



# ***PR 2009/50W - Income tax: Rewards Group Premium Timber Project 2009 - Late Growers***

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 This document has changed over time. This is a consolidated version of the ruling which was published on *19 October 2011*



# Notice of Withdrawal

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## Product Ruling

### Income tax: Rewards Group Premium Timber Project 2009 – Late Growers

Product Ruling PR 2009/50 is withdrawn with effect from today.

1. Product Ruling PR 2009/50 set out the Commissioner's opinion on the tax consequences for persons participating in the Rewards Group Premium Timber Project 2009 – Late Growers Project ('the Project'), a forestry managed investment scheme with the purpose of establishing and tending of Sandalwood and Teak 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 This Product Ruling has been withdrawn in accordance with subsection 358-20(1) of Schedule 1 of the *Taxation Administration Act 1953*, which states the Commissioner may withdraw a public ruling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 Product Ruling PR 2009/50, as the Administrator advised no land was acquired for the Project and no trees were 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 23 of PR 2009/50 required that all of the trees be established within 18 months of the end of the income year in which the first participant (Grower) is accepted in the Project. Given that trees were not established by 31 December 2010, 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. However, paragraph 21 of PR 2009/50 ruled 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 entitled to claim a deduction under section 8-1 of the ITAA 1997. Their deductions however will be subject to the operation of the prepayment provisions of Subdivision H of Division 3 of Part III of the *Income Tax Assessment Act 1936* (ITAA 1936). For more information refer to Taxation Determination TD 2010/15 and paragraphs 5 to 7.

## Prepayment provisions

5. The prepayment provisions affect the timing of deductions for certain prepaid expenditure. These provisions apply to certain expenditure incurred under an agreement in return for the doing of a thing under the agreement (for example, the performance of management services or the leasing of land) that will not be wholly done within the same year of income as the year in which the expenditure is incurred.

6. Under the Management Agreement for the Project and paragraph 67 of PR 2009/50 the Initial Fee of \$6,050 GST inclusive or \$5,500 GST exclusive per Woodlot (forestry interest), is for the Initial Services to be completed over a period of 18 months, commencing on 1 July 2009 and ending on 31 December 2010. Under the prepayment provisions the deduction for the fee is required to be apportioned over this 18 month period.

7. There are 549 days in the period from 1 July 2009 to 31 December 2010 comprised of 365 days in the 2009-10 income year and 184 days in the 2010-11 income year. The deduction per forestry interest of \$6,050 GST inclusive must therefore be apportioned as follows:

Income year	Amount of deduction
2008-09	Nil
2009-10	$\$6,050 \times 365/549 = \$4,022.31$
2010-11	$\$6,050 \times 184/549 = \$2,027.69$

**Note:** If the Grower is registered or required to be registered for GST, the deduction of \$5,500 GST exclusive per forestry interest, needs to be apportioned as above. It will also require adjustment as relevant for GST (for example, input tax credits – Division 27 of the ITAA 1997).

## Interest of loans to finance the forestry interest

8. Paragraph 35 of PR 2009/50 ruled that Growers can claim deductions for interest incurred on a loan to fund their investment in the Project if the loan was between the Grower and either QPR Capital Finance Pty Ltd or the Preferred Financier. Interest expenses incurred following this withdrawal will continue to be deductible provided the 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* are met.

ATO references

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