PR 2010/11W - Income tax: Elders Diversified Forestry Project 2010 - Single Contribution Investors

Notice of Withdrawal

Product Ruling

Income tax: Elders Diversified Forestry Project 2010 – Single Contribution Investors

Product Ruling PR 2010/11 is withdrawn with effect from today.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 This Product Ruling has been withdrawn in accordance with subsection 358-20(1) of Schedule 1 to the *Taxation Administration Act 1953*, which states the Commissioner may withdraw a public ruling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 2010/11 set out the Commissioner's opinion on the tax consequences for persons participating in the Elders Diversified Forestry Project 2010 – Single Contribution Investors ('the Project'), a forestry managed investment scheme, entered into for the purpose of establishing and harvesting Pulpwood, Indian Sandalwood and Teak trees in Australia.

3. Elders Forestry Management Limited ('EFML', the Responsible Entity) advised that Elders Limited entered into transactions which have resulted in the Project being carried out in a materially different way from how it was described in Product Ruling PR 2010/11.

4. EFML advised that Growers voted in favour of a series of transactions resulting in the termination of 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 394-25 of the *Income Tax Assessment Act 1997* (ITAA 1997). As a result, Growers will be required to include the market value or decrease in market value of their 'forestry interests' in their assessable income in the income year in which the CGT event happens (subsection 394-25(2) of the ITAA 1997).

8. The Responsible Entity will provide information to Growers to assist them determine the market value or decrease in market value of their 'forestry interests' for the purpose of section 394-25 of the ITAA 1997.

9. 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 2014 (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).

10. Having regard to the information provided by the Responsible Entity, it is considered that the transactions are a result of circumstances outside individual Grower's control that could not have been reasonably foreseen at the time Growers acquired their interests in the Project. Therefore, the transactions do not disturb the tax treatment of Growers' previous outgoings as set out in PR 2010/11 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.

11. Paragraph 33 of PR 2010/11 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 74 to 85 of PR 2010/11. 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

NO:	1-4UHBGUO
ISSN:	1441-1172
ATOlaw topic:	Income Tax ~~ Product ~~ timber