Project. The date the trees had to be established by was 31st December 2010. The ATO has been advised that all of the trees were not established by this date. Given this Growers are not entitled to claim a deduction under section 394-10 of the *Income Tax Assessment Act 1997* (ITAA 1997) in accordance to subsection 394-10(4) of the ITAA 1997.
4. Paragraph 24A of Product Ruling PR 2008/60 determined that Growers were carrying on a business of primary production. Whilst a deduction is not available under Division 394 of the ITAA 1997, Growers are able to claim a deduction under section 8-1 of the ITAA 1997. Their deductions however will be subject to the prepayment rules set out in Subdivision H of the *Income Tax Assessment Act 1936*. For more information refer to Taxation Determination TD 2010/15.

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Commissioner of Taxation

25 May 2011

ATO references

NO: 1-2UYNVFG

ISSN: 1441-1172

ATOlaw topic: Income Tax ~~ Product ~~ timber