



PR 2009/12W - Income tax: ITC Pulpwood Project 2009

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 This document has changed over time. This is a consolidated version of the ruling which was published on *11 June 2014*



Notice of Withdrawal

Product Ruling

Income tax: ITC Pulpwood Project 2009

Product Ruling PR 2009/12 is withdrawn with effect from today.

1. Product Ruling PR 2009/12 sets out the Commissioner's opinion on the tax consequences for persons participating in the ITC Pulpwood Project 2009 ('the Project'), a forestry managed investment scheme, entered into for the purpose of establishing and harvesting 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 This Product Ruling has been withdrawn in accordance with subsection 358-20(1) of Schedule 1 to the *Taxation Administration Act 1953*, which states the Commissioner may withdraw a public ruling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 394-25 of the *Income Tax Assessment Act 1997* (ITAA 1997). 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 (subsection 394-25(2) of the ITAA 1997).
6. The Responsible Entity has provided information to Growers to determine the market value of their interest for the purpose of section 394-25 of the ITAA 1997.
7. Deductions are not allowable under Division 394 of the ITAA 1997 where a CGT event happens to a Grower's 'forestry interest' before 1 July 2013 (subsection 394-10(5) of the ITAA 1997). However, deductions will not be affected where the CGT event happens because of circumstances outside the Grower's control and the Grower could not have reasonably foreseen the CGT event happening when they acquired the 'forestry interest' (subsection 394-10(5A) of the ITAA 1997).

PR 2009/12

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Page 2 of 2

8. 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 2009/12 provided that the Project was carried out in the manner described in the Ruling up until the date the transaction was implemented.

9. Paragraph 32 of PR 2009/12 ruled that Growers can claim deductions for interest incurred under a loan agreement with ITC Finance Pty Ltd or the Preferred Financier as described at paragraphs 78 to 81 of PR 2009/12. 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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