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Taxation Laws Amendment Bill (No. 1) 2002

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Taxation Laws Amendment Bill (No. 1) 2002

Date Introduced: 21 February 2002

House: House of Representatives

Portfolio: Treasury

Commencement: Royal Assent. However, the amendments described in this Digest will apply from 2 October 2001.

Purpose

To provide an immediate deduction for expenditure relating to the establishment of plantations even though the activity to which the expenditure relates is not completed during the year the deduction is claimed.

Background

The National Forest Policy was endorsed by the Commonwealth, State and Territory governments in 1992 and provides a broad policy direction for the development of Australian forests. The National Forest Policy comprises 11 National Goals aimed to enabled a balanced used of forestry resources. The National Goals relate to:

- Conservation: to maintain an extensive native forest estate managed in an ecologically sustainable manner
- Wood production and industry development: to develop internationally competitive and ecologically sustainable wood production and wood product industries
- Integrated and coordinated decision making and management: to reduce duplication between the States and the Commonwealth
- Private native forests: to ensure that such forests are maintained in an ecologically sustainable manner to complement public forests
- Plantations: to expand commercial plantations to provide an additional supply of wood products and to increase plantings to meet other economic and environmental objectives, such as rehabilitation of cleared areas

- Water supply and catchment management: to ensure the availability of high quality water supplies from forested land
- Tourism and other economic and social opportunities: to encourage such activities in an ecologically sustainable manner
- Employment, workforce education and training: to expand employment opportunities and the skills base of people working in forest based industries
- Public awareness, education and involvement: to provide opportunities for public involvement in decision making
- Research and development: to increase Australia's national forest research and development effort, and
- International responsibilities: to ensure that Australia fulfils its international obligations.

An important component of the implementation of the Policy are Regional Forestry Agreements (RFA) negotiated between the Commonwealth and State governments regarding the use and development of forest resources. While the RFAs are intended to be negotiated with all relevant parties and be preceded by comprehensive studies, the end result is that RFAs have not satisfied all of the parties engaged in the forestry industry.

The number of people employed in the forestry and logging industries has increased over recent years. According to the Australian Bureau of Statistics (ABS) between 1994 and 1995 employment in forestry and logging reached 13 100 in February and November of 1994 before falling to 8 500 in November 1995. In November 2001 the ABS found that 13 900 people were employed in the forestry and logging categories.[1]

The area devoted to plantation timbers has increased significantly in recent years. New areas planted rose from 48 858 hectares (ha) in 1996, to 54 354 ha in 1997, 65 624 ha in 1998, 94 812 ha in 1999 and 124 846 ha in 2000.[2] The growth has been entirely in hardwood plantation, with the area devoted to softwood actually falling over the period 1996 (14 131 ha) to 2000 (8 570 ha).[3] A factor in the large increases since 1998 is the system of product rulings introduced in that year. Under the product rulings scheme, a promoter can apply for a ruling that investors in a certain arrangement will be able to claim deductions for investments in the arrangement without the need to apply for an individual private ruling.

Prior to November 1999 investors could claim a deduction for investment loans where the investment vehicle (generally a company) incurres expenditure for which the investment was committed within 13 months of the investment being made (ie during the financial year after the investment was made). From November 1999 new rules were introduced, the most relevant for investment in plantations being that if the income from the investment was less than the deduction claimed (as would generally be the case during the early years of a plantation) the deduction would be limited to services provided during the income year in which the investment was made and that any further deductions would also be limited to a proportion of the amount of expenditure during the later years. (The relevance of the rules is that many tax effective projects are 'sold' in the lead up to the end of a financial year when people are seeking to reduce the amount of tax they would have to pay by investing in arrangements which gives them a large 'up front' deduction but little income).

As a result, the general rule applicable to expenditure in plantation projects since 1999 (subject to phasing-in arrangements which apply until September 2002) is that deductions can only be claimed in respect of services provided in the year for which the deduction is claimed. On 2 October 2001 the Minister for Forestry and Conservation announced that a '12 month rule' would be introduced for investments in managed investment schemes which invest in plantations. Under the proposal, investors would be able to claim a deduction in respect to investments so long as the expenditure to which the investment relates is made within 12 months of the investment, rather than during the financial year in which the investment was made. The concession was explained as relating to the seasonal nature of the industry, where certain operations, such as weeding and planting, can only be conducted during certain periods of the year due to weather variations.[4]

Main Provisions

Item 1 of Schedule 1 will insert a new section 82KZMF into the *Income Tax Assessment Act 1936* which will provide that the rules restricting deductions to actual expenditure incurred in the year will not apply where:

- Expenditure:
  - is incurred on or after 2 October 2001 under an agreement (see below)
  - the eligible service period must be 1 year or less and must end before the end of the year following the expenditure year
  - must be incurred for something done under the agreement that is not wholly done during the expenditure year, and
  - must be for seasonally dependent agronomic work during the establishment period for the planting of trees (the establishment period will be the time from when work commences until the later of the day when the last seedling is planted and the day when any herbicide, fertiliser or pesticide is applied in conjunction with the planting).
- The agreement:

- must be for the planting and tendering of trees for felling
- must provide that the taxpayer does not have day to day control of the operation and
- must have more than one participant in the same role as the taxpayer or the person who manages or promotes the agreement must manage or promote similar agreements for other taxpayers.

The above amendments will apply to expenditure incurred on or after 2 October 2001 (**item 9**).

Endnotes

1 Australian Bureau of Statistics, Labour Force, cat. 6203.0.

2 Plantations of Australia 2001, Summary Report, p. 6.

3 ibid.

4 Minister for Forestry and Conservation, Media Release, 2 October 2001.