



# ***TR 1997/11A1 - Addendum - Income tax: am I carrying on a business of primary production?***

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# Addendum

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## Taxation Ruling

### Income tax: am I carrying on a business of primary production?

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Taxation Ruling TR 97/11 to reflect changes to the law resulting from the repeal of inoperative provisions by the *Tax Laws Amendment (Improvements to Self Assessment) Act (No. 2) 2005*.

#### TR 97/11 is amended as follows:

**1. Page 1 under 'other Rulings on this topic'**

- (a) Omit 'IT 289;'
- (b) Omit 'IT 2301;'

**2. Paragraph 1**

Omit '1936 (the Act)'; substitute '1997 (ITAA 1997)'.

**3. Paragraph 2**

Omit 'Act, including sections 36AAA, 70, 75AA, 75B, 75D and the 'averaging provisions' (Division 16 of Part III of the Act)'; substitute 'ITAA 1997 and the *Income Tax Assessment Act 1936* (ITAA 1936)'.

**4. Paragraph 3**

Omit 'Act'; substitute 'ITAA 1997'.

**5. Paragraph 5**

Omit the second and fourth dot points.

**6. Paragraph 6**

Omit 'TR 93/26'; substitute 'TR 2008/2'.

## 7. Paragraph 7

Omit '(see paragraphs 22 and 23 of Taxation Ruling TR 92/20); substitute '(see paragraphs 75 and 76 of Taxation Ruling TR 2006/10)'.

## 8. Paragraph 8

Omit the paragraph; substitute:

8. Subsection 995-1(1) of the ITAA 1997 defines 'primary production business' as carrying on a business of:

- (a) cultivating or propagating plants, fungi or their products or parts (including seeds, spores, bulbs and similar things), in any physical environment; or
- (b) maintaining animals for the purpose of selling them or their bodily produce (including natural increase); or
- (c) manufacturing dairy produce from raw material that you produced; or
- (d) conducting operations relating directly to taking or catching fish, turtles, dugong, bêche-de-mer, crustaceans or aquatic molluscs; or
- (e) conducting operations relating directly to taking or culturing pearls or pearl shell; or
- (f) planting or tending trees in a plantation or forest that are intended to be felled; or
- (g) felling trees in a plantation or forest; or
- (h) transporting trees, or parts of trees, that you felled in a plantation or forest to the place:
  - (i) where they are first to be milled or processed; or
  - (ii) from which they are to be transported to the place where they are first to be milled or processed.

## 9. Paragraph 9

- (a) Omit 'Act'; substitute 'ITAA 1997'.
- (b) Omit '6(1)'; substitute '995-1(1) of the ITAA 1997'.

## 10. Paragraph 10

Omit '6(1)'; substitute '995-1(1)'.

**11. Paragraph 19**

Omit the paragraph; substitute:

19. A person can apply for a Ruling under Division 359 of Schedule 1 to the *Taxation Administration Act 1953* (TAA) on whether he/she is carrying on a business: (see TR 2006/11).

**12. Paragraph 20**

Omit the first sentence.

**13. Paragraph 21**

Omit the paragraph.

**14. Paragraph 24**

Insert '[1936]' after '*Income Tax Assessment Act*'.

**15. Paragraph 74**

Omit 'Act'; substitute 'ITAA 1936'.

**16. Paragraph 75**

Omit 'Act'; substitute 'ITAA 1936'.

**17. Paragraph 76**

Omit 'paragraph 9 of Taxation Ruling TR 93/26'; substitute 'Taxation Ruling TR 2008/2'.

**18. Paragraph 104**

Omit the paragraph; substitute:

104. A person can obtain a Private Ruling under Division 359 of Schedule 1 to the TAA on whether he/she is carrying on a business (see TR 2006/11).

**19. Paragraphs 105 to 107**

Omit the paragraphs.

## 20. Paragraph 108

- (a) Omit 'may' (first occurrence); substitute 'must'.
- (b) Omit '14ZAM of the TAA'; substitute '357-105 of Schedule 1 to the TAA'.
- (c) Omit 'remains insufficient the Commissioner does not need to comply with the application: refer to paragraph 14ZAN(1) of the TAA'; substitute 'the applicant does not provide the information to the Commissioner within a reasonable time, the Commissioner may decline to make the Ruling: subsection 357-105(2)'.

## 21. Footnote 1

Omit 'Act'; substitute 'ITAA 1936'.

## 22. Legislative References

Omit the references; substitute:

- ITAA 1936
- ITAA 1936 6
- ITAA 1936 262A
- ITAA 1997
- ITAA 1997 995-1(1)
- TAA 1953 Sch 1 357-105
- TAA 1953 Sch 1 357-105(2)
- TAA 1953 Sch 1 357-110 in
- TAA 1953 Sch 1 Div 359

This Addendum applies on and from 14 September 2006.

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**Commissioner of Taxation**

16 November 2011

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### ATO references

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