TR 2007/8W - Income tax: registered agricultural managed investment schemes

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Notice of Withdrawal

Taxation Ruling

Income tax: registered agricultural managed investment schemes

Taxation Ruling TR 2007/8 is withdrawn with effect from today. To the extent that a taxpayer entity relies on the Ruling, it continues to apply to schemes to which it applies that had begun to be carried out before the withdrawal but does not apply to schemes that begin to be carried out after the withdrawal.

1. Taxation Ruling TR 2007/8 deals with the application of section 8-1 of the *Income Tax Assessment Act 1997* to contributions by investors to registered agricultural managed investment schemes. The view contained in TR 2007/8 is that the appropriate characterisation of these schemes is that the investor's contributions are capital as they obtain an income producing asset in the form of their interest in the scheme.

2. The view contained in TR 2007/8 was judicially tested in *Hance v. FC of T; Hannebery v. FC of T* [2008] FCAFC 196; 2008 ATC 20-085. On 19 December 2008, the Full Federal Court handed down its decision and found that the expenses incurred by the applicants pursuant to the scheme were: incurred in the course of carrying on a business; and had the character of outgoings on revenue account rather than capital account.

3. The Commissioner decided not to seek special leave to appeal to the High Court and so the decision of the Full Federal Court is now confirmed. The Commissioner will consider whether a new ruling is needed. In the meantime, applications for product rulings in relation to schemes similar to that considered by the Full Federal Court, will be handled in accordance with the Court's decision.

Commissioner of Taxation
11 February 2009

ATO references
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Income Tax ~~ Deductions ~~ prepayments
Income Tax ~~ Deductions ~~ primary production expenses
Income Tax ~~ Tax integrity measures ~~ schemes